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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS  
FOR  
PROVIDENCE HILL  
A PLANNED RESIDENTIAL COMMUNITY**

**Declarant:**

Rouse/Chamberlin, Ltd.  
500 Exton Commons  
Exton, PA 19341

declaration-8  
Created on 10/21/2005 11:55 AM

Recorded  
Nov. 4, 2005  
Record Book 6674  
page 304

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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR PROVIDENCE HILL**

**THIS AMENDED AND RESTATED DECLARATION** is made as of \_\_\_\_\_, by ROUSE/CHAMBERLIN LTD., a Pennsylvania Limited Partnership, hereafter referred to as "Declarant."

**BACKGROUND**

A. Declarant is the owner by virtue of Deed dated 12/29/2004, and recorded on 12/30/2004 in the Chester County Recorder of Deeds Office in RB 6377 Page 485, of real property (the "Property") referred to in Article 2 and more fully described in Exhibit "A" of this Declaration. Declarant desires to develop at the Property a planned residential Community to be known as "Providence Hill" with various Common Elements for the benefit of the Community.

B. Declarant desires to provide for the preservation of the values and amenities in the Community and for the maintenance of the Common Elements and, to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth in this Declaration, each and all of which is and are for the benefit of the Property and each subsequent Owner of a Unit in the Community.

C. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Community, to create a non-profit corporation to be known as "Providence Hill Homeowners Association" to which shall be delegated and assigned the powers of maintaining and administering the Open Space areas and other Common Facilities, administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created.

D. Declarant filed the original Declaration of Covenants, Conditions and Restrictions for Providence Hill dated December 30, 2004 with the Chester County Recorder of Deeds Office as document #10493562, on December 30, 2004. Declarant now wishes to make various revisions and corrections to that original declaration by filing this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Providence Hill, with the intent that this document entirely supersedes the earlier declaration as of the date hereof.

## **AGREEMENTS**

**NOW THEREFORE**, the Declarant declares that the real property referred to in Article 2 hereof and more particularly described in Exhibit "A" attached hereto and forming a part hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens as provided in this Declaration.

### **ARTICLE 1 DEFINITIONS**

All capitalized terms used in this Declaration shall have the meaning given to them in the Index of Defined Terms that is attached hereto and incorporated herein by this reference. Any such term used in this Declaration and not otherwise defined shall have the meaning as provided by the Act.

### **ARTICLE 2 SUBMISSION OF PROPERTY TO DECLARATION**

#### **2.1 Submission of Property.**

Declarant hereby submits the Property, together with the buildings and improvements erected, or to be constructed thereon, and all easements, rights and appurtenances belonging thereto, to the terms, conditions and provisions of this Declaration. This Declaration shall be applicable to the entire Community and to all of the Units and all of the Common Elements. All present and future Owners and the Units, and their respective tenants, subtenants, family members, guests, invitees, permittees, agents, servants, employees and any other persons occupying or using any Unit shall be bound by all of the terms and conditions of this Declaration, the Bylaws and any rules and regulations that may be adopted by the Executive Board.

#### **2.2 Applicable Law.**

The Community contains Common Elements that contain some or all of the following: Stormwater Management Facilities and related devices, fencing, signage, landscaping, and Entrance Features on certain Units or Open Space areas in the Community. By operation of law, the Community is subject only to certain sections of the Act. This Declaration from time to time may refer to certain rights and obligations that are identified in the Act. Any reference herein to the Act, or to rights and obligations set forth in the Act, or to Common Elements, is not intended to be a voluntary submission to the full provisions of the Act, nor shall it subject the Property or any part thereof to any additional requirements and/or provisions of the Act which are not already applicable to the Property. Such references are made solely to conveniently identify certain rights and obligations that the Declarant, an Owner or the Association may have in this type of residential community.

### **2.3 Not Flexible Planned Community.**

The Community has no Additional Real Estate, Convertible Real Estate, or Withdrawable Real Estate, and so is not a Flexible Planned Community as defined in the Act.

## **ARTICLE 3 DESCRIPTION OF COMMUNITY**

### **3.1 Description of Community.**

The name of the planned residential community to be developed within the Property is "Providence Hill". The Property that shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in East Fallowfield Township, Chester County, Pennsylvania, and is more particularly described in Exhibit "A". The Community will be known as "Providence Hill", and will contain a total of approximately 108.668 acres, more or less. The maximum number of residential Units that may be created in the Community is 218 Units. The Community will have Common Facilities that are described in Section 3.3 of this Declaration, and Controlled Facilities that are described in Section 3.4 of this Declaration. The Owners shall have the right to use those facilities as provided herein. The Association shall be obligated to maintain the Common Facilities, and may have certain other rights and obligations relating to the Controlled Facilities. Each Owner shall have the obligation to pay Assessments as provided in this Declaration in order to fund the costs of maintenance, and the other expenses of the Association as further provided herein.

### **3.2 Description of Units.**

The Community will consist of a total of 218 Units, of which 137 Units shall be Single Family Homes, and 81 Units shall be Town Home Units. The boundaries of each Unit, including the Unit's identifying number, are shown on the Plat. No individual Units may be further subdivided.

#### **(a) Single Family Units:**

Each Single Family Unit shall consist of the subdivided residential Lot as designated on the Plan with a single family Dwelling for which an occupancy permit has been, or is anticipated to be, issued by the Township. The boundaries of each Single Family Unit, including the Unit's identifying number, are shown on the Plat. The location of the Single Family Units on the Property as shown on the Plat represents the planned location of each Single Family Unit; however, actual construction and site conditions may result in minor variations to the location of the planned buildings as shown on the Plat.

#### **(b) Town Home Units:**

Each Town Home Unit shall consist of the subdivided residential Lot as designated on the Plan with a Town Home Dwelling for which an occupancy permit has been, or is anticipated to be, issued by the Township. The boundaries of each Town Home Unit, including the Unit's identifying number, are shown on the Plat. The location of the Town Home Units on the Property as shown on the Plat represents the planned location of each Town Home Unit; however, actual construction and site

conditions may result in minor variations to the location of the planned buildings as shown on the Plat. The Town Home Units will have certain Limited Controlled Facilities as described herein, which will be owned by the Unit Owners, but will be maintained by the Association and the cost thereof charged as a Limited Common Expense for the benefited Units and their Owners.

### 3.3 Common Facilities.

The Common Facilities shall consist generally of all real estate in the Property not included within the title lines of any Lot or Unit, and any improvements on such real estate to be owned by the Association. The Common Facilities may be either General Common Facilities that benefit all Units and that all Units have equal rights in and responsibilities for; or Limited Common Facilities that are identified in this Declaration or as otherwise provided by law for the exclusive use of one or more but fewer than all of the Units.

(a) **General Common Elements:** The General Common Elements shall include the following (to the extent not dedicated to the Township or any applicable Township or Authority or utility provider) as shown in Exhibit "E", the Planned Community Declaration Plat (the "Plat"):

- (i) **Open Space:** The following Open Space parcels as shown on the Plat: Open Space A, B, C, D, E and F. The Open Space parcels are described in Exhibit "B", attached hereto and made a part hereof, and are intended to be devoted to the common use and enjoyment of the members of the Association. The Open Space is not dedicated for use by the general public, but is reserved for use by Owners in the Community and their families, guests and other invitees. The Open Space shall be the responsibility of the Association and shall be restricted from any future subdivision or development.
- (ii) **Entrance Features:** The Declarant may erect entrance monuments, identification signs, fencing, lighting and landscaping (the "Entrance Features") on Open Spaces A, B and C, located at the two entrances to the Community at West Chester Road and Misty Patch Road. The Association will own and maintain these improvements and the cost thereof will be a General Common Expense. These items NEED NOT BE BUILT.
- (iii) **Required Landscaping:** Required Landscaping planted by the Declarant in the Open Space as required by the Plan shall be maintained and replaced as necessary by the Association, and the cost of same shall be a General Common Expense. These items MUST BE BUILT.
- (iv) **Stormwater Management Facilities:** Those portions of the Stormwater Management Facilities located in the Open Space will be Common Facilities. The locations of all such Stormwater Management Facilities and related stormwater easements over certain of the Lots are shown on the Plat. The Association will own and maintain these improvements in the Open Space and the cost thereof will be a General Common Expense. These items MUST BE BUILT.



- (v) **Sidewalks:** Sidewalks along Open Space areas and any sidewalks not on an Owner's Lot shall be Common Facilities to be owned, maintained (including ice and snow removal), repaired and replaced by the Association in accordance with applicable Township ordinances. Sidewalks on Owners' Lots shall be owned, maintained (including ice and snow removal), repaired and replaced by the Owner of the Unit, and shall be subject to an easement for public access as provided in Section 6.2(c) herein. If a Unit Owner fails to maintain the sidewalk located on his Lot, then the Association may undertake the necessary maintenance and assess the Lot Owner the costs to maintain or replace the sidewalk arising because of the Unit Owner's failure to abide by its obligations as provided in this paragraph. All sidewalks shown on the Plan **MUST BE BUILT**.
  - (vi) **Community Walking Trails:** The unpaved Walking Trails and the macadam-paved Walking Trail in the central Open Space shall be Common Facilities to be owned and maintained by the Association. The Walking Trails as shown on the Plan shall be accessible for passive public use and enjoyment, with the active uses limited to walking and jogging. Declarant reserves the right to modify the alignment and specific location of the Walking Trails as field conditions dictate. These items **MUST BE BUILT**.
  - (vii) **Other Recreational Facilities:** The Tot Lot, gazebo, benches and any other improvements located in Open Spaces shall be Common Facilities to be owned and maintained by the Association. Declarant reserves the right to modify the specific location of these other recreational facilities. The Tot Lot, gazebo, benches and any other recreational facilities shown on the Plan in the Open Spaces (other than the Walking Trails) **NEED NOT BE BUILT**. Extensions of the Walking Trails may be made to connect to proposed Township recreational trails, as further explained in Section 6.7(a). These items **NEED NOT BE BUILT**.
  - (viii) **Other Common Facilities:** All Open Space buffers, berms, landscaped areas, Required Landscaping, fencing, and any other improvements located in Open Spaces shall be Common Facilities to be owned and maintained by the Association.
- (b) **Limited Common Facilities.** The Limited Common Facilities in the Community are as follows:
- (i) **Parking for Town Homes:** Parking spaces for Owners of Town Home Units and their families and guests are located at the areas shown on the Plat. These parking areas shall be Limited Common Elements, for the exclusive benefit of the Town Home Units. The Association shall be responsible for repairing, maintaining (including snow and ice removal) and replacing the parking improvements from time to time, and the costs thereof shall be Limited Common Expenses to be borne in equal shares by the Town Home Unit Owners. All parking spaces shall

be made available subject to rules and regulations adopted by the Association regarding such use. All parking spaces shown on the Plan MUST BE BUILT.

- (ii) **Street Lights.** Streetlights in the Community will be located only on the streets containing the Town Home Units. Either the Association will own the streetlights or they will be dedicated to the Township or an Authority. The Township may accept, but is not obligated to accept, dedication of these facilities. If the Association owns the streetlights, then the streetlights shall be Limited Common Elements, for the exclusive benefit of the Town Home Units. The Association shall be responsible for repairing, maintaining and replacing the parking improvements from time to time, and the costs thereof shall be Limited Common Expenses to be borne in equal shares by the Town Home Unit Owners. These items MUST BE BUILT.

- (iii) **Exclusive Use Areas:** A small area of the Open Space in the rear of each Town Home Unit (as shown on the Plat) shall be set aside to be used solely as a deck or patio (the "exclusive use area") for the exclusive use of the applicable Unit Owner and family and guests. No improvements may be constructed in these exclusive use areas, but each Owner shall have the right to place portable lawn furniture and a mobile barbecue unit in this exclusive use area for their personal use. Any such items shall only be placed within the lines of the exclusive use area. Any Owner that places any items within the exclusive use area shall be responsible for the lawn maintenance in that area. The Association and its contractors shall not be responsible for moving items within the exclusive use area in order to perform lawn maintenance. The Association may provide guidelines for usage and maintenance of these exclusive use areas, and for waivers of the restrictions for good cause, in the Community guidelines for exterior modifications.

(c) **Allocation of Limited Common Expenses:** Where Limited Common Elements benefit more than one Unit, the Limited Common Expense related to that Limited Common Element shall be divided in equal shares among the Units so benefited, or in the discretion of the Association, the Limited Common Expense may be allocated in some other fashion that in its judgment reflects a fairer allocation of the particular expense in light of the relative benefits to the Units being assessed.

(d) **Modifications:** The location and content of all Common Elements may be modified by Declarant for so long as Declarant retains ownership of one or more Units, provided that any such modification is approved by the Township and is in compliance with the Act.

### 3.4 Controlled Facilities.

The Controlled Facilities are facilities not owned by the Association but that are required to be maintained, improved, repaired, replaced, regulated, managed, insured or controlled by the Association. Limited Controlled Facilities are a portion of the Controlled Facilities, other than

Controlled Facilities which are themselves part of a Unit or public right of way, allocated by or pursuant to the Declaration or by law for the exclusive use of one or more but fewer than all of the Units.

(a) **Controlled Facilities in General:** The Controlled Facilities in the Community shall consist of the following:

- (i) **Sanitary Sewer Facilities:** Certain sanitary sewer facilities (lateral lines connecting Units to the sewer main) will be owned and maintained by the Owners, but the Declarant and the Association reserve the right to inspect the same, to order such repairs as may be necessary for the health and welfare of the Community, and upon failure to do so by Owner, to make such repairs as may be necessary. These items **MUST BE BUILT**.
- (ii) **Sight Lines on Corner Units:** Owners of corner Units will be prohibited from placing any plantings within the clear site triangles as shown on the Plat which obstruct sight lines, as further detailed in Section 9.20.

(b) **Limited Controlled Facilities:** While the Limited Controlled Facilities generally are the obligation and responsibility of the affected Owners, the Association reserves the right to assess and collect assessments (including all necessary expenses as otherwise provided herein) for the costs of repairs, maintenance and replacements of any Limited Controlled Facilities, if the affected Owners fail to agree on how to do so or require assistance in the collection of such amounts. The Limited Controlled Facilities are as follows:

- (i) **Use Restrictions:** All private yards, landscaping, driveways, the exterior of each Dwelling, including gutters, downspouts and all roofing elements, will be Limited Controlled Facilities. While each of these improvements will be owned by the Owner, and the Owner will have exclusive use of his or her own yard, the Association may establish standards governing the use and appearance of each item, and the replacement materials that must be used when maintaining and replacing same.
- (ii) **Stormwater Management Facilities on Lots:** Stormwater Management Facilities located on Lots will be maintained by the Lot Owner in good working order, and no such Owner shall be permitted to remove or alter the Stormwater Management Facilities on his or her Lot. The Association and the Township shall each have the right and power to enforce this obligation and restriction.
- (iii) **Structural Elements of Town Home Units:** The structural elements (including without limitation all beams, columns, floor slabs and load bearing walls) of each Town Home building shall be Limited Controlled Facilities for the exclusive use and benefit of the Units within that building. The affected Unit Owners shall be obligated to repair and maintain the structural elements, and, in the absence of the agreement of the affected Owners, the cost thereof may be assessed as Limited Common Expenses to the Units that benefit from those facilities.

- (iv) **Party Walls/Demising Walls in Town Home Units:** Party walls or demising walls shared by one or more Town Home Units shall be Limited Controlled Facilities for the exclusive use and benefit of those Units. The affected Unit Owners shall be obligated to repair and maintain the facilities, and, in the absence of the agreement of the affected Owners, the cost thereof may be assessed as Limited Common Expenses to the Units that benefit from those facilities.
- (v) **Roofs on Town Home Buildings:** The roof and other structural elements of each Town Home building, including the structural support for same, all sheathing and underlayers, and all roof finishes, shall be Limited Controlled Facilities for the exclusive use and benefit of those Units. The affected Unit Owners shall be responsible for repairing, maintaining and replacing these roofs from time to time, and, in the absence of the agreement of the affected Owners, the costs thereof shall be Limited Common Expenses to be borne in equal shares by all of the affected Town Home Unit Owners.
- (vi) **Sidewalks and Exterior Landscaping for Town Home Units:** The sidewalks and the exterior ornamental landscaping and lawn areas in the front of the Town Home Units that are initially provided by the Declarant shall be Limited Controlled Facilities for the exclusive use and benefit of those Units. The affected Unit Owners shall be responsible for repairing, maintaining and replacing the sidewalks appurtenant to their Lots from time to time, and, in the absence of the agreement of the affected Owners, the costs thereof shall be Limited Common Expenses to be borne in equal shares by the affected Town Home Unit Owners. The repair, maintenance and replacement of the driveways and walkways shall be the responsibility of the Owners. The maintenance of the exterior ornamental landscaping and lawn areas (including all lawn cutting and shrub bed maintenance) shall be the responsibility of the Association, and the costs thereof shall be Limited Common Expenses to be born in equal shares by the affected Town Home Unit Owners. All sidewalks in the Community shall be subject to an easement for public access as provided in Section 6.2(c) herein.

(c) **Obligations Regarding Controlled Facilities:** Certain duties and restrictions may be placed on Owners with respect to the Controlled Facilities. The Association is not obligated to insure any of the facilities that are not owned by the Association. In each case, the Association will have the right to enforce the obligations of the Owner and the restrictions on use. If the party required to maintain or otherwise comply with obligations fails to do so, then the Association shall have the right but not the obligation to perform the work necessary to bring the Unit and facilities into compliance, and charge the cost of same to the Owners who failed to do so. If a particular repair, maintenance or replacement of any Controlled Facility is required due to some act or omission of one or more Owners, then the Association may perform the necessary work and then assess the Owners whose actions or omissions necessitated the work.

### 3.5 Dedicated Facilities.

The following improvements may be made by the Declarant, and upon completion shall be dedicated to the Township, a Township Authority, a utility company or some other third party as indicated below:

(a) **Water lines and facilities.** Water lines, mains and appurtenant facilities servicing the Community (including easements) shall be dedicated to the utility provider. Until such time as these improvements are dedicated, (i) water lines on the individual Lots will be owned and maintained by the Lot Owners prior to dedication; and (ii) all other water lines will be owned and maintained by the Declarant or Association prior to dedication. Lateral lines connecting each Unit to a water main shall be owned, maintained, repaired and replaced by the Owner.

(b) **Sewer lines and facilities.** Sewer lines, mains and appurtenant facilities servicing the Community shall be dedicated to the utility provider. Until such time as these improvements are dedicated, (i) sewer lines on the individual Lots will be owned and maintained by the Lot Owners prior to dedication; and (ii) all other sewer lines will be owned and maintained by the Declarant or Association prior to dedication. Lateral lines connecting each Unit to a sewer main shall be owned, maintained, repaired and replaced by the Owner.

(c) **Dedicated Roads and Right of Ways.** As required by the Plan and applicable Township ordinances, the Declarant will build the following roads within the Community, as further shown on the Plan:

Providence Hill Road  
Watch Hill Road  
Bellevue Drive  
Narragansett Lane  
Shoreham Drive  
Cottage Lane  
Portsmouth Lane

Upon the completion of the roads in accordance with Township specifications, the roads will be subject to a continuing offer of dedication to the Township. The Township may invoke the right but is not obligated to accept dedication, as permitted by applicable law. If the Township accepts dedication, then the Owners and the Association shall have no further interest in, obligation for or control over such facilities, except as may be provided by applicable law, ordinance or the terms of this Declaration. Such continuing obligations may include improvements within the road right-of-way typically the responsibility of adjoining property owners, including but not limited to sidewalks and curbs (including maintenance, ice and snow removal, repair and replacement thereof), landscaping, street lights, fire hydrants, mailboxes and similar improvements within the right-of-way. Regardless of dedication by the Township, no on-street parking shall be permitted on any of the roads within the Property.

(d) **Stormwater Management Facilities:** Any Stormwater Management Facilities located in public roads or rights of way will be dedicated to the Township or an Authority. The Township may invoke the right but is not obligated to accept dedication of these facilities.

### **3.6 Conveyance of Common Facilities.**

All Common Facilities consisting of land not required by the Plan to be improved, graded or disturbed in any way from their natural state will become Common Facilities upon the recording of this Declaration. All other Common Facilities will become Common Facilities upon substantial completion of any required improvement, grading or disturbance as required by the Plan and the Township. The Declarant will convey the Common Facilities to the Association upon substantial completion of any improvements to all of the Common Facilities, or at an earlier or later time, but not later than the date of the last conveyance by Declarant of a Unit included in the Community. This obligation to convey will be binding upon the Declarant and any successor in interest of the Declarant in the portion of the Community consisting of such Common Facilities, whether or not the successor succeeds to any special declarant rights of Declarant. The Common Facilities will be owned by the Declarant, prior to such conveyance. Declarant shall convey the Common Facilities to the Association, and the Association shall accept, the Common Facilities, by delivery and acceptance of a fee simple deed of special warranty to the Association, which will be recorded. No consideration shall be payable by the Association, other than the Association's acceptance of such deed or deeds. Declarant shall seek to have all liens on Common Facilities released as of the date of such conveyance, but in no event later than the date that the last Unit in the Community is conveyed to an Owner.

## **ARTICLE 4 COMMUNITY MANAGEMENT**

### **4.1 The Association.**

The Association is the governing body for all of the Owners and, except as otherwise provided in this Declaration, is responsible for the maintenance, repair, replacement, cleaning, sanitation, management, operation and/or administration of the Common Elements and the making of any additions or improvements to the Common Facilities and Controlled Facilities. The Association shall have all powers granted to it by the Act and by law, including without limitation the power to assign its right to future income, including its right to receive common expense assessments, in those circumstances reasonably determined to be necessary by the Executive Board. The duties of the Association shall be undertaken as provided herein and in the Bylaws, but nothing herein contained shall be construed so as to preclude the Association from delegating any of these duties to a manager or agent or to another person subject to the authority of the Executive Board. The Common Expenses incurred or to be incurred for the maintenance, repair, replacement, insurance, administration, management, operation and use of the Common Elements and the making of any additions or improvements to the Common Facilities, including maintaining capital reserves for future capital expenses, shall be assessed by the Association against, and collected from, the Owners in accordance with Article 5 hereof and the Act.

#### **4.2 Membership in Association.**

(a) **Membership.** Owners shall become members of the Association upon acceptance of the deed to their Unit. Membership in the Association shall be limited to the Owners of the Community. Membership in the Association is mandatory.

(b) **Rights and Privileges.** Every Owner as a member of the Association shall be entitled to all of the rights and shall be bound by all of the obligations accompanying membership, provided that any Owner who is holding the interest in a Unit merely as security for the performance of an obligation shall not be a member.

(c) **Voting Power.** Each Unit in the Community shall have one (1) vote associated with such Unit, regardless of the number of Owners of that Unit.

(d) **Good Standing.** Only those Owners in good standing and entitled to vote shall be considered "Owners" for purposes of: (i) obtaining a quorum, or (ii) determining the percentage of Owners voting on a matter, or (iii) voting on a matter. An Owner shall be deemed to be "in good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all Assessments made or levied against the Owner and against his Unit by the Executive Board together with all interest, costs, attorneys' fees, penalties and other expenses, if any, chargeable to the Owner and against his Unit, at least five (5) days prior to the date fixed for such annual or special meeting.

(e) **Leaseholds.** In the event a Owner shall lease or permit another to occupy his Unit in accordance with the provisions of this Declaration, the tenant or occupant shall be permitted to use the Common Elements of the Association (subject however to such limitations on such use as would be applicable to the Owner) but shall not vote in the affairs of the Association, except as the Owner shall permit the tenant or occupant to exercise by proxy its vote as a member.

(f) **Termination of Membership.** Every lawful transfer of title to a Unit shall include membership in the Association and, upon making such transfer, the previous Owner's membership shall automatically terminate. Except as otherwise expressly provided herein or in the Act, membership in the Association may not be assigned or transferred without the transfer of legal title to a Unit and any attempt at such assignment or transfer thereof shall be void and of no effect.

(g) **Sale of Unit.** Membership in the Association shall automatically terminate when an Owner sells, transfers or otherwise conveys his Unit.

#### **4.3 Allocation of Voting Rights and Common Expense Liability.**

(a) **Voting:** Each Member in good standing shall be entitled to one vote for each Unit of which he or she is the Owner. When more than one person or entity is the Owner of any Unit, then the vote for that Unit shall be exercised as the Owners may determine among

themselves, but in no event, shall more than one vote be cast with respect to any such Unit. The Bylaws of the Association may provide for class voting for the Single Family Units and Town Home Units with respect to insurance coverages, Limited Controlled Facilities, Limited Common Expenses and other specified issues affecting the particular class of Units if necessary to protect the valid interests of the owners of such Units and not affecting Units outside of the class. For this purpose, Unit 218 shall be considered in the class of Single Family Home Owners and shall have the same voting rights and privileges, and the same assessment obligations, as each Single Family Home Owner.

(b) **Common Expense Liability:** Each Unit and the Owner thereof, shall be responsible for an equal and pro rata share of the Common Expense Liability, except for Limited Common Expenses and as otherwise provided for in Section 5.5.

#### **4.4 Indemnification of Officers, Executive Board and Committee Members.**

The Association shall indemnify every Executive Board member, officer and committee member, his heirs, executors and administrators, against all loss, cost and expenses, including attorneys' fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being, or having been, an Executive Board member, officer or committee member, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding, to be liable for gross negligence or willful misconduct. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason, or arising out of or in connection with, this indemnification provision shall be treated by the Association as common expenses.

#### **4.5 Period of Declarant Control.**

Notwithstanding the allocation of voting rights, as set forth in Section 4.2 above, there is hereby declared to be a period of Declarant control, which shall extend from the date of the first conveyance of a Unit to an Owner other than a Declarant, for a maximum of five years thereafter. During the period of Declarant control, the Declarant or persons designated by the Declarant shall appoint and remove the officers and members of the Executive Board of the Association.

(a) **Declarant Control:** The period of Declarant Control shall terminate no later than the earlier of:

- (i) 60 days after conveyance of 75% of the Units to Owners other than a Declarant; or
- (ii) two years after all Declarants have ceased to offer Units for sale in the ordinary course of business, whichever shall first occur.

(b) **Transfer of Control:** During the period of Declarant control, there shall be a transfer of control of the Executive Board as follows:

- (i) Until the sixtieth (60th) day after the conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, Declarant shall have the right to appoint and remove any and all officers and members of the Board.



- (ii) Not later than sixty days after the conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, at least one member of the Board, but not less than twenty-five percent (25%) of the Board, shall be elected by Owners other than Declarant, as provided in the Bylaws.
- (iii) Not later than sixty days after the conveyance of fifty percent (50%) of the Units to Unit Owners other than Declarant, not less than thirty-three percent (33%) of the Board shall be elected by Owners other than Declarant, as provided in the Bylaws.
- (iv) The period of Declarant Control shall terminate not later than the earlier of (i) five (5) years after the date of the first conveyance of a Unit; or (ii) sixty (60) days after seventy-five percent (75%) of the Units have been conveyed to Owners other than the Declarant; or (iii) two years after Declarant has ceased to offer Units for sale in the ordinary course of business. At that time, all members of the Board appointed by the Declarant shall resign, and the Owners shall elect successor members as provided herein and in the Bylaws.
- (v) Declarant may not unilaterally remove any members of the Board elected by the Unit Owners.
- (vi) Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period. In that event, Declarant may require, for the duration of the period of Declarant Control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by Declarant before they become effective.

(c) **Board Representation:** After the period of Declarant Control has expired, the Executive Board shall at all times have a minimum of two members (of a five member Board, or at least 40% of any larger sized Board) who are Town Home Unit Owners. The Bylaws shall provide for a fair method for electing and replacing these Town Home representatives. All other Board positions shall be "at large" positions that may be filled by election of any other Owners in the Community.

(d) **Committees:** The Board shall create a Town Home committee, and such other committees as it may find helpful to manage the affairs of the Association. The Town Home committee shall consist of the two Board members who are elected as representatives of the Town Home Units, and a third Town Home Unit Owner that they may select and who agrees to serve (and who need not be a Board member). The Town Home committee shall be empowered and delegated authority to consider and act on insurance, assessments, maintenance, contracting, and other specified issues affecting the Town Home Units if necessary to protect the valid interests of the Owners of such Units and not affecting Units outside of the class. The Bylaws shall provide for the creation, empowerment and operation of all such committees.

## **ARTICLE 5**

### **BUDGETS, ASSESSMENTS AND COLLECTIONS.**

#### **5.1 Right of Assessment and Owner's Share of Common Expenses.**

The Association shall have the right and power to make Common Assessments for the maintenance, repair and replacement of the Common Facilities, the operation of the Association, and the other purposes for which the Association has been formed. Assessments shall be levied against all Unit Owners equally, except as otherwise provided herein. The share of each Owner shall be determined by taking the total amount of the Common Expenses and multiplying by a fraction, the numerator of which is the number one and the denominator of which is the total number of Units, either in the Community as a whole (for those Common Expenses to be borne by all Units in the Community), or in the applicable section of the Community (i.e. those Units that are benefited) for Limited Common Expenses that will be borne solely by less than all of the Units in the Community. Until such time as the Association makes a Common Expense assessment, the Declarant shall pay all the expenses of the Community. Assessments shall be collected on an annual basis, or at such other times as the Board may provide.

#### **5.2 Purpose of Common and Special Assessments.**

The Common Assessments and Special Assessments levied by the Association shall be used exclusively to promote the common health, safety, benefit, and welfare of the Unit Owners, for the improvement and maintenance for the Common Elements, and the performance of the Common Maintenance Obligations. The Board shall establish one (1) or more separate Operating Accounts into which shall be deposited all assessments paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. The Board shall make disbursements from the Operating Account for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all the Owners.

#### **5.3 Basis of Common Assessment.**

(a) **Annual Budget.** The Board shall periodically (and in no event less than annually) adopt a budget (and revise as necessary in its judgment) to estimate and allocate Common Expenses for the Community, including any reserves it deems advisable. The Board may take into account and adjust for occupancy in the Community and changes in occupancy over a period of time. The Board shall assess and collect from each Owner, and each such Owner agrees to pay the Association its share of Common Expenses as set forth in Section 4.3.

(b) **Financial Statements and Reports.** The Board shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures of the Association for each fiscal year, including deposits in and withdrawals from the Operating Account(s), and shall provide on request a copy of each such statement to each Member, and to each first Mortgagee who has filed a written request for copies of the same with the Board. At least thirty (30) days prior to the beginning of each fiscal year, the Board shall prepare and distribute to the membership of the Association, a written, itemized estimate (budget) of the expenses to be

incurred by the Association during such year in performing its functions under this Declaration.

#### **5.4 Special Assessments.**

If the annual budget proves inadequate for any reason, including nonpayment of any Unit Owner's assessments, or any nonrecurring Common Expense, or the incurring of any Common Expense not set forth in the annual budget as adopted, then the Board may at any time levy a further Special Assessment. All such Special Assessments shall be assessed to the Owners in the same manner as for general assessments or assessments for Limited Common Expenses (as applicable). The Special Assessments shall be payable in the time and manner as the Board may determine. The Board shall serve notice of Special Assessments on all Owners by a statement in writing giving the amount and reasons therefore, the due date and the manner in which they may be paid. When certain maintenance tasks or expenses are incurred with respect to only one section of the Community, then the Board may allocate such Limited Common Expenses exclusively to the Units in that section of the Community.

#### **5.5 Unit Assessments.**

The cost of any maintenance, repairs or replacements of the Common Elements arising out of or caused by the willful or negligent act or omission of the Unit Owner, his family, guests or invitees shall be the Owner's expense. Upon the failure by the Owner to promptly pay for same or reimburse the Association (as applicable), the Board may levy and assess a Unit Assessment against the Owner and the Units that he owns.

#### **5.6 Limited Common Expense Liability.**

Notwithstanding anything in this Declaration to the contrary, each Owner other than the Declarant shall be responsible for the cost of Association expenditures reasonably determined by the Association to be Limited Common Expenses for that Owner's Unit.

#### **5.7 Capital Expenses and Reserves.**

The Association shall establish an adequate Capital Reserve Fund for major repair and replacement of those Common Facilities and Controlled Facilities that the Association in its judgment anticipates may require replacement, repair or major repair on a periodic basis. The Capital Reserve Fund may, but is not required to be, funded by all or a portion of each initial purchaser's contribution as described in Section 5.8 below, annual payments established by the Board from time to time as a part of Common Expenses, any Special Assessments levied and assessed from time to time by the Board and Declarant contributions (if any) as described in Section 5.14. The Capital Reserve Fund shall be maintained in an account separate and apart from the Operating Account(s).

#### **5.8 Non-Refundable Contribution at Purchase.**

Every Owner, at the time of such Owner's purchase of a Unit from the Declarant, shall pay to the Declarant for the benefit of the Association a one-time, non-refundable and non-transferable initial contribution, in such amount as the Declarant may require in its agreement of sale with each such Owner. In general, the initial contribution to be payable for the Town Home Units

may be higher than the initial contribution to be payable by the Single Family Units, as the Declarant anticipates that more reserves will have to be maintained for the Limited Common Facilities that are the responsibility of the Town Home Units. All initial contributions will be paid by the Declarant to the Association for deposit in either a segregated reserve account or in the Association's general operating account(s) as the Board determines. The Declarant shall deposit these amounts for the account of the Association, which shall utilize such amounts in its reasonable discretion, subject to the duties and obligations imposed upon it by this Declaration and the Act. The Association shall have the right to impose a resale certificate fee at the time of the resale or transfer of Units, as otherwise limited by the provisions of the Act. Each such fee shall be payable in the time and manner as determined from time to time by the Board.

#### **5.9 Creation of the Lien and Personal Obligation of Assessments.**

Declarant for each Unit owned by it within the Community Property, hereby covenants, and each Owner of any Unit 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:

- (a) Common Assessments for Common Expenses, and
- (b) Assessments for Limited Common Expenses; and
- (c) Special Assessments; and
- (d) Unit Assessments.

Each such assessment shall be established and collected as provided in this Article. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall be the personal obligation of the person who was the Unit Owner of such Units at the time when the assessment fell due. Subject to provisions of this Declaration protecting first Mortgagees, the personal obligation for delinquent assessments as disclosed in a resale certificate shall pass to the successors-in-title of such Owner. The Association has a lien on a Unit for any assessment levied against that Unit or fines imposed against its Owner from the time the assessment or fine becomes due, as further provided in the Act.

#### **5.10 Surplus.**

The budget of the Association shall segregate capital expenses from Common Expenses. Any amounts accumulated from assessments for Common Expenses and income from the operation of the Common Elements to which such Common Expenses pertain in excess of the amount required for actual Common Expenses and reserves for future Common Expenses, shall be credited to each Unit in accordance with that Unit's interest in the Common Elements. These credits shall be applied to the next installments of Common Assessments coming due, or to capital reserves, or in such other manner as the Board may determine.

#### **5.11 Nonpayment of Assessments.**

The Association may charge interest on any installment of a Common Assessment, Special Assessment or Unit Assessment not paid when due, at a rate not to exceed fifteen percent (15%) per annum. The Association may also establish late fees which may be assessed for delinquent assessments. If a Owner is in default of a payment of any installment of Common Assessment,

Special Assessment or Unit Assessment for thirty (30) days, then the Association may, by written notice given to the Owner, declare the entire outstanding balance of the assessment to be immediately due and payable, and this amount shall become effective as a lien from the due date of the delinquent assessment. In addition, the Board may from time to time adopt regulations regarding the suspension of privileges to use any or all of the Common Elements for any Owner who is more than thirty days delinquent in payment of any assessments.

#### **5.12 Liability of Purchaser of Unit for Unpaid Assessments.**

Subject to the provisions of Section 5407 of the Act, upon the voluntary sale, conveyance or any other voluntary transfer of a Unit or any interest therein, the grantee thereof shall be jointly and severally liable with the grantor thereof for all unpaid assessments for Common Expenses which are a charge against the Unit as of the date of consummation of the sale, conveyance or transfer, and which are set forth in the resale certificate prepared by the Association for that transaction. Such joint and several liability shall be without prejudice to such grantee's right to recover from such grantor the amount of any such unpaid assessments which such grantee may have paid. Until any such assessments are paid, they shall continue to be a lien against the Unit that may be enforced in the manner set forth in Section 5315 of the Act.

#### **5.13 Fees and Expenses.**

All expenses of the Board in connection with any actions or proceedings, including court costs and attorney's fees, late fees, interest, and all other fees and expenses and all damages, liquidated or otherwise, asserted by the Association in collecting Common Assessments, Special Assessments or Unit Assessments shall be added to and deemed a part of the Unit's share of the Common Expenses and the Association shall have a lien for all of the same, upon the defaulting Unit. Any and all rights and remedies shall be exercised any time and from time to time, cumulatively or otherwise.

#### **5.14 Declarant's Rights to Contribute to the Operating Funds of the Association.**

Declarant shall have the right, in its sole discretion and from time to time, to contribute to the operating funds of the Association. At the option of the Declarant, such contribution may be reflected on the books and records of the Association as a loan, in which event it shall be repaid by the Association to the Declarant at the direction of the Declarant. If treated as a loan, the contribution shall accrue interest, compounded monthly, from the date it is made until the date of its repayment, at the short term Applicable Federal Rate ("AFR"), as published by the Internal Revenue Service, and adjusted each month to reflect the AFR for such month.

## **ARTICLE 6 EASEMENTS**

### **6.1 Grant of Easements.**

The entire Property and any portion thereof, including any Unit therein, shall be owned, held, transferred, conveyed, assigned, sold, leased, occupied, used and enjoyed subject to the

easements set forth in this Article and any and all other easements of record.

## **6.2 Owner Easements.**

With respect to the Property, every Owner in good standing and the Owner's successors and assigns, shall have the following easements:

(a) **Access to Common Facilities:** Subject to the provisions of this Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations and applicable law, a perpetual and non-exclusive easement for access to and enjoyment of the Common Facilities by the Owner, the Owner's family, guests, tenants and lessees, in common with other Owners and such other Owner's families, guests, tenants and lessees, for any purpose not prohibited by the aforementioned provisions;

(b) **Use of Utilities:** A perpetual and non-exclusive easement to use any and all sewer, water, storm water, gas, electric, telephone, cable television and other utilities serving the Owner's Unit;

(c) **Use of Sidewalks:** A perpetual and non-exclusive easement to use any and all sidewalks in the Community;

(d) **Extent of Owners' Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:

- (i) The right of the Association in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Facilities and Controlled Facilities and, in aid thereof, to mortgage the Common Facilities. The rights of such mortgagee in the Common Facilities shall be subordinate to the rights of the Owners hereunder;
- (ii) The right of the Association to take such steps as are reasonably necessary to protect the Common Facilities against foreclosure;
- (iii) The right of the Association, as may be provided in its Articles and Bylaws, to suspend the enjoyment rights to recreational Open Spaces of any members for any period during which any such member's assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.
- (iv) The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities within the Common Facilities;
- (v) The right of the Declarant, and of the Association, to grant and reserve easements and rights-of-way through, under, over and across the Common Facilities, for the installation, maintenance and inspection of the lines and appurtenances for access, ingress and egress, for public or private water, gas, electric, telephone, sewage, drainage, fuel oil, cable television, other utilities; provided, however, that such

easements and rights-of-way will not be contrary to either (i) the Plan, or (ii) the purposes for which the Common Facilities can be utilized under the governing ordinances of the Township; and

- (vi) The right of the Association, contingent upon the prior written approval of the Township, to dedicate or transfer all or any part of the Common Facilities to any public agency, authority, utility, or non-profit organization or other entity, for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication and transfer or determination as to the purposes or conditions thereof shall be effective unless an instrument executed by the president of the Association and attested to by the secretary thereof certifies that after due notice in accordance with the Articles of Incorporation and Bylaws of the Association that two-thirds (2/3) of the Owners, approve such action; provided, however, that notwithstanding any such transfer, the Common Facilities are restricted to utilization as Open Space.
- (vii) The free right and privilege of Declarant at all times hereafter to go upon the Common Facilities to construct, reconstruct, repair, renovate or correct any work heretofore or hereafter done by Declarant, its agents, servants, workmen or contractors.
- (viii) The free right and privilege of Declarant, its agents, servants, contractors, licensees and invitees to enter upon the Common Facilities or upon Units that have been conveyed to third parties at all times for purposes incident to the construction of the residential subdivision and the marketing of Dwellings; including, without limitation, the right to complete all improvements denoted on the Plat and/or the Final Subdivision Plans.
- (ix) The right of Declarant to maintain and remove offices, trailers, construction vehicles, models and signs, and the right to use easements within and through the Common Facilities, Controlled Facilities or Units not conveyed to Owners, as more fully set forth herein below.
- (x) The absolute right of Declarant at any time until the conveyance of the last Unit to an Owner other than Declarant to modify the boundary lines of the individual Units and the Common Facilities, provided, however, that any such change must first be approved by the Township. No individual Owner shall be deemed to have a vested right in and to the area, content or location of the Common Facilities until the conveyance of the last lot to an Owner other than Declarant, except that any such change shall not reduce the amount of the Common Facilities to less than the amount required under the applicable Township ordinances.

### **6.3 Declarant Easements.**

The Declarant reserves unto itself, its successors and assigns, the following easements with respect to the Property:

(a) **Development Easements:** A blanket and non-exclusive easement in, upon, through, under, over and across the Property (including individual Units) for the purpose of construction, installation, maintenance and repair of any improvements to the Property, for ingress and egress therefrom, for the use of all roadways and parking areas, and for the utilization of existing and future models for sales promotion and exhibition until the expiration of five (5) years from the date the last Unit is sold and conveyed in the normal course of business.

(b) **Entrance Improvements/Marketing Facilities:** Subject to all applicable Township ordinances regarding entrance improvements and marketing facilities, the Declarant reserves the right to erect and maintain one or more signs identifying the Community and monuments in which to mount such signs within and/or outside of the Unit lines of one or more Units within each phase in the Community, and to install electrical lines to such signs to illuminate them. Declarant reserves the right to construct and maintain any sales related facility, including one or more sales trailers, and one or more construction trailers or other structure or structures within the Property for such period of time as the Declarant may determine in its discretion but in no case for longer than the time that the Declarant is actively selling and/or constructing Units. The Association will repair, replace, maintain and pay to illuminate each such sign.

(c) **Inspection, Service and Remedy:** In addition, the Declarant hereby reserves the irrevocable right to enter into, upon, over and under any Unit for such purposes as may be reasonably necessary for the Declarant or its agents to service such Unit, to inspect such Unit, to remedy any violation of law and to perform any operations required in connection with the maintenance, repair or replacement of the Unit, Common Facilities or any facilities or equipment affecting or serving the Common Facilities, provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner. In case of an emergency, such right of entry shall be immediate whether the Owner is present at the time or not.

(d) **Drainage Easements:** The Declarant reserves a perpetual, blanket and non-exclusive easement in, upon, over, under, across and through the Property for surface water runoff and drainage caused by natural forces and elements, grading and/or the improvements located upon the Property. No individual Owner shall directly or indirectly interfere with or alter the drainage and runoff patterns and systems within the Property. The Declarant shall hold this easement so long as any Unit owned by the Declarant remains unsold. The Association shall hold this easement for as long as the Association is the record owner of lands designated as Common Facilities. For a period of seven (7) years from the date of conveyance of each Unit and the Common Facilities, the Declarant reserves an easement and right, but not the obligation, for the benefit of the Declarant, its agents, employees and contractors, on, over and under the ground within that Unit to maintain and to correct drainage of surface water in order to maintain reasonable standards of quality and appearance or to address other concerns raised by the Township. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any grading of the soil and/or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected Unit or the Common Area or cause the affected Unit to be restored, as nearly as practicable, to the condition in which it was found prior to the



exercise of such right. The Declarant shall give timely notice of intent to take such action to the Owner of each Unit to be entered, unless, in the sole opinion of the Declarant, an emergency exists which precludes the ability to provide such notice. Declarant shall have the right and privilege to enter upon the Property and any Unit at any time to (i) correct any violations of ordinances, including set back requirements or other construction-related matters, and (ii) change the grade of the ground to transition the grade to adjacent areas and/or install or change drainage control devices so as to alleviate any possible drainage or runoff problems, and (iii) to repair, maintain or replace any entrance monuments, Community signage or associated landscaping.

(e) **Maintenance Period Easements:** The Declarant reserves to itself and to the Township and their respective successors and assigns, a perpetual, nonexclusive right and easement to enter upon each and every Unit and Common Area until the expiration of the statutory maintenance period following dedication of public improvements as set forth in Section 509 of the Pennsylvania Municipalities Planning Code, as amended, 53 P. S. 10509, for the purpose of completing any landscaping as required by the Township and further to make such modifications in grading and/or drainage on any Unit as may be necessary in the discretion of the Declarant, its successors or assigns, and/or the Township Engineer for satisfactory storm water management.

(f) **Declarant's Easements for Construction.** Declarant hereby reserves unto itself the right and privilege with respect to the construction of Units or Common Elements, or any other improvements, to go upon such portions of the Property as may be reasonably necessary: (i) for the purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of a Unit or any other Common Elements; (ii) at any time with reasonable prior notice, to conduct grading activities and change the existing grade to match or tie in to the grading of the adjacent Units; (iii) to correct any violations of ordinances, including setback requirements or other construction related matters; and (iv) for the purpose of discharging the Declarant's obligations or exercising the Declarant's rights. This Section shall not be amended without the prior written consent of the Declarant.

(g) **Reservation of Rights for Future Easements.** Declarant retains the sole right to subject any portion of the Community (including Units if necessary or desirable) to an easement or license in favor of any real estate not included in the Community, or in favor of any person who is not an Owner or occupant of a Unit in the Community, or to easements for utilities or other services for one or more Units, until such time as the termination of the period of Declarant control. In such event, in exercising any such right, the use and enjoyment of any Unit by the Owner shall not be adversely affected by the easement rights, nor shall there be any adverse impact on the budget of the Association.

#### **6.4 Association Easements.**

The Association shall have the following easements:

(a) **Maintenance of Common Facilities:** A perpetual and exclusive easement over the entire Property (including without limitation easements for parking areas which extend into Lots) for the maintenance of the Common Facilities, including that which currently or may

hereafter encroach upon a Unit.

(b) **Stormwater Management Facilities:** A perpetual easement for the occupancy of the Stormwater Management Facilities (including all regional infiltrators and infiltration areas) at the locations as shown on the Plat, and at such other locations on the Property as may be reasonably necessary in the future, and an easement for access for inspection, maintenance, repairs and replacement thereof.

(c) **Inspection and Remedy:** The Board of Directors or any manager or managing agent, or their respective agents or employees shall have the perpetual and non-exclusive right of access to each Unit (i) to inspect same, (ii) to remedy any violations of the provisions of this Declaration, the Bylaws or any Rules and Regulations of the Association, and (iii) to perform any work required in connection with the maintenance, repairs or replacements of or to the Common Facilities or any equipment, facilities or fixtures affecting or serving other Unit(s) or Common Facilities; provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Owner. In case of an emergency, such right of entry shall be immediate, whether the Owner is present at the time or not.

(d) **Easement for Access and Usage of Water:** In connection with its Community maintenance obligations, the Association shall have the easement and right to make reasonable use of the exterior water spigots of any Unit, free of charge, in order to fulfill its maintenance obligations with respect to ornamental trees, plants or turf in Open Space and all Common Facilities outside of the Units.

(e) **Lot Access for Grading/Landscaping:** The Association shall have an easement, without the obligation of providing advance notification, to enter upon each Lot to perform any corrective grading deemed necessary or desirable by the Association, and to access, install and maintain landscaping items.

## **6.5 Municipal Easements.**

(a) **Inspection, Maintenance and Law Enforcement.** A blanket, perpetual and non-exclusive easement for ingress, egress and travel in, upon, over, across and through the Property shall exist for the benefit of the Township and the Authority, its respective officers, agents and employees (but not the public in general) and all police, fire and emergency personnel, engaged in the proper performance of their respective official duties (including, but not limited to, emergency or other necessary service or maintenance, repair and/or replacement to a Unit which the Owner has failed to perform and for emergency and other necessary maintenance, repair and/or replacement of the Common Facilities which the Association has failed to perform).

(b) **Storm and Sanitary Sewer Easements:** All storm sewer and sanitary sewer facilities not located within the road right-of-way generally require easements. These easements, either shown on the Plan or otherwise constructed in the Community, may be dedicated to the Township and/or the Authority. The actual locations of these easements may be determined after construction and dedication. The Township shall also have an easement over the entire Property, including all Units, for access and for any necessary repairs, maintenance or replacements of any

and all sanitary sewer facilities, whether shown on the Plan or created in the future.

(c) **Pump Station Easements:** Declarant and the Association reserve the right to grant to the Township, an Authority or a public utility an easement in Open Space A at the location identified as "Proposed Pump Station" on the Plan for the occupancy of pump station improvements. Declarant may construct a sanitary sewer pump station at approximately that location to service the Community. An easement to the land underlying the pump station, together with the improvements thereon, would then be dedicated to the Township, an Authority or a public utility. The exact locations of the easement areas would be determined based on as-built surveys showing the improvements and access-ways, and incorporated into an easement and/or deeds of dedication to be delivered to the Township or Authority upon completion of the pump station improvements.

(d) **Lot Access for Grading:** The Township shall have an easement, without the obligation of providing advance notification, to enter upon each Lot to perform any corrective grading deemed necessary or desirable by the Township.

(e) **Facade Easement on Unit 218:** The Township shall be the beneficiary of a facade easement over Unit 218, as further described in Section 9.26(h).

#### 6.6 Utility Easements.

(a) **Utility Access Easement:** Any utility company or entity furnishing utility service, including master or cable television or electronic security service to the Property, its agents and employees shall have a blanket, perpetual and non-exclusive easement to enter the Property, or any part thereof, to read meters, service or repair utility lines and equipment and do everything and anything else necessary to properly maintain and furnish utility service to the Property.

#### 6.7 Third Party Easements.

The following easements may be granted to third parties:

(a) **Extensions to Walking Trail:** Declarant hereby reserves the right, for itself and for the Association (after the period of Declarant Control has ended) to grant one or more easements, to the Township for the benefit of the citizens of the Township for the extension of the Walking Trails in the Community to connect with public recreation trails that may be built by the Township and used for hiking, biking and other non-motorized recreational uses. The Township currently contemplates that there may be a possible Township recreational trail that would connect into the Community Walking Trails through an extension that would traverse the Open Space at the southwest portion of the Community; and/or a second extension that would traverse the Open Space in the northwest portion of the Community. The Declarant (during the period of Declarant Control) and the Association (after the period of Declarant Control) would be obligated to construct the portion of the trail extension in the Community with a surface of crushed stone and screenings (and paving in areas that might otherwise be subject to washouts, if

necessary in the discretion of the design engineer). The Township would be offered public easements for the trail extensions, when built, in return for the Township's assumption of all obligations and liabilities with respect to the trail extensions, including without limitation inspection, maintenance, repairs, replacements and indemnity for personal injury and property damage claims arising out of the use of the trail extensions. The obligation to construct the improvements related to the extension(s) would commence when the Township has identified and approved the final location for the extensions, the Township Board of Supervisors has voted to approve the location of the necessary improvements located outside of the Community; the funding for those improvements has been secured; and the Township and the Association have entered into an acceptable agreement for the proposed construction of improvements in the Community and their dedication to the Township. The Association may assess and maintain reserves to be applied against the cost of construction of the improvements that the Declarant or the Association may be obligated to construct.

#### **6.8 Recorded Easements.**

The recorded easements and licenses that affect the Community are identified on Exhibit "C" attached hereto. All easements, licenses and other encumbrances upon the Property and appurtenant to or included in the Community or to which any portion of the Community is or may become subject, are either listed on Exhibit "C" hereto, or otherwise described in this Declaration and/or shown on the Plan.

### **ARTICLE 7 MAINTENANCE OF COMMON ELEMENTS**

#### **7.1 Maintenance Responsibility.**

The Declarant shall be responsible for the maintenance of the Common Facilities, and the required management duties with respect to the Controlled Facilities, until the initial Common Expense assessment is made. Thereafter the Association shall be responsible for the maintenance of the Common Facilities (including Open Space Improvements), Entrance Features, and Storm Water Management Facilities, and the required management duties with respect to the Controlled Facilities.

#### **7.2 Maintenance of Common Facilities.**

The Common Facilities shall be maintained as set forth in the Common Open-Space Management Narrative (Exhibit "D"), and in accordance with all applicable laws, and such other rules and regulations as may be adopted by the Association. Maintenance shall include, but is not limited to, the repair, maintenance, renewal and replacement from time to time of the Open Space Improvements, Storm Water Management Facilities, Entrance Features, lawn care, liability insurance, landscaping and planting, tree pruning and maintenance, construction of any kind and anything else associated with the use and enjoyment of the Common Facilities by the Owners. Storm Water Management Facilities maintenance and repair shall include, but not be limited to,

the continuing obligation to mow and keep clear of debris, silt and other obstructions the Storm Water Management Facilities and component parts thereof, and to keep the same in good condition and repair so that the Storm Water Management Facilities shall not be obstructed with brush, shrubs, trees or other growth which will prevent the egress, ingress and regress, if necessary, by tractor or similar motor vehicle from the closest public or private road to the Storm Water Management Facilities. In addition, the Declarant, the Association, and each other person or entity are expressly prohibited from erecting or causing or permitting the erection of any structure, or the installation of any plant material (other than an appropriate ground cover) or the change of the grade of the land or the installation of buried utility lines or other improvements in the Storm Water Management Facilities without the permission of the Township, or conducting any activity therein or thereon, which may interfere with the proper, safe and efficient functioning of the Storm Water Management Facilities, or access thereto.

## **ARTICLE 8 INSURANCE**

### **8.1 Casualty Insurance to be Maintained by Association.**

(a) **Coverage.** Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall cause to be maintained, to the extent reasonably available, property insurance on the Common Facilities, the Controlled Facilities to the extent the Controlled Facilities can be insured separately from the Unit, and the Town Home Units (but excluding improvements and betterments installed by Owners and the personal property of the Owners) insuring against all common risks of direct physical loss including fire and extended coverage perils and all other perils customarily covered by standard extended coverage endorsements in such amount as the Association may determine, but in no event less than One Hundred (100%) percent of the current replacement cost of the insured property, exclusive of land, foundations and other items normally excluded from property policies. The Association may also insure any other property, whether real or personal, owned by the Association, against the loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The cost of insuring the Common Facilities shall be a General Common Expense. The cost of insuring the Town Home Units and Controlled Facilities shall be a Limited Common Expense to be assessed against the Units so benefited.

(b) **Disposition of Proceeds.** The insurance coverage with respect to the Common Elements shall be written in the name of, and the proceeds thereof shall be payable to, the Association. The insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are Common Expenses included in the Common Assessment made by the Association. In the event of damage to or destruction of any part of the Common Elements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the cost of repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment against all Unit Owners

to cover the additional costs of repair or replacement not covered by the insurance proceeds, in addition to any other Common Assessments made against such Owners.

## **8.2 Liability Insurance to be Maintained by Association.**

Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall cause to be maintained comprehensive general liability insurance coverage covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. The limits of such policies and other policy terms shall be as determined by the Board, but in no event less than \$1,000,000 per occurrence, \$3,000,000 aggregate. Liability insurance shall include medical payments insurance.

## **8.3 Additional Endorsements.**

All policies obtained pursuant to the provisions of Section 8.1 and Section 8.2 shall:

- (i) Provide that the Association or its authorized representatives shall be the sole adjuster of any losses;
- (ii) Contain waivers of all rights of subrogation;
- (iii) Provide that the coverage afforded to any insureds shall not be affected by the acts or omissions of any one or more other insured; and
- (iv) Provide that such policy shall not be canceled or modified without thirty (30) days' prior written notice to all whose interests are covered thereby.

Each policy shall designate that insurance proceeds for the loss shall be payable to the Association and not to any mortgagee, and shall otherwise comply with the provisions of Section 5312 of the Act.

## **8.4 Other Insurance.**

The Association shall cause to be maintained workers' compensation insurance and employer's liability as required by law for any employees of the Association. The Association shall cause to be maintained directors and officers' liability insurance, to the extent reasonably available.

## **8.5 Fidelity Bonds.**

The Association shall cause to be maintained blanket fidelity bonds for anyone who either handles or is responsible for funds held by or administered by the Association, whether or not said individual has received compensation for their services. The bonds shall name the Association as the obligee and the premium shall be paid as a Common Expense by the Association. The fidelity bonds obtained shall cover the maximum funds that will be in custody of the Association or its management agent at any time while the bond is in force. In addition, the fidelity bond coverage shall at least equal the sum of three (3) months' Assessment on all Units in the Community, plus the Association's Capital Reserve Fund. Said fidelity bond shall include a provision requiring thirty (30) days written notice to the Association and, if the Board so directs, to each holder of a mortgage on an individual Unit in the Community before the bond can be canceled or substantially modified for any reason. Any management agent that handles

funds for the Association shall be covered by its own fidelity bond which shall provide coverage of at least \$250,000, or such other amount as the Association shall from time to time require.

#### **8.6 Waiver of Subrogation and Release.**

Subject to the provisions of this Article, each Unit Owner and the Board hereby waives and releases any and all claims which he or it may have against any other Owner, the Association, the Board and members thereof, the Declarant and its respective employees and agents, for damage to the Common Elements, the Units or to any personal property located in the Units or Common Elements, caused by fire or other casualty or any act or omission of any such party, to the extent that such damage is covered by property or casualty insurance. Such release and waiver shall be valid only if such release or waiver does not affect the right of the insured under the applicable insurance policy to recover thereunder. In no event shall insurance obtained and maintained by the Association and by individual Owners be the subject of any action for contribution.

#### **8.7 Insurance Underwriting Standards.**

The Association reserves the right from time to time to implement any requirements that may be imposed or suggested by insurance underwriters of those companies that actually provide any of the coverages maintained by the Association on the Community.

### **ARTICLE 9 USE RESTRICTIONS**

#### **9.1 Declarant Exemption.**

The provisions of this Article are intended to preserve and enhance the nature and appearance of the completed Community, and are not intended to be used to prohibit the Declarant from developing the Community as planned. The restrictions of this Article therefore shall not apply to the Declarant, or any transferee of special declarant rights, and its activities at the site during the continuance of its construction and marketing efforts related to the Community.

#### **9.2 Compliance with Plan.**

No use of any Unit shall be made which is contrary to the Plan approved by the Township, as provided for in the relevant provisions of the Township Zoning Ordinances, or such changes or amendment to such plan as may from time to time be properly approved by the Township. Each Owner shall be bound by all provisions of such Plans, whether or not recorded, including but not limited to all Notes shown thereon.

#### **9.3 Residential Use.**

The lots on the Property as depicted on the Plan, except as hereinafter provided, shall be used for private residential purposes only. No buildings of any kind shall be erected or maintained thereon except for private dwelling houses and such outbuildings as are customarily appurtenant to residences and as are approved, in writing, in accordance with the provisions of this Article.

No sheds or doghouses are permitted. Each house shall be designated for occupancy by a single family for the exclusive use of the respective Owner or occupant. Home occupations are permitted in accordance with Township ordinances.

#### **9.4 Prohibition of Use of Garages.**

No garage erected on any Lot shall be used as residential living space, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

#### **9.5 No Further Subdivision.**

No Unit, once conveyed by the Declarant to an individual Owner, may be further subdivided.

#### **9.6 Industrial, Manufacturing Uses.**

No building designed or intended for any industrial or manufacturing purpose nor for any dangerous or offensive trade or business, shall be erected, permitted, maintained or operated on the Property. No dangerous or offensive trade or business shall be permitted upon any of the Units. No live poultry, pigeons, horses, hogs, cattle, or other livestock may be kept on any Unit.

#### **9.7 Parking of Certain Vehicles.**

Travel trailers, mobile homes, motor homes, boats, commercial vans and commercial trucks are not permitted to be parked on the roadways of the Property, parking areas or on Lots unless parked entirely within the garage of a Dwelling erected on a Lot. The only exception is temporary placement of such vehicles for purposes of loading or unloading.

#### **9.8 Swimming Pools.**

No above-ground swimming pools shall be erected on any Lot. Temporary children's pools are permitted only if removed and stored inside daily. No above-ground or in-ground swimming pools shall be permitted in the Limited Controlled Facilities and Exclusive Use Areas adjoining the Town Home Units (excepting only temporary children's pools which will be permitted only if removed and stored inside daily). No Owner of a Single Family Unit may construct or install any in-ground pool except with the prior review and approval of the Association, acting through the Board or a committee with delegated authority.

#### **9.9 Rubbish, Trash and Garbage.**

No rubbish, trash or garbage (other than that kept in closed sanitary containers immediately adjacent to a Dwelling), scrap metal, waste, new or used lumber or wood (except firewood to be used in fireplaces in a Dwelling) shall be placed or permitted on any Lot. Any firewood stored on a Lot should be stacked adjacent to the house no more than 4' high. Trash and rubbish may be left at curbside for collection purposes only; containers shall be removed promptly after collection.



#### **9.10 Clotheslines and Laundry.**

No outside clothesline shall be erected or maintained on any Lot and no regular outside drying or hanging of clothes or linens shall be permitted

#### **9.11 Owners' Landscaping Obligations.**

Each Owner shall be responsible at such Owner's expense for grading, seeding, care and maintenance of any grounds and trees between the road pavement and the Owner's Lot line. This responsibility shall be perpetual and shall run with the ownership of the respective Lot.

The location, type, and quantity of Required Landscaping planted on each Lot are defined as part of the Plan. Required Landscaping therefore must remain as placed in accordance with the Plan.

In the event that a street tree is damaged, removed, or relocated by an Owner prior to the Township's acceptance of dedication, the responsible Owner shall be responsible at such Owner's expense for replacing the Street Tree in accordance with the Plan.

Owners of Town Home Units shall be permitted to plant and maintain landscaping in addition to the ornamental landscaping initially provided by the Declarant in the front of the Units, upon the submission of the proposed landscaping plans for review and consideration by the Board or a committee to be designated by the Board. The Board may establish and revise from time to time reasonable standards and guidelines for all such landscaping, and procedures for review of same.

#### **9.12 Motorbikes and Unlicensed Vehicles.**

The use of motorbikes, mini-bikes or similar unlicensed motorized devices shall not be permitted in the Community except duly licensed motorcycles may be used on the roads for the purpose of normal transportation to and from the Units.

#### **9.13 Hunting.**

Hunting is not permitted on any Lot within the Community. Hunting in the Open Space areas is not permitted unless approved, in writing, in advance by the Executive Board.

#### **9.14 Storm Water Maintenance Obligations.**

Each Owner of a Lot shall be responsible for maintaining at such Owner's expense all drainage easements, drainage channels, swales or other storm water management systems situated on the Owner's Lot. No Owner or occupant shall obstruct, interfere with or alter in any way such channel or storm water management system. The foregoing restriction shall include, but is not limited to modifying or obstructing the surface area of any land within a stream or drainage easement, allowing growth of trees or shrubs within such areas if the growth of such trees or shrubs would interfere with the flow of surface water or otherwise impair the function of such facilities or systems, and allowing the accumulation of debris within such areas. No trees, shrubbery or other plantings, other than grass and shallow rooted shrubbery and planting, shall be permitted on the land under which any storm water management facilities or swales are located. No grading, landscaping or excavation or driveway installation shall be constructed on any Lot in

a manner that burdens, damages or interferes with drainage along, across or under the road right-of-way, or which interferes with any on-Lot drainage swales, pipes, berms, basins or other drainage facilities of any type.

#### **9.15 Fences.**

Fences, other than underground "invisible" fences, are not permitted except around an in-ground swimming pool. Such fencing and related pool must be approved by the Declarant (or the Association when it succeeds to such rights). Furthermore, no shrubbery, bushes or trees may be planted on a Lot, in a manner that would act as a fence, screen or continuous property line delineation.

#### **9.16 Application of Township Ordinances.**

All restrictions provided for herein shall be in addition to any restrictions contained in Township ordinances, rules or regulations, and in all events, in the case of conflict between such rules and regulations and the restrictions provided for herein, the most stringent of the two shall apply.

#### **9.17 Review of Plans and Proposed Improvements.**

In order to maintain an attractive community of a certain standard and uniformity, the Declarant (and the Association when it succeeds to Declarant's rights), is reserving the right to review and to give or withhold consent to all exterior modifications that an Owner may wish to make on his Lot (including the entire yard and the exterior portions of each dwelling). No Owner shall erect, construct or place upon his or her Lot any addition or modification (including but not limited to the following items) without the prior written consent of the Declarant (and the Association when it succeeds to Declarant's rights):

No building, outbuilding, addition, structural modification, driveway, swimming pool, flagpole (over 6'), walkway, pools, decks, fences, walls, sheds, dog houses, vegetable gardens, children's' play structures, screen doors, awnings, sports structures, lawn/house ornamentation, post lamps, parking structures, clotheslines, decks and patios, landscape screening and any other proposed changes to the yard area or any exterior architectural feature of any improvements on a Unit in the Community (each a "Regulated Activity").

No Regulated Activity shall be commenced, erected or maintained by an Owner; nor shall any addition, alteration or exterior modification be made to any building on a Unit by an Owner; until plans and specifications, plot plans and grading plans, or other satisfactory information has been submitted to and approved in writing by the Declarant (or the Association when it succeeds to such rights). The Declarant shall have the right to refuse to approve any such plans or specifications which in its opinion are not suitable or desirable. In so passing upon such plans and specifications, the Declarant may take into consideration the suitability of the proposed building or other structure and of the materials of which it is to be built, the site upon which it is proposed to erect same, the harmony thereof with the surroundings and the affect of the building or other structure as planned on the outlook from the adjacent or neighboring properties. It is the intention of the Declarant that a generally open and unobstructed condition be maintained between buildings and throughout the Community. The Declarant (and the Association when it

succeeds to Declarant's rights), may adopt and may modify from time to time, written guidelines for exterior modifications and procedures for seeking approvals relating to any or all Regulated Activity.

#### **9.18 Architectural Review Committee.**

Declarant or its successors in title to whom "special declarant rights" (as defined in the Act) have been transferred shall be responsible for reviewing and acting upon any requests under Section 9.17 until such time as it shall no longer own any Units within the Community or a period of five (5) years from the conveyance of the first Unit to a third-party buyer, whichever shall first occur.

Thereafter, the rights of the Declarant described in Section 9.17 shall be transferred to the Executive Board of the Association or to an Architectural Review Committee appointed by the Executive Board of the Association.

#### **9.19 Delegation of Rights and Duties.**

All of the rights and powers given to the Declarant or Association in this section may be delegated or assigned to any one or more individuals, governmental bodies, partnerships, corporations or associations that will agree to assume the rights, powers, duties, and obligations and carry out and perform the same. Any such delegation, assignment or transfer shall be made by appropriate instrument in writing to which the delegate, assignee or transferee shall join for the purpose of evidencing its consent to the acceptance of such rights and powers and such delegate, assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given and assumed by the Declarant, the Declarant thereupon being released there from.

#### **9.20 Sight Distances at Intersections.**

Clear Sight Triangle Easements are shown on individual Lots and Open Spaces on the approved Plan and the Plat. No vision-obstructing object, wall or shrub planting which obscures vision above the height of thirty inches and below ten feet measured from the centerline grade of intersecting streets shall be placed on any corner Unit within the Clear Sight Triangle Easement area. No tree shall be permitted to remain within the distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of the sight lines. In the event that any applicable law, ordinance or regulation imposes a more restrictive requirement for maintaining sight distances at intersections, then the more restrictive requirement shall govern.

#### **9.21 Television and Radio Towers, Antennae and Satellite Dishes.**

Except as hereafter provided, no radio, television or tower, pole, antenna or similar structure shall be erected on any part of any Unit or Dwelling, including but not limited to radio or television mast antennas. The following types of devices shall be permitted in designated areas as provided below: devices for over the air reception of direct broadcast satellite service (e.g. satellite dishes) of less than one meter in size; multi-channel multi-point distribution service antennas less than one meter in size with towers less than twelve feet above the roof line; and television broadcast service antennas of three feet or less. These devices may be located in the following areas of an Owner's Unit: at any location provided that no part of the satellite dish is

visible from the street on which the house fronts (either due to location or screening or landscaping); in the back yard of the Lot; and with respect to a television broadcast antenna, on the roof or attached to any chimney. These devices may also be located on the roof, chimney, side yard or any other location, if the Owner is able to prove to the satisfaction of the Executive Board or designated committee that the installation in each of the specifically permitted areas would: (1) impair reception of an acceptable quality signal, or (2) unreasonably prevent or delay installation, maintenance, or use of an antenna, or (3) unreasonably increase the cost of installing, maintaining or using an antenna. The Executive Board or designated committee may adopt and enforce reasonable architectural guidelines with respect to these devices that seek to minimize the visual effect on the Community.

#### **9.22 Ham Radio Antennae and Transmitters.**

No Owner shall construct or place on his Unit or Dwelling an antennae or similar structure for the transmission or reception of ham radio signals unless or until plans and specifications, plot plans and grading plans, or other satisfactory information has been submitted to and approved in writing by the Declarant (or the Association when it succeeds to such rights). The Declarant shall have the right to refuse to approve any such plans or specifications which in its opinion are not suitable or desirable. The Declarant and the Association or designated committee may adopt and enforce reasonable architectural guidelines with respect to these devices that seek to minimize the visual effect on the Community.

#### **9.23 Restrictions Affecting Common Facilities.**

(a) **Uses.** The Common Facilities shall be used for only the following purposes: utilities (including without limitation water distribution and sanitary sewage collection facilities), Entrance Features, Storm Water Management Facilities, resource conservation, flood plain conservation, and active and passive recreational purposes. No other use shall be permitted in the Common Facilities, except that which may be designated and approved by the Declarant.

(b) **Subdivision of Common Facilities.** There shall be no further subdivision of the Common Facilities, except for Declarant's right to adjust or modify lot line boundaries as permitted by this Declaration and by law.

(c) **Landscaping and Planting.** No individual landscaping, gardening, planting or mowing shall be permitted in the Common Areas, except landscaping, gardening, planting or mowing which is approved by the Association in accordance with its Articles and Bylaws.

(d) **Trees.** No trees within the Common Areas, except dead or diseased trees, shall be cut except when approved by the Association in accordance with its Articles, Bylaws, and the Open Space Management Plan and the Woodland Management Plan

(e) **Fences.** No fences shall be erected on the Common Areas space (other than fences that are part of the Entrance Features, required by the Plan and such other fencing as permitted herein), except those shown on the Plat or approved by the Association in accordance with its Articles and Bylaws.

#### **9.24 No Interference with Stormwater Management Facilities.**

No Owner or occupant shall obstruct, interfere with or alter in any way the Stormwater Management Facilities (including swales) or any easement located in whole or in part on such Lot. The foregoing restriction shall include, but is not limited to modifying or obstructing the surface area of any land within a stream or drainage easement, placing a structure or obstruction, allowing growth of trees or shrubs within such areas if the growth of such trees or shrubs would interfere with the flow of surface water or otherwise impair the function of such facilities or systems, and allowing the accumulation of debris within such areas.

#### **9.25 Discretionary Waivers and Variances.**

Declarant (and the Association as it succeeds to the rights of Declarant) may grant waivers or variances from the strict application of the restrictions of this Article in appropriate cases, in its sole discretion. They may also grant approvals, waivers or variances to applicants provided that the applicant agrees to comply with conditions which have been proposed in connection with any such approval. Decisions on such applications shall be made on a case by case basis; and the grant of any such waiver or variance in one case shall not be deemed to be a precedent for the grant of a waiver or variance in any subsequent or similar case.

#### **9.26 Township Imposed Restrictions:**

(a) **Further Open Space Restrictions:** The Open Space shall be owned and maintained in perpetuity by the Association. Further subdivision or development of the Open Space is prohibited. There shall be no removal of protected woodlands, replacement trees and protected hedgerow areas within the Property and along the roads and southern border of the Property. No structure shall be placed within twenty five feet of the "Restricted Open Space" as shown by the setback line on the Plan.

(b) **Natural Resource Restrictions on Certain Units:** The following Units have protected natural resources consisting of woodlands (including hedgerow areas within the Property and along the roads and southern border) and replacement trees:

Units 16-22  
Units 41-50  
Units 62-71  
Units 76-80  
Unit 82  
Units 104-108  
Units 110-112  
Units 114-118  
Units 132, 218

Each Owner of an affected Unit shall be responsible for the protection of the natural resources on its Unit and shall be prohibited from disturbing those natural resources, all in accordance with Article 1200 of the Township zoning ordinance. However, in accordance with applicable law,

each Owner may remove dead or diseased trees, trim those trees, and remove invasive species.

(c) **Modifications to Stormwater Management Facilities:** No Owner shall modify any Stormwater Management Facilities on his or her Unit or Lot without prior written approval of the Township Board of Supervisors in accordance with applicable law.

(d) **Preservation Restrictions on Lot 218:** Lot 218, containing the existing farmhouse, shall be a single-family Unit in the Community, and shall be sold subject to the restrictions in this Declaration. The Declarant has agreed with the Township to perform certain work to stabilize the condition of the building. The Township is hereby granted a facade easement for the entire exterior of the stone section of the existing farmhouse, as stabilized, subject to the terms and conditions of this section. The stone section of the existing farmhouse on Lot 218, shall not be demolished, but once stabilized shall be preserved in its then current state (except as provided below), and may thereafter be renovated and altered only in accordance with Secretary of the United States Department of the Interior's Standards for Rehabilitation and the most recent edition of the Secretary of the Interior's Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings. The two frame additions on the south side of the existing house may be demolished. The structure of the existing home may be enlarged beyond its current dimensions (20' by 30'), through sympathetic additions and/or alterations, provided that any such proposed additions and/or alterations shall first be reviewed and approved by the Township for conformity with the standards and guidelines identified above, and other applicable Township ordinances. All proposed alterations shall also be subject to the prior review of the Association, for compliance with its architectural review guidelines, to the extent they are not inconsistent with the standards and guidelines listed above. This easement shall run with the land of Lot 218 and shall be binding on all subsequent owners thereof. The Declarant may file a memorandum in the public records that gives specific notice to subsequent owners of Lot 218 of the requirements of this section.

(e) **Setbacks in Lots Abutting Restricted Open Space:** The following Lots are located adjacent to Restricted Open Space (as shown in the sheet of the Plan called "Final Open Space Plan" - sheet 30 of 36): 1, 2, 4 through 15, 31 through 42, 106 through 119, 121 through 129, and 131 through 136. No Owner of any of these Units may construct or maintain any structure within twenty-five feet of the boundary line between their Lot and any Open Space. Further, no structures shall be built within the twenty-five feet rear or side yard setback on the Town Home Units abutting the Open Space nor within the setback area of Lot 218.

(f) **Perimeter Setback:** The entire perimeter of the Property is subject to a fifty foot setback area in which no structures may be constructed or maintained. This restriction applies to the following Units: Units No. 16-30, 42-49, 104-108.

## ARTICLE 10 RIGHTS AND OBLIGATIONS OF DECLARANT

### 10.1 Reservation of Special Declarant Rights.

Declarant hereby reserves to itself as Special Declarant Rights, the right to:

- (a) complete improvements indicated on the Plat and Plan;
- (b) maintain offices, signs and models in the Community as further provided herein;
- (c) use easements through the Common Facilities or Controlled Facilities for the purpose of making improvements in the Community under section 5218 of the Act (relating to easement to facilitate completion, conversion and expansion);
- (d) appoint or remove an officer of the Association or an Executive Board member during any period of declarant control under section 5303 of the Act (relating to board members and officers).

### 10.2 Offices, Signs and Models.

Declarant reserves the right to maintain and remove offices, signs and models within the Common Facilities portions of the Community and/or individual Units within the Community, in connection with the management of and/or sale or rental of Units owned by the Declarant. Declarant further reserves unto itself the right and easement over, under, through and across the Property for the purpose of constructing buildings, structures or improvements upon the Property, including without limitation the right to park motor vehicles and maintain construction and marketing activities of any nature whatsoever, including the moving and storage of building materials and equipment, the conduct of sales, leasing and management activities, the maintenance of models and offices, and the erection and maintenance of directional, identification, promotional and marketing signs.

(a) **Offices:** Declarant reserves the right to maintain a marketing office and a construction office at the Community at the locations to be established by Declarant from time to time, based upon construction and sales activity. Temporary sales trailers and/or construction trailers and/or equipment trailers may be placed anywhere within the Common Facilities portions of the Community, and/or within individual Units. Upon removal of any temporary sales trailers or construction or equipment trailers, Declarant shall restore the disturbed areas to their prior condition.

(b) **Signs:** Declarant reserves the right to maintain signs in any one or more of the Units in the Community, as well as on the Common Facilities thereof, advertising Units in the Community for sale or lease.

(c) **Models:** Declarant reserves the right to maintain models at the Community at the

locations to be established by Declarant from time to time, based upon construction and sales activity. Model homes may be placed on any Unit in Declarant's sole discretion.

These rights shall be retained for so long as the Declarant retains ownership of any one or more Units within the Community.

### **10.3 No Liability on Declarant.**

Nothing herein contained shall impose upon Declarant any liability for property damage or personal injury occurring to any person, firm or corporation by reason of the use of the streets as shown on the plot plan or by reason of the use of the easements as shown on the plot or herein reserved, and all persons, firms or corporations using such streets and easements shall do so at their own risk and without liability on the part of the Declarant.

## **ARTICLE 11 RIGHTS OF TOWNSHIP.**

### **11.1 General Rights Reserved to Township.**

The Township has approved the development of the Community in accordance with the provisions of the Plan, and has required the Declarant to post financial security to guarantee the completion of the public improvements required by the Plan. In connection with those rights, the Township shall have the right of access to all parts of the Property as may be necessary from time to time to inspect or observe the construction activities of Declarant. In the event that Declarant is called in default under its development agreement with the Township, and the Township determines to complete the improvements, then the Township shall have and exercise all rights granted to Declarant herein necessary to complete the Improvements.

### **11.2 Township Easement Rights.**

Declarant hereby reserves for the benefit of the Township the easement rights identified in Section 6.5 (municipal easements) and Section 6.7(a) (extension of recreational trail) of this Declaration.

### **11.3 Compliance with Maintenance and Other Obligations.**

The Township shall have the right (but not the obligation) to enforce the provisions of the Declaration requiring the Association to maintain the Common Elements. The Township shall have the right (but not the obligation) to compel the maintenance of the Common Elements in the event the Association fails to do so, provided the Township shall give written notice to the Association of such failure. In the event the Association shall fail to undertake such performance within thirty (30) calendar days of receipt of the aforesaid notice from the Township, then the Township may enforce the obligations of the Association or its Members by an action in law or equity. The Township shall also have the right to undertake such performance and charge the Association therefore; provided however, that the Township shall not be obligated to wait for the



expiration of such thirty (30) day period if an emergency shall be determined by the Township to exist. No action by the Township shall be deemed in any way: (i) to relieve the Association from the performance of its obligations under this Declaration; (ii) to obligate the Township to perform such service on a regular basis; or (iii) to be deemed an acceptance by the Township of such Common Elements.

The cost of such maintenance and/or enforcement proceedings by the Township, together with interest, costs, attorney fees and a fee of twenty percent (20%) of the maintenance expenses incurred by the Township as an administrative fee, shall be made to the Township from any funds under the control of the Association for any purpose. In the event the Association fails to reimburse the Township within thirty (30) calendar days of receipt of a written bill for such assessment, or if funds from the Association are insufficient to fully reimburse the Township, the Township shall have the right, after first providing written notice to the Association and the Unit Owners, to assess the Unit Owners directly for their proportionate share of such cost of deficiency. Such assessment shall be assessed ratably against the Unit Owners and shall become a lien on such Units from the time such liens may be filed by the Township. If a lien is placed by the Township against Lots because of the failure of the Declarant, the Association or any successor organization to maintain the Common Elements in reasonable order and condition as provided herein, the Township shall, upon conveyance of a Unit, or securing any home equity loan by any Unit Owner, release its lien as to the affected Unit upon payment of the amount due which was ratably assessed to that Unit. This provision may not be amended without the prior written consent of the Township.

#### **11.4 Amendments Affecting Rights of Township.**

Any proposed amendments to this Declaration that would affect the specific rights of the Township that are granted herein shall not be effective unless approved by the Township in writing.

#### **11.5 Indemnification of Township.**

Declarant and the Association hereby agrees to indemnify the Township and hold it harmless from all liability, claims and demands of whatever nature, including costs of defense thereof, related to damage or injury, or alleged damage or injury, to persons or property caused or allegedly caused by erosion or as a result of the construction of improvements on the Property, including but not limited to, roadways, Stormwater Management Facilities, sewer and any other facilities. The obligations to indemnify the Township hereunder shall be binding upon Declarant, and any successor declarants (until all Units in the Community have been constructed and sold to their first occupants) and thereafter on the Association, and its successors and assigns.

## **ARTICLE 12 RIGHTS AND OBLIGATIONS OF MORTGAGEES AND LENDERS.**

### **12.1 Lending Standards and Guidelines.**

Notwithstanding any and all provisions hereof to the contrary, in order to induce the Federal Home Loan Mortgage corporation ("FHLMC"), the Government National Mortgage Association ("GNMA") and the Federal National Mortgage Association ("FNMA") to participate in the financing of the sale of Units within the Community, the following provisions are added hereto and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control:

#### **12.2 Notices Upon Request.**

If a prior written request is made to the Association by a Mortgagee, then the Association shall agree to give written notice of to the Mortgagee of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation of the Association or the Bylaws, which default is not cured within thirty (30) days after the Association gives notice to the Mortgagor of such default. The Association may give such notice to the last known address of the Mortgagee, and shall not be required to seek out the identity or new address for the Mortgagee if the last known address is invalid.

#### **12.3 Right to Inspect Books and Records.**

Mortgagees shall have the right to examine the books and records of the Association during normal business hours.

#### **12.4 Notice of Amendments; Casualty; Condemnation.**

The Association shall give to all Mortgagees who have made a prior written request to the Association:

(a) thirty (30) days' written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles of Incorporation or Bylaws of the Association, and prior to the effective date of any termination of an agreement for professional management of the Community Property following a decision of the Unit Owners to assume self-management of the Community; and

(b) immediate notice following any damage to the Common Elements whenever the cost of reconstruction exceeds Fifty Thousand Dollars (\$50,000); or as soon as the Board learns of any threatened condemnation proceeding.

The Association may give such notice to the last known address of the Mortgagee, and shall not be required to seek out the identity or new address for the Mortgagee if the last known address is invalid.

#### **12.5 Payments by Mortgagees.**

Mortgagees may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements; and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property. The Association agrees that any such Mortgagee making such

advance shall be entitled to immediate reimbursement therefor from the Association.

#### **12.6 Regulatory Guidelines.**

The Association may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, the FHA, the FHLMC, the FNMA or the GNMA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first Mortgages encumbering Units. Each Unit Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their Units if such agencies approve the Property as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time.

### **ARTICLE 13 BREACH OF DECLARATION AND REMEDIES.**

#### **13.1 Breach of Obligations under Governing Documents.**

Upon the breach by any Unit Owner or any person in possession of such Unit, of the obligations under this Declaration, the Bylaws, any rules and regulations adopted by the Association, or any covenants, conditions or restrictions in any deed for that Unit, the Association and/or any Owner may exercise any one or more of the remedies contained in any of those documents, and any other remedies as permitted by law.

#### **13.2 Legal Proceedings and Judgments.**

(a) **Mandatory Alternate Dispute Resolution for Certain Claims:** Any controversy or claim between the Association and any Owner(s) arising out of or relating to the rights and duties of each, or the breach thereof, and involving an amount in dispute of more than \$5,000, shall be settled by arbitration administered by the American Arbitration Association under its Arbitration Rules for the Real Estate Industry, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

(b) **Equitable and Other Legal Relief:** Upon any breach as provided in Section 13.1 above, and during the continuation of same, any such breach may be enjoined, by appropriate legal proceedings, pending the dispute resolution proceedings, by any Unit Owner, by the Association or the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include the amount of any delinquent payment, late fees, interest thereon, costs of collection, including attorney's fees, court costs and penalty charges.

(c) **Fines:** In addition to any and all other remedies permitted hereunder or by law, the Association shall have the right to levy fines for any violation of this Declaration, the Bylaws and any Rules and Regulations, provided, however, that the fine for a single violation may not

exceed \$25.00 per day, or such higher amount as determined by the Board from time to time in its reasonable discretion, as evidenced by a written resolution of the Board. Before imposing any fine, the Association shall provide the violator with written notice of the violation and an opportunity to be heard, and an appropriate cure period, under written standards to be adopted by the Association. Each day or portion thereof that a violation continues after receipt by the violator of the initial written notice of the violation and the passage of the cure period may be considered as a separate violation. Any fine so levied shall be considered an Assessment to be levied against any Member(s) involved, shall constitute a lien against any Unit owned by such Member(s), and shall be a personal obligation of such Member(s). The Association may collect these amounts in the same manner as the Board is entitled to enforce collection of Assessments under Article 6.5 of this Declaration.

### **13.3 Nuisance and Abatement.**

The result of any breach as provided in Section 13.1, in whole or in part, is hereby declared to be and shall constitute a nuisance. Every remedy allowed by equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Unit Owner, by the Association or its successors-in-interest.

### **13.4 Remedies Cumulative.**

The remedies herein provided in this Article shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

### **13.5 No Waiver.**

The failure by the Declarant, the Association or the Township to enforce any covenant or restriction contained in this Declaration shall not be deemed to be a waiver of the right to do so thereafter. Nothing in this Declaration shall impose upon Declarant any obligation to enforce any of the provisions of the Declaration; nor shall Declarant be liable for the failure to enforce any of the provisions of the Declaration.

### **13.6 Effect on Mortgages.**

A breach as provided in Section 13.1 above shall not affect or impair the lien or charge of any bona fide Mortgage or deed of trust made in good faith and for value on any Lot or the Unit thereon, provided, however, that any subsequent Owner of such property shall be bound by said covenants, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

### **13.7 Substitute Performance.**

The Association may, after fifteen (15) days prior written notice, without being liable to any Unit Owner, enter upon any Unit, for the purpose of enforcing by peaceful means the provisions of this Declaration or the other governing documents, or for the purpose of maintaining or repairing any such Unit if for any reason whatsoever the Owner thereof fails to maintain or repair any such Unit as required by this Declaration. The cost of any such maintenance and repairs incurred by the Association shall be an obligation of the Owner, shall be a lien on the Unit, and may be

collected as permitted herein for assessments and other charges.

## **ARTICLE 14**

### **AMENDMENTS TO DECLARATION.**

#### **14.1 Right to Amend Declaration.**

Except as limited or as otherwise permitted by Section 5219 of the Act or this Declaration, this Declaration may be amended by the vote of the Unit Owners holding sixty-seven percent (67%) of the allocated votes in the Association. Any proposed amendments to this Declaration that would affect the specific rights of the Township or Declarant that are granted herein shall not be effective unless also approved in writing by the Township or the Declarant (as applicable).

#### **14.2 Declarant's Joinder for Specific Amendments.**

Except to the extent expressly permitted or required by other provisions of the Act, without the unanimous consent of all Unit Owners affected, no amendment may create or increase any Special Declarant Rights, alter the terms or provisions governing the completion or conveyance or lease of Common Facilities or increase the number of Units or change the boundaries of any Unit, the Common Expense liability or voting strength in the Association allocated to a Unit, or the uses to which any Unit is restricted. In addition, no Declaration provisions pursuant to which any Special Declarant Rights have been reserved to the Declarant shall be amended without the express written joinder of the Declarant in such amendment.

#### **14.3 Curative Amendments.**

If any amendment is necessary in the judgment of the Board to cure any ambiguity or to correct or supplement any provision of this Declaration or the Plats and Plans which is defective or inconsistent with any other provision hereof or thereof or with the Act, or to change, correct or supplement anything appearing or failing to appear in the Plan which is incorrect, defective or similarly inconsistent, or if such amendment is necessary to conform to the then current requirements of FNMA, FHLMC, VA, FHA, GNMA, or other similar government agency with respect to community projects, the Board may, at any time and from time to time, effect such amendment without the approval of the Unit Owners, upon receipt by the Board of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of the Act, together with a like opinion from an independent registered architect or licensed professional engineer in the case of any such amendment to the Plan. Each such amendment shall be effective upon the Recording of an appropriate instrument setting forth the amendment and its due adoption, execution and acknowledgments by one or more officers of the Board.

## **ARTICLE 15**

### **GENERAL PROVISIONS**

#### **15.1 Notices.**

Any notice required to be sent shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as a member of Owner on the records of the Association at the time of such mailing.

#### **15.2 Enforcement.**

(a) **Enforcement Actions:** The Declarant and the Association may enforce the covenants and restrictions in this Declaration by a proceeding at law or in equity against any person or persons violating, or attempting or threatening to violate any covenant or restriction, either to restrain an actual or threatened violation or to recover damages, and against the land to enforce any lien created by these covenants. In addition to the other remedies provided herein or permitted by law, the Declarant and the Association shall have the right to enter upon the lands where such violation or breach exists, and summarily to abate and remove at the expense of the Owners thereof, any structure, thing, or condition that may be or exist thereon contrary to the intent and meaning of the provisions of this Declaration. The Declarant or Association shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal.

#### **15.3 Severability.**

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

#### **15.3 Parties Bound.**

Each present and future Unit Owner, occupant and Mortgagee of a Unit, shall be subject to and shall comply with the provisions of the Act, this Declaration, the Plan, the Bylaws, the Rules and Regulations, and the deed to such Unit. The acceptance of a deed or mortgage to any Unit, or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the Act, this Declaration, the Plan, the Bylaws, the Rules and Regulations and the covenants, conditions and restrictions set forth in the deed to such Unit are accepted and ratified by such grantee or Mortgagee. All of such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or mortgage thereof.

#### **15.4 Continuing Effect.**

The covenants and restrictions of its Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Unit Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns and the Association.

### 15.5 Interpretation.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community. In case of inconsistencies in the governing documents of the Community, then the articles of incorporation of the Association shall have precedence over this Declaration; this Declaration in turn has precedence over the Bylaws of the Association; and the Bylaws have precedence over any rules and regulations adopted by the Association. The section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter. All Exhibits attached hereto are hereby made a part hereof.

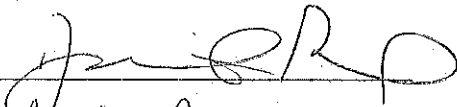
### 15.6 Covenant Running with the Land, Constructive Notice and Acceptance.

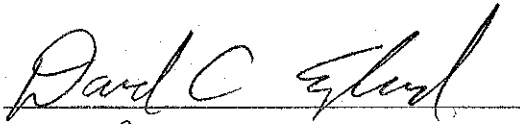
The provisions of this Declaration shall at all times hereafter be appurtenant to, affect and bind the Property and are intended to be covenants running with the land with regard to the Property. This Declaration shall be Recorded, and when so Recorded, every person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Property does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Property, or any portion thereof.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed s of the date first given above.

Attest:

ROUSE/CHAMBERLIN LTD.,  
by its managing general partner,  
R/C MANAGEMENT CORP., INC.

By:   
Its: Vice President

By:   
Its: Ehlert

## INDEX OF DEFINED TERMS

The following terms when used in this Declaration shall have the meanings given to them by this Section:

**"Act"** shall mean and refer to the Pennsylvania Uniform Planned Community Act, as amended by the 1998 amendments, and as may be amended in the future.

**"Additional Real Estate"** shall mean the additional land (if any) that may be added to the Community as provided in Section 2.3.

**"Assessments"** shall mean those assessments, payable by the Owners upon notification by the Association as provided herein. Each Assessment shall be separate and payable by the Owner of the Unit against which the Assessment is levied.

**"Association"** shall mean Providence Hill Homeowners Association, a Pennsylvania non-profit corporation, being an association of all Owners (including the Declarant while it owns a Unit subject to this Declaration).

**"Authority"** shall mean a municipal authority (including a joint municipal authority) providing services to the Community.

**"Board"** shall mean the Executive Board as it may from time to time be constituted.

**"Bylaws"** shall mean the Bylaws of the Association that have been or will be adopted by the Executive Board for the management of the affairs of the Association, as amended from time to time.

**"Common Assessments"** shall mean those general, limited and special assessments as determined and levied by the Association from time to time for the payment of the debts and obligations of the Association.

**"Common Elements"** shall include the Common Facilities and the Controlled Facilities, and those other facilities that the Association may hereafter own, acquire, construct or control and designate as Common Facilities or Controlled Facilities.

**"Common Expense Liability"** shall mean and refer to the liability for common expenses allocated to each Unit in Section 4.3 of this Declaration.

**"Common Expenses"** shall mean and refer to the expenditures made by, or the financial liabilities of, the Association, together with any allocations to reserves. The term includes general common expenses and limited common expenses.



"**Common Facilities**" shall mean and refer to those areas and facilities identified in Section 3.3 of this Declaration.

"**Common Maintenance Obligations**" shall mean the obligations of the Association to maintain, repair and replace the Common Facilities, and to perform those other duties that may be required hereunder or may be necessary or desirable for the maintenance and improvement of the Community.

"**Community**" shall mean the residential real estate development known as Providence Hill, a planned community, to be developed by Declarant on the Property.

"**Controlled Facilities**" shall mean and refer to those areas and facilities identified in Section 3.4 of this Declaration.

**Convertible Real Estate** shall mean a portion (if any) of the Community not within a building containing a Unit, within which additional Units, Limited Common Facilities or Limited Controlled Facilities or any combination thereof may be created, as provided in Section 2.3.

"**Declarant**" shall mean and refer to Rouse/Chamberlin Ltd., its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

"**Dedicated Facilities**" shall mean those facilities serving the Community as further identified in Section 3.5 that may be dedicated to the Township, an Authority or a private utility company.

"**Dwelling**" means a residence built upon a Lot.

"**Entrance Features**" shall mean and refer to any entrance signage, walls, fencing, landscaping, lighting, or other structures that are located on one or both sides of the entrance roads from West Chester Road and Misty Patch Road, and located within the Open Space area.

"**Executive Board**" shall mean and refer to the Executive Board of the Association, which shall manage the Association's operations in compliance with, and subject to, the provisions of the Act.

"**Lot**" shall mean and refer to (i) as to Single Family Units, the entire subdivided lot as shown on the Plan for which title is transferred to the Owner thereof; and (ii) as to Town Home Units, the term shall be used interchangeably with the term "Unit" to describe the real property interests owned by the Owner of a Town Home Unit. The term "Lot" shall not include the Common Elements as herein defined.

"**Member**" shall mean and refer to all those Owners who are members of the Association. Every Owner of a Unit that is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit that is subject to assessment.

"**Township**" shall mean and refer to the Township within which the Property is located, being East Fallowfield Township, situated in Chester County, Pennsylvania.

"**Open Space**" shall mean and refer to that area of the Property as further identified in Section 3.3 that will be owned by the Association and maintained for recreational and aesthetic purposes for the benefit of the Community.

"**Open Space Improvements**" shall mean and refer to those improvements that may be constructed in the Open Space as further described in Section 3.3 hereof.

"**Open Space Management Plan**" shall mean the plan titled "Open Space/Woodland Management Plan dated December 12, 2003 (last revised August 19, 2004) prepared by Orsatti & Associates which describes how certain parts and features of the Open Space in the Property shall be maintained.

"**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Unit, but shall not mean or refer to any mortgagee or subsequent holder of any mortgage, unless or until such mortgage or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

"**Plan**" shall mean and refer to the plan titled "Conditional Use Subdivision/Title Plan for Chen Tract" dated 11-12-2002, last revised 7-9-2003, prepared by Edward B. Walsh & Associates, for property located in East Fallowfield Township, Chester County, Pennsylvania, as the same may, however, be further revised in accordance with the Township's ordinances, with any such revisions to be subject to prior written approval by the Township. Declarant shall make available copies of the complete set of engineering plans encompassing the Plan to interested parties at Declarant's marketing offices for the Community upon reasonable advance request.

"**Plat**" shall mean and refer to the Planned Community Declaration Plat which is attached hereto as Exhibit "E". The Plat is a simplified version of the approved Plan containing the items that are required to be disclosed by the provisions of the Act.

"**Property**" shall mean and refer to all lands, both Units and Common Facilities, which are described in Exhibit "A" or are hereafter made subject to this Declaration.

"**Required Landscaping**" shall mean all trees, plantings and landscaping shown on the Landscape Plan prepared by Orsatti & Associates and included in the plans entitled "Landscape Plans for Providence Hill", sheets 32-35 of 36, dated 12/12/2003 (last revised 8/19/2004), as the same may, however be further revised.

"**Storm Water Management Facilities**" shall mean all of the land areas and improvements thereto within and adjacent to the Property devoted to the purposes of detaining, retaining, carrying and/or controlling the volume and/or rate and/or the direction of storm water (including both Common Facilities located within the Open Space area of the Property, and Controlled Facilities located within certain of the Units), including but not necessarily limited to berms, cisterns, detention basins,

diversion terraces, drainage easements, energy dissipaters, infiltration structures and areas, retaining walls, retention basins, sedimentation basins, seepage pits, seepage drenches, pipes, manholes, storm sewers, and swales. Without limiting the foregoing, the primary portions of the Storm Water Management Facilities consist of one Storm Water Management basin, which is located within the common Open Space.

**"Walking Trails"** shall mean the unpaved Walking Trails and the macadam-paved Walking Trail in the central Open Space, as further described in Section 3.3(a)(vi).

**"Withdrawable Real Estate"** shall mean the real estate (if any) that may be withdrawn from the Community as further described in Section 2.3.

**"Woodland Management Plan"** shall mean the plan titled "Open Space/Woodland Management Plan dated December 12, 2003 (last revised August 19, 2004) prepared by Orsatti & Associates which describes how certain parts and features of the Open Space in the Property shall be maintained

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Chester

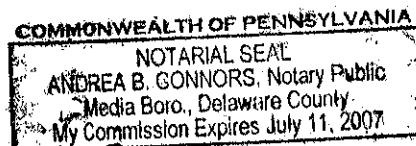
SS

On this date, October 21, 2005, before me, the undersigned officer, personally appeared David C. Englund, who acknowledged herself to be the President of  
R/C Management Corp, Inc. a general partner of Rouse/Chamberlain, Ltd., and that he or she, being authorized so  
to do, executed the within instrument for the purposes therein contained.

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

  
Notary Public

My Commission Expires:



## CONSENT AND SUBORDINATION TO DECLARATION

Wachovia Bank, N.A., is a mortgagee in the following mortgage (the "Mortgage") given by ROUSE/CHAMBERLIN LTD., a Pennsylvania Limited Partnership, to Wachovia Bank, N.A. with respect to the residential community known as Providence Hill (the "Community"):

Mortgage dated \_\_\_\_\_ recorded on \_\_\_\_\_ with the Recorder of Deeds of Chester County at Record Book \_\_\_\_\_, Page \_\_\_\_\_

The Community was created by the filing of a Declaration of Covenants, Conditions and Restrictions dated \_\_\_\_\_ (the "Declaration"), and recorded with the Recorder of Deeds of Chester County on 12/30/2004, as document #10493562.

Declarant is now filing an Amended and Restated Declaration of Covenants, Conditions and Restrictions dated \_\_\_\_\_ (the "Amended Declaration") with the Recorder of Deeds of Chester County. Declarant has requested the Mortgagee to subordinate the Mortgage to the Amended Declaration.

Lender hereby consents to the terms of the Amended Declaration, and in its capacity as mortgagee agrees that the lien of the Mortgage is subordinate to the Amended Declaration, that a foreclosure on the Mortgage will not disturb the applicability of the Amended Declaration to any part of the Community, and that all of the Lots in the Community shall at all times be owned, occupied and transferred subject to all of the terms and provisions of the Amended Declaration, as it may be amended from time to time.

WACHOVIA BANK, N.A.

DATE: October 21, 2005

By:

Joseph M. Ochman  
Joseph M. Ochman, SVP  
(print name)

620 Brandywine Parkway  
(identify office of signing party)  
West Chester, PA 19380

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF

Chester

SS

On this date, October 24, 2005, before me, a Notary Public, personally appeared JOSEPH M. OCHMAN, known to me or satisfactorily proven to be the SENIOR VICE PRESIDENT of Wachovia Bank, N.A., and being authorized to do so, acknowledged that he/she executed the foregoing instrument on behalf of Wachovia Bank, N.A. for the purposes therein contained.

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

Halina K. Adgate  
Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Halina K. Adgate, Notary Public  
West Goshen Twp., Chester County  
My Commission Expires Aug. 14, 2008  
Member, Pennsylvania Association Of Notaries