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UPI# 69-6-471 ✓  
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AMENDED AND RESTATED  
DECLARATION OF COVENANTS, RESTRICTIONS,  
EASEMENTS, CHARGES AND LIENS  
FOR THE ESTATES AT TWEED CROSSING  
A PLANNED COMMUNITY

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FRONEFIELD CRAWFORD, WALKER

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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, RESTRICTIONS,  
EASEMENTS, CHARGES AND LIENS  
FOR THE ESTATES AT TWEED CROSSING  
A PLANNED COMMUNITY**

**THIS AMENDED AND RESTATED DECLARATION**, made this 12<sup>th</sup> day of October, 2007, by Wilmer and Joyce Hostetter, hereafter referred to as "Declarant."

**WITNESSETH:**

**WHEREAS**, Declarant is the owner by virtue of Deed dated and recorded in the Chester County Recorder of Deeds Office in Deed Book 5492, page 1371, of real property referred to in Article II and more fully described in Exhibit "A" of this Declaration, and desires to develop thereon a planned residential community to be known as "THE ESTATE AT TWEED CROSSING" (formerly known as the "Country Hills") with Common Elements and Storm Water Management Facilities for the benefit of the said community; and

**WHEREAS**, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said Common Elements and, to this end, desires to subject the real property referred to in Article II and described in Exhibit "A" of this Declaration, to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each subsequent owner thereof; and

**WHEREAS**, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an entity to be known as "COUNTRY HILLS 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; and

**WHEREAS**, Declarant has incorporated or intends to incorporate under the laws of the Commonwealth of Pennsylvania as a non-profit



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**WHEREAS**, this Declaration is intended to be a master document governing the ownership and use of all of the Lots and Common Facilities which collectively constitute the Property, and of the Controlled Facilities which, together with the Common Facilities, constitute the Common Elements, and further this Declaration is intended to, and shall, upon its recordation, replace and supersede the Declaration if Covenants, Restrictions, Easements, Charges and Liens for Country Hills, a Planned Community (the former name of this Community), which was recorded in the Chester County Recorder of Deeds Office on July 9, 2007 at Record Book 7207 page 121 (the "Former Declaration"), the Former Declaration to be null and void and of no further force and effect upon the recordation of this Amended and Restated Declaration.

**NOW, THEREFORE**, the Declarant declares that the real property referred to in Article II 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 (sometimes referred to as "covenants and restrictions") hereinafter set forth. All the provisions of this Declaration shall, as to the Owners of the properties, Common Elements and Lots, their heirs, successors or assigns, operate as covenants running with the land for the benefit of each other and all other properties, Common Elements and Lots in the development and their respective owners and, as their interests are affected, the Municipalities.

## **ARTICLE I**

### **Definitions**

Section 1.1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Act" or "UPCA" shall mean and refer to the Pennsylvania Uniform Planned Community Act.

(b) "Association" shall mean and refer to the "COUNTRY HILLS HOMEOWNERS ASSOCIATION", its successors and assigns, organized under Section 5301 of the Act.

(c) "Common Elements" shall mean and refer to the Common Facilities and the Controlled Facilities.

(d) "Common Expense Liability" shall mean and refer to the

liability for common expenses allocated to each unit in Section 4.2 of this Declaration.

(e) "Common Expenses" shall mean and refer to the expenditures made by, or the financial liabilities of, the Association, together with any allocations to reserves.

(f) "Common Facilities" shall mean and refer to those areas of land shown on the recorded subdivision plan of the Property which are not contained within individual Lots, and including therein (i) the open space, (ii) those portions of the Stormwater Management Facilities located in the open space and in the Pump Station Parcel, and (iii) the sidewalks located within the rights-of-way of Highland Court and Colchester Drive (collectively the "Roads") (but, except as to the sidewalks, not including the Roads, which are intended to be dedicated to the Municipality for public use). Said area is designated as "open space" and the Pump Station Parcel on the Plat of "THE ESTATE AT TWEED CROSSING" attached hereto as Exhibit "B" and made a part hereof, and intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and, except as hereinbelow specified, are not dedicated for use by the general public. The "open space" comprises 72,389.85 square feet + or -. The Pump Station Parcel comprises 19,410 square feet + or -. The location and content of the Common Elements may be modified by Declarant for so long as Declarant retains ownership of one or more Lots, provided that any such modification is approved by the Municipality and is in compliance with the Act.

(g) "Controlled Facilities" shall mean and refer to those portions of the Stormwater Management Facilities that are not located within (i) the open space area or (ii) the Pump Station Parcel. Without limiting the foregoing, the Controlled Facilities include: (i) individual on-lot roof drain seepage pits within each Lot, and (ii) Stormwater Management piping and ancillary facilities located within drainage easement areas of certain of the Lots and the fire hydrants servicing the community. The Controlled Facilities shall be maintained, improved, repaired and replaced by the Association.

(h) "Declarant" shall mean and refer to WILMER L. HOSTETLER and JOYCE L. HOSTETLER, their heirs, executors, administrators, successors and assigns, including any Successor Declarant and/or transferee of Special Declarant Rights in accordance with Section 5304 of the Act.

(i) "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.

(j) "Lot" shall mean and refer to any plot of land intended and subdivided for residential use, shown upon the recorded subdivision plan of the Property, but shall not include the Common Elements as herein defined nor the Pump Station Parcel as shown on the Plat, which Parcel will have the sewer pump station and will be dedicated to the Oxford Area Sewer Authority subject, nevertheless to the Association's (i) easement rights to utilize the "detention basin access/maintenance easement" areas of the Pump Station Parcel for all purposes which do not interfere with the Sewer Authority's use and operation of the Pump Station and (ii) the Association's obligation to maintain the storm-water management facilities located within said access/maintenance easement area of the Pump Station Parcel, as if the storm-water management facility so located were within the open space area of the Property. There is presently a total of 51 building Lots subject to this Declaration, consisting of Lots 76 through 124 and Lots 23 and 23A, as shown on the Final Plat of "THE ESTATE AT TWEED CROSSING" (the "Plat"). Without limiting the foregoing, the "Pump Station Parcel" as hereinbelow defined is not a "lot" for purposes of this Declaration and cannot at any time be utilized for residential purposes. A "Lot" is synonymous with the term "Unit".

(k) "Member" shall mean and refer to all those owners who are members of the Association; every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

(l) "Municipality" shall mean and refer to the municipality within which the Property is located, being East Nottingham Township, situate in Chester County, Pennsylvania.

(m) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, 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.

(n) "Plat" and/or "Plan" shall mean and refer to the Final Subdivision Plans of "THE ESTATE AT TWEED CROSSING" prepared by Reagis dated 1-30-98 and last revised 9-10-2002 ("Plans"), as the same may, however, be further revised in accordance with the Municipality's Ordinances, with any such revisions to be subject to approval by the Municipality. The Plans consist of all plans set forth in the Plan index

appended hereto as Exhibit "C", a reduced copy of Sheet 2 (Land Development Plan) being appended also hereto as Exhibit "B"

(o) "Property" shall mean and refer to all lands, both Lots and Common Elements, which are described in Exhibit "A" or are hereafter made subject to this Declaration.

(p) "Pump Station Parcel" is that certain 19,410 square foot parcel of land upon which are located (i) the sewer pump station, to be dedicated to the Oxford Area Sewer Authority and (ii) the detention basin access maintenance easement area, which will be devoted to stormwater management facilities. Title to the Pump Station Parcel will be conveyed to the Oxford Area Sewer Authority, under and subject, nevertheless, to the Association's (i) easement rights to utilize the "detention basin access/maintenance easement" areas of the Pump Station Parcel for all purposes which do not interfere with the Sewer Authority's use and operation of the Pump Station and (ii) the Association's obligation to maintain the stormwater management facilities located within said access/maintenance easement area of the Pump Station Parcel, as if the stormwater management facility so located were within the open space area of the property.

(q) "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, and/or controlling the volume and/or rate and/or the direction of storm water (including both Common Facilities located within the open space and Pump Station Parcel areas of the Property, and Controlled Facilities located within the Lots, including but not necessarily limited to berms, cisterns, detention basins, diversion terraces, drainage easements, energy dissipaters, infiltration structures, retaining walls, retention basins, sedimentation basins, seepage pits, seepage ditches, storm sewers, and swales. Without limiting the foregoing, the primary portions of the Storm Water Management Facilities consist of (i) the Stormwater Management Basin and Forebays located within the open space area and Pump Station Parcel, and (ii) the individual roof drain seepage pits located within each Lot.

(r) "Unit" shall mean the same as the term "Lot" as hereinabove defined.

## ARTICLE II

### Property Subject to this Declaration; Name of the Community

Section 2.1. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in East Nottingham Township, and as more particularly described in Exhibit "A", being the "COUNTRY HILLS TRACT" (formerly Locksley Glen Section 2 and now entitled THE ESTATES AT TWEED CROSSING) as shown on the Plat, and consisting of 29± acres, more or less.

Section 2.2. The name of the community to be developed within the Property is "THE ESTATE AT TWEED CROSSING", a planned community.

## ARTICLE III

### Description of Units and Common Elements

Section 3.1. The boundaries of each unit are coterminous with the boundaries of each Lot as depicted on the Plat. For purposes of this Declaration, a "unit" is synonymous with the term "Lot". The identifying number of each unit or Lot is set forth on the Plat appended hereto as Exhibit "B".

Section 3.2. The maximum number of units or Lots that may be created in THE ESTATE AT TWEED CROSSING is fifty-one (51), not including the Lot to be conveyed to the Oxford Area Sewer Authority as the Pump Station Parcel. No individual Lots may be further subdivided into additional Lots. ("Lot line changes," if approved by the Municipality, are not prohibited, so long as no additional Lots are created.)

Section 3.3. A description of the Common Elements of the Community (including both Common Facilities and Controlled Facilities) is contained in Article I (Definitions). There are no limited Common Facilities or limited Controlled Facilities provided for under this Declaration. There are no time-share estates created under this Declaration.

Section 3.4 THE ESTATE AT TWEED CROSSING is not intended to be a flexible planned community as such term is contemplated under the Act. In particular, Declarant does not reserve any options to create additional units or limited common elements or both within convertible real estate, nor to add additional real estate to the Community, nor to withdraw withdrawable real estate from the Community.

**ARTICLE IV**  
**Membership and Voting Rights in the Association;**  
**Period of Declarant Control**

Section 4.1. Membership. Every person who is an Owner (as defined in Article I) of any Lot which is subject by this Declaration to assessment by the Association shall be a member of the Association. However, in the event that a member of the Association should lease his Lot to another person then, and only in that event, the lessee shall be entitled to all of the privileges of membership in the Association, except that the Owner will still be responsible for payment of all assessments and will still be entitled to the vote allotted to the particular Lot in question.

Section 4.2. Allocation of Voting Rights and Common Expense Liability. Each Lot is allocated one vote in the Association. The voting right allocated to each Lot is equal with respect to all fifty-one (51) Lots. Likewise, each Lot, and the Owner thereof, is allocated an equal one fifty-first (1/51st) share of the liability for Common Expenses; provided, however, that if a Common Expense is caused by the negligence or misconduct of any Owner, the Association may assess such expense exclusively against his or her Lot.

Section 4.3. 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 Lot to an Owner other than a Declarant, for a maximum of three 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) The period of Declarant control shall terminate no later than the earlier of:

(1) 60 days after conveyance of 75% of the Lots to Lot Owners other than a Declarant; or

(2) two years after all Declarants have ceased to offer Lots for sale in the ordinary course of business, whichever shall first occur.

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





(1) Meetings . For purposes of this Subsection 6.01(b), the term "First Election Meeting" shall mean the first meeting of the Association that shall occur no later than sixty (60) days after twenty-five percent (25%) (i.e., the 13<sup>th</sup> Unit) of the total Units intended to be included in the Community are conveyed to Owners other than the Declarant . The term "First Transitional Meeting" shall mean the meeting of the Association that shall be held no later than sixty (60) days after fifty percent (50%) of the Units intended to be included in the Community (i.e., the 26<sup>th</sup> Unit) are conveyed to Owners other than the Declarant. The term "Second Transitional Meeting" shall mean the meeting of the Association that shall be held no later than (60) days after seventy-five (75%) percent of the Units intended to be included in the Community (i.e., the 38<sup>th</sup> Unit) are conveyed to Owners other than the Declarant, or (ii) two (2) years after the Declarant has ceased to sell Units in the ordinary course of its business. Subject to the right of the Declarant to alter the following procedure so as to have all or part of the transition process occur earlier than as hereafter described, the transition from an Executive Board comprised solely of Directors appointed by the Declarant to a Board comprised solely of Directors elected by the Owners shall occur as follows:

(2) First Election Meeting. At the First Election Meeting, the Owners shall elect one (1) Owner to serve on the Board , and the Declarant shall appoint two (2) Directors. The Owner-elected Director shall serve until the first transitional meeting of the Association .

(3) First Transitional Meeting. At the First Transitional Meeting, the Owners, other than the Declarant , shall elect one (1) Owner to serve as Director, who shall (unless the Owner is re-elected) replace the one Owner elected at the First Election Meeting. The candidate receiving the highest number of votes shall be the new Director. The Director elected pursuant to this Subsection shall serve until the Second Transitional Meeting.

(4) Second Transitional Meeting. At the Second Transitional Meeting the Owners other than the Declarant shall elect three (3) candidates, of whom at least two shall be Owners, to serve as Directors who shall replace the Owner elected member and the remainder of the Directors appointed by the Declarant. The three (3) candidates receiving the highest number of votes shall be the three(3) new Directors. The Directors elected pursuant to this subsection shall serve until the annual meeting of this Association next following the Second Transitional Meeting.

(5) Non-Voting Member. From and after the Second

Transitional Meeting, the Declarant shall have the right to appoint one additional non-voting member to the Board to serve until sixty (60) days after the Declarant conveys the last Unit to an Owner. The Association shall give the non-voting member and the Declarant the same notice as must be given for each other member of the Executive Board for all meetings of the Executive Board, and the Association at the same time as notices are given to the Executive Board members or the Owners as the case may be. The non-voting members shall have the right to attend all Board and Committee meetings, and shall also be entitled to receive financial reports and all other materials that are distributed to each other member.

(c) During the period of Declarant control, Declarant(s) shall provide such annual contribution, in lieu of assessments for as yet unbuilt and unassessed lots, as shall be necessary to balance the annual expenses of the Association with the total assessments against all Lots for which certificates of occupancy have been issued. (Declarants' annual contribution during the period of Declarant control shall not cover or subsidize for delinquent assessments against Lots for which certificates of occupancy have been issued.)

## **ARTICLE V**

### **Property Rights in the Common Facilities**

Section 5.1. Members' Easements of Enjoyment. Subject to the provisions of Section 5.3 of this Article V, every member shall have a right and easement of enjoyment in and to the Common Facilities and such easement shall be appurtenant to and shall pass with the title to every Lot, and shall commence at the time of such member's acquisition of his or her lot whether or not title to the Common Facilities has been then conveyed to the Association. Such easement shall include the right of access to, ingress to and egress from the Common Facilities, the right to make reasonable passive recreational use of the Common Facilities, and the right to use drainage facilities and utilities placed within the Common Facilities and Controlled Facilities. A Lessee shall have all of the rights of this section belonging to the Owner of the Lot with the exception that they are not permitted to vote and are not required to pay any assessment since the vote and assessment remain with the Lot Owner.

Section 5.2. Title to Common Facilities. Declarant hereby covenants for itself, its successors and assigns, that it shall convey the (i) open space by special warranty deed to the Association, free and clear of all liens and



encumbrances, excepting mortgage encumbrances as may be provided for herein, existing building restrictions, ordinances, easements of roads, privileges or rights of public service companies as provided for herein, and any other restrictions or conditions existing of record not later than the termination of the period of Declarant control, as defined in Section 4.3 above. Subject to the Association's easement rights and obligations with respect to access to and maintenance of the storm-water management facilities located thereon, the Pump Station Parcel shall be conveyed to the Sewer Authority.

Section 5.3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) 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 said Common Facilities and the rights of such mortgagee in said Common Facilities shall be subordinate to the rights of the Owners hereunder;

(b) the right of the Association to take such steps as are reasonably necessary to protect the Common Facilities against foreclosure;

(c) 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.

(d) 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 Municipalities; and

(e) the right of the Association, contingent upon the prior written approval of the Municipality, to dedicate or transfer all or any part of the Common Facilities to any public agency, authority or utility 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 persons present, in person or in proxy, approve such action; provided, however, that notwithstanding any such transfer, the Common Facilities are restricted to utilization as open space.

(f) 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, her agents, servants, workmen or contractors.

(g) the free right and privilege of Declarant, its agents, servants, contractors, licensees and invitees to enter upon the Common Facilities 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, the right to maintain offices, models and signs, the right to use easements within and through the Common Facilities and Controlled Facilities, as more fully set forth hereinbelow.

(h) the absolute right of Declarant at any time until the conveyance of the last Lot to an Owner other than Declarant to modify the boundary lines of the individual Lots and the Common Facilities, provided, however, that any such change must first be approved by the Municipality. 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 municipal ordinances.

(i) the free right and privilege of the Municipality to access all Common Elements of the Community and the individual Lots for inspection and maintenance of the Storm Water Management Facilities.

## **ARTICLE VI**

### **Covenant for Maintenance Assessments**

Section 6.1. Creation of the Lien and Personal Obligations of Assessments.

(a) The Declarant, for each Lot owned by it within the

properties, hereby covenants and each subsequent Owner of any such Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided; and (3) special assessments for maintenance, restoration or repair as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made, as more fully set forth in Section 5315 of the Act. Each such assessment, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

(b) Notification. The Owner of a Lot intending to sell the same shall notify the Executive Board as to his intent to sell the Lot so that the Resale Certificate required under Section 5407 of the Act may be prepared.

(c) Resale Certificate. Within ten (10) days of the receipt of such notification, the Board shall prepare a Resale Certificate which shall set forth all information required under Section 5407 of the Act. This certificate shall be mailed to the place designated by the Owner. No conveyance shall discharge the personal liability of the Owner for unpaid assessments or charges whether or not shown on such certificate. A reasonable fee shall be established from time to time for the cost of preparation of such certificate and shall be paid at the time of request for such certificate. The certificate shall be signed by an officer of the Association or by an employee of the Associate's management company. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as to any purchaser or mortgagee relying thereon in good faith as of the date of its issuance, but shall not relieve the Owner of personal liability.

## Section 6.2. Purpose of Assessments.

(a) The Assessments levied by the Association shall be used exclusively for the purpose of paying the Common Expenses of the Association, including promoting the recreation, health, safety and welfare of the residents of the Property and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the sidewalks located within the

rights-of-way of the Roads, the Storm Water Management Facilities, water supply, fire hydrants, sanitary sewage collection, treatment and disposal facilities, recreational open spaces and other lands within the Common Facilities, including but not limited to, the payment of insurance thereon and maintenance, repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof, and for the costs of operation of the Association. Without limiting the foregoing, it is specifically acknowledged that the Association shall be responsible, either by direct payment to the Chester Water Authority or by reimbursement to the municipality if the Water Authority charges the municipality, for all fire hydrant rent and/or maintenance expenses, with respect to all fire hydrants located within the community, and shall be responsible for the maintenance and repair of, and removal of snow and ice from, the sidewalks located within the rights-of-way of the Roads (the Association hereby releasing the Municipality from all such obligations).

Section 6.3. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto and including water supply, sanitary sewage, Storm Water Management Facilities, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6.4. Notice and Quorum for Any Action Authorized Under Section 6.3. Written notice of any meeting called for the purpose of taking any action authorized under Section 6.3 shall be sent to all members not less than 14 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6.5. Uniform Rate of Assessment; Commencement of Assessments. Both annual and special assessments must be fixed at a uniform rate for all 51 Lots and may be collected on a monthly or other periodic basis; provided, however, that in the event that a Common Expense



is caused by the negligence or misconduct of an Owner, or tenant or invitee of an Owner, the Association may assess such expense exclusively against such Owner's Lot. Each Lot's assessment obligation shall commence concurrently with the issuance of a certificate of occupancy for the dwelling to be constructed on each Lot.

Section 6.6. Effect of Non-payment of Assessments: Remedies of the Association.

(a) Any assessment not paid within thirty (30) days after the due date shall be subject to such late charge as may be established by the Board, and shall also bear interest from the due date at the rate of twelve (12) percent per annum, unless a lesser rate is required by law, but then at the maximum rate permitted. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot, as set forth in §5315 of the Act, or both. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Facilities or abandonment of his Lot.

(b) Each Owner on becoming an owner of any Lot shall be deemed to covenant and agree to the enforcement of all assessments in the manner specified in this Declaration and in the Act. Each Owner agrees to pay reasonable attorneys' fees as established from time to time by the Board and costs incurred in the collection of any assessment against such Owner and/or his Lot, whether by suit or otherwise, or in enforcing compliance with or specific performance of the terms and conditions of this Declaration or other governing documents as against such Owner and/or his Lot.

(c) Any assessment installment not paid within thirty (30) days after the due date shall be delinquent. Thereupon, the Association may provide notice of such delinquency and may (a) declare the entire balance of such annual or special assessment due and payable in full; or (b) charge a late fee in an amount to be set by the Board; or (c) upon registered or certified mail notice to the Owner, suspend the right of such Owner to vote and/or to use the recreational and other facilities until the assessment and accrued charges are paid in full; or (d) employ other remedies available at law or equity or, without limitation of the foregoing, including either of the following procedures:

(1) Enforcement by Suit. The Association may commence and maintain a suit by law against any Owner or Owners for such delinquent assessments as to which they are personally obligated. Any judgment rendered in any such action shall include the amount of the delinquency,

together with late fees, interest thereon at the rate of twelve (12%) percent per annum from the date of delinquency, costs of collection, court costs and reasonable attorneys' fees in such amount as the Board has established from time to time. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien hereinafter provided for.

(2) Enforcement by Lien. Pursuant to §5315 of the Act, there is hereby created and perfected a claim of lien, with power of sale, on each and every Lot to secure payment to the Association of any and all assessments levied against any and all Owners of such Lots pursuant to this Declaration, together with late fees, interest thereon as provided for by this Section, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees, as may from time to time be established by the Board. At any time after the occurrence of any delinquency in the payment of any such assessment, the Association, or an authorized representative thereof, may make a written demand for payment to the delinquent Owner. Said demand shall state the date and amount of the delinquency. Each delinquency shall constitute a separate basis for a demand or claim or lien, but any number of defaults may be included within a single demand or claim or lien on account of prior delinquencies shall be deemed to include subsequent delinquencies and accounts due on account thereof. If such delinquency is not paid within ten (10) days after delivery of such demand, the Association, or its duly authorized representative, may thereafter elect to commence foreclosure or other enforcement action in court, as set forth in §5315 of the Act. The Board is hereby authorized to appoint any attorney or any officer or director of the Association for the purpose of conducting such proceeding.

(c) All remedies provided herein or in the Act are cumulative.

Section 6.7. Lien Priority and Divestiture. The priority of any lien for assessments authorized hereunder or by the Act, shall have such priority as against any and all other liens on a Lot, as is set forth in §5315 of the Act. Any such lien shall be subject to divestiture only as set forth in §5315 of the Act.

Section 6.8 Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein; all Common Facilities as defined in Article I, Section I hereof. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.





## **ARTICLE VII**

### **Restrictions on Common Facilities**

Section 7.1. Uses. The Common Facilities shall be used for only the following purposes: utilities (including without limitation water supply and sanitary sewage collection, treatment and disposal facilities), and Storm Water Management Facilities, resource conservation, flood plain conservation, and active or passive recreational purposes. No other use shall be permitted in the Common Facilities.

Section 7.2. 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 specified in Article V, Section 5.3(h).

Section 7.3. Landscaping and Planting. No individual landscaping, gardening or planting shall be permitted in the Common Areas, except that landscaping, gardening or planting which is approved by the Association in accordance with its Articles and Bylaws.

Section 7.4. Trees. No trees, except dead or diseased trees, shall be cut except when approved by the Association in accordance with its Articles and Bylaws.

Section 7.5. Fences. No fences shall be erected on the open space, except those approved by the Association in accordance with its Articles and Bylaws.

Section 7.6. Easements. Perpetual easements for the installation and maintenance of sewer, water, gas, electric, telephone, fuel oil, cable television, and Storm Water Management Facilities for the benefit of the adjoining landowners and/or the Municipality and/or municipal or private utility companies ultimately operating such facilities, are reserved. Also, easements in general in and over the ten (10') feet adjacent to each Lot's side and rear property lines within each Lot for the installation of such facilities are similarly reserved. No buildings or structures shall be erected within the easement areas occupied by such facilities.

## **ARTICLE VIII**

### **Maintenance of Common Facilities and Controlled Storm Water Management Facilities**

Section 8.1. Maintenance Responsibility. The maintenance of the Common Facilities and Controlled Storm Water Management Facilities shall



be the responsibility of the Declarant until such time as the initial Common Expense assessment is made. Thereafter the maintenance of the Common Facilities and Controlled Stormwater Management Facilities, including, but not limited to, lawn mowing and cleaning out of debris in the stormwater management basin and pipes within the open space area, payment of fire hydrant rent and maintenance as set forth in paragraph 6.2(a) above, and the maintenance and repair of, and removal of snow and ice from, the sidewalks located within the rights-of-way of the Roads, shall be the responsibility of the Association. Maintenance shall include, but is not limited to, sidewalk maintenance and repair (including removal of snow and ice), Stormwater Management Facilities maintenance and repair, lawn care, liability insurance, landscaping and planting, construction of any kind and anything else associated with the use and enjoyment of Common Facilities and, as to the Controlled Stormwater Management Facilities, maintenance and repair of the on-lot seepage beds.

## **ARTICLE IX**

### **Effect of Non-Maintenance of Common Facilities and Controlled Facilities by Association**

Section 9.1. Right of Municipality. In the event that Declarant or the Association neglects the maintenance of or repair to the Common Elements (including both Common Facilities and Controlled Facilities), as provided for in Article VIII hereof, the Municipality shall have the right, but not the obligation, to provide for the maintenance of or repair to the Common Elements, and the costs thereof shall be assessed equally among the Owners. The assessment shall be a charge of the Lots and shall be a continuing lien upon the Lots. The Municipality, before it may exercise the above-mentioned rights, shall notify the Board of Directors of the Association by certified mail of its intention to do so. The notice to the Board of Directors of the Association shall specifically set forth in what manner the Association has neglected the maintenance of or repair to the Common Elements. If the Association or one or more of the Owner(s) fails to correct or repair the items listed in the notice, within thirty (30) days thereafter the Municipality may exercise its above-mentioned rights. In the event that one or more of the Owner(s) shall correct the Association's deficiencies as outlined in the Municipality's written notice, such Owner(s) shall be entitled to reimbursement for all funds expended on behalf of the Association to cure the deficiencies.

Section 9.2. In the event that the Association is abandoned or abolished, or otherwise ceases to exist, or the Association proposes to dispose of the Common Facilities as provided herein, such Common Facilities

shall first be offered for dedication to the Municipality, at no cost to the Municipality, before any other steps are taken in conformity with these Covenants and Restrictions.

## ARTICLE X General Restrictions

Section 10.1. Compliance with Final Plan. No use of any Lot shall be made which is contrary to the Final Plan approved by the <sup>Township</sup> ~~Municipalities~~, as provided for in the relevant provisions of the ~~Municipality's~~ Zoning Ordinances, or such changes or amendment to such plan as may from time to time be properly approved by the ~~Municipality~~. Each Owner shall be bound by all provisions of such Plans, whether or not recorded, including but not limited to all Notes shown thereon.

Section 10.2. Use Restrictions. All Lots within the Community shall be held, used and enjoyed subject to the following limitations and restrictions, subject to the exemption of Declarant in Section 10.3 hereof:

(a) Lots shall be used for residential purposes only, provided that home occupations may be carried on in the Lot if the use: (i) is incidental to the Lot's primary residential use; (ii) shall have no signs advertising such use; and (iii) shall be consistent with applicable zoning and use regulations of the Township.

(b) No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Executive Board ~~of Directors~~ and Declarant so long as Declarant owns any Lot(s) on the Property. Declarant, however, expressly reserves the right to replat any Lots owned by the Declarant. Any such subdivision, boundary line change, or replatting shall not be in violation of the application subdivision and zoning regulations of the Township.

(c) During the period prior to the termination of Declarant's right to appoint a member or members of the Executive Board under Section ~~4.3~~ <sup>5.3</sup> hereof ("Declarant's Control Period"), no trees planted by the Declarant pursuant to Township requirements and/or the Declarant's landscaping scheme for the Community shall be removed without the prior consent of the Declarant, which consent may be withheld by the Declarant for any reason or for no reason at all. Subsequent to the Declarant Control Period, any Owner desiring to remove trees for any reason shall obtain prior guidance from the Township concerning any regulations governing such activities.



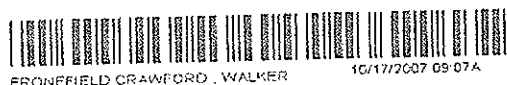
(d) Except for the rights reserved for the Declarant regarding the Declarant's rights to erect signs in connection with marketing, no sign, except "For Rent" or "For Sale" signs, may be erected by any Owner or occupant on or in any portion of the Property.

(e) No portion of the Property shall be used or maintained by any Owner or occupant of a dwelling as a dumping ground for rubbish, trash, new or used lumber or wood, metal scrap, garbage or other waste, except that these materials which may be used in connection with the Declarant's construction and development may be kept in a dwelling or other area as shall be designated for this purpose by the Declarant or Executive Board, provided these materials shall be kept in sanitary containers and in a clean and sanitary condition and except that rubbish, trash, garbage and other non-hazardous waste may be placed in areas designated for this purpose by the executive Board provided these materials shall be kept in sanitary containers and in a clean and sanitary condition. Each Owner shall comply with all rules and regulations promulgated by the Executive Board concerning the disposal of trash and the recycling of recyclable materials.

(f) No Owner or occupant shall erect or maintain within the front yard of any Lot an antenna or satellite signal reception device, and no such structure in excess of thirty-nine (39") inches in diameter may be mounted on the exterior of any Home. Without limiting the foregoing, no satellite television and satellite television antenna in excess of 18" x 24" shall be permitted anywhere on a Home or within a Unit. Any such satellite dish antenna must be located on the rear of the Home or in the rear yard of the Lot such that it will not be visible from the road.

(g) Driveways and other exterior parking areas on the Property shall be used by Owners and residents for motorcycles and four (4) wheel passenger vehicles only. No recreational vehicles, mobile homes, trailers, boats, commercial vans or vehicles in excess of three-quarters (3/4) of a ton capacity [whether or not registered as a commercial vehicle with the State Department of Transportation] shall be permitted to be parked on the Property. Trucks and vans are permitted to be parked on a temporary basis within the Property in connection with the repair, improvement, maintenance, or replacement work being performed by an Owner.

(h) No Owner or occupant of a Lot shall undertake or cause to be undertaken any activities [including, without limitation, regarding of any land or erection or installation of any building, structure, fence wall or landscape material] within any Lot or any other portion of the Property where drainage facilities are to be permanently installed as shown on the



Approved Plans.

(i) Each Lot shall be maintained by the Owner and its occupant(s) in a safe, clean and sanitary manner and condition, in accordance with all applicable restrictions, conditions, ordinances, codes and any rules or regulations which may be applicable under this Declaration or under law. No Owner or occupant of any Lot shall carry on, or permit to be carried on, any noxious, unsightly or offensive activity, including vehicle repairs or any practice which unreasonably interferes with the quiet enjoyment and property use of any other Lot by any other Owner or Owners or which creates or results in a hazard, annoyance, or nuisance on the Property. Major car repairs shall be prohibited in driveways or parking areas.

(j) No temporary or permanent structures or fences may be erected within a stormwater or utility easement area.

(k) No trees or bushes shall be planted within ten (10) feet of a storm sewer line, sanitary sewer line or water line.

(l) No mature trees shall be destroyed or removed other than pursuant to a program of woodlot management and those specifically delineated to be removed pursuant to the Plans.

(m) No specimen or historically significant vegetation as defined on the Plans, and which exist, shall be destroyed or removed.

(n) There shall be no erection or construction of any structures outside the principal building envelopes set forth on the Plans. No more than one storage building may be erected within any Unit, and it may not exceed 12' x 14' in dimension. Such storage building shall be similar in its color and trim to that of the Home on the Lot.

(o) No fencing shall be permitted on any Lot except fencing which satisfies all of the following requirements:

(1) Such fencing is located in the rear of a Lot with no part thereof extending to the front of the Lot or beyond the back wall of the Home;

(2) Such fencing shall be not more than four (4) feet in height;

(3) Such fencing shall be constructed of wood post and rail, split rail or other materials approved by the Declarant or the Executive Board, except that block, metal or wrought iron may be permitted surrounding ground pools (but not within any side or rear yard setback area);

(4) Such fencing shall not interfere with or impair any easement created or reserved pursuant to this Declaration or the Approved Plans.

(5) Any permitted fencing may include painted wire or mesh fencing which is affixed to and located inside such wooden fencing, unless applicable Township ordinances or other governmental regulations requires that such wire or mesh be installed on the exterior of such fence (i.e., in connection with the construction of an in-ground pool).

(p) No animals, livestock or poultry or any kind shall be raised or kept on any Unit except dogs, cats and other household pets which are not kept or maintained by commercial purposes. No kennel for the breeding, housing, or boarding of permitted pets shall be erected or maintained on any Lot.

(q) No permanent clothes lines or other facilities for the purposes of drying or hanging laundry are permitted.

(r) No above-ground swimming pool shall be erected, placed or maintained on any Lot.

(s) The owner of each Lot shall maintain a minimum of two (2) vehicle spaces within a garage on the Lot (i.e., no garage space shall be converted to living space unless an additional garage space is constructed).

(t) No Owner shall erect, place or maintain any exterior floodlights or similar lighting which would be visible to any other Lot or which would otherwise cast direct glare beyond the Lot boundaries. Any such lighting must be hooded or shielded to prevent any direct glare beyond the Lot boundaries. Carriage lamps or similar fixtures (including not more than one post-mounted lamp) to illuminate the entrance way and environs are permissible, provided that not more than one bulb, not to exceed 75 watts, is within such fixture.

(u) Reasonable Rules and Regulations, not in conflict with the

provisions of this Declaration, concerning the use and enjoyment of the Property, may be promulgated from time-to-time by the executive Board. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Owners by the Board promptly after the adoption of such Rules and Regulations or any amendments thereto.

Section 10.3. Declarant Exemption. Declarant or its successors and assigns will undertake the work of constructing Homes and developing all of the Lots included within the Property and any annexation thereto. The completion of that work and sale, rental and other disposal of Homes is essential to the establishment and welfare of said property as a residential community. As used in this Section and its subparagraphs, the words "its successors and assigns" specifically do not include Owners of Lots improved with completed Homes. In order that said work may be completed and the Property be completed and the Property be established as a fully occupied residential community as rapidly as possible, no Owner nor the Association shall do anything to interfere with, and nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its successors or assigns, or their contractors or subcontractors, from doing on any Lot owned by them whatever they determine to be necessary or advisable in connection with the completion of said work, including without limitation the alteration of its construction plans and designs as Declarant deems advisable in the course of development.

(b) Prevent Declarant, its successors or assigns, or their representatives, from erecting, constructing and maintaining on any Lot or portion thereof, owned or controlled by Declarant, or his heirs, successors or assigns or his or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said work and establishing the Property as a residential community and disposing of the same in Lot by sale, lease or otherwise.

(c) Prevent Declarant, its successors or assigns, or their contractors or subcontractors, from conducting on any lot, or any portion thereof, owned or controlled by Declarant, or its successors or assigns, their business or developing, subdividing, grading and constructing Homes and other improvements in the Property as a residential community and of disposing of Homes thereon by sale, lease or otherwise.

(d) Prevent Declarant, its successors and assigns or their contractors or subcontractors, from maintaining such sign or signs on any

Lot owned or controlled by any of them as may be necessary including but not by way of limitation safety and lot identification signs in connection with the sale, lease or other marketing of Lots and Homes in the Property; or

(e) Prevent Declarant at any time prior to acquisition of title to a Lot by an Owner, from granting additional licenses, reservations and rights-of-way to himself, to utility companies, or to others as may from time-to-time be reasonably necessary to the proper development and disposal of the Property.

Section 10.4. <sup>7</sup> It shall be the duty of every Lot Owner abutting a road right-of-way within ~~THE ESTATE AT TWEED CROSSING~~ <sup>THE M AT I</sup> to be responsible for the proper seeding, care and maintenance of the lands (a) lying between the portion of that Owner's property line which abuts such right-of-way and the cartway lying within such right-of-way and (b) lying within any drainage swale, drainage easement area or other drainage facility. In performing this duty, the Owners shall not obstruct or make any use of such area which is detrimental to or inconsistent with the proper use of the right-of-way.

Section 10.5. <sup>7</sup> The use of motorbikes, mini-bikes or similar unlicensed motorized devices shall not be permitted in ~~THE ESTATE AT TWEED CROSSING~~ <sup>M AT I</sup> except duly licensed motorcycles may be used on the roads for the purpose of normal transportation to and from the Lots.

Section 10.6. <sup>7</sup> 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, seepage pits or other drainage facilities of any type.

Each Lot Owner shall further protect and refrain from damaging or causing any defect in any on-lot drainage swales, pipes, berms, basins, seepage pits, or other Storm Water Management Facilities of any type, and failure to so protect and refrain from damaging shall constitute a violation of such Lot Owner's duties to the Homeowners' Association and to the ~~Municipality~~ <sup>Township of Innisfree</sup> under and pursuant to the approved subdivision plan for the ~~ESTATE AT TWEED CROSSING, formerly COUNTRY HILLS~~. The Homeowners' Association shall have the right to enter upon any Lot for the purpose of effecting repairs or rebuilding of any damaged drainage facility, and to assess the cost thereof against the Owner of such Lot, and to enforce such assessment in accordance with the provisions of Section 6.6 of Article VI.

Section 10.7. <sup>1,</sup> All restrictions provided for herein shall be in addition to





any restrictions contained in Municipal 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.

Section <sup>7</sup>10.8. Grading. Each Owner who intends to construct any dwelling or structure on his Lot shall prepare a grading plan therefor in conformance with all applicable soil and erosion control laws, ordinances and standards. Said plan shall be filed with Declarant or the Executive Board. Owner shall be solely responsible for the implementation, and shall implement said plan.

Section <sup>7</sup>10.9. Reasonable planting and landscaping consistent with surrounding properties and the nature of the subject Lot and improvements shall be planted and maintained as soon as possible after completion of the improvements on the Lot, consistent with the appropriate planting season, but in no event later than nine (9) months from such completion.

Section <sup>7</sup>10.10. Leases. No Lot at THE <sup>M</sup>ESTATE AT <sup>I</sup>TWEED CROSSING may leased by any owner or subleased by any occupant, unless the Owner and occupant have complied in all respects with the provisions of Article XII regarding leases.

## ARTICLE XI Sanitary Sewage Disposal

Section 11.1. Only normal domestic wastes shall be discharged into the sewage disposal system. The following shall not be discharged into such systems: (a) industrial waste, (b) automobile oil and other non-domestic oil, (c) toxic or hazardous substances or chemicals, including, but not limited to, pesticides, disinfectants (excluding household cleaners), acids, paints, paint thinners, herbicides, gasoline and other solvents, and (d) clean surface or ground water, including water from roof or cellar drains, springs, basement sump pumps and french drains.

## ARTICLE XII LEASES

Section 12.1 Leases and Lease Addendum. Each Owner who wishes to lease his Unit shall use a written lease agreement, and shall attach addendum to the lease in a form and content approved by the Board, or provided by the Board through the adoption of a Lease Rule and Regulation, and each Owner shall fully comply with this Article and any Lease Rules and



Regulations adopted by the Board.

Section 12.2. Lease Terms . Leases for Units, and any renewal or extension term thereof, shall not be for a term of less than one (1) year, and Owners shall not lease less than an entire Unit. The maximum number of persons who shall be entitled to lease any Unit shall be not greater than three (3) unrelated persons, or the maximum number of persons permitted by any applicable federal, state or local statute, regulation or ordinance.

Section 12.3. Compliance with Governing Documents . All Tenants or Occupants of a Unit, including all members of their family, and their guest and invitees, are obligated to comply with all provisions of the Governing Documents throughout the term of the lease and/or their occupancy of a Unit. In addition to such other provisions as the Board may required through the adoption of a Lease Rule and Regulations, the Lease Addendum shall contain an affirmative statement by the tenant agreeing to be bound by, and comply with, the Governing Documents throughout their occupancy of the Unit. Any failure by the Owner to comply with this Article, and any breach or failure to comply with by the Owner or Occupant with the Governing Documents during the term or time the Occupant resides in a Unit, shall be deemed to be a violation of the Governing Documents, and the Owner shall be subject to the impositions of enforcement remedies and penalties in accordance with all applicable provisions of this Declaration.

Section 12.4 Owner's Delivery of Governing Documents . Each Unit Owner shall , at the Owner's expense, provide his Tenant with a full and complete copy of the then-current Governing Documents of the Association at the same time that the Owner and the Tenant enter into a lease. The Association shall maintain additional copies of the Governing Documents for purchase by the Owners at a price established by the Board in an amount intended to result in the Association's recovery of all costs of copying, assembling, storing and providing copies of the Governing Documents.

Section 12.5. Owner's Delivery of Copy of Lease . The Owner of a leased Unit shall have an affirmative obligation to provide the Board with a full and complete copy of the signed Lease for a Unit, as well as a signed original of the addendum to the Lease, within ten (10) days of the date on which a tenant signs the lease together with a check in such amount as the Board may from time-to-time establish by rule and regulation, in order to defray the Association's book and record keeping costs.

Section 12.6. Lease Approval . Subject to any leasing rules and regulations which may be adopted by the Board, the Board, or a duly

authorized member of the Board, or the Board's authorized agent, shall review the lease, lease addendum and check submitted by the Owner, and if the lease and lease addendum are complete and signed, do not contain any term or condition contrary to the Governing Documents, and are accompanied by a check in the requisite amount, then within ten (10) days of receipt of the complete lease and addendum, the lease shall be approved, and the Owner shall be provided with written notice of approval of the lease. If the lease or lease addendum are incomplete or unsigned, or contain a term or condition contrary to the Governing Documents, or if the required check is not presented, then the lease shall be denied approval, and the Owner shall be provided with written notice of the denial of the lease. Without regard for any approval issued, the provisions of the Governing Documents shall control over the contrary provisions, if any, of a lease. The denial or approval of the lease shall not be a bar to completion of or redrafting and resubmission of the lease by the Owner. No Owner, nor any prospective tenant, shall have any cause of action against the Association, or the Board, its officers or agent for denying approval of a lease which does not fully comply with the provisions of this Article; and the Owner shall be deemed to have agreed to indemnify and hold the Association, the Board, its officers, and agents harmless from any claim, demand, cause of action, or judgment, including costs and attorneys' fees, arising from the Association's denial of approval of a lease which does not fully comply with the requirements of this Article.

Section 12.7. Payment of Assessments, Fees, Fines and Charges . The Unit Owner shall remain responsible to continue to maintain the Unit and to make timely payment of all assessments, fees, fines, costs, expenses and charges due under the Governing Documents throughout the term of the lease. If a Unit Owner shall fail to pay any assessment, fee, fine, cost, expense or charge due under the Governing Documents , then the Association, upon written notice to the Unit Owner and Tenant, may collect delinquent assessments any and other fees, fines and/or charge due from the Owner under the Governing Documents from the Tenant, from month-to-month, in an amount not in excess of the monthly rental due to the Unit Owner from the Tenant, until all sums due from the Owner to the Association are fully paid; and the Tenant shall receive a rental credit from the Unit Owner to the extent of any amount paid to the Association on account of delinquent assessments, fees, fines, charges, expenses and/or charges due to the Association from the Unit Owner.

Section 12.8. Leasing Rules and Regulations . The Board shall have the power and authority to adopt, amend, withdraw and publish such Leasing Rules and Regulations as the Board may from time-to-time deem



necessary and appropriate to the circumstances of the Property.

### ARTICLE XIII Architectural Control

Section 13.1. Architectural Control . No building, fence, wall, improvement, grading, landscaping, nor any other structure shall be commenced, erected, maintained or used by any Owner upon any Lot, Unit, or the Common Areas and Facilities, nor shall any exterior addition, or change or alternation, including but not limited to changes in colors, materials and appearances, or alterations thereof, be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the proposed change or alteration shall have been submitted to and approved in writing by the Executive Board of the Association in accordance with the provisions of this Article.

Section 13.2 No Architectural Changes Without Approval . In order to ensure harmonious and efficient development of the Property, to preserve the appearance and value of the Property, and in order to maintain and monitor the Owner's compliance with the Governing Documents, no change, modification, repair, renovation, reconstruction, improvement or addition shall be undertaken to any Lot or Unit, nor shall any work, if any, be done by any Owner upon the Common Areas and Facilities, except in accordance with plans and specifications which have first been submitted by the Owner to, and approved in writing by, the Board in accordance with this Article and any applicable Rules and Regulations of the Association.

Section 13.3. Changes to Units . The Unit Owners shall not bear any obligation to obtain any architectural approval under the provisions of this Article, unless otherwise limited by rules or regulations adopted by the Board, if the proposed improvements are to be made only to the nonstructural portions of the interior of a Unit, and provided the proposed improvements are to be made completely within the Unit. No work may be done to any structural or load-bearing portion of any Unit, nor upon the exterior of a Unit, nor upon any Lot, nor upon any Limited Common Area, except upon the Owner's receipt of written architectural approval in accordance with this Article.

Section 13.4. Architectural Control Committee . The Board shall have the power to serve, as or to appoint, as the Board may deem appropriate, an Architectural Control Committee. If the Board acts as the Architectural Control Committee, then it shall receive, review and determine architectural applications in accordance with the procedures stated in this Article. If

appointed by the Board, then the Architectural Control Committee (the "ACC" for purposes of this Section) shall be composed of three (3) or more members. One of the ACC members shall be appointed by the Board to serve as Chairperson of the ACC. The members of the ACC shall serve at the pleasure of the Board, and any ACC member may be removed by majority vote of the Board at any time, for any reason. ACC members may resign, and shall automatically be deemed to have resigned upon the termination of their lease, or upon the sale or any other transfer of the title to an ACC member's Lot.

Section 13.5. Rules and Regulations . Subject to review and consent by the Board, the ACC shall have the power to adopt, amend and/or withdraw from time to time, as the ACC may deem appropriate, such Procedural Rules and Regulations as are not in conflict with the provisions of this Article.

Section 13.6 Review by ACC . In reviewing plans and specifications submitted by an applicant, the Board, or the ACC, as applicable, shall examine a complete application and shall consider, among such other factors as the Board or ACC may deem appropriate, the following:

(a) completeness and accuracy of the application documents, and compliance of the application documents with this Article and any Architectural Rules and Regulations, if any, adopted by the Board;

(b) location and nature of the proposed improvements;

(c) avoiding encroachments on the Common Areas and Facilities, except as may be permitted in accordance with this Declaration;

(d) avoiding encroachments of any proposed improvements upon other Lots, and the easements appurtenant thereto;

(e) avoiding threats to the health, safety and welfare of the Owners, and any impairment of the appearance and value of the Property;

(f) any applicable federal, state or local ordinances, laws, regulations or statutes known to the ACC or Board, including township zoning and building ordinance; save that the Board and ACC shall have no obligation to enforce the law, nor shall the issuance of an approval, if any, by the Board be deemed a certification of compliance of the application or the proposed improvement with any ordinance, law, regulation or statute; the Board may rely upon any certification of compliance with any ordinance,

law, regulation or statute stated by the applicant and/or the applicant's architect, engineer or contractor in the application; and

(g) conformity to and preservation of the prevailing general and specific architectural appearance, style and finish details (including paint color, windows, doors and trim) of the existing buildings, units and Common Areas and Facilities.

Section 13.7. ACC General Functions . In addition to such other functions as shall be borne by the ACC under this Article, and as may be assigned to the ACC by the Board, the ACC shall also function in three (3) broad areas:

First, to monitor the property to preserve consistent and harmonious external design, appearance and location of the buildings, Units and the Common Areas and Facilities, and all improvements thereon, in such a manner as will preserve and enhance the value and appearance of the property and the Owners' and occupants' health, safety and welfare.

Second, to monitor the property to maintain a harmonious and aesthetically pleasing relationship between the Property and the improvements, including the locally prevailing vegetation, topography and improvements.

Third, to monitor compliance of the owners with all applicable architectural control provisions of the Declaration and such Architectural Rules and Regulations as the Board may adopt, and any Architectural Control applications approved by the Board pursuant to this Article.

Section 13.8. Submission of Architectural Applications . The ACC shall receive, consider and review written applications by the Owners to make improvements, changes, alterations, additions or repairs (the "Proposed Improvements") to the Units, Lots and Common Areas and Facilities. All applications must be in writing. All such applications shall be submitted to the ACC by mail addressed to the ACC at the Association's business address, or by personal delivery to the Association's Managing Agent.

Section 13.9. Contents of Architectural Applications . All applications submitted to the ACC shall be composed of a written application on a form approved by the Board. Each applicant must include a narrative description of the Proposed Improvements, clear diagrams, drawings or photographs of the Building, Unit, Lot and/or Common Areas and Facilities where the



Proposed Improvements, which plans must be sealed by a Registered Architect and/or Professional Engineer if required by the ACC or Board, a statement of the cost of constructing the Proposed Improvements, the date when work is proposed to start, the date when work is intended to be completed, a list of all contractors, subcontractors and material suppliers who will require access to the Property to carry out the proposed work, and an indemnification and hold harmless agreement signed by all Owners of the Lot which is to be the subject to the Proposed Improvements in a form acceptable to the Association, and such other documents, plans or exhibits as the Association or ACC may request, or may require, through the adoption of Architectural Rules and Regulations.

Section 13.10. ACC Recommendations . Upon review of a complete application, the ACC shall make a written recommendation to the Board advising the Board as to whether the application is in accord with the standards set forth in this Article and any Architectural Rules and Regulations adopted by the Board; the ACC shall recommend either approval or denial of the application. Incident to issuing any recommendations to the Board, the ACC may make suggestions to the Board regarding conditions and/or modifications to the Proposed Improvements and/or the plans and specifications submitted, which the Board should consider imposing in any final approval of the application the Board may choose to issue. A recommendation of disapproval by the ACC shall not bar the applicant from withdrawing, revising and resubmitting an application to the ACC. The ACC need not review or consider any application which it deems to be incomplete; save that the ACC shall advise the applicant Owner in writing of the documents needed to be submitted to the ACC to complete the application. Applications not completed within seven (7) days of the ACC's transmission of notice of the documents or items needed to complete an application shall be deemed withdrawn by the applicant. The ACC must issue a written recommendation to the Board within thirty (30) days of receipt of a complete application; the failure of the ACC to issue a written recommendation within thirty (3) days of the receipt of a complete application shall be deemed to be a recommendation of denial of the application.

Section 13.11. ACC Approval is not Board Approval . A recommendation of approval by the ACC of any application is not an approval of the application, and no work shall be started, nor materials delivered to the Lot, until such time as a written approval, if any, is issued and signed by the Board.

Section 13.12. Board Review of Application and ACC Recommendation



. The Board shall review an application and the ACC's recommendation within thirty (30) days of its receipt of the ACC's written recommendation and the complete application; and the failure of the Board to issue a written decision within thirty (30) days of receipt of an application and written recommendation from the ACC shall be deemed to be a denial of the application. Without regard for the ACC's recommendation, the Board may approve or deny any application, save that no application shall be unreasonably denied. The Board may, as it deems necessary, invite or require an Owner to appear at a Board Meeting to review and discuss the application before making a decision on an application. Applications approved by the Board shall be signed by the Board President and/or Secretary. The Board may impose such conditions, restrictions or requirements upon the Proposed Improvements as it deems appropriate incident to granting an approval. The denial of an application by the Board shall not bar the applicant from revising and resubmitting an application to the ACC.

Section 13.13 Appeal to Board . Any applicant aggrieved by the decision of the Board in issuing a denial of an application shall have a right of appeal to the denial directly to the Board, and to request an appeal hearing in accordance with Sections 14.11, 14.12 and 14.13 of the Due Process procedures set out in Article XVI of this Declaration. However, any approval issued by the Board on appeal, if any, may be issued subject to such conditions, restrictions or requirements upon the Proposed Improvements as the Board may deem appropriate. The denial of an application upon appeal shall not bar the applicant from revising and resubmitting an application.

Section 13.14. Binding Arbitration . If the Board shall deny an application upon an appeal submitted by an applicant, then the applicant's sole right of appeal shall be to submit the application to binding arbitration. The applicant must submit a written notice to the Board demanding binding arbitration. The matter shall be submitted to a board of three (3) arbitrators. The applicant's notice must be submitted within seven (7) days of the date of the Board's denial of the application on appeal. One arbitrator shall be appointed by each party, and the third arbitrator shall be selected and appointed by the two (2) arbitrators already selected; the third arbitrator shall serve as Chair of the panel. The arbitrators shall be bound to apply the Declaration, the Architectural Rules and Regulations and applicable law. The arbitrators shall hold a hearing within thirty (30) days of the appointment of the Chair, unless otherwise extended by agreement of the parties. The arbitrators shall issue a written decision within ten (10) days of completion of the hearing, and/or their receipt of all exhibits or evidence,





whichever shall be the last to occur, unless otherwise extended by agreement of the parties. All parties may be represented by legal counsel at the arbitration hearing. The applicant's written application, including all plans, specifications and documents submitted by applicant to the ACC and the Board, together with the Governing Documents and any decisions, denials, approvals or other documents issued by the Board or ACC shall be submitted to the arbitrators, and the decisions and recommendations issued by the ACC and/or the Board shall be deemed advisory and not binding for purposes of consideration and review by the arbitrators. The arbitrators need not hear testimony or admit evidence which is hearsay, irrelevant or merely cumulative. The decision of the arbitrators shall be final, unappealable and binding on all parties. The scope of the arbitrators' authority shall be to approve or deny the application, and in rendering an approval, the arbitrators may incorporate into their decision any condition, restriction or requirements upon the Proposed Improvements as may have been imposed in the recommendation of the ACC or the decision of the Board. The denial of an appeal by the arbitrators shall not bar the applicant from revising and resubmitting an application to the ACC. The costs of arbitration, and the arbitrator's fee, shall be borne and paid by the parties equally; however, the Association shall be entitled to recover attorney's fees from the Owner in accordance with the provisions of this Declaration. The party filing any litigation including, but not limited to, a declaratory judgment action and/or any suit or appeal to oppose, stay, enjoin, reverse or in any way attempt to change, limit or attach the decision of the arbitrators to either approve or deny the application and/or impose conditions upon any approval, shall be bound to reimburse all costs, fees and expenses, including, but not limited to, attorney's fees incurred by the other parties to litigation.

Section 13.15 Conditions of Architectural Approval . Without regard for the Owner's compliance with the terms and conditions of this Article, and any conditions imposed by the Board in issuing any approval, the following conditions shall be part of all applications approved by the Association or a panel of arbitrators, without regard for whether such conditions are set forth in any approval or decision issued:

(a) the Owner shall secure such building permits as may be necessary under prevailing federal, state, local or municipal statutes, laws, codes or ordinances, before any materials are delivered to the site, and before starting the Proposed Improvements;

(b) the issuance of an approval by the Board shall not be deemed to be, or to affect, a waiver of the need for the Owner to obtain all

necessary building permits before proceeding with the Proposed Improvements;

(c) the Owner shall record the indemnity agreement required under Section 13.9 above with the Recorder of Deeds of Chester County before the delivery of materials or start of any work on the Proposed Improvements;

(d) the Owner and/or the Owner's general contractor, as applicable, shall maintain workman's compensation and liability insurance in an adequate amount throughout the course of the completion of the Proposed Improvements, and provide the Board with copies of the policies before the start of work on the Proposed Improvements;

(e) the Proposed Improvements shall be done and completed at the sole cost and expense of the Owner;

(f) the Owner represents and warrants that the Proposed Improvements shall be completed in strict compliance with all plans and specifications approved;

(g) the Owner represents and warrants that no explosives, corrosive or hazardous substances will be used, installed, transferred, stored, treated or held upon the Lot or Common Areas or Facilities during the course of constructing the Proposed Improvements; and

(h) the Owner represents and warrants that, upon completion of the Proposed Improvements, all disturbed portions of the Common Areas and Facilities, greens, lot, building and Unit, if any, shall be promptly returned by the Owner to the condition and appearance which prevailed thereon prior to the start of work, except for those changes made incident to completing the approved Proposed Improvements, at the sole cost and expense of Owner.

Section 13.16. Owner Applicant's Indemnifications . Each Owner, by acceptance of deed to his Unit, and each applicant by the submission of an application, without regard for whether stated therein, hereby covenants and agrees to indemnify and hold the members of the Board, and if appointed, the members of the ACC, harmless from any liability, claim, damage, cost or expense arising from the Board's and/or the ACC's performance of their application review and approval functions in accordance with the terms and provisions of this Article, and each Owner, by acceptance of the deed to a Unit, and each applicant by the submission of an application, without regard



for whether stated herein, hereby further agrees to indemnify the Association, the Board, the ACC, all Association officers, directors, agents, servants, employees and contractors, as well as the Owners, and hold them harmless from every charge, cost, expense, fee, fine, invoice, claim, damage, demand, aware and/or judgment, including interest and delay damages asserted or awarded against them, together with all costs and expenses of defense thereof, including attorneys' fees, arising from, involving or touching upon the application process, the Proposed Improvements, and any materials, labor or services delivered, furnished or rendered to or for the Owner with respect to the Proposed Improvements, and any personal injuries or property damages suffered by any person which arise from the use, enjoyment and/or the construction of the use, enjoyment and/or the construction of the Proposed Improvements.

#### **ARTICLE XIV**

##### **Due Process Procedures**

Section 14.1 Due Process Procedures. The Association has determined that the establishment of a Due Process Procedure for the determination and remediation of violations of the Governing Documents and to prevent breaches and violation of the Governing Documents, will help to deter violations and secure voluntary compliance, while preserving the health, safety and welfare of the Owners, and maintaining the appearance and value of the Property. The Board may adopt, amend, enforce and publish from time-to-time, as the Board may deem necessary, such due process procedures and rules and regulations regulating the Owner's and Occupant's use and enjoyment of the Property as the Board may deem necessary to prevent breaches and violations of the Governing Documents, preserve health, safety and welfare, and /or maintain the value and appearance of the Property. Subject to the provisions of the Bylaws, the Board may appoint such committees as it deems appropriate to assist it in regulating the Owner's and Occupant's use and enjoyment of the Property.

Section 14.2. Owner's Obligations. For purposes of imposition of fines, sanctions and demands for abatement, cure or remediation of violations of the Governing Documents by the Owner or Occupant of a Unit, the Owner of the Unit shall be deemed the person responsible for the violation, and the Owner shall be obligated to pay all fines, costs, expenses or fees levied, reimburse any costs, fees or expenses incurred by the Association, and to carry out the abatement, cure or remediation ordered by the Association, without regard for the identity of the Owner, Occupant, guest, invitee, licensee, agent, servant, employee or independent contractor who committed, permitted, condoned or failed to prevent any breach or



violation of the Governing Documents.

Section 14.3. Complaining Party. Any Owner, Board Member, Committee Member or the Property Managing Agent, if any be appointed, may submit a written complaint to the Managing Agent, in accordance with such Rules and Regulations, if any, as the Board may adopt with respect to submission of a complaint, and the complaint shall describe or allege the essential facts of a violation of the Governing Documents allegedly committed by an Owner or Occupant. Complaints must be signed by the Complainant, specify to the best knowledge of the Complainant the provisions of the Governing Documents allegedly violated, set forth in detail the essential facts which are asserted to constitute the breach or violation, and the identity of, or describe, the Owner or Occupant who allegedly committed the violation.

Section 14.4. Board Review. The Board shall review all written complaint submitted at the next meeting of the Board, except that in the event of a complaint with respect to any violation which represents an immediate threat to the health, safety and welfare of the Owners, or the value of the Property, the Board may meet to review the Complaint at the Board's earliest convenience. The Board may not take action to determine the existence of any violation, or impose any fine or sanction, except upon the receipt of a signed, written complaint. The Board may request that the Complaint be reviewed by legal counsel, but the Board shall make the final determination as to whether the acts complained of represent a violation of the Governing Documents. Incident to making such a determination, the Board may contact the accused Owner or Occupant directly and secure information or a preliminary response to the Complaint. The Board may also attempt to resolve the matter informally. Any final, formal determination that a violation has been committed must be made by a majority vote of the Board, otherwise the complaint shall be dismissed.

Section 14.5. Fines and Sanctions. In the event that the Board makes a final determination that there has been, or is, a violation of the Governing Documents, then the Board may levy a fine against the Owner in an amount consistent with the nature and severity of the violation, and each day upon which a violation or breach continues may be deemed a fresh violation or breach, subject to the imposition of additional or continuing fines, as the Board may levy or assess. In addition, the Board may impose such other sanctions as the Board deems necessary and appropriate, including the issuance of a cease and desist letter, and if necessary, a demand specifying action or work to be done by the Owner on or about a Lot, the Unit or improvements on the Lot, and/or the Common Areas and Facilities, as may



be appropriate to abate, cure or remedy any violation.

Section 14.6. Notice of Violation. Upon completion of its investigation and any unsuccessful effort to resolve the Complaint informally, the Board shall issue a Notice of Violation letter to the Owner and Occupant, if applicable. A copy of any Notice of Violation issued by the Board shall also be transmitted to the Complaining Owner, provided, however, that if the matter is resolved informally, or if no violation is found to have occurred, then the Board shall advise the Complaining Owner in writing of the resulting disposition of the matter by the Board.

Section 14.7 Contents of Notice of Violation. Any Notice of Violation issued by the Board shall specifically identify the relevant provisions of the Governing Documents which have been found to have been violated, contain a statement of the essential facts giving rise to the violation, and as to any violation which is of a continuing nature, contain a directive to the Owner to cease and desist from committing the violation. The Notice of Violation may also contain notice of the levying of a fine, and set forth specific action to be taken, or work to be done, by the Owner in order to abate, cure, or remedy a violation, and to return the Property to the condition and state in which it existed prior to the violation. If the Notice directs the Owner to perform any action or work to abate, cure or remedy a violation or return the Property to its pre-existing condition, then the Notice shall also advise the Owner that if the required action or work is not promptly done, then it may be done by the Association, and all costs, fees and expenses shall be levied as an assessment against the Owner in accordance with Section 10 of this Article. The Notice of Violation shall contain a statement that unpaid fines and uncured violations and/or remedial action will be disclosed in any Estoppel Certificate issued. The Notice shall also give the Owner notice of their appeal rights under Section 11 below.

Section 14.8. Fines. Any fine levied by the Board may be a single fine for a single violation and/or a continuing fine for a continuing violation. In the event of the levying of a fine for a continuing violation, the fine shall begin to run from a date certain, which date shall be specifically stated in the Notice of Violation; the date shall be a date to be established in the discretion of the Board not more than ten (10) days after the date of the issuance by the Board of the Notice of Violation (the "Fine Commencement Date"). The payment of any fine levied by the Board may be suspended during the pendency of an appeal proceeding before the Board, but the fine shall be deemed to be due from the Fine Commencement Date in the event the appeal procedure is resolved by the Board against the Owner. Any fine imposed in accordance with this Article shall, until fully paid, constitute a lien

against the Unit from the Fine Commencement Date, and a personal obligation of the Owner, and shall be collectible in same manner as a delinquent assessment.

Section 14.9. Additional Remedies. In addition to the powers to resolve a matter informally, to levy a fine, issue a cease and desist letter and/or Notice of Violation, the Board shall have the power, but not the obligation, upon Notice to the Owner, to suspend an Owner's right to vote and to serve upon the Board and/or any committee effective from the Fine Commencement Date, until the fine is paid or violation cured, and also to bring an action at law or in equity, or in both, against the Owner to collect any fines levied and/or costs or fees incurred, and to secure the Owner's compliance with the Governing Documents, including the performance of curative or remedial work. The Board shall also have the power to pursue all remedies available to it under this Article consecutively, or concurrently, as the Board may elect.

Section 14.10. Fees and Costs of Enforcement. All costs, charges, expenses and fees, including reasonable attorney's fees incurred by the Association incident to collecting fines and/or enforcing compliance with the Governing Documents in the manner aforesaid, including, but not limited to those incurred, if any, to secure professional advice and guidance regarding the nature and extent of damages to the Property, and the work or action needed to remedy the violation and/or damages, as well as the costs of labor, materials and any necessary oversight or guidance for work to be done, or for action to be taken, by the Association to cure or remedy a violation and return the Property to its pre-existing condition and appearance, as well as any charges, fees or fines levied by the Association, together with any attorneys fees incurred, shall be reimbursed to the Association by the Owner, and until paid in full, shall be a lien upon the Unit and the obligation of the Unit Owner, collectible in the same manner as a delinquent assessment.

Section 14.11. Appeal Procedure. Any Owner against whom the Board has levied a fine, issued a cease and desist letter and/or a Notice of Violation or denied an architectural application shall have the right to file an appeal from such fine, letter or Notice to the Board by filing a written Notice of Appeal with the Board within ten (10) days from the date the Notice of Violation was issued. The Notice of Appeal shall be filed with the Board and/or the Managing Agent by first class mail, and/or hand delivery. The Notice of Appeal must state the essential facts and/or provision of the Governing Documents allegedly giving rise to the basis of the appeal, and shall contain a copy of the Notice of Violation issued by the Board.

Section 14.12. Appeal Hearing. An appeal hearing shall be scheduled by the Board to be held within thirty (30) days after the Board's receipt of the Notice of Appeal, unless extended by direction of the Board upon notice to all parties or by agreement of the Board and the Owner filing the appeal. The appeal may be heard by the Board or by a Board member appointed by the Board to act as a hearing officer for the Board. The appealing Owner, as well as the complainant, shall have the right but not the obligation to attend such hearing, and to produce any relevant statement, evidence and/or witnesses on the Owner's and/or complainant's behalf. Each party to such hearing, including the Board, may be represented by legal counsel. If conducted by a hearing officer, then upon the conclusion of the appeal hearing, the hearing officer shall prepare and submit a written report, together with all evidence presented at the appeal hearing, to the Board for the Board's review and determination of the appeal, a copy of the hearing officer's report shall also be provided to the Owner who brought the appeal. During the course of any appeal hearing, strict rules of evidence shall not apply, but the Board or hearing officer may refuse to hear or admit testimony or evidence which is not relevant, represents hearsay or is merely cumulative. No transcript of the hearing shall be taken, unless taken with the Board's or hearing officer's prior written consent, and any transcript taken shall be taken by a licensed court reporter at the sole expense of the party requesting the transcript; the party taking the transcript shall promptly provide all parties to the appeal with a copy of any transcript taken. All parties, including the Owner, the Board and/or hearing officer and /or their respective counsels, shall have the opportunity to cross-examine all witnesses and to examine all evidence presented during the course of the appeal hearing.

Section 14.13. Decisions upon Appeals. After consideration of the evidence submitted and/or the hearing officer's report, as applicable, the Board shall issue its decision in writing to the Owner and the complainant Owner. The Board's decision shall be issued within thirty (30) days after the conclusion of the appeal hearing. Decisions of the Board shall be by majority vote and shall be final and binding.

Section 14.14. Advisory Opinions. Any Owner may apply to the Board for an advisory opinion regarding the interpretation or application of the Governing Documents. The Board may, but has no obligation to respond to any request for the issuance of an advisory opinion. If the advisory opinion would require the Board to consult with any architect, engineer, accountant or legal counsel, then the Board may forebear from rendering the advisory opinion until the requesting Owner agrees in writing to reimburse the Board

for all expenses and fees incurred. If issue, any advisory opinion issued shall be binding only as between the Association and the Owner to whom it is issue, unless otherwise stated by the Board within the advisory opinion. Advisory opinions may be prepared by the Board or the Association's legal counsel if so authorized by the Board, but any opinion drafted by legal counsel must be approved and adopted by majority vote of the Board before being issued.

Section 14.15. Binding Arbitration Between Owners and the Association . In the event of a dispute between the Association and any Owner, except architectural disputes submitted to arbitration under Article XV and subject to prior written consent of all parties at any time prior to recovery of a judgment by any party, any dispute between the Association and any Owner may be submitted to binding arbitration. Each party shall choose one (1) arbitrator and the two (2) arbitrators shall choose a third arbitrator who shall act as chairperson of the panel. The arbitration shall be conducted in accordance with such arbitration procedures or Rules and Regulations as may be adopted by the Board, or in the absence thereof, the published procedures of the American Arbitration Association, though the matter shall not be submitted to the American Arbitrator Association. If the Association substantially prevails in the Arbitration, then the Owner must pay all costs and fees of the arbitrators, as well as all costs and fees, including attorney's fees incurred by the Association.

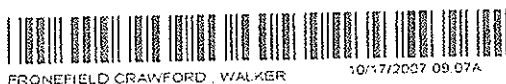
## **ARTICLE XV**

### **Retention of Special Declarant Rights**

Section 15.1 Declarant retains, for a period ending two (2) years after the sale by Declarant of the last Lot, an easement to enter upon each Lot to perform any corrective grading deemed necessary or desirable by Declarant; the Homeowners' Association and the Municipalities shall each have the same easement, perpetually.

Section 15.2 Declarant retains the sole right to subject any portion of the planned community to an easement or license in favor of any real estate not included in THE ESTATE AT TWEED CROSSING, or in favor of any person who is not an Owner or occupant of a Lot in the Community, until such time as the termination of the period of Declarant control. In such event, in exercising any such right, the use an enjoyment of any Lot by the Lot Owner shall not be adversely affected by the easement rights, nor shall there by any adverse impact on the budget of the Association.

Section 15.3 Declarant reserves the right to maintain offices and





models within the Common Facilities portions of the Community and/or individual Lots within the Community, in connection with the management of and/or sale or rental of Lots or units owned by the Declarant. There shall be not more than two (2) model homes at any one time, each of which shall be a single family dwelling, comparable in size to the dwellings to be constructed on the individual Lots. Model homes may be placed on any Lot. Temporary sales trailers and/or construction trailers and/or equipment trailers may be placed anywhere within the Common Facilities portions of the planned community, and/or within individual Lots. These rights shall be retained for so long as the Declarant retains ownership of any one or more Lots within the Community.

Section 15.4 Declarant retains the right to maintain signs in any one or more of the Lots in the Community, as well as on the Common Facilities thereof, advertising Lots or units in the Community for sale or lease.

Section 15.5 Until the termination of the period of Declarant control, Declarant retains the right to appoint or remove all officers of the Association and/or members of the Executive Board, subject to the limitations set forth hereinabove and in the Act.

## **ARTICLE XVI**

### **General Provisions**

Section 16.1. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns and the municipality, perpetually. This Declaration, including the Plat, may be amended only by the affirmative votes (in person or by proxy) or written consent of members representing two-thirds (2/3) of the total voting power of the Association, and approved in writing by the Municipality, except as otherwise specified below or in the Act. Any amendment must be recorded in the Chester County Recorder of Deeds Office.

Section 16.2. Exceptions to General Amendment Process. Notwithstanding the provisions of Section 13.1 above, but subject to the Municipality's approval under Section 13.3 below, the following exceptions to the general amendment process shall apply:

(a) unanimous consent or joinder of the Declarant shall be required for all circumstances set forth in §5219(d) of the Act;



(b) amendments may be executed by Declarant under all circumstances set forth in §5219(a)(3)(i) of the Act;

(c) amendments may be executed by the Association under all circumstances set forth in §5219(a)(3)(ii) of the Act;

(d) amendments may be executed by certain unit Owners under all circumstances set forth in §5219(a)(3)(iii) of the Act.

Section 13.3. All amendments to this Declaration affecting directly or indirectly to the rights of the Municipality must first be approved in writing by Municipality in order to become effective.

Section 16.4. Recordation of Amendments. Every Amendment to this Declaration must be recorded in the Recorder of Deeds Office of Chester County, Pennsylvania in order to become effective.

Section 16.5 Technical Corrections. The Executive Board may effect an appropriate corrective amendment without the approval of the unit Owners or the holders of liens, in accordance with the authorization and procedures set forth in §5219(f) of the Act.

Section 16.6. Recording Data for Easements and Licenses. The following recorded easements and licenses affect COUNTRY HILLS:

- (a) Easements of public access over those portions of the premises within the bed of Tweed Road;
- (b) Riparian rights with respect to watercourses traversing the Property;
- (c) Rights of utility companies acquired in (i) Miscellaneous Deed Book 67, page 345, (ii) Miscellaneous Deed Book 86, page 40, (iii) Miscellaneous Deed Book 189, page 597, and (iv) Miscellaneous Deed Book 190, page 422.
- (d) Rights granted to Chester Municipal Authority as set forth in Miscellaneous Deed Book 91, page 315.
- (e) Conditions and Reservations as set forth in Deed Book Y57, page 384.

(f) Reciprocal Easement Agreement as set forth in Record Book 4454, page 2138, First Amendment recorded in Record Book 4648, page 1174.

(g) Notes as set forth on the recorded Plans.

Section 16.7. 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.

Section 16.8. 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.

Section 16.9. Enforcement. Enforcement of these covenants and restrictions shall be by and proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages and against the land to enforce any lien created by these covenants; and failure by the Association or Municipality or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 16.10. 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.

IN WITNESS WHEREOF, the said Declarant, has executed this Amended and Restated Declaration this 12<sup>th</sup> day of October, 2007.

Attest:

Bug Hostetler

By: William L. Hostetler  
William L. Hostetler

Bug Hostetler

By: Joyce L. Hostetler  
Joyce L. Hostetler

COMMONWEALTH OF PENNSYLVANIA :

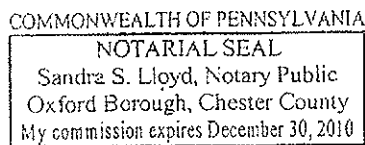
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COUNTY OF CHESTER :

On this, the 12 day of October, 2007, before me, the undersigned officer, personally appeared **William L. Hostetler and Joyce L. Hostetler**, who acknowledged themselves to be the owners of Country Hills and that they, 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.

Sandra S. Lloyd  
Notary Public



## LIST OF EXHIBITS

- A - Description of the Property
- B - Plat - Sheet 2 of 24
- C - Plan Index



Prepared by and Return to:  
Pronefield Crawford, Jr., Esquire  
Montgomery, McCracken, Walker & Rhoads, LLP  
1235 Westlakes Drive, Suite 200  
Berwyn, PA 19312  
610-689-2219



UPI # 69-6-471 X (now retired)  
69-6-10.18 ✓

(SEE ATTACHED FOR UPI'S) ew

**FIRST AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS,  
CHARGES AND LIENS FOR  
THE ESTATES AT TWEED CROSSING, A PLANNED COMMUNITY**

THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF OCTOBER 12, 2007, as recorded in the Chester County Recorder of Deeds Office in Record Book 7287, page 283, et. seq., is made this       day of September, 2008 by Wilmer and Joyce Hostetter ("Declarant").

**WITNESSETH:**

**Background.**

1. Declarant, Wilmer and Joyce Hostetter, purchased the property which is now known as The Estates at Tweed Crossing from Majesty Properties, Inc., by deed recorded in the Chester County Recorder of Deeds Office in Record Book 5492, page 1371.

2. At the time that Declarant purchased the property, the final plans for development of the property as a 51-lot subdivision, together with open space area and a pump station lot, had been approved by the East Nottingham Township Board of Supervisors and was known as a phase of "Locksley Glen."

3. Declarant changed the name of the community to Country Hills, in order to differentiate the community from previous phases of the "Locksley Glen" community, within which the homes were constructed by another builder/developer.

4. Thereafter, Declarant entered into an agreement with NVR, Inc., d/b/a Ryan Homes, whereby Declarant would construct all of the site improvements and infrastructure in accordance with the approved subdivision and land development plans, sell and convey the lots to Ryan Homes, which would construct an individual single family dwelling on each lot, for resale as new homes to individual homebuyers.

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UPI

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5. Declarant had previously recorded the original Declaration of Covenants, Restrictions, Easements, Charges and Liens for Country Hills, a planned community, in the Chester County Recorder of Deeds Office in Record Book 7207, page 121 ("Former Declaration") and, in conjunction with discussions with Ryan Homes, Declarant agreed to execute and record the Amended and Restated Declaration of October 12, 2007, in which it was recognized that the preferred name for the community by Ryan Homes would be "The Estates at Tweed Crossing."

6. Declarant did execute and record the Amended and Restated Declaration as above-referenced, now recorded in Record Book 7287, page 283, superseding in all respects the Former Declaration.

7. Declarant and Ryan Homes ("Builder") now wish to amend the Amended and Restated Declaration of October 12, 2007, in order to clarify certain components of the Declaration, correct certain typographical errors as set forth in the Amended and Restated Declaration, and provide the certification for the incorporation of the recorded subdivision and land development plans as the "plat" for The Estates at Tweed Crossing.

#### Amendments.

Declarant hereby amends the Amended and Restated Declaration of October 12, 2007, as follows:

1. Wherever the phrase "THE ESTATE AT TWEED CROSSING" is utilized (such as in the first "Whereas" clause and in several of the definitions as set forth in Section 1.1 and also in Sections 3.2 and 3.4), the term is hereby corrected to read "THE ESTATES AT TWEED CROSSING."

2. In the third "Whereas" clause and in the definition of "Association" in Section 1.1, the term "COUNTRY HILLS HOMEOWNERS ASSOCIATION" is hereby revised to read "THE ESTATES AT TWEED CROSSING HOMEOWNERS ASSOCIATION."

3. The fourth "Whereas" clause is hereby amended to read in its entirety as follows:

"WHEREAS, Declarant has incorporated or intends to incorporate under the laws of the Commonwealth of Pennsylvania as a non-profit corporation 'THE ESTATES AT TWEED CROSSING HOMEOWNERS ASSOCIATION' for the purposes of exercising the functions as above referenced; and"

4. The definition of "Plat" and/or "Plan" as set forth in Section 1.1(n) is hereby amended to read in its entirety as follows:

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"(n) "Plat" and/or "Plan" shall mean and refer to all of the approved final subdivision and land development plans as listed in Exhibit C, appended hereto. Such plans include 12 sheets attributable to the 49 lots referenced as 'Country Hills' in the title block (formerly 'Locksley Glen-Section 2') and the additional two-lot subdivision entitled 'Majesty Properties.' Such plans are recorded in the Chester County Recorder of Deeds Office as Plan Nos. 16630 and 18232. Appended hereto as Exhibit B, for illustration, are sheets 1 of 12 of the Country Hills plans and sheet 1 of 4 of the Majesty Properties plans. The Estates at Tweed Crossing community encompasses all of the land areas as depicted on both the Country Hills plan and the Majesty Properties plan. (As indicated above, the 'Country Hills' plans were recorded prior to the Declarant and Ryan Homes' decision to change the name of the community to 'The Estates at Tweed Crossing'.)

5. In the definition of "Common Facilities": (i) in Section 1.1(f), the reference to the pump station parcel referred to the plat of "The Estate at Tweed Crossing" attached hereto as Exhibit "B," whereas the actual title of the plat, being sheet 1 of the 12 of the Country Hills plans, is hereby corrected to read "The Plat of 'Country Hills' attached hereto as Exhibit B ...", and (ii) the first sentence is expanded by adding thereto "and (iv) the fire hydrants serving the Community."

6. In compliance with the requirements of subsection 5210(b)(3) of the Pennsylvania Uniformed Planned Community Act ("Act"), Declarant confirms that all of the site improvements and infrastructure as depicted on the plats and plans "MUST BE BUILT," including roads, sidewalks, stormwater management facilities, sewage collection facilities (including all piping and the pump station) and all other utilities serving the community. Individual homes on the 51 separate lots "NEED NOT BE BUILT."

7. The typewritten names for Declarant's signature lines were erroneously specified as "William L. Hostetler" and "Joyce L. Hostetler" and are corrected to read "Wilmer L. Hostetter" and "Joyce L. Hostetter."

8. Appended hereto as Exhibit "A" is the Certification as required under subsection 5210(i)(3) of the Act.

9. In all other respects, Declarant hereby ratifies and confirms that Amended and Restated Declaration of October 12, 2007, as recorded in the Chester County Recorder of Deeds Office in Record Book 7287, page 283.

IN WITNESS WHEREOF, the said Declarant has executed this First Amendment to the Amended and Restated Declaration this \_\_\_\_\_ day of September, 2008.

Witness:

Baz Host

Wilmer L. Hostetter  
Wilmer L. Hostetter

Witness:

Baz Host

Joyce L. Hostetter  
Joyce L. Hostetter

COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF CHESTER :

SS

On this 8<sup>th</sup> day of September, 2008 before me, the undersigned officer, personally appeared Wilmer L. Hostetter and Joyce L. Hostetter, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

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

Sandra S. Lloyd  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
Sandra S. Lloyd, Notary Public  
Oxford Borough, Chester County  
My commission expires December 30, 2010

**CERTIFICATION PURSUANT TO SECTION 5210(I)(3) OF  
THE PENNSYLVANIA PLANNED COMMUNITY ACT**

I, Laura Swiski, P.E., a licensed professional engineer in the Commonwealth of Pennsylvania, do hereby certify as follows:

1. The subdivision and land development plans for Country Hills and Majesty Properties, Inc., as referenced in the amended definition of "Plat" and/or "Plan" in the First Amendment to the Amended and Restated Declaration, as recorded in the Chester County Recorder of Deeds Office as Plan Nos. 16630 and 18232, constitute the plats and plans for the planned community now known as "The Estates at Tweed Crossing" (formerly Country Hills).

2. Said plats and plans, constituting all of the sheets as set forth in Exhibit "C" to the Amended and Restated Declaration, collectively contain all of the information required by Section 5210 of the Pennsylvania Uniform Planned Community Act.

I, Laura Swiski, do so certify.



Laura R Swiski P.E.

Laura Swiski, P.E.

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