

VIRGINIA RUN

DECLARATION OF COVENANTS AND RESTRICTIONS

This Virginia RUN DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is made this 2nd day of March, 1987, by KETTLER & SCOTT, INC., a Delaware corporation, hereinafter "Developer "

W I T N E S S E T H :

WHEREAS, [redacted] is the owner of the real property located in Fairfax County, Virginia, described in Exhibit A of this Declaration, and desires to create thereon the first section of Virginia Run.

WHEREAS, in order to provide for the preservation and enhancement of the property values, amenities, and opportunities in said community contributing to the personal and general health, safety, and welfare of residents and for the maintenance of the land and improvements thereon and to this end, the Developer [redacted] desire to subject the real property described in Exhibit A together with such additions as may hereafter be made thereto, and liens hereafter set forth, each and all of which is and are/or the benefit of said property and each owner thereof; and said covenants, restrictions, easements, conditions, and charges running with said real property and binding all persons or entities having or acquiring any right, title, or interest in said real property or any part thereof, and inuring to the benefit of each owner thereof; and

WHEREAS, to provide a means for meeting the purposes and intents herein set forth and the intents and requirements of the

HAZEL, BECKHORN AND HANES  
P.O. Box 547  
Fairfax, Virginia 22030  
KETSC-61186  
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County of Fairfax, the Developer has incorporated under the laws of the State of Virginia the VIRGINIA RUN COMMUNITY ASSOCIATION;

NOW, THEREFORE, Developer hereby declare that the real property described in Exhibit A and such additions thereto as may be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, conditions, charges, and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of, and shall run with, the real property and be binding on all parties having any right, title, or interest in the above described real property or any portions thereof, their successors and assigns, and shall inure to the benefit of each Owner thereof.

AND FURTHER, the Developer hereby delegate and assign to the VIRGINIA RUN COMMUNITY ASSOCIATION the powers of owning, maintaining, and administering the Common Area, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety, and welfare of the residents.

#### ARTICLE I

##### DEFINITIONS

Section 1. "Approval" shall mean and refer to the issuance by any public agency of written approval, or any written waiver of approval rights, or a formal letter stating "no objection."

Section 2. "Assessable Unit" shall mean and refer to any real property within the Properties which is subject to assessments, as provided in Article V.

Section 3. "Book of Regulations" shall mean and refer to the document containing the rules and regulations and policies of the Association as they may from time to time be amended.

Section 4. "Builder" shall mean and refer to a person or entity which acquires a portion of the Properties for the purpose of improving such portion in accordance with the Development Plan for resale to Owners.

Section 5. "Common Area" shall mean and refer to all real property and improvements thereon owned or leased by the Association for the use and enjoyment of the Members.

Section 6. "Declaration" shall mean and refer to the covenants, conditions, and restrictions and all other provisions herein set forth in this entire document, as same may from time to time be amended.

Section 7. "Developer" shall mean and refer to Kettler & Scott, Inc., its successors and assigns; provided, however, that no successor or assignee of the Developer shall have any rights or obligations of the Developer hereunder unless such rights and obligations are specifically set forth in the instrument of succession or assignment or which pass by operation of law.

Section 8. "Development Limits" shall mean and refer to the total of potential land which may become a part of the Properties as depicted on Exhibit B hereto.

Section 9. "Development Plan" shall mean the general plan of the community and Development Limits land as approved and amended from time to time by the governmental agencies of Fairfax County, Virginia.

Section 10. "Federal Mortgage Agencies" shall mean and refer to those Federal Agencies who have an interest in the Properties, such as the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, or successors to their interests.

Section 11. "First Mortgagee" shall mean and refer to an Institutional Lender who holds the first deed of trust on a Lot or Living Unit and who has notified the Association of his holdings.

Section 12. "Association" shall mean and refer to the Virginia Run Community Association, its successors and assigns.

Section 13. "Founding Documents" shall mean and refer to the Articles of Incorporation of the Association, this Declaration, Supplementary Declarations, and the Association Bylaws, all as initially drawn by the Developer and filed and recorded as the case may be, and all as may be duly amended from time to time.

Section 14. "Governing Documents" shall mean and refer collectively and severally to the Founding Documents and the Book of Regulations, as such may be amended from time to time.

Section 15. "Institutional Lender" shall mean and refer to one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts

including but not limited to real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any private or governmental institution which has insured a loan of such a lender, or any combination of any of the foregoing entities.

Section 16. "Lead Lender" shall mean and refer to the First Mortgagee holding the greatest number of first deeds of trust on Lots.

Section 17. "Living Unit" shall mean and refer to any portion of a structure situated upon the Properties designed and intended for use and occupancy as a residence by a Single Family.

Section 18. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of Common Area as heretofore defined.

Section 19. "Members" shall mean and refer to members of the Association which shall consist of all Owners.

Section 20. "Notice" shall mean and refer to (1) written notice delivered personally or mailed to the last known address of the intended recipient, or (2) notice published at least once a week for two consecutive weeks in a newspaper having general circulation in Fairfax County, or (3) the newsletter of the Association delivered personally or mailed to each Member.

Section 21. "Occupant" shall mean and refer to an occupant of a Living Unit who is the Owner or contract purchaser or lessee or sublessee who holds a written lease having an initial term of at least twelve (12) months.

Section 22. "Owner" shall mean and refer to the record holder of the fee simple title to any Lot, whether one or more persons or entities, including contract sellers; the term shall exclude those having such interest merely as security for the performance of an obligation.

Section 23. "Properties" shall mean and refer to all real property which is hereby subjected to the Declaration, together with such other real property as may from time to time be annexed thereto under the provisions of Article II hereof.

Section 24. "Quorum of Members" shall mean and refer to the representation by presence or proxy of Members who hold ten (10) percent of the outstanding votes of each voting class.

Section 25. "Registered Notice" shall mean and refer to any Notice which has been signed for by a recipient or has been certified by the U. S. Postal Service or other entity as having been delivered to the address of the intended recipient. Refusal of an intended recipient to acknowledge such Notice shall in no way affect the validity of any Registered Notice.

Section 26. "Single Family" shall mean and refer to a single housekeeping unit which includes not more than four adults who are legally unrelated.

Section 27. "Deed of Dedication, Subdivision and Easement" shall mean and refer to any deed which may be recorded by the Developer or a Builder, which, among other things, extends the provisions of this Declaration to property pursuant to Article 2.

Section 28. "Recreational Facilities" shall mean swimming pools, tennis courts, or other facilities.

ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION  
AND ADDITIONS THERETO

Section 1. The Properties. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the County of Fairfax, Commonwealth of Virginia, and is more particularly described in Exhibit A and represents the first stage of the community of Virginia Run.

Section 2. Additions to The Properties. Additional properties may become subject to this Declaration in the following manner:  
or any Builder

(a) Additions by the Developer. The Developer shall have the right to subject to the Declaration any additional property which lies within the Development Limits provided that not more than five (5) years have lapsed since the filing of the last Deed of Dedication, Subdivision and Easement subjecting property to this Declaration. Said property includes (without limitation) land acquired by the Developer by Deeds recorded in Deed Book 6442, at page 36, Deed Book 6334, at page 1791; Deed Book 6355, at page 1200; Deed Book 6359, at page 1630; Deed Book 6347, at page 9; Deed Book 6343, at page 349; Deed Book 6291, at page 1644; Deed Book 6355, at page 1204; Deed Book 6375, at page 1668; and Deed Book 6387, at page 1474, as more particularly described therein. In addition, Declarant reserves the right to subject to this Declaration the other land depicted on Exhibit B, which land would be logical additions to the Community.

(b) Other Additions. Additional land, other than that described above, may be annexed to the Properties upon approval of two-thirds of the votes of each class of Members and the approvals required in Article XI herein.

The additions authorized under subsection (a) and (b) shall be made by complying with the requirements of all applicable Zoning Ordinances, by securing the Approval of the Federal Mortgage Agencies, by filing of record one or more Deeds of Dedication, Subdivision and Easement with respect to the additional property, and by filing with the Association the preliminary plat for such additions.

Section 3. The Development Limits Land.

(a) Purpose. The Development Limits illustrated in Exhibit B, are the maximum limits for the Properties. Because the Development Limits is an outside limit, these limits shall not bind the Developer to add to the Properties any or all of the lands which are shown on the Development Limits or to improve any portion of such lands unless and until a Deed of Dedication, Subdivision and Easement is filed by the Developer for such property which subjects it to this Declaration. Thereupon, the Developer shall then be obligated to complete development of such property.

(b) Unsubmitted Land. The Developer hereby reserves the right to develop the land depicted in the Development Limits and not submitted to this Declaration in response to changes in technological, economic, environmental, or social conditions related to the development or marketing of the such land or to

changes in requirements of government agencies and financial institutions.

Section 4. Merger. In accordance with its Articles of Incorporation of the Association, the property, rights, and obligations of the Association may, by operation of law, be transferred to another surviving or consolidated association similar in corporate nature and purposes or, alternatively, the property, rights, and obligations of an association similar in corporate nature and purposes may by operation of law be added to the property, rights, and obligations of the Association as a surviving operation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidations, however, shall effect any revocation, change, or addition to the covenants established by this Declaration within the Properties except as hereinafter provided. Such merger or consolidation shall have the assent of two-thirds of the votes of each class of Members and the approvals required in Article XI.

#### ARTICLE III

##### VIRGINIA RUN COMMUNITY ASSOCIATION

###### Section 1. Organization.

(a) The Association. The Association is a nonprofit non-stock corporation organized and existing under the laws of Virginia charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents, as such may be amended from time to time, provided no other Governing Documents than this Declaration shall for any reason, be amended

or otherwise changed or interpreted so as to be inconsistent with this Declaration.

(b) Institutional Plan. As the operating responsibilities of the Association expand from those related to the Properties as originally constituted to those required by the fully developed Community of Virginia Run, this Declaration and the Governing Documents shall guide the controlled and orderly evolution of the Association.

(c) Subsidiary Corporations. The Association shall have the right to form one or more subsidiary corporations, for any purpose or purposes deemed appropriate by a majority vote of the Board of Trustees. Without limiting the generality of the foregoing, one or more subsidiary corporations may be formed for the operation and maintenance of any specific area or to perform any function within the Properties; however, such subsidiary corporation shall be subject to this Declaration and may not take any action to lessen or abate the rights of the Members.

Section 2. Membership.

(a) Basis. Membership shall be appurtenant to the Lot or Living Unit giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed, or alienated in any way except as provided in the Governing Documents.

(b) Member's Rights and Duties. Each member shall have the rights, duties, and obligations set forth in the Governing Documents.

(c) Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners except the Class B Member. Class A Members shall be entitled to one vote for each Lot owned.

Class B. The Class B Member shall be the Developer who shall have 4,065 votes less the number of Class A votes outstanding at the time a vote is taken held by Owners other than Builders.

The Class B membership and the Class B voting rights shall cease upon the earlier of the following events: when the total number of Class A votes equals the total number of Class B votes or on December 31, 1991. Thereafter, the Developer shall have Class A membership rights for each Lot it may own.

(d) Exercise of Vote. If the right to exercise an Owner's vote is held by more than one person, then that Owner's right to vote may be exercised by any one of the persons who may exercise that Owner's vote, unless one or more persons who also have the right to exercise such Owner's vote object in writing prior to the consideration by the Owners of an action on which such Owner may vote. If a written protest or objection is made, the vote shall not be counted.

Section 3. Board of Trustees.

(a) Composition. The number of Trustees and method of selection shall be as provided in the Bylaws. Until the Class B membership and Class B voting rights cease, Developer shall have the right to appoint at least two Trustees and the remainder shall be selected as provided in the Bylaws.

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(b) Extent of Power.

(1) The Board of Trustees shall have all powers for the conduct of the affairs of the Association which are enabled by law or the Founding Documents which are not specifically reserved to Members or the Developer by said Documents.

(2) The Board of Trustees shall exercise its powers in accordance with the Governing Documents.

(c) Powers and Duties. Without limiting the generality thereof the Board shall have the power and obligation to perform the following duties:

(1) Real and Personal Property. To acquire, own, hold, improve, maintain, manage, lease, pledge, convey, transfer, or dedicate real or personal property for the benefit of the Members in connection with the affairs of the Association, except the acquisition, mortgaging, or disposal of Common Area and/or improvements shall be subject to the provisions of Article II, Article IV, and Article XI respectively.

(2) Rule Making. To establish rules and regulations for the use of property as provided in Articles IV and VI and to review, modify, and approve architectural standards adopted by the Architectural Review Board; and

(3) Assessments. To fix, levy, and collect assessments as provided in Article V; and

(4) Easements. To grant and convey easements to the Common Area as may become necessary and as provided in Article VII; and

(5) Employment of Agents. To employ, enter into contracts with, delegate authority to, and supervise such persons

or entities as may be appropriate to manage, conduct, and perform the business obligations and duties of the Association; and

(6) Mergers/Consolidations. To participate in mergers and consolidations with other corporations as provided in Article II; and

(7) Enforcement of Governing Documents. To perform acts, as may be reasonably necessary or appropriate, including bringing suit, causing a lien to be foreclosed or suspending membership rights, to enforce or effectuate any of the provisions of the Governing Documents, subject to any appeal which may be filed and is pending.

Section 4. The Architectural Review Board.

(a) Composition. The Architectural Review Board shall initially consist of the following until the Class B membership and Class B voting rights cease:

(1) A New Construction Panel, composed of three members appointed by the Developer; and

(2) A Modification and Change Panel, composed of three members of the Association, appointed by the Board of Trustees.

When the Class B membership and Class B voting rights cease, the Architectural Review Board shall consist of three or more persons who shall be appointed by the Board of Trustees as provided in the Bylaws.

(b) Powers and Duties. The Architectural Review Board shall regulate the external design, appearance, and location of the Properties and improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. In furtherance thereof, the Board shall:

(1) Review and approve, modify, or disapprove written applications of Owners and of the Association, for improvements or additions to Lots, Living Units, or Common Areas. Notice of any modifications or disapprovals of applications shall be by Registered Notice. In this regard, during the period the Board is composed of the panels described above, the New Construction Panel shall act with respect to initial improvements to the Common Areas and Lots; the Modification and Change Panel shall act with respect to modification and changes to all the Common Area and Lots, including improvements thereon.

(2) In accordance with the Bylaws and Book of Regulations, monitor Lots for compliance with architectural standards and approved plans for alteration; and

(3) Adopt architectural standards subject to the confirmation of the Board of Trustees; and

(4) Adopt procedures for the exercise of its duties and enter them in the Book of Regulations.

(5) Maintain complete and accurate records of all actions taken.

(c) Failure to Act. In the event the Architectural Review Board fails to approve, modify, or disapprove in writing a correctly filed application within forty-five (45) days, approval will be deemed granted. Total or partial disapproval will include the reasons for such disapproval.

(d) Appeal. An applicant may appeal an adverse Board decision to the Board of Trustees, which may sustain, reverse, or modify such decision.

## ARTICLE IV

COMMON AREA

Section 1. Obligations of the Association. The Association, subject to the rights of the Members set forth in this Declaration, shall be responsible for the management and control for the benefit of the Members of the Common Area conveyed to it and all improvements thereon (including furnishings and equipment related thereto), and shall maintain the same in a manner which protects the health, welfare, and safety of the Members. Should any portion of the Common Area or any facility thereon be damaged, the Association shall repair such damage unless otherwise determined by the Owners and First Mortgagees pursuant to Article XI.

Section 2. Easement of Enjoyment. Subject to the provisions herein, every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, and every Member shall have a right of enjoyment to the Common Area.

Section 3. Extent of Members' Easement. The Members' easement of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to establish reasonable admission and other fees for the use of the Common Areas;

(b) The rights of the Association to suspend the right of an Owner to use the Recreational Facilities for any period during which any assessment against his Lot remains unpaid for more than thirty (30) days after notice until such default has been remedied; the right of the Association to suspend the right

of a member to use the Recreational Facilities for a period not to exceed sixty (60) days for any other infraction of the Governing Documents;

(c) The right of the Association to mortgage any or all of the Common Area with (i) the assent of two-third of the votes of each class of Members, and (ii) the approvals required in Article XI. In the event of a default upon any mortgage the lender's rights hereunder shall be limited to a right, after taking possession of such properties, to charge reasonable admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored;

(d) The right of the Association to convey, or transfer all or any part of the Common Area, subject to (i) the prior approval of Fairfax County, (ii) the assent of two-thirds of the votes of each class of Members, and (iii) the approvals required in Article XI;

(e) The right of the Association to license portions of the Common Area to Members on a uniform, non-preferential basis.

(f) The right of the Association to regulate the use of the Common Area for the benefit of Members.

(g) The right of the Association, at any time or times, consistent with the then existing zoning ordinances of

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Fairfax County, and pursuant to a recorded subdivision or re-subdivision plat, to transfer part of the Common Area to the Declarant for the purpose of adjusting Lot lines or otherwise in connection with the orderly subdivision and development of the Properties, provided that: (1) such transfer shall not reduce the portion of the Properties designated as "open space" below the minimum level of "open space" required in the subdivisions comprising the Properties by Fairfax County at the time of the transfer, (2) the Declarant shall transfer to the Association as "open space" such portion of the Properties as is necessary to maintain the total acreage designated as "open space" at that level existing at the time of the transfer, and (3) all Lots which were adjacent to Common Area prior to such transfer remain adjacent to Common Area after such transfer.

Section 4. Delegation of Use. Any member may delegate his right of enjoyment to the Common Area and facilities to the members of his family and to his guests subject to such general regulations as may be established from time to time by the Association, and included within the Book of Regulations.

Section 5. Title to Common Area. The Developer hereby covenants that areas designated as open space, which the Developer conveys to the Association as Common Area or to a governmental agency as parkland shall be free and clear of liens and financial encumbrances at the time of conveyance. The Developer shall convey such areas in each section at the time of subdivision of each section. Developer hereby acknowledges that all Common Area

shall be conveyed to the Association prior to the consummation of the first Veterans Administration loan guaranty.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association such annual and special assessments as are established herein. The annual and special assessments, together with such interest thereon and costs of collections thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due and shall not pass to his successors unless expressly assumed by them. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Assessable Unit.

Section 2. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first trust or mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale

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or transfer of any Lot pursuant to a foreclosure of any first trust or mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments which thereafter become due or from the lien thereof.

Section 3. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of those persons residing on the Properties and in particular for the payment of taxes and improvements and maintenance of services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area.

Section 4. Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner other than the Declarant, the maximum annual assessment shall be Four Hundred and No/100 Dollars (\$400.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (All Items Index) for the Washington, D.C. standard metropolitan area (published by the Department of Labor, Washington, D.C.) for the year ending the preceding July 1, or five percent (5%) whichever is greater.

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(b) From and after January 1 of the year immediately following the conveyance of the first Lot, the maximum annual assessment may be increased above that established by subparagraph (a) annually provided that any such change shall have the assent by a vote of more than two-thirds (2/3) of each class of the Members.

(c) After consideration of current maintenance costs and further needs of the Association, the Board of Trustees may fix the annual assessment at any amount not in excess of the maximum.

Section 5. Special Assessments.

(a) At settlement on the sale of any Lot with a Living Unit thereon for which a certificate of occupancy has been issued, the purchaser of such Lot shall pay to the Association a one-time assessment in the amount of Sixty Dollars (\$60.00). All assessments received by the Association pursuant to this Article V, Section 5 shall be used to establish a working capital fund for the Association.

(b) In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only and payable over not more than three succeeding years, 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 Area, including the fixtures and personal property related thereto, or other specified purpose, provided that any such assessment

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shall have the assent of more than two-thirds (2/3) of each class of Members.

(c) The Association may levy a restoration assessment upon any Lot whose Owner fails to maintain such Lot, as provided in Article VI, Section 2, or who fails to provide such maintenance funds as may be required under the terms of this Declaration. Restoration assessments shall be limited to the amount necessary to meet the cost of restoration or deficiency in required funds and the cost of collection thereof.

Section 6. Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Lots not owned by the Declarant or a Builder. Any unoccupied Lots owned by the Declarant or a Builder shall be assessed at twenty-five percent (25%) of the rate of the Lots not owned by the Declarant or Builder so long as the Declarant has Class B membership status. As long as the Declarant and Builder(s) retain(s) the right to pay only partial assessments for the unoccupied lots in any section, the Declarant also must maintain the Common Area in such section at no cost to the Association and fund all budget deficits, including reserves, applicable to such section. Thereafter, such Lots will be assessed at the rate for those Lots not owned by the Declarant.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessment shall commence as to all Lots in any section, no later than thirty (30) days following the earlier of the conveyance to the Association of the Common Area in that

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section or the conveyance of the first Lot in that section to other than the Declarant or a Builder. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Trustees shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Trustees. The Association shall, upon demand at any time or as otherwise required by the Founding Documents, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any annual assessment installment or special assessment not paid within fifteen (15) days after the due date shall be delinquent. The due date shall be the first day of each month, unless otherwise determined by the Board of Trustees. Upon delinquency, the Association shall provide notice of such delinquency and may (a) declare the entire balance of such assessment due and payable in full; (b) charge a late fee of five dollars (\$5.00) per month or other such fee as established by the Board of Trustees from time to time; (c) give registered mail notice to the Owner that in the event payment together with late

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fees is not paid within sixty (60) days from the date of such notice, then, the expressed contractual lien provided for herein may be foreclosed and/or an action at law may be brought against the Owner personally; (d) upon registered notice to the Owner, suspend the right of such owner to vote or use the Common Areas until the assessment and late fees are paid in full. The Association reserves the right to bring an action at law against an Owner personally obligated to pay an assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of a Lot.

Section 9. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (1) all properties to the extent of any easement or other interest therein dedicated and accepted by a public authority and devoted to public use; (2) all Common Areas; and (3) all properties exempted from taxation by the state or county government upon the terms and to the extent of such legal exemption, provided that no Properties utilized for residential purposes shall be exempt.

#### ARTICLE VI

#### USE OF PROPERTY

#### Section 1. Protective Covenants.

(a) Nuisances. No nuisance shall be permitted to exist or operate upon any property so as to jeopardize property values or be detrimental to the well-being of Members.

(b) Restriction on Further Subdivision. No Lot upon which a Living Unit has been constructed shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot, nor any easement or other interest herein, shall be conveyed or transferred by an Owner, provided that this shall not prohibit deeds of correction, deeds to resolve boundary line disputes, and similar corrective instruments.

(c) Conditions for Architectural Control. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade, or other work which in any way alters the exterior of any Lot or Common Area or the improvements located thereon from its natural or improved state, existing on the date such property was first subject to this Declaration shall be made or done without the prior approval of the Architectural Review Board. No building, residence, or other structure, fence, wall, or landscaping in lieu thereof, shall be commenced, erected, maintained, improved, altered, made, or done on such property without the prior written approval of the Architectural Review Board.

(d) Rules. From time to time the Board of Trustees shall adopt general rules, including, but not limited to, rules to regulate potential problems relating to the use of property and the well-being of Members, such as keeping of animals, storage and use of all vehicles, storage and use of machinery, use of outdoor drying lines, antennas, signs, trash and trash containers, maintenance and removal of vegetation on the Properties, and the

type and manner of application of fertilizers or other chemical treatments to the Properties in accord with non-point source pollution control standards. All such general rules and any subsequent amendments thereto shall be placed in the Book of Regulations and shall be binding on all Members, except where expressly provided otherwise in such rule. Notwithstanding the generality of the foregoing the following restrictive covenants shall apply to the Properties.

(i) Completion of Structures. The exterior of any new structure and the grounds related thereto must be substantially completed in accordance with the plans and specifications approved by the Architectural Review Board within eighteen (18) months after construction of the same shall have commenced, except that said Board may grant extensions where such completion is impossible or is the result of matters beyond the control of the Owner or Builder, such as strikes, casualty losses, national emergencies, or acts of God.

(ii) Residential Use. All Lots and Living Units designated for residential use shall be used, improved, and devoted exclusively to residential use, except such home occupations permitted by Fairfax County, subject to reasonable rules to prevent unreasonable adverse impact on adjacent Lots and Living Units. Nothing herein shall be deemed to prevent an Owner from leasing a Living Unit to a Single Family, provided such lease shall be in writing and subject to all of the provisions of the Governing Documents with any failure by a lessee to comply with the terms of the Governing Documents constituting a default under the lease.

(iii) Vehicles. No portion of the property subjected hereto shall be used for the repair of motor vehicles. Use and storage of any vehicles and recreational equipment upon the Common Area and Lots or upon any street, public or private, adjacent thereto shall be subject to rules promulgated by the Board of Trustees as provided herein;

All motor vehicles including, but not limited to, trail bikes, motorcycles, dune buggies, and snowmobiles shall be driven only upon paved streets and parking lots. No motor vehicles shall be driven on pathways or Common Areas, except such vehicles as are authorized by the Association as needed to maintain, repair, or improve the Common Area. This prohibition shall not apply to normal vehicular use of designated streets and lanes constructed on Common Area.

Parking of all commercial and recreational vehicles and related equipment, other than on a temporary and non-recurring basis, shall be in garages or screened enclosures approved by the Architectural Review Board or in areas approved by the Association for such parking. No such area for approved parking is currently contemplated by the Association.

(iv) Pets. Subject to limitations as may from time to time be set by the Association, generally recognized house or yard pets, in reasonable numbers, may be kept and maintained on a Lot or in a Living Unit, provided such pets are not kept or maintained for commercial purposes. All pets must be kept under the control of their owner when they are outside of the Lot and must not become a nuisance to other residents.

(v) Clothes Drying Equipment. No clothes lines or other clothes drying apparatus shall be permitted on any Lot, unless approved in writing by the Architectural Review Board. It is initially contemplated that no exterior clothes lines or other exterior clothes drying apparatus will be permitted.

(vi) Antennae. Exterior television or other antennae are prohibited, unless approved in writing by the Architectural Review Board. It is initially contemplated that no exterior antennae of any kind will be permitted.

(vii) Trash Receptacles. Storage, collection, and disposal of trash shall be in compliance with rules set by the Architectural Review Board.

(viii) Trash Burning. Trash, leaves, and other similar material shall not be burned in violation of Fairfax County law.

(ix) Signs. No signs of any type shall be displayed to public view on any Lot or the Common Area without the prior written approval of the Architectural Review Board, except customary name and address signs meeting established Architectural Review Board standards.

(x) Mailboxes and Newspaper Tubes. Only mailboxes and newspaper tubes meeting the design standards of the Association shall be permitted.

(xi) Fences and Walls. No fence, wall, tree, hedge, or shrub planting shall be erected or maintained in such a manner as to obstruct sight lines for vehicular traffic. All fences or enclosures must be approved by the Architectural Review

Board as to location, material, and design. Any fence or wall built on any Lots shall be maintained in a proper manner so as not to detract from the value and desirability of surrounding property.

(xii) Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Properties.

(xiii) Lighting. No exterior lighting shall be directed outside the boundaries of a Lot.

(xiv) Vegetation. No live trees with a diameter in excess of four inches, measured twelve inches above ground, nor trees in excess of two inches in diameter, similarly measured, which are generally known as flowering trees (such as dogwood or redbud) or as broad leaf evergreens (such as holly, laurel, or rhododendron), no live vegetation on slopes of greater than twenty percent gradient or marked "no cut" areas on Fairfax County approved site plans may be cut without prior approval of the Architectural Review Board. The Association shall set rules for cutting of trees to allow for selective clearing or cutting.

(e) Exceptions. The Board of Trustees may issue temporary permits to except any prohibitions expressed or implied by this section, provided the Board can show good cause and acts in accordance with adopted guidelines and procedures. So long as the Developer or Builders are engaged in developing or improving any portion of the Properties, such persons shall be exempted from Rules affecting movement, disposition, and storage of building materials and equipment, erection, and maintenance or directional and promotional signs and conduct of sales activities, including

maintenance of model Living Units. Such exemption shall be subject to such rules as may be established by the Developer to maintain reasonable standards of safety, cleanliness, and general appearance of the Properties.

Section 2. Maintenance of Property.

(a) Owner Obligation. Each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair, free of debris, all in a manner and with such frequency as is consistent with good property management.

(b) Failure to Maintain. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon as provided herein, the Association after Notice to the Owner and approval by two-thirds (2/3) vote of the Board of Trustees, shall have the right to enter upon said Lot to correct drainage and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. All costs related to such correction, repair, or restoration shall become a restoration assessment upon such Lot (pursuant to Article V, Section 5) and as such shall be regarded as any other assessment with respect to lien rights of the Association and remedies provided for herein for non-payment.

Section 3. Resale of Lots.

(a) Reference to Declaration. The deed or instrument transferring title to any Lot shall contain a provision incorporating by reference the covenants and restrictions set forth in this Declaration as well as any applicable Supplementary Declaration.

(b) Notification. The contract seller of a Lot shall notify the Board of Trustees of the contract purchaser and the scheduled date and place conveyance will be accomplished.

(c) Estoppel Certificate. The Board of Trustees shall, upon demand, and upon payment of a Ten Dollar (\$10.00) fee, or such other amount as may be established by the Board from time to time, furnish a contract seller of a Lot with an estoppel certificate which shall set forth any assessments and charges then due upon such Lot. Such certificate shall be issued within ten (10) days of receipt of a written demand and payment of the fee. A properly executed certificate of the Association as to the status of assessments and charges on a Lot is binding upon the Association as of the date of its issuance.

Section 4. Landscaping. All Builders shall be required, in connection with its development of the portion of the Properties which is owned by such Builder, to comply with the landscaping standards to be adopted by the Developer to ensure an orderly and uniform landscaping scheme for the entirety of the Properties.

#### ARTICLE VII

##### EASEMENTS

Section 1. Utility Easements. There is hereby created an easement upon, across, over, through and under the Properties for ingress, egress, installation, replacement, repair, and maintenance of all utility and service lines and systems including, but not limited to, water, sewers, gas, telephones, electricity, television cables, or communication lines and systems. By virtue of this easement, it shall be expressly permissible for the

Developer or the providing utility or service company to install and maintain facilities and equipment on the Properties, to excavate for such purposes and to affix and maintain wires, circuits, and conduits on, in, and under the roofs and exterior wall of Living Units providing such company restores disturbed areas to the condition in which they were found.

Section 2. Developer's Easements to Correct Drainage. For a period of two years from the date of conveyance of each Lot, the Developer reserves an easement and right on, over, and under the ground within that Lot to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety, and appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery, make any grading of the land, or to take any other similar action reasonably necessary, following which the Developer shall restore the affected property to its original condition as near as practicable. The Developer shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Developer an emergency exists which precludes such notice.

Section 3. Construction Easements and Rights. Notwithstanding any provision of this Declaration or of any Deed of Dedication, Subdivision and Easement, so long as the Developer or Builders are engaged in developing or improving any portion of the Properties, such persons shall have an easement of ingress, egress, and use over any lands not conveyed to an Owner for occupancy for (1) movement and storage of building materials and equipment, (2) erection and maintenance of directional and promotional signs, and (3) conduct

of sales activities, including maintenance of model Living Units. Such easement shall be subject to such rules as may be established by the Developer to maintain reasonable standards of safety, cleanliness, and general appearance of the Properties.

Section 4. Easement to Inspect. There is hereby created an easement in favor of the Association for ingress and egress on any Lot (a) to inspect such property for alleged violations of the Governing Documents, based on formal, written complaints, and/or compliance with architectural standards and/or approved plans for alterations and improvements, and (b) performing such maintenance as is required by this Declaration on such Lots, provided the Owner of such Lot is given written notice of the purpose and time of inspection at least three days in advance thereof and such inspection is performed during reasonable hours.

Section 5. Easement for Governmental Personnel. A right of entry on any Lot or Common Area is hereby granted to law enforcement officers, and fire and rescue personnel as needed to carry out their duties, including enforcement of cleared emergency vehicle access.

Section 6. Easement for Landscaping, Signs, and Related Purposes. There shall be and is hereby reserved to the Developer for so long as it retains Class B Membership status, a nonexclusive easement over all Lots and Common Areas for a distance of twenty-five (25) feet behind any Lot line which parallels a street (whether public or private) for the purpose of erecting and maintaining street intersection signs, directional signs, temporary and permanent promotional signs, plantings, street lights, entrance features and/or "theme areas," lighting, stone, wood, or masonry

wall features, and/or related landscaping. Exercise of this easement will be with the consent of the Owner of an affected lot, or the Architectural Review Board if the said Owner does not consent.

ARTICLE VIII  
COMMON DRIVEWAYS

Section 1. Definitions.

(a) "Common Driveways" shall be the areas within the Ingress and Egress Easements as shown on the plats of subdivision for Lots on the Properties.

(b) "Affected Lots" shall be lots served by a Common Driveway.

Section 2. Restrictions.

(a) Common Driveways shall be used exclusively for the purpose of ingress and egress to the Affected Lots served by the individual Ingress and Egress Easements;

(b) No act shall be performed by any Member, their tenants, guests, or agents which would in any manner affect or jeopardize the free and continuous use and enjoyment of any other authorized Member in and to the Common Driveway of an Affected Lot.

(c) There shall be no parking within Common Driveways at any time except for delivery and/or emergency vehicles, unless the Board of Trustees, by Resolution, determines otherwise upon petition of an Owner of an Affected Lot.

Section 3. Damage or Destruction. In the event that any Common Driveway is damaged or destroyed (including deterioration from ordinary wear and tear and lapse of time):

(a) Through the act of Member or any of his agents, or guests, or members of his family, (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Member to rebuild and repair the Common Driveway without cost to the other Owners of Affected Lots for that Driveway.

(b) other than by the act of Member, his agents, guests, or family, it shall be the obligation of all owners of Affected Lots for that Common Driveway to rebuild and repair such Common Driveway at their joint and equal expense.

Section 4. Maintenance Escrow.

(a) For the purpose of meeting the cost of rebuilding and repairing a Common Driveway, each Affected Lot shall be subject to a maximum annual charge of Sixty and No/100 Dollars (\$60.00) per year. This maximum annual charge may be raised by five percent (5%) each fiscal year by the Board of Trustees.

(b) The failure of any Owner to pay the annual charge within thirty (30) days from the start of each fiscal year shall result in a restoration assessment being levied against his Lot.

(c) The Association shall hold the annual charge in escrow and shall maintain a separate accounting for the escrowed funds for each Common Driveway.

(d) The escrowed funds will be disbursed at the request of a majority of the Owners of the Affected Lots served by a Common Driveway. If escrowed funds are not adequate to pay all costs of rebuilding and repair, all affected Owners shall equally pay the excess costs.

(e) If the Owners of Affected Lots do not perform all necessary rebuilding and repairs to any Common Driveway, the Association may do so as their agent, using the funds escrowed for that Common Driveway and such restoration assessments against the Affected Lots as may be needed to cover the cost of the work.

ARTICLE IX

INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Board of Trustees, or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Areas. This insurance shall cover loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief, and shall be in amounts sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

The Board of Trustees shall obtain a public liability policy applicable to the Common Property covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents arising from the operation, maintenance, or use of the Common Areas. If reasonably available, the Board of Trustees shall obtain directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars.

Premiums for all insurance shall be operating expenses of the Association.

All such insurance coverage obtained by the Board of Trustees shall be written in the name of the Association, as trustee, for the Lot Owners and First Mortgagees. Such insurance shall be governed by the provisions hereinafter set forth:

(a) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Trustees; provided, however, no First Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(b) In no event shall the insurance coverage obtained and maintained by the Board of Trustees hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their mortgagees, and the insurance carried by the Association shall be primary.

(c) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available.

(d) The Board of Trustees shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver or subrogation by the insurer as to any claims against the Board of Trustees, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be cancelled, invalidated, or suspended on account of the actions of any one or more individual Owners;

(iv) that no policy may be cancelled, invalidated, or suspended on account of any defect or the conduct of any Trustee, officer, or employee of the Association or its duly authorized Manager without prior demand in writing delivered to the Board to cure the defect or to cease the conduct, and the allowance of a reasonable time thereafter within which a cure may be effected by the Board, its Manager, any Owner, or Mortgagee; and

(v) that no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Board.

(e) In addition to the other insurance required by this Section, the Board shall obtain a fidelity bond or bonds on Trustees, officers, employees, and other persons handling or responsible for the Association's fund naming the Association as the obligee. The premium(s) for any fidelity bond(s) obtained by the Association shall be paid from the general assessment. The amount of fidelity coverage shall be in an amount equal to the maximum funds that will be in the custody of the Association at anytime, but not less than an amount equal to the sum of twenty-five percent (25%) of the annual general assessment and the Association's reserve funds unless the Board determines in the exercise of its business judgment that such amount is unwarranted and determines that a lower amount is appropriate. The fidelity bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least ten (10)

days' prior written notice to the Association. To the extent necessary to satisfy the requirements of the Federal Mortgage Agencies, the Board of Trustees shall also obtain construction code endorsements, steam boiler coverage, and flood insurance.

Section 2. Property Insured by Association: Damage and Destruction.

(a) In General. Immediately after the damage or destruction by fire or other casualty of all or any portion of any improvements covered by insurance written in the name of the Association, the Board of Trustees or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this subsection, means repairing or restoring the Properties to substantially the same condition and location that existed prior to the fire or other casualty.

(b) Repair and Reconstruction. Any damage or destruction to a major Common Area facility shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least fifty-one percent (51%) of the First Mortgagees and sixty-seven percent (67%) of the votes of each class of Members (as required in Article XI) agree and agree as to an alternative use of the insurance proceeds for such damaged facilities. If, for any reason, either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or

both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds and the available Capital Reserve of the Association are not sufficient to defray the cost thereof, the Board of Trustees shall levy a special assessment against all Owners in proportion to the number of Living Units owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction, or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that (i) it should be determined by the Association, in the manner described above, that the damage or destruction shall not be repaired or reconstructed, and (ii) no alternative improvements are authorized, then, and in that event, the property shall be restored to its natural state and maintained as an undeveloped portion of Virginia Run in a neat and attractive condition and any insurance proceeds received therefor shall be distributed as provided in Article IX, Section 2(c) below.

(c) In the event (i) insurance proceeds exceed the cost of repair and reconstruction, or (ii) a decision is made by the Association pursuant to Article IX, Section 2(b), not to

rebuild, reconstruct, or replace damaged facilities, then any excess insurance proceeds received therefor shall be distributed equally to the Owners (apportioned equally by Lot); subject, however, to the priority of a First Mortgagee with regard to such proceeds applicable to the Lot or Living Unit securing such First Mortgagee.

ARTICLE X

CONDEMNATION

Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on its behalf or on the written direction of all Owners subject to the taking, if any) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners. The provisions of Article IX, Section 2, above, applicable to the damage or destruction of improvements to Common Areas, shall govern replacement or restoration, and the actions to be taken in the event that the improvements are not restored or replaced.

ARTICLE XI

RIGHTS OF FIRST MORTGAGEES/MANAGEMENT STANDARDS

Section 1. Notice. A First Mortgagee, an insurer, or a guarantor of any first deed of trust on any Lot or Living Unit upon written request, will be given written notification from the Association of the following:

- (a) Any proposed action that would require the consent of a specified percentage of First Mortgagees;

(b) Any default in the performance of any obligation under the governing documents by the Owner of a Lot that is the security for the indebtedness due the First Mortgagee, which is not cured within sixty (60) days;

(c) Any casualty loss that affects a material portion of the Lot that is the security for the indebtedness due the First Mortgagee;

(d) Any condemnation or eminent domain proceeding or proposed acquisition by a condemning authority that affects any portion of the Common Area or any Lot or any portion thereof, which is related to the indebtedness due the First Mortgagee;

(e) All meetings of the Association; and

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

Section 2. Liability. Any First Mortgagee who obtains title to a Lot or Living Unit pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, will not be liable for such Lot's unpaid dues or charges which accrue prior to the acquisition of title to the Lot by the First Mortgagee.

Section 3. Books and Records. A First Mortgagee shall have the right to examine the books and records of the Association during normal business hours and upon reasonable notice to the Association.

Section 4. Additional Rights. A First Mortgagee shall be further entitled to the following rights:

(a) Subject to the right of the Association to annex additional areas, as provided in Article II, unless fifty-one percent (51%) of the First Mortgagees and the Owners, as required by the Founding Documents (or if no provision is made for Owner Approval, then two-thirds (2/3) of each class of Members have given their prior written approval, the Association shall not:

(i) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area or other property owned by the Association. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association shall not be deemed a transfer within the meaning of this clause;

(ii) Fail to maintain fire and extended coverage on insurable parts of the Common Area or other Association property on a current replacement-cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement costs, not including land value;

(iii) Use Hazard Insurance proceeds for losses to the Common Area or other Association property for other than the repair, replacement, or reconstruction of such property; or

(iv) Add or amend any material provisions of the Founding Documents concerning the following:

1. voting,
2. assessments, assessment liens, or subordination of such liens,
3. reserves for maintenance, repair, and replacement of those parts of the Common Area that may be replaced or require maintenance on a periodic basis,

4. insurance or fidelity bonds,
5. responsibility for maintenance and repair of the Properties,
6. architectural controls,
7. annexation or withdrawal of property to or from Virginia Run (other than annexation of those properties referred to in Article II hereof),
8. leasing of the Properties,
9. imposition of any right of first refusal or similar restriction on the right of a Lot Owner to sell, transfer, or otherwise convey his property,
10. a decision by the Association to establish self management when professional management had been required previously by a First Mortgagee,
11. restoration or repair of the Properties after a hazard damage or partial condemnation,
12. termination of the legal status of the Virginia Run Subdivision after substantial destruction or condemnation occurs, and
13. any provisions that are for the express benefit of First Mortgagees.

An addition or amendment to this Declaration or related Association documents shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. A First Mortgagee who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

(b) A First Mortgagee may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage upon the lapse of a policy for such Common Area. The First Mortgagee or First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association;

(c) The assessments imposed by the Association shall include an adequate reserve fund for maintenance, repairs, and replacements for those parts of the Common Area which may be replaced or require maintenance on a periodic basis. Such reserves shall be payable in regular installments rather than by Special Assessments;

Section 5. Dissolution/Termination. The Association shall not be dissolved or terminated for reasons other than substantial destruction or condemnation of the Properties without the approval of at least sixty-seven percent (67%) of the First Mortgagees.

Section 6. Annual Report. Upon written request, the Treasurer of the Association shall submit to any First Mortgagee, an annual report of the Association within ninety (90) days following the end of its fiscal year.

Section 7. Approvals. After initial approval of the Lots for financing by any Federal Mortgage Agency for so long a as there is a Class B membership, the following actions will require the prior approval of the applicable Federal Mortgage Agency (Agencies):

- (a) annexation of additional properties, except the land within that certain tract as described in Article II;
- (b) mergers, consolidations, and dissolution of the Association;
- (c) mortgaging or dedication of the Common Area; and
- (d) amendment of this Declaration relating to items 1 through 13, in Section 4(a)(iv) above.

Section 8. Management Contracts. The Association shall have the right to enter into professional management contracts for the management of the Properties; provided, however, that any such management contracts shall provide that once the Developer loses its Class B membership status, the Association shall have the right to terminate such contracts, with or without cause, upon thirty (30) days written notice given to the other party, and that there shall be no termination penalty chargeable to the Association in connection with such termination.

#### ARTICLE XII

##### GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years, unless at the expiration of any such period the covenants and restrictions are expressly terminated by an instrument signed by Owners of not less than ninety percent (90%) of the Lots and as approved as required under Article XI. A termination also must be approved by Fairfax County and be recorded in order to become effective.

Section 2. Amendment. For a period of one (1) year after the recording of this Declaration, the Developer may make any amendment required by the Federal Mortgage Agencies or the County of Fairfax, Virginia, as a condition of approval of the documents by the execution and recordation of such amendment following Registered Notice to all Owners. After such one (1) year period, or to make any amendment which is not one required by such agencies, any amendment shall be accompanied by a document signed by Owners of not less than ninety percent (90%) of the Lots and evidence of the Approvals required by Article XI. Any amendment must be recorded among the land records of Fairfax County, Virginia, in order to become effective.

Section 3. Enforcement. The Association, any Member or First Mortgagee, as their interests may appear, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration and of Supplementary Declarations. Failure to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Certain Rights of the Developer. For such time as the Developer shall own Lots, its rights and interests shall not be prejudiced by any of the following actions unless it shall, in writing, join in such actions:

There shall be no amendments to the Founding Documents which:

(a) Discriminate or tend to discriminate against its rights as an Owner.

(b) Changes Article I, Definitions, in a manner which alters its rights or status.

(c) Alters its rights under Article II as regards annexation of additional properties.

(d) Alters the character and rights of membership or the rights of the Developer as set forth in Article III.

(e) Alters previously recorded or written agreements with public or quasi-public agencies as regards easements and rights-of-way.

(f) Denies the right to convey Common Areas to the Association so long as such Common Areas lie within the land area represented in the Development Plan.

(g) Alters its rights as set forth in Article VI relating to design controls.

(h) Alters the basis for assessments.

(i) Alters the provisions of the protective covenants as set forth in Article VI.

(j) Alters the number or selection of Trustees as established in the Bylaws.

(k) Alters the Developer's rights as they appear under this Article.

Section 5. Limitations. As long as the Developer has Class B membership status, the Association may not use its financial resources to defray any costs of opposing the development activities

so long as they remain consistent with the general intents of the Development Plan. Nothing in this Section shall be construed to limit the rights of Members to act as individuals or in affiliation with other Members or groups.

Section 6. Severability. Invalidation of any one of those covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 7. Conflict. In the event of conflict among the Governing Documents, this Declaration shall control, then the Articles of Incorporation of the Association, then the Bylaws, then the Book of Regulations; except that in all cases where the Governing Documents may be found to be in conflict with statute, the statute shall control.

Section 8. Interpretation. Unless the context otherwise requires, the use of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including, without limitation." This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the Properties by providing a common plan for the development thereof. The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

## ARTICLE XIII

## DISSOLUTION OF THE ASSOCIATION

The Association may be dissolved at a duly held meeting at which a quorum is present upon the vote of more than two-thirds (2/3) of the votes of each class of Members, and upon obtaining the approvals required by Article XI. Prior to dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be offered for dedication to Fairfax County. In the event that such dedication is refused acceptance upon dissolution, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to similar purposes.

## ARTICLE XIV

LICENSE FOR USE OF RECREATIONAL  
FACILITIES BY NON-MEMBERS

The subdivision of Pleasant Hill, Section One (1), comprised of approximately one hundred (100) lots for use and occupancy as a residence by a Single Family (as such term is defined herein), is located adjacent to the Properties (the "Adjacent Subdivision"). Although the Owners (as such term is defined herein) of the Lots (as such term is defined herein) comprising the Adjacent Subdivision are not Members of the Association, the Declarant hereby grants unto the Owners of the Lots comprising the Adjacent Subdivision the right and license to use the Recreational Facilities in common with the Members in accordance with the following terms and provisions:

(a) The Board of Trustees shall determine, in its sole discretion, the number of Owners of Lots comprising the Adjacent Subdivision that will be entitled to use the Recreational Facilities pursuant to this Article, which number can be changed by the Board of Trustees as of January 1 of each calendar year, in the Board's sole discretion, but in no event shall the number of Owners of Lots comprising the Adjacent Subdivision which are entitled to use the Recreational Facilities be less than fifty (50).

(b) The identity of the Owners of Lots in the Adjacent Subdivision which are entitled to use the Recreational Facilities pursuant to this Article shall be selected by the homeowner's association covering the Adjacent Subdivision, and the Declarant and/or the Association shall have no responsibility in connection therewith.

(c) Owners of Lots comprising the Adjacent Subdivision shall be entitled to use the Recreational Facilities pursuant to this Article commencing on the later to occur of (i) the completion of construction of the Recreational Facilities, or (ii) January 1, 1989.

(d) As a condition precedent to having the right to use the Recreational Facilities pursuant to this Article, each Owner of a Lot comprising the Adjacent Subdivision that elects to use the Recreational Facilities and is selected by the homeowner's association covering the Adjacent Subdivision to use the Recreational Facilities shall pay to the Association, as a one-time capital contribution, the sum of One Thousand and No/100 Dollars (\$1,000.00)

to fund the Recreational Facilities; provided, however, that the right to use the Recreational Facilities pursuant to this Article shall be deemed to be transferable among Owners of Lots in the Adjacent Subdivision, and consequently, the maximum aggregate amount of the one-time capital contribution which is payable to the Association pursuant to this Article shall be the product of (i) Five Hundred and No/100 Dollars (\$500.00), multiplied by (ii) the maximum number of Owners of Lots comprising the Adjacent Subdivision which are eligible to use the Recreational Facilities as determined by the Board of Trustees pursuant to subparagraph (a) above.

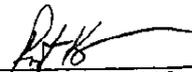
(e) In addition to the payment of the capital contributions required pursuant to subparagraph (d) above, each Owner of a Lot comprising the Adjacent Subdivision that elects to use the Recreational Facilities and is selected by the homeowner's association covering the Adjacent Subdivision to use the Recreational Facilities shall pay to the Association an annual user fee as established by the Board of Trustees in accordance with the following provisions: (i) the maximum annual user fee for the first calendar year in which Owners of Lots in the Adjacent Subdivision are entitled to use the Recreational Facilities pursuant to this Article (the "Initial Year") shall be Two Hundred Fifty and No/100 Dollars (\$250.00); (ii) for each calendar year after the Initial Year, the maximum annual user fee may be increased effective as of January 1 of each year in the same manner as the maximum annual assessments for Members are increased pursuant to Section 4(a) of Article V; (iii) the user

fee levied pursuant to the terms of this Article shall be used exclusively for the maintenance, improvement, and administration of the Recreational Facilities; (iv) after consideration of current maintenance and administration costs of the Recreational Facilities, the Board of Trustees shall fix the annual user fee at any amount not in excess of the maximum and shall fix the due date for payment in accordance with the terms of Section 7 of Article V; and (v) any Owner of a Lot in the Adjacent Subdivision that fails to pay the user fee provided hereunder on the due date thereof may be prohibited from using the Recreational Facilities, in the sole discretion of the Board of Trustees.

(f) The use of the Recreational Facilities by the Owners of Lots in the Adjacent Subdivision pursuant to this Article shall be subject to the rules and regulations applicable thereto as may be adopted by the Board of Trustees pursuant to the terms of this Declaration.

IN WITNESS WHEREOF, the Developer, Kettler & Scott, Inc., a Delaware corporation, has caused these presents to be duly executed this 2nd day of March, 1987.

KETTLER & SCOTT, INC., a Delaware corporation

By:   
Robert C. Kettler, President