

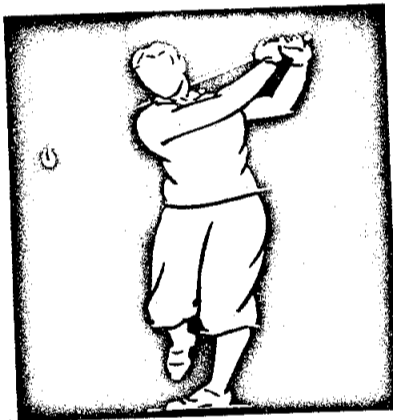
**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
POPLAR HILL COMMUNITIES**



**POPLAR HILL ASSOCIATES, LLC  
P.O. BOX B, RT. 676 INDUSTRIAL PARK ROAD  
FARMVILLE, VA 23901**

BOOK 0341 PAGE 525

**DECLARATION OF  
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FOR  
POPLAR HILL COMMUNITIES**



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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
POPLAR HILL COMMUNITIES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this 7 day of Feb, 2000, by POPLAR HILL ASSOCIATES, LLC, a Virginia limited liability company (the "Declarant").

The Declarant is the owner of the real property described in Exhibit "A," which is attached and incorporated by reference. This Declaration imposes upon the Properties (as defined in Article I) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties.

The Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article I) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration. This Declaration shall be binding on and shall inure to the benefit of all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns.

**Article I**  
**DEFINITIONS**

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1. "Area of Common Responsibility": the Common Area, together with those areas, if any, which by the terms of this Declaration, any Supplemental Declaration or other applicable covenants or by contract become the responsibility of the Association.

1.2. "Articles of Incorporation" or "Articles": the Articles of Incorporation of Poplar Hill Communities Homeowners' Association, Inc., as filed with the Virginia Secretary of State.

1.3. "Association": Poplar Hill Communities Homeowners' Association, Inc., a Virginia nonprofit corporation, its successors and assigns.

1.4. "Base Assessment": assessments levied on all Units subject to assessment under Section 10.8 to fund Common Expenses for the general benefit of all Units, as more particularly described in Sections 10.1 and 10.3.

1.5. "Board of Directors" or "Board": the body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Virginia corporate law.

1.6. "Builder": any Person which purchases one or more Units for the purpose of constructing improvements for later sale to consumers on parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person's business.

1.7. "Business" and "Trade": shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

1.8. "By-Laws": the By-Laws of Poplar Hill Communities Homeowners' Association, Inc., attached as Exhibit "D" and incorporated by reference, as they may be amended.

1.9. "Class "B" Control Period": the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors as provided in Section 3.3 of the By-Laws.

1.10. "Common Area": all real and personal property which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include the Exclusive Common Area, as defined below.

1.11. "Common Expenses": the actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Units, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles of Incorporation. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Voting Members representing a majority of the total Class "A" vote of the Association.

1.12. "Community-Wide Standard": the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the New Construction Committee.

1.13. "Declarant": Poplar Hill Associates, LLC, a Virginia limited liability company, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or resale in the ordinary course of business and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.14. "Design Guidelines": the architectural guidelines and procedures adopted by the New Construction Committee pursuant to Article XI and applicable to all Units within the Properties.

1.15. "Exclusive Common Area": a portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Villages, as more particularly described in Article II.

1.16. "Golf Course": any parcel of land adjacent to or within the Properties which may, in the future, be owned by the Declarant, its successors, successors-in-title, or assigns, or privately by another Person, and which is operated as a golf course, and all related and supporting facilities and improvements operated in connection with such golf course.

1.17. "Master Plan": the tentative general land use plan for the development of Poplar Hill Communities, including the construction of \_\_\_\_\_ Units, as it may be amended, which plan includes the property described on Exhibit "A" and all or a portion of the property described on Exhibit "B" which the Declarant may from time to time anticipate acquiring and subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate the Declarant to acquire or subject such property to this Declaration, nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article IX.

1.18. "Member": a Person entitled to membership in the Association, as provided in Section 3.2.

1.19. "Mortgage": a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

1.20. "Mortgagee": a beneficiary or holder of a Mortgage.

1.21. "Mortgagor": any Person who gives a Mortgage.

1.22. "Owner": one or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, then upon recording of such contract, the purchaser (rather than the fee owner) will be considered the Owner, if the contract specifically so provides.

1.23. "Person": a natural person, a corporation, a partnership, a trustee, or any other private or public legal entity.

1.24. "Private Amenities": certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned

and operated by Persons other than the Association for recreational and related purposes, on a club membership basis, use fee basis, or otherwise.

1.25. "Properties": the real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX.

1.26. "Special Assessment": assessments levied in accordance with Section 10.6 of this Declaration.

1.27. "Specific Assessment": assessments levied in accordance with Section 10.7 of this Declaration.

1.28. "Supplemental Declaration": an amendment or supplement to this Declaration filed pursuant to Article IX which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to an instrument filed by the Declarant pursuant to Section 3.4(c), which designates Voting Groups.

1.29. "Unit": a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall include, by way of illustration but not limitation, condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, but shall not include Common Areas, common property of any Village Association, or property dedicated to the public. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the Master Plan or the site plan approved by the Declarant, whichever is more recent, until such time as a subdivision plat or condominium plat is filed of record on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph.

1.30. "Village": two or more Units which share interests other than those common to all Units, as more particularly described in Section 3.4. By way of illustration and not limitation, a condominium, townhouse development, cluster home development, or single-family detached housing development might each be designated as separate Villages, or a Village may be comprised of more than one housing type with other features in common. In addition, each parcel of land intended for development as any of the above shall constitute a Village, subject to division into more than one Village upon development.

Where the context permits or requires, the term "Village" shall also refer to the Village Committee, if any, established in accordance with the By-Laws, or the Village Association established to act on behalf of the Owners of Units within the Village. Village boundaries may be established and modified as provided in Section 3.4.

1.31. "Village Assessments": assessments levied against the Units in a particular Village or Villages to fund Village Expenses, as described in Sections 10.1 and 10.4.

1.32. "Village Association": any condominium association or other owners' association having concurrent jurisdiction over any Village.

1.33. "Village Expenses": the actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of the Owners and occupants of Units within a particular Village or Villages, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize and as may be authorized herein or in Supplemental Declarations applicable to the Villages.

1.34. "Voting Group": one or more Villages whose Voting Members vote on a common slate for election of directors to the Board of Directors, as more particularly described in Section 3.4 or, if the context so indicates, the group of Owners whose Units comprise such Villages.

1.35. "Voting Member": the representative(s) selected by the Members within each Village as provided in Section 3.4(b) to be responsible for casting votes attributable to Units in the Village on matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). The term "Voting Member" shall include alternate Voting Members acting in the absence of the Voting Member and any Owners authorized to personally cast the votes for their respective Units pursuant to Section 3.4.

1.36. "Poplar Hill Communities": the Properties, as defined in Section 1.25.

## **Article II** **PROPERTY RIGHTS**

2.1. Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) This Declaration, the By-Laws and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules restricting use of recreational facilities within the Common Area to occupants of Units and their guests and rules limiting the number of guests who may use the Common Area;

(d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Declaration, any applicable Supplemental Declaration, the By-Laws, or rules of the Association after notice and a hearing pursuant to the Section 3.23 of the By-Laws;

(e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Section 4.7;

(f) The right of the Board to impose reasonable membership requirements and charge reasonable membership admission or other fees for the use of any recreational facility situated upon the Common Area;

(g) The right of the Board to permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board;

(h) The right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 14.2; and

(i) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Exclusive Common Areas," as more particularly described in Section 2.2.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

2.2. Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners, occupants and invitees of Units within a particular Village or Villages. By way of illustration and not limitation, Exclusive Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area within a particular Village or Villages. All costs associated with maintenance, repair, replacement, and insurance of Exclusive Common Areas shall be assessed as a Village Assessment against the Owners of Units in those Villages to which the Exclusive Common Area is assigned.

Initially, the Declarant shall designate any Exclusive Common Area as such and shall assign the exclusive use thereof in the deed conveying the Common Area to the Association or on the plat of survey relating to such Common Area; provided, any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Units and/or Villages, so long as the Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1. Thereafter, a portion of the Common Area

may be assigned as Exclusive Common Area of a particular Village or Villages and Exclusive Common Area may be reassigned upon the vote of Voting Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Village(s) to which the Exclusive Common Areas are assigned, if applicable, and within the Village(s) to which the Exclusive Common Areas are to be assigned. As long as the Declarant owns any property described on Exhibits "A" or "B" for development and/or sale, any such assignment or reassignment shall also require the Declarant's consent, which consent the Declarant may withhold in its sole discretion.

The Association may, upon approval of a majority of the members of the Village Committee or board of directors of the Village Association for the Village(s) to which certain Exclusive Common Areas are assigned, permit Owners of Units in other Villages to use all or a portion of such Exclusive Common Areas upon payment of reasonable user fees, which fees shall be used to offset the Village Expenses attributable to such Exclusive Common Areas.

2.3. Special Recreational Parcels. Certain recreational facilities, if any are built (about which no representations are made), located within the Properties, which may include, without limitation, tennis courts, a swimming pool, a community building, and parking facilities, may be designated as a Special Recreational Parcel in the deed conveying them to the Association. The Board of Directors shall have the right to restrict use of all or any portion of such facilities to only such Persons as affirmatively elect to use the facilities and agree to pay such initiation fees and additional assessments as are charged for such privilege of use. Such Persons may, in the discretion of the Board, include Persons other than Owners and occupants of Units within the Properties; provided, such Persons shall be required to pay fees which are no less than those charged Owners and occupants of Units, and shall have no greater use rights than those extended to Owners and occupants of Units.

The fees and assessments established by the Board for use of, or the rental payments charged by the Association pursuant to a lease of, these Special Recreational Parcel facilities shall include such sums as the Board of Directors in the exercise of its business judgment deems sufficient to cover the estimated costs to be incurred by the Association for the operation, maintenance, repair, replacement and insurance of this Special Recreational Parcel, but rental payments need not be limited to such amounts.

Notwithstanding the provisions of Section 14.2, the Board, acting on behalf of the Association, may lease any Special Recreational Parcel to a private club composed of such Owners who use the facility, or to a commercial operator, or to the Declarant, or any other appropriate governmental or nongovernmental body, on such terms and conditions as may be agreed to by the Board. If the Board so agrees in the lease of such facilities, the lessee shall have the right to permit public use upon payment of use fees, which shall not be less than the fees charged to Owners for such use.

There is hereby reserved to all authorized users of any Special Recreational Parcel an easement over the Common Areas of the Association for direct ingress and egress to and from such Special Recreational Parcel, subject to Board regulation.

The Board shall have the right at any time, subject to the terms of any existing lease, to declare by majority vote that use of all or any portion of such facilities shall no longer be restricted as provided in this Section, and thereafter such facilities shall be made available for the use of all Owners and all costs associated with such Special Recreational Parcel shall be deemed Common Expenses.

2.4. Private Amenities. Access to and use of the Private Amenities is strictly subject to the rules and procedures of the respective owners of the Private Amenities, and no Person gains any right to enter or to use those facilities by virtue of membership in the Association or ownership or occupancy of a Unit.

All Persons, including all Owners, are hereby advised that no representations or warranties, either written or oral, have been or are made by the Declarant or any other Person with regard to the nature or size of improvements to, or the continuing ownership or operation of the Private Amenities. No purported representation or warranty, written or oral, in conflict with this Section shall be effective without an amendment to this Declaration executed or joined into by the Declarant or the owner(s) of the Private Amenity(ies) which are the subject thereof.

The ownership or operational duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation to, (a) the sale to or assumption of operations by an independent entity, (b) conversion of the membership structure to an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled thereby become the owner(s) and/or operators of the Private Amenity, or (c) the conveyance of a Private Amenity to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, any Village Association, or any Owner shall be required to effectuate such a transfer or conversion.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether.

### Article III

#### ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS

3.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Common Area within the Properties. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls



set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with this Declaration, the By-Laws, the Articles, and Virginia law.

3.2. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.3 and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights and privileges of an Owner who is a natural person may be exercised by the Member or the Member's spouse. The membership rights of an Owner which is a corporation, partnership or other legal entity may be exercised by any officer, director, partner, or trustee, or by any other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3.3. Voting. The Association shall have two classes of membership, Class "A" and Class "B".

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 3.2; there shall be only one vote per Unit.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member during the Class "B" Control Period and the right of the Class "B" Member, so long as the Class "B" Membership exists, to approve or withhold approval of actions proposed under this Declaration and the By-Laws, are specified elsewhere in the Declaration and the By-Laws, and are provided for the purpose of establishing the conduct of the operation of the Association in the transition period during which the Properties are developed and Units are sold to Owners other than Builders. The Class "B" Member may appoint a majority of the members of the Board during the Class "B" Control Period, as specified in Section 3.3 of the By-Laws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in Section 3.18 of the By-Laws.

The Class "B" membership shall terminate, and there shall no longer be Class "B" members upon the earlier of:

(i) two years after termination of the Class "B" Control Period pursuant to Section 3.3 of the By-Laws; or

(ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" Member shall be exercised by the Voting Member representing the Village of which the Unit is a part, as provided in Section 3.4(b). The Voting Member may cast all such votes as it, in its discretion, deems appropriate.

In any situation in which a Member is entitled personally to exercise the vote for his Unit and there is more than one Owner of a particular Unit, the vote for such Unit shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

3.4. Villages, Voting Members and Voting Groups.

(a) Villages. Every Unit shall be located within a Village. In the discretion of the Owner(s) and developer(s) of each Village, the Units within a particular Village may be subject to additional covenants and/or the Unit Owners may all be members of a Village Association in addition to being Members of the Association. However, a Village Association shall not be required except in the case of a condominium or as otherwise required by law. The Owners of Units within any Village which does not have a Village Association may elect a Village Committee, as described in Section 5.3 of the By-Laws, to represent the interests of such Owners within the Association.

Any Village may request that the Association provide a higher level of service or special services for the benefit of Units in such Village and, upon the affirmative vote, written consent, or a combination thereof, of the Owners of a majority of Units within the Village, the Association shall provide the requested services. The cost of such services shall be assessed against the Units within such Village as a Village Assessment pursuant to Article X.

Exhibit "A" to this Declaration, and each Supplemental Declaration filed to subject additional property to this Declaration, shall initially assign the property described therein to a specific Village by name, which Village may be then existing or newly created. The Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Village boundaries; provided, two or more Villages shall not be combined without the consent of Owners of a majority of the Units in the affected Villages.

The Owner(s) of a majority of the total number of Units within any Village may at any time petition the Board of Directors to divide the property comprising the Village into two or more Villages. Such petition shall be in writing and shall include a plat of survey of the entire parcel which indicates the boundaries of the proposed Village(s) or otherwise identifies the Units to be included within the proposed Village(s). Such petition shall be granted upon the filing of all required documents with the Board unless the Board of Directors denies such application in writing within 30 days of receipt. The Board may deny an application only upon determination that there is no reasonable basis for distinguishing between the areas proposed to be divided into separate Villages. All applications and copies of any denials shall be filed with the books and records of the Association and shall be maintained as long as this Declaration is in effect.

(b) Voting Members. The Class "A" Members within each Village shall elect one Voting Member for each 50 Units within the Village (rounded up to the nearest 50). On all Association matters requiring a membership vote, each such Voting Member shall be entitled to

cast that number of votes determined by dividing the total number of Class "A" votes attributable to Units in the Village by the number of Voting Members elected from such Village, except as otherwise specified in this Declaration or the By-Laws. The Class "A" Members within each Village shall also elect one or more alternate Voting Members to be responsible for casting such votes in the absence of a Voting Member.

The Voting Member(s) and alternate Voting Member(s) from each Village shall be elected on an annual basis, either by written ballot or at a meeting of the Class "A" Members within such Village, as the Board determines; provided, upon written petition of Class "A" Members holding at least 10% of the votes attributable to Units within any Village, the election for such Village shall be held at a meeting. The presence, in person or by proxy, of Class "A" Members representing at least 30% of the total Class "A" votes attributable to Units in the Village shall constitute a quorum at any Village meeting.

The Board shall call for the first election of the Voting Member(s) and alternate Voting Member(s) from a Village not later than one year after the first conveyance of a Unit in the Village to a Person other than a Builder. Subsequent elections shall be held within 30 days of the same date each year. Each Class "A" Member shall be entitled to cast one equal vote for each Unit which it owns in the Village for each position. The candidate for each position who receives the greatest number of votes shall be elected to serve a term of one year and until a successor is elected. Any Owner of a Unit in the Village may submit nominations for election or declare himself a candidate in accordance with procedures which the Board shall establish.

Any Voting Member may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of Units owned by Class "A" Members in the Village which such Voting Member represents.

Until such time as the Board first calls for election of a Voting Member for a Village, the Owners within such Village may personally cast the votes attributable to their respective Units on any issue requiring a vote of the Voting Members under this Declaration, the By-Laws, or the Articles.

(c) Voting Groups. The Declarant may designate Voting Groups consisting of one or more Villages for the purpose of electing directors to the Board, in order to promote representation on the Board of Directors for various groups having dissimilar interests and to avoid a situation in which the Voting Members representing similar Villages are able, due to the number of Units in such Villages, to elect the entire Board of Directors, excluding representation of others. Following termination of the Class "B" Control Period, the number of Voting Groups within the Properties shall not exceed the total number of directors to be elected by the Class "A" Members pursuant to the By-Laws. The Voting Members representing the Villages within each Voting Group shall vote on a separate slate of candidates for election to the Board, with each Voting Group being entitled to elect the number of directors specified in Section 3.5 of the By-Laws.

The Declarant shall establish Voting Groups, if at all, not later than the date of expiration of the Class "B" Control Period by filing with the Association and in the land records of Prince Edward County, Virginia, a Supplemental Declaration identifying the Units within each Voting Group. Such designation may be amended from time to time by the Declarant, acting alone, at any time prior to the expiration of the Class "B" Control Period.

After expiration of the Declarant's right to annex property pursuant to Article IX hereof, the Board shall have the right to file or amend such Supplemental Declaration upon the vote of a majority of the total number of directors. Neither recordation nor amendment of such Supplemental Declaration shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph. Until such time as Voting Groups are established, all of the Properties shall constitute a single Voting Group. After a Supplemental Declaration establishing Voting Groups has been filed, any and all portions of the Properties which are not assigned to a specific Voting Group shall constitute a single Voting Group.

**Article IV**  
**RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

4.1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, furnishings, equipment, and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, consistent with this Declaration and the Community-Wide Standard.

4.2. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant may convey to the Association improved or unimproved real estate located within the properties described in Exhibits "A" and "B," personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained as Common Area by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed. The Declarant shall convey the initial Common Area to the Association prior to the conveyance of a Unit to any Person other than a Builder.

4.3. Rules. The Association, through its Board, may make and enforce reasonable rules governing the use of the Properties (including the provision of water and sewer service), in addition to further defining or limiting, and, where specifically authorized hereunder, creating exceptions to those covenants and restrictions set forth in this Declaration. Such rules shall be binding upon all Owners, occupants, invitees, and licensees until and unless repealed or modified in a regular or special meeting by the vote of Voting Members representing two-thirds (2/3) of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership exists.

4.4. Enforcement. The Association may impose sanctions for violations of this Declaration, the By-Laws, or rules in accordance with procedures set forth in the By-Laws, including reasonable monetary fines and suspension of the right to vote and to use any recreational facilities within the Common Area. In addition, in accordance with Section 3.23 of the By-Laws, the Association may exercise self-help to cure violations, and may suspend any services it provides to the Unit of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. The Board may seek relief in any court for violations or to abate nuisances.

The Association, by contract or other agreement, may enforce county and local ordinances, if applicable, and permit the local municipality to enforce applicable ordinances on the Properties for the benefit of the Association and its Members.

4.5. Implied Rights; Board Authority. The Association may exercise any other right or privilege given to it expressly by the Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.6. Governmental Interests. So long as the Declarant owns any property described on Exhibits "A" or "B," the Declarant may designate sites within the Properties for fire, police, utility facilities, public schools and parks, and other public facilities. The sites may include Common Areas.

4.7. Indemnification. The Association shall indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.8. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise

might be. NEITHER THE ASSOCIATION, THE DECLARANT (OR ANY OF ITS OFFICERS, DIRECTORS, SHAREHOLDERS OR MEMBERS), OR ANY OF ITS AFFILIATES, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CAN NOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, THE DECLARANT (AND ITS OFFICERS, DIRECTORS, SHAREHOLDERS AND MEMBERS, AND ANY OF ITS AFFILIATES), AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH PERSON USING THE PROPERTIES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS RESULTING FROM ACTS OF THIRD PARTIES.

4.9. Powers of the Association Relating to Villages. The Association shall have the power to veto any action taken or contemplated to be taken by any Village Association or Village Committee which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Village Association or Village Committee in connection with any of its obligations and responsibilities. Without limiting the generality of the foregoing, the Association may (a) require specific maintenance or repairs or aesthetic changes to be effectuated by the Village Association or Village Committee, and (b) require that a proposed budget include certain items and that specific expenditures be made.

Any action required by the Association in a written notice pursuant to the foregoing paragraph to be taken by a Village Association or Village Committee shall be taken within the reasonable time frame set by the Association in such written notice. If the Village Association or Village Committee fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Village Association or Village Committee.

To cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Units in such Village for their pro rata share of any expenses incurred by the Association in taking such action in the manner provided in Section 10.7. Such assessments may be collected as a Specific Assessment hereunder and shall be subject to all lien rights provided for herein.

4.10. Recycling Programs. The Board may establish a recycling program and recycling center within the Properties and in such event, all occupants of Units shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program or center is set up to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.

4.11. Rights to Storm Water Runoff and Water Conservation and Reclamation Programs. The Declarant hereby reserves for itself and its designees all rights to ground water, surface water, and storm water runoff within the Properties and each Owner agrees, by acceptance of a deed to a Unit, that the Declarant shall retain all such rights. No Person other than the Declarant and its designees shall claim, capture or collect rainwater, ground water, surface water or storm water runoff within the Properties without prior written permission of the Declarant or its designee. The Declarant or its designee may establish programs for reclamation of storm water runoff and waste water for appropriate uses within or outside the Properties and may require Owners and occupants of Units to participate in such programs to the extent reasonably practical. No Owner or occupant of a Unit shall have any right to be compensated for water claimed or reclaimed from Units. The Board shall also have the right to establish restrictions on or prohibit outside use of potable water within the Properties.

4.12. Public Gardens and Environmental Programs. The Board may establish gardens within the Common Area or designate spaces within the Common Area for the establishment of gardens to promote public awareness of and participation in conservation, management and enhancement of native vegetation, soils and geology and may establish programs to promote an understanding of the natural desert landscape and environment.

#### **Article V** **MAINTENANCE**

5.1. Association's Responsibility. The Association shall maintain, replace and keep in good repair ("Maintenance") the Area of Common Responsibility, which shall include, but need not be limited to:

(a) all landscaping and other flora, parks, signage, structures, and improvements, including any private streets, bike and pedestrian pathways/trails, situated upon or within the Common Area;

(b) landscaping, sidewalks, street lights and signage within public rights-of-way within or abutting the Properties, and landscaping and other flora within any public utility easements and conservation easements within the Properties (subject to the terms of any easement agreement relating thereto);

(c) such portions of any additional property included within any Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and

(d) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as the Declarant revokes such privilege of use and enjoyment by written notice to the Association.

There are hereby reserved to the Association easements over the Properties as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs, unless Voting Members representing 75% of the Class "A" votes and the Class "B" Member agree in writing to discontinue such operation.

The Association may assume Maintenance responsibility for property within any Village, in addition to that designated by any Supplemental Declaration, either by agreement with the Village or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of Maintenance pursuant to this paragraph shall be assessed as a Village Assessment only against the Units within the Village to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association may Maintain other property which it does not own, including, without limitation, publicly owned property, conservation easements held by nonprofit entities, and other property dedicated to public use, if the Board determines that such Maintenance is necessary or desirable to maintain the Community-Wide Standard.

Except as otherwise specifically provided herein, all costs associated with Maintenance of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units in the manner of and as a part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Village Expense assessed as a Village Assessment solely against the Units within the Village(s) to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

5.2. Owner's Responsibility. Each Owner shall Maintain his or her Unit and all structures, parking areas, and other improvements comprising the Unit in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such Maintenance



responsibility is otherwise assumed by or assigned to the Association or a Village pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit. In addition to any other enforcement rights, if an Owner fails properly to perform his or her Maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 10.7. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3. Village's Responsibility. Upon Board resolution, the Owners of Units within each Village shall be responsible for paying, through Village Assessments, the costs of operating, Maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Village. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and open space between the Village and adjacent public roads and private streets within the Village, regardless of ownership and regardless of the fact that such Maintenance may be performed by the Association; provided, however, all Villages which are similarly situated shall be treated the same.

Any Village Association whose common property:

(a) is adjacent to any Portion of the Common Area upon which a wall is constructed, other than a wall which forms part of a building, shall maintain that portion of the Common Area between the wall and the Village Association's property line;

(b) fronts on any roadway within the Properties shall maintain the landscaping on that portion of the Common Area or right-of-way between the property line and the nearest curb of such roadway; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XI hereof.

Any Village Association having any responsibility for Maintenance of property within such Village shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If it fails to do so, the Association may perform such responsibilities and assess the costs against all Units within such Village as provided in Section 10.7.

5.4. Standard of Performance. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate to satisfy the Community-Wide Standard. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants.

Notwithstanding anything to the contrary contained herein, the Association, and/or an Owner and/or a Village Association shall not be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.5. Party Walls and Similar Structure.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction of the Units which serves and/or separates two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. All Owners who make use of the party structure shall share the cost of reasonable repair and maintenance of such structure equally.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners subsequently use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

**Article VI**  
**INSURANCE AND CASUALTY LOSSES**

6.1. Association Insurance. The Association, acting through its Board or its duly authorized agent, shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Area and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a loss. The Association shall have the authority to and interest in insuring any privately or publicly owned property for which the Association has maintenance or repair responsibility. Such property shall include, by way of illustration and not limitation, any insurable improvements on or related to parks, rights-of-way, medians, easements, and walkways which the Association is obligated to maintain. If blanket "all-risk" coverage is not generally available at reasonable cost, then the Association shall obtain fire and extended coverage, including coverage for vandalism and malicious mischief. The face amount of the policy shall be sufficient to cover the full replacement cost of the insured property. The cost of such insurance shall be a Common Expense to be allocated among all Units subject to assessment as part of the annual Base Assessment.

In addition, the Association may, upon request of a Village, and shall, if so specified in a Supplemental Declaration applicable to the Village, obtain and continue in effect adequate blanket "all-risk" property insurance on all insurable improvements within such Village, if reasonably available. If "all-risk" property insurance is not generally available at reasonable

cost, then fire and extended coverage may be substituted. Such coverage may be in such form as the Board of Directors deems appropriate. The face amount of the policy shall be sufficient to cover the full replacement cost of all structures to be insured. The costs shall be charged to the Owners of Units within the benefited Village as a Village Assessment. All policies shall provide for a certificate of insurance to be furnished to each Member insured, to the Association, and to the Village Association, if any.

The Association shall have no insurance responsibility for any part of any Private Amenity property.

The Association also shall obtain a public liability policy on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the public liability policy shall have at least a \$1,000,000.00 combined single limit as respects bodily injury and property damage and at least a \$3,000,000.00 limit per occurrence and in the aggregate.

Except as otherwise provided above with respect to property within a Village, premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment. However, premiums for insurance on Exclusive Common Areas may be included in the Village Assessment of the Village(s) benefited unless the Board reasonably determines that other treatment of the premiums is more appropriate.

The policies may contain a reasonable deductible which shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the required coverage. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Village Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.23 of the By-Laws, that the loss is the result of the negligence or willful conduct of one or more Owners or occupants, then the Board may specifically assess the full amount of such deductible against the Unit of such Owner or occupant, pursuant to Section 10.7.

All insurance coverage obtained by the Association shall:

(a) be written with a company authorized to do business in Virginia which holds a Best's rating of A or better and is assigned a financial size category of IX or larger as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available;

(b) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Area shall be for the benefit of the Association and its Members. Policies secured on behalf of a Village shall be for the benefit of the Village Association, if any, the Owners of Units within the Village, and their Mortgagees, as their interests may appear;

(c) vest in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss;

(d) not be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees; and

(e) have an inflation guard endorsement, if reasonably available. If the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Prince Edward County, Virginia area.

The Board shall use reasonable efforts to secure insurance policies containing endorsements that:

(a) waive subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(b) waive the insurer's rights to repair and reconstruct instead of paying cash;

(c) preclude cancellation, invalidation, suspension, or non renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(d) exclude individual Owners' policies from consideration under any "other insurance" clause; and

(e) require at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non renewal.

The Association shall also obtain, as a Common Expense, workers' compensation insurance and employer's liability insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, and flood insurance, if advisable.

The Association also shall obtain, as a Common Expense, a fidelity bond or bonds, if generally available at reasonable cost, covering all persons responsible for handling Association funds. The Board shall determine the amount of fidelity coverage in its best business judgment but, if reasonably available, shall secure coverage equal to not less than one-sixth of the annual Base Assessments on all Units plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least 30 days' prior written notice to the Association of any cancellation, substantial modification or non renewal.

6.2. Owner's Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry blanket "all-risk" property insurance on its Unit(s) and structures thereon providing full replacement cost coverage less a reasonable deductible, unless either the Village in which the Unit is located or the Association carries such insurance (which they are not obligated to do hereunder).

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, he shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

Additional recorded covenants applicable to any Village may establish more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Units within such Village and the standards for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

6.3. Damage and Destruction.

(a) Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(b) Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Voting Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, jointly decide within 60 days after the loss not to repair or reconstruct.

Any damage to or destruction of the common property of any Village Association shall be repaired or reconstructed unless the Unit Owners representing at least 75% of the total vote of the Village Association decide within 60 days after the damage or destruction not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area or common property of a Village Association shall be repaired or reconstructed.

(c) If determined in the manner described above that the damage or destruction to the Common Area or to the common property of any Village Association shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and maintained by the Association or the Village Association, as applicable, in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

6.4. Disbursement of Proceeds. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Village Association, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

6.5. Repair and Reconstruction. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors shall, without a vote of the Voting Members, levy Special Assessments against those Unit Owners responsible for the premiums for the applicable insurance coverage under Section 6.1.

#### Article VII NO PARTITION

Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the Properties or such portion thereof have been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

#### Article VIII CONDEMNATION

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 67% of the total Class "A" votes in the Association and of the Declarant, as long as the Declarant owns any property described on Exhibits "A" or "B") by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, and Voting Members representing at least 75% of the total Class "A" votes in the

Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Sections 6.4 and 6.5 regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

**Article IX**  
**ANNEXATION AND WITHDRAWAL OF PROPERTY**

9.1. Annexation without Approval of Membership. Until all of the real property described on Exhibit "B" (none of which real property is owned by the Declarant as of the date of this Declaration, but all or portions of which may from time to time be acquired by the Declarant) has been subjected to this Declaration or 30 years after the recording of this Declaration, whichever is earlier, the Declarant may unilaterally subject to the provisions of this Declaration all or portions of such real property. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant. Nothing in this Declaration shall be construed to require the Declarant or any successor to acquire or to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Such annexation shall be accomplished by filing a Supplemental Declaration in the land records of Prince Edward County, Virginia, describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall not require the consent of Voting Members, but shall require the consent of the owner of such property, if other than the Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

9.2. Annexation with Approval of Membership. The Association may subject any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Voting Members representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of the Declarant so long as the Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

Such annexation shall be accomplished by filing a Supplemental Declaration in the land records of Prince Edward County, Virginia, describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property. Any such annexation shall be effective upon filing unless otherwise provided therein.

9.3. Withdrawal of Property. The Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Article, without prior notice and without the consent of any Person, for the purpose of removing property then owned by the Declarant, its affiliates, or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes in the Declarant's plans for the Properties, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

9.4. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Village Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant.

9.5. Amendment. This Article shall not be amended without the prior written consent of the Declarant so long as the Declarant owns any property described in Exhibits "A" or "B."

Article X  
ASSESSMENTS

10.1 Creation of Assessments. The Association is hereby authorized to levy assessments against each Unit (except, however, any Unit or Units owned by the Declarant, which such Unit or Units shall be exempt from any and all assessments) for Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments for Association expenses: (a) Base Assessments to fund Common Expenses for the general benefit of all Units; (b) Village Assessments for Village Expenses benefiting only Units within a particular Village or Villages; (c) Special Assessments as described in Section 10.6; and (d) Specific Assessments as described in Section 10.7. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties is deemed to covenant and agree to pay these assessments.

All assessments, together with interest from the due date of such assessment at a rate determined by the Board (not to exceed the highest rate allowed by Virginia law), late charges, costs, and reasonable attorney's fees and disbursements, shall be a charge and continuing lien upon each Unit against which the assessment is made until paid, as more particularly provided in Section 10.9. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees and disbursements, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by exercising the



remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and on such dates as the Board may establish. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Village Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

No Owner may exempt himself from liability for assessments, by non use of Common Area, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

10.2. The Declarant's Obligation for Budget Deficits. During the Class "B" Control Period, the Declarant shall pay the difference between the amount of assessments collected on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. The Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

10.3. Computation of Base Assessment. At least 90 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 10.5.

The Base Assessment shall be levied equally against all Units and shall be set at a level which is reasonably expected to produce total cash for the Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Units subject to assessment under Section 10.8 on the first day of the fiscal year for which the budget is prepared and the number of Units reasonably anticipated to become subject to assessment during the fiscal year.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Article IX, the Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Declarant under Section 10.2 above), which may be either a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such subsidy and the nature thereof shall be conspicuously disclosed as a line item in the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

The Board shall send a copy of the budget and notice of the amount of the Base Assessment for the following year to each Owner at least 60 days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Voting Members representing at least 75% of the total Class "A" votes in the Association and 75% of the total number of Voting Members, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Voting Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within 10 days after delivery of the notice of assessments.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

10.4. Computation of Village Assessments. At least 90 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Village Expenses for each Village on whose behalf Village Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration, or the By-Laws specifically authorize the Board to assess certain costs as a Village Assessment. Any Village may request that additional services or a higher level of services be provided by the Association, and in such case, any additional costs shall be added to such budget. Such budget shall include a capital contribution establishing a reserve fund for repair and replacement of capital items maintained as a Village Expense, if any, within the Village.

Village Expenses shall be allocated equally among all Units within the benefited Village; provided, if so specified in the Supplemental Declaration applicable to such Village or if so directed by petition signed by a majority of the Owners within the Village, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

The Board shall cause a copy of such budget and notice of the amount of the Village Assessment for the coming year to be delivered to each Owner of a Unit in the Village at least 60

days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by a majority of the Owners of Units in the Village to which the Village Assessment applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 25% of the Units in such Village, which petition must be submitted to the Board within 10 days after delivery of the notice of assessments. This right to disapprove shall only apply to those line items in the Village budget which are attributable to services requested by the Village.

If the proposed budget for any Village is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

10.5. Reserve Budget and Capital Contribution. The Board shall annually prepare reserve budgets for both general and Village purposes which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments or Village Assessments, as appropriate, over the budget period.

10.6. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Village if such Special Assessment is for Village Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Voting Members (if a Common Expense) or Owners (if a Village Expense) representing at least 51% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

10.7. Specific Assessments. The Board shall have the power to levy Specific Assessments against a particular Unit or Units constituting less than all Units within the Properties or within a Village, as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscape maintenance, handyman service, pool cleaning, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the By-Laws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their licensees, invitees, or guests; provided, the Board, shall give the Unit Owner prior written notice and an opportunity for a hearing before levying in Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against any Village to reimburse the Association for costs incurred in bringing the Village into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and rules, provided the Board gives the Voting Member from such Village prior written notice and an opportunity to be heard before levying any such assessment.

10.8. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Village Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

10.9. Lien for Assessments. All assessments authorized in this Article shall constitute a lien against the Unit against which they are levied until paid. The lien shall also secure payment of interest, late charges (subject to the limitations of Virginia law), and costs of collection (including attorney's fees and disbursements). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. The Association may enforce such lien, when delinquent, by suit, judgment, and foreclosure.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 10.8, including such acquirer, its successors and assigns.

10.10. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Village Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

10.11. Capitalization of Association. Upon acquisition of record title to a Unit by the first Owner thereof other than the Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the By-Laws.

10.12. Exempt Property. The following property shall be exempt from payment of Base Assessments, Village Assessments, and Special Assessments:

- (a) all Common Area;
- (b) any property dedicated to and accepted by any governmental authority or public utility;
- (c) any property held by a conservation trust or similar nonprofit entity as a conservation easement, except to the extent that any such easement lies within the boundaries of a Unit which is subject to assessment under Section 10.8 (in which case the Unit shall not be exempted from assessment); and
- (d) any property owned by a Village Association for the common use and enjoyment of its members, or owned by the members of a Village Association as tenants-in-common.

In addition, the Declarant shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for Section 501(c) status under the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

#### Article XI ARCHITECTURAL STANDARDS

11.1. General. No structure shall be placed, erected, or installed upon any Unit, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) shall take

place except in compliance with this Article and the Design Guidelines and upon approval of the appropriate committee under Section 11.2.

Any Owner may remodel, paint or redecorate the interior of structures on his Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer. Under no circumstances shall mobile homes be permitted.

This Article shall not apply to the activities of the Declarant, nor to improvements to the Common Area by or on behalf of the Association.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

11.2. Architectural Review. Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article shall be handled by the two committees as described in subsections (a) and (b). The members of the Committees need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review.

(a) New Construction Committee. The New Construction Committee ("NCC") shall consist of at least three, but not more than five, persons and shall have exclusive jurisdiction over all original construction on any portion of the Properties. Until 100% of the Properties have been developed and conveyed to Owners other than Builders, the Declarant retains the right to appoint all members of the NCC who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by the Declarant. Upon the expiration of such right, the Board shall appoint the members of the NCC, who shall serve and may be removed in the Board's discretion.

(b) Modifications Committee. The Board of Directors may establish a Modifications Committee ("MC") to consist of at least three and no more than five persons, all of whom shall be appointed by and shall serve at the discretion of the Board. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing structures on Units or containing Units and the adjacent open space. The MC may delegate its authority as to a particular Village to the Village Association, if any, so long as the MC has determined that such Village Association has in force review and enforcement practices,

procedures, and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice. The NCC shall have the right to veto any action taken by the MC or a Village Association which the NCC determines, in its sole discretion, to be inconsistent with the Design Guidelines.

11.3 Guidelines and Procedures. The Declarant shall prepare the initial design and development guidelines and application and review procedures (the "Design Guidelines") which shall apply to all construction activities within the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, and intended use.

The NCC shall adopt such Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

The NCC shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties and all such Persons shall conduct their activities in accordance with such Design Guidelines. In the Declarant's discretion, such Design Guidelines may be recorded in the land records of Prince Edward County, Virginia, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the NCC.

11.4. Submission of Plans and Specifications.

(a) No construction or improvements shall be commenced, erected, placed or maintained on any Unit, nor shall any exterior addition, change or alteration be made thereto, until the plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, and screening therefor shall have been submitted to and approved in writing by the NCC or MC, as appropriate. The Design Guidelines shall set forth the procedure for submission of the Plans.

(b) In reviewing each submission, the NCC or MC, as appropriate, may consider visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in the relation to surrounding structures and plant life. The committees may require relocation of native plants within the construction site as a condition of approval of any submission.

The NCC or the MC, as appropriate, shall, within 45 days after receipt of each submission of the Plans, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans or (ii) the segments or features of the Plans which are deemed by such committee to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines, the reasons for such finding, and suggestions for the curing of such objections. In the event the appropriate committee fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, approval shall be deemed to have been given. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

(c) If construction does not commence on a project for which Plans have been approved within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans to the Declarant for reconsideration,

11.5. No Waiver of Future Approvals. Each Owner acknowledges that the members of the NCC and the MC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

11.6. Variance. The NCC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the NCC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the cost of compliance, or the terms of any financing shall not be considered a hardship warranting a variance.

11.7. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the NCC nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit.

11.8. Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the



Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Unit and collected as a Specific Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the NCC and MC.

**Article XII**  
**USE GUIDELINES AND RESTRICTIONS**

12.1. Plan of Development; Applicability; Effect. The Declarant has created Poplar Hill Communities as a residential and recreational development and, in furtherance of its and every other Owner's interests, has established a general plan of development for Poplar Hill Communities as a master planned community. The Properties are subject to land development, architectural, and design guidelines as set forth in Article XI. The Properties are subject to guidelines and restrictions governing land use, individual conduct, and uses of or actions upon the Properties as provided in this Article XII. This Declaration and resolutions the Board or the Voting Members may adopt establish affirmative and negative covenants, easements, and restrictions (the "Use Guidelines and Restrictions").

All provisions of this Declaration and of any Association rules shall also apply to all occupants, tenants, guests and invitees of any Unit. Any lease on any Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of this Declaration, the By-Laws, and the rules of the Association.

The Declarant promulgates Poplar Hill Communities' general plan of development in order to protect all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, and the vitality of and sense of community within Poplar Hill Communities all subject to the Board's and the Voting Members' ability to respond to changes in circumstances, conditions, needs, and desires within the master planned community.

The Declarant has prepared initial Use Guidelines and Restrictions which contain general provisions applicable to all of the Properties, as well as specific provisions which may vary

within the Properties depending upon the location, characteristics, and intended use. Such initial Use Guidelines and Restrictions are set forth in Section 12.6. Based upon these Use Guidelines and Restrictions, the Board shall adopt the initial rules at its initial organizational meeting.

12.2. Board Power. Subject to the terms of this Article XII and to its duty of care and undivided loyalty to the Association and its Members, the Board shall implement and manage the Use Guidelines and Restrictions through rules which adopt, modify, cancel, limit, create exceptions to, or expand the Use Guidelines and Restrictions. Prior to any such action, the Board shall conspicuously publish notice of the proposal at least five business days prior to the Board meeting at which such action is to be considered. Voting Members shall have a reasonable opportunity to be heard at a Board meeting prior to action being taken.

The Board shall send a copy of any proposed new rule or amendment to each Owner at least 30 days prior to its effective date. The rule shall become effective unless disapproved at a meeting by Voting Members representing at least two-thirds (2/3) of the total Class "A" votes and by the Class "B" Member, if any. The Board shall have no obligation to call a meeting of the Voting Members to consider disapproval except upon petition of the Voting Members as required for special meetings in By-Laws Section 2.4.

The Board shall have all powers necessary and proper, subject to its exercise of sound business judgment and reasonableness, to effect the powers contained in this Section 12.2.

The Board shall provide, without cost, a copy of the Use Guidelines and Restrictions and rules then in effect to any requesting Member or Mortgagee.

12.3. Members' Power. The Voting Members, at a meeting duly called for such purpose as provided in By-Laws Section 2.4, may adopt, repeal, modify, limit, and expand Use Guidelines and Restrictions and implementing rules by a vote of two-thirds (2/3) of the total Class "A" votes and the approval of the Class "B" Member, if any.

12.4. Owners' Acknowledgment. All Owners are subject to the Use Guidelines and Restrictions and are given notice that (a) their ability to use their privately owned property is limited thereby, and (b) the Board and/or the Voting Members may add, delete, modify, create exceptions to, or amend the Use Guidelines and Restrictions in accordance with Sections 12.2, 12.3, and 18.2.

Each Owner by acceptance of a deed acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Use Guidelines and Restrictions and rules may change from time to time.

12.5. Rights of Owners. Except as may be specifically set forth in Section 12.6, neither the Board nor the Voting Members may adopt any rule in violation of the following provisions:

(a) Equal Treatment. Similarly situated Owners and occupants shall be treated similarly.

(b) Speech. The rights of Owners and occupants to display political signs and symbols in or on their Units of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and occupants.

(c) Religious and Holiday Displays. The rights of Owners to display religious and holiday signs, symbols and decorations in their Units of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and occupants.

(d) Household Composition. No rule shall interfere with the freedom of occupants of Units to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair share use of the Common Area, including parking.

(e) Activities within Unit. No rule shall interfere with the activities carried on within the confines of Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Unit, that block the views from other Units, or that create an unreasonable source of annoyance.

(f) Pets. Unless the keeping of pets in any Village is prohibited by Supplemental Declaration at the time of the sale of the first Unit in such Village, no rule prohibiting the keeping of ordinary household pets shall be adopted thereafter over the objection of any affected Owner expressed in writing to the Association. The Association may adopt reasonable regulations designed to minimize damage and disturbance to other Owners and occupants, including regulations requiring damage deposits, waste removal, leash controls, noise controls, occupancy limits based on size and facilities of the Unit and fair share use of the Common Area. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance.

(g) Allocation of Burdens and Benefits. Except as permitted by Section 2.2, the initial allocation of financial burdens and rights to use Common Areas among the various Units shall not be changed to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Areas available, from adopting generally applicable rules for use of Common Areas, or from denying use privileges to those who abuse the Common Area, violate rules or this Declaration, or fail to pay assessments. This provision does not affect the right to increase the amount of assessments as provided in Article X.

(h) Alienation. No rule shall prohibit transfer of any Unit, or require consent of the Association or Board for transfer of any Unit, for any period greater than two months. The Association shall not impose any fee on transfer of any Unit greater than an amount reasonably based on the costs to the Association of the transfer.

(i) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede the Declarant's right to develop in accordance with the Master Plan.

(j) Abridging Existing Rights. If any rule would otherwise require Owners to dispose of personal property which they owned at the time they acquired their Units, such rule shall not apply to any such Owners without their written consent.

12.6. Initial Use Guidelines and Restrictions.

(a) General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association consistent with this Declaration and any Supplemental Declaration). Any Supplemental Declaration or additional covenants imposed on the property within any Village may impose stricter standards than those contained in this Article and the Association shall have standing and the power to enforce such standards.

(b) Restricted Activities. The following activities are prohibited within the Properties unless expressly authorized by and then subject to such conditions as may be imposed by the Board:

(i) Parking of commercial vehicles, recreational vehicles, mobile homes, boats or other water craft, or other oversized vehicles, stored vehicles or inoperable vehicles in places other than enclosed garages;

(ii) Capturing, trapping or killing of wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons using the Properties, and raising, breeding or keeping of animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. However, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet;

(iii) Activities which materially disturb or destroy the vegetation, wildlife or air, quality within the Properties or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(iv) Obstruction or rechanneling of drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that the Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;

(v) Subdivision of a Unit into two or more Units after a subdivision plat including such Unit has been approved and filed with the appropriate governmental authority, or changing the boundary lines of any Unit, except that the Declarant and Builders, with the Declarant's consent, shall be permitted to subdivide or change the boundary lines of Units which they own;

(vi) Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that the Declarant and its assigns may operate such a program with respect to Units which they own;

(vii) Conversion of any carport, garage, attic or other unfinished space, other than a basement, to finished space for use as an apartment or other integral part of the living area on any Unit;

(viii) Use of any trails maintained by the Association for purposes other than walking and non-motorized bicycling;

(ix) Any Business, Trade, garage sale, moving sale, rummage sale or similar activity, except that an Owner or occupant residing in a Unit may conduct Business activities within the Unit so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the activity conforms to all zoning requirements for the Properties; (c) the activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (d) the activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board;

This subsection shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within, the Properties, including the operation of a timeshare or similar program; and

(x) Any construction, erection, or placement of ornamentation or other objects or equipment, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except as specifically permitted by Section 12.5(c).

**Article X**  
**EASEMENTS**

13.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, or the Association.

13.2. Easements for Utilities, Etc. There are hereby reserved unto the Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, the Association, and the designees of each (which may include, without limitation, any utility) access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Properties. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

The Declarant specifically grants to the local water supplier, electric company, and natural gas supplier easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the dwelling on any Unit, nor shall any utilities be installed or relocated on the Properties, except as approved by the Board or the Declarant.

13.3. Easements for Collection of Storm Water Runoff and Flood Water. The Declarant reserves for itself, and its successors, assigns, and designees, the non-exclusive right and easement, but not the obligation, to enter upon any conservation easement located within the Area of Common Responsibility to (a) install, keep, maintain, and replace pumps in order to provide water for the irrigation of any of the Area of Common Responsibility; (b) construct, maintain, and, repair any structure designed to divert, collect or retain water; and (c) remove trash and other debris. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant shall cease to own any property subject to the Declaration, or such earlier time as the Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. The Declarant and the Association and their designees shall have an access easement over and across any of the Properties abutting or

containing any portion of any conservation easement to the extent reasonably necessary to exercise their rights under this Section.

There is further reserved herein for the benefit of the Declarant and the Association and their designees a perpetual, non-exclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 50 feet of lake beds, ponds and streams within the Properties, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) maintain and landscape the slopes and banks of such ponds and streams; and (c) enter upon and across such portions of the Properties for the purpose of exercising its rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make the Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural disasters.

13.4. Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. The Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. The Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.

13.5. Easements for Golf Course.

(a) Every Unit and the Common Area and the common property of any Village Association are burdened with an easement permitting golf balls unintentionally to come upon such Common Area, Units or common property of a Village and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Village, or the exterior portions of a Unit to retrieve errant golf balls; provided, however, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Declarant; the Association or its Members (in their capacity as such); Poplar Hill Communities, its successors, successors-in-title to the Golf Course, or assigns; any successor Declarant, any builder or contractor (in their capacities as such); any officer, director or partner of any of the foregoing, or any officer or director of any partner.

(b) The owner of the Golf Course, its respective agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair and replacement of the respective Golf Course.

(c) The Properties immediately adjacent to the Golf Course are hereby burdened with a non-exclusive easement in favor of the Golf Course for overspray of water from any irrigation system serving the Golf Course. Under no circumstances shall the Association or the owners of the Golf Course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(d) The owner of the Golf Course, its respective successors and assigns, shall have a perpetual, exclusive easement of access over the Properties for the purposes of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from the Golf Course.

13.6. Easements for Cross-Drainage. Every Unit and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Properties; provided, no Person shall alter the natural drainage on any Unit so as to materially increase the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner of the affected property.

13.7. Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, By-Laws, and rules, which right may be exercised by any member of the Board, the Association, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any single family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

#### Article XIV MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.



14.1. Notices of Action. An institutional holder, insurer or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or By-Laws relating to such Unit or the Owner or Occupant which is not cured within 60 days. Notwithstanding this provision, any holder of a first Mortgage is entitled to written notice upon request from the Association of any default in the performance by an Owner of a Unit of any obligation under the Declaration or By-Laws which is not cured within 60 days;

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

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

14.2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the first Mortgagees or Voting Members representing at least 67% of the total Association vote entitled to cast consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly. (The granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection.);

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner of a Unit. (A decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding assessments for Villages or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration.);

(c) By act or omission change, waive or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Units and the Common Area. (The issuance and amendment-of architectural standards, procedures, rules

and regulations, or use restrictions shall not constitute a change, waiver or abandonment within the meaning of this provision.);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees 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 casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

14.3. Other Provisions for First Lien Holders. To the extent possible under Virginia law:

(a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

14.4. Amendments to Documents. The following provisions do not apply to amendments to the constituent documents or termination of the Association made as a result of destruction, damage, or condemnation pursuant to Section 14.3(a) and (b), or to the addition of land in accordance with Article IX.

(a) The consent of Voting Members representing at least 67% of Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of the Eligible Holders of first Mortgages on Units to which at least 67% of the votes of Units subject to a Mortgage appertain, shall be required to terminate the Association.

(b) The consent of Voting Members representing at least 67% of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of Eligible Holders of first Mortgages on Units to which at least 51% of the votes of Units subject to a Mortgage appertain, shall be required materially to amend any provisions of the Declaration, By-Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

(i) voting;

- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of the Properties;
- (vii) expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association;
- (viii) boundaries of any Unit;
- (ix) leasing of Units;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit; or
- (xi) any provisions included in the Declaration, By-Laws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

14.5. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

14.6. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

14.7. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of its respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may record an amendment to this Article to reflect such changes.

14.8. Applicability of Article XIV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Virginia law for any of the acts set out in this Article.

14.9. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such

action if the Association does not receive a written response from the Mortgagee within thirty days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

**Article XV**  
**THE DECLARANT'S RIGHTS**

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the By-Laws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the land records of Prince Edward County, Virginia.

So long as construction and initial sales of Units shall continue, the Declarant and Builders authorized by the Declarant may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units, and sales offices. The Declarant and authorized Builders shall have easements for access to and use of such facilities.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without the Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) 40 years from the date this Declaration is recorded, or (b) upon recording by the Declarant of a written statement that all sales activity has ceased.

**Article XVI**  
**GOLF COURSE**

16.1. Ownership and Operation of Golf Course. All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Declarant or any other Person with regard to the continuing existence, ownership or operation of the Golf Course, if any, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment to this Declaration executed or joined into by the Declarant. Further, the ownership and/or operation of the Golf Course, if any, may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations of the Golf Course by a Person; (b) the creation or conversion of the ownership and/or operating structure of the Golf Course to an "equity" club or similar arrangement whereby

the Golf Course or the rights to operate it are transferred to an entity which is owned or controlled by its members; or (c) the transfer of ownership or control of the Golf Course to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, any Village Association, or any Owner shall be required to effectuate such transfer or conversion.

16.2. Right to Use. Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use the Golf Course. Rights to use the Golf Course will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the owner of the Golf Course. The owner of the Golf Course shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Golf Course, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the provisions of any outstanding membership documents.

16.3. View Impairment. Neither the Declarant, the Association nor the owner or operator of the Golf Course guarantees or represents that any view over and across the Golf Course from adjacent Units will be preserved without impairment. The owner of the Golf Course, if any, shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in its sole and absolute discretion, to add trees and other landscaping to the Golf Course from time to time. In addition, the owner of the Golf Course may, in its sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways and greens on the Golf Course from time to time. Any such additions or changes to the Golf Course may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

16.4. Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the owner of the Golf Course, no amendment to this Article, and no amendment in derogation of any rights reserved or granted to the owner of the Golf Course by other provisions of this Declaration, may be made without the written approval of the owner of the Golf Course. The foregoing shall not apply, however, to amendments made by the Declarant.

16.5. Jurisdiction and Cooperation. It is Declarant's intention that the Association and the owner of the Golf Course shall cooperate to the maximum extent possible in the operation of the Properties and the Golf Course. Each shall reasonably assist the other in upholding the Community-Wide Standard. The Association shall have no power to promulgate rules and regulations affecting activities on or use of the Golf Course.

**Article XVII**  
**DISPUTE RESOLUTION AND LIMITATION OF LITIGATION**

17.1. Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes. The Association, the Declarant, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving the Properties, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the By-Laws, the Association rules, or the Articles of Incorporation (collectively "Claim"), except for those Claims authorized in Section 17.2, shall be subject to the procedures set forth in Section 17.3.

17.2. Exempt Claims. The following Claims ("Exempt Claims") shall be exempt from the provisions of Section 17.3:

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article X;
- (b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article XI and Article XII; and
- (c) any suit between Owners (other than the Declarant) seeking redress on the basis of a Claim which would constitute a cause of action under the law of the Commonwealth of Virginia in the absence of a claim based on the Declaration, By-Laws, Articles or rules of the Association, if the amount in controversy exceeds \$5,000.00.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 17.3, but there shall be no obligation to do so.

17.3. Mandatory Procedures for All Other Claims. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent"), other than a Claim exempted from this provision by Section 17.2, shall not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of such Claim until it has complied with the following procedures:

- (a) Notice. The Claimant shall notify each Respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

(i) the nature of the Claim, including date, time, location, persons involved, Respondent's role in the Claim and the provisions of this Declaration, the By-Laws, the Rules, the Articles of Incorporation or other authority out of which the Claim arises;

(ii) the basis of the Claim (i.e., the provision of the Declaration, By-Laws, rules or Articles triggered by the Claim);

(iii) what Claimant wants Respondent to do or not do to resolve the Claim; and

(iv) that Claimant wishes to resolve the Claim by mutual agreement with Respondent, and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

(b) Negotiation.

(i) Each Claimant and Respondent (the "Parties") shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

(ii) Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the community.

(c) Mediation.

(i) If the Parties do not resolve the Claim through negotiation within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days within which to submit the Claim to mediation under the auspices of the American Arbitration Association, or such other independent agency providing similar services upon which the Parties may mutually agree.

(ii) If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

(d) Final and Binding Arbitration.

(i) If the Parties do not resolve the Claim through mediation, the Claimant shall have 30 days following termination (as determined by the mediator) of mediation proceedings ("Termination of Mediation") to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "C" or the Claim shall be deemed abandoned, and respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim;

provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

(ii) This subsection (d) is an agreement of the Bound Parties to arbitrate all Claims except Exempt Claims and is specifically enforceable under the applicable arbitration law of the Commonwealth of Virginia. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the Commonwealth of Virginia.

17.4. Allocation of Costs of Resolving Claims.

(a) Each Party shall bear all of its own costs incurred prior to and during the proceedings described in Section 17.3 (a), (b) and (c), including the fees of its attorney or other representative. Each Party shall share equally all charges rendered by the mediator(s) pursuant to Section 17.3(c).

(b) Each Party shall bear all of its own costs (including the fees of its attorney or other representative) incurred after the Termination of Mediation under Section 17.3(c) and shall share equally in the costs of conducting the arbitration proceeding (collectively, "Post Mediation Costs"), except as otherwise provided in this subsection; provided, however, if the Claim is rejected in whole or in part, the Claimant shall pay all Post Mediation costs, including the costs incurred by the Respondent.

17.5. Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation or mediation in accordance with Section 17.3 and any Party thereafter fails to abide by the terms of such-Agreement, or if the Parties agree to accept the Award following arbitration and any Party thereafter fails to comply with such Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 17.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys fees and court costs.

**Article XVIII**  
**GENERAL PROVISIONS**

18.1. Term. This Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of 40 years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of 10 years, unless an instrument in writing, signed by a majority of then Owners, has been recorded within the year preceding each extension, agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified therein.



18.2. Amendment.

(a) By the Declarant. Until termination of the Class "B" Control Period, the Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) required by an institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to make, purchase, insure or guarantee mortgage loans on the Units; or (iv) otherwise necessary to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. So long as the Declarant still owns property described in Exhibits "A" or "B" for development as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Owners. Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of the total Class "A" votes in the Association, including 75% of the Class "A" votes held by Members other than the Declarant, and the consent of the Declarant, so long as the Declarant has an option to subject additional property to this Declaration pursuant to Section 9.1. In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to this Declaration shall, become effective upon recordation in the land records of Prince Edward County, Virginia, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

18.3. Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

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

18.5. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of 75% of the Voting Members. A Voting Member other than an Owner entitled to cast only the vote for its own Unit(s) pursuant to Section 3.4(b), shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of Owners holding 75% of the total votes attributable to Units in the Village represented by the Voting Member. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article X; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. This provision shall apply in addition to the provisions of Article XVII, if applicable.

18.6. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Village and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions of any Village; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, by-laws, rules and regulations, policies or practices adopted or carried out pursuant thereto, those of any Village shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

18.7. Use of the Words "Poplar Hill Communities". No Person shall use the words "Poplar Hill Communities" or any derivative or any other term which the Declarant may select as the name of this development or any component thereof in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the words "Poplar Hill Communities" in printed or promotional matter solely to specify that particular property is located within the Properties, and the Association shall be entitled to use the words "Poplar Hill Communities" in its name.

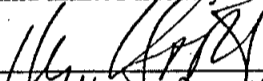
18.8. Compliance. Every Owner and occupant of any Unit shall comply with this Declaration, the By-Laws, and the rules of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, by the Association or, in a proper case, by any aggrieved Unit Owner(s).

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18.9. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and Such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

IN WITNESS WHEREOF, the undersigned the Declarant has executed this Declaration this 7<sup>th</sup> day of Feb., 2000.

POPLAR HILL ASSOCIATES, LLC,  
a Virginia limited liability company

By:   
Name: HENRY BOOTH  
Title: PRESIDENT/MANAGER

COMMONWEALTH OF VIRGINIA :  
: ss.  
COUNTY OF PRINCE EDWARD :

On this, the 7 day of Feb, 2000, before me, a Notary Public, the undersigned officer, personally appeared O Henry Basth, who acknowledged himself to be the Manager of Poplar Hill Associates, LLC, a Virginia limited liability company, and that he, as such Manager, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the limited liability company by himself as Manager.

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

  
\_\_\_\_\_  
Notary Public

My Commission expires: 10/31/01



EXHIBIT "A"

LAND INITIALLY SUBMITTED

ALL the following described real estate lying and being situated in Prince Edward County, Virginia, bounded and described as follows:

ALL that certain piece or parcel of land situated in Farmville Magisterial District, Prince Edward County, Virginia, known as Poplar Hill Farm, containing 1063.5 acres, more or less, being more particularly described on a plat of William C. Young, Jr., L.S., dated January 10, 2000, recorded in the Clerk's Office of the Circuit Court of Prince Edward County, Virginia (the "Clerk's Office"), in Plat Book 7, at page 62, which plat is incorporated herein by reference for a more complete description of the property herein conveyed.

TOGETHER WITH a non-exclusive, perpetual 60-foot easement approximately 1,495.75 feet in length along a portion of the southerly boundary line of the Property and leading to U. S. Route 15, and being more particularly described in deed dated January 25, 1977, recorded in the Clerk's Office in Deed Book 201, page 742.

BEING the identical property conveyed to Poplar Hill Associates, L.L.C., A Virginia Limited Liability Company, H-SC Poplar Hill, L L C, a Virginia Limited Liability Company, Poplar Hill Community Development Authority, Prince Edward County, Virginia, A Virginia Corporation and Poplar Hill Development Group, L. L. C., A Virginia Limited Liability Company by deed dated February 7, 2000, recorded in Deed Book 341, at page 520.

EXHIBIT "B"

LAND SUBJECT TO ANNEXATION

ALL the following described real estate lying and being situated in Prince Edward County, Virginia, bounded and described as follows:

ALL that certain piece or parcel of land situated in Farmville Magisterial District, Prince Edward County, Virginia, known as Poplar Hill Farm, containing 1063.5 acres, more or less, being more particularly described on a plat of William C. Young, Jr., L.S., dated January 10, 2000, recorded in the Clerk's Office of the Circuit Court of Prince Edward County, Virginia (the "Clerk's Office"), in Plat Book 7, at page 64, which plat is incorporated herein by reference for a more complete description of the property herein conveyed.

TOGETHER WITH a non-exclusive, perpetual 60-foot easement approximately 1,495.75 feet in length along a portion of the southerly boundary line of the Property and leading to U. S. Route 15, and being more particularly described in deed dated January 25, 1977, recorded in the Clerk's Office in Deed Book 201, page 742.

BEING the identical property conveyed to Poplar Hill Associates, L.L.C., A Virginia Limited Liability Company, H-SC Poplar Hill, L L C, a Virginia Limited Liability Company, Poplar Hill Community Development Authority, Prince Edward County, Virginia, A Virginia Corporation and Poplar Hill Development Group, L. L. C., A Virginia Limited Liability Company by deed dated February 7, 2000, recorded in Deed Book 341, at page 520.

EXHIBIT "C"

RULES OF ARBITRATION

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's desire to submit the Claim to arbitration ("Arbitration Notice").
2. Each Party shall select an arbitrator ("Party Appointed Arbitrator"). The Party Appointed Arbitrators shall, by agreement, select one or two neutral arbitrators ("Neutral(s)") so that the total arbitration panel ("Panel") has an odd number of arbitrators. If any Party fails to appoint a Party Appointed Arbitrator within 20 days from the date of the Arbitration Notice, the remaining arbitrators shall conduct the proceedings, selecting a Neutral in place of any missing Party Appointed Arbitrator. The Neutral arbitrator(s) shall select a chairperson ("Chair").
3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, Claimant may notify the Richmond, Virginia Office of the American Arbitration Association, which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator ("Arbitrator"), and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.
4. No person may serve as a Neutral in any arbitration under these Rules in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral after receipt of that Neutral's Bias Disclosure, such Neutral shall be replaced in the same manner in which that Neutral was selected.
5. The Arbitrator or Chair, as the case may be, "Arbitrator" shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties.
6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings.
7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings.
8. There shall be no stenographic record of the proceedings.
9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties.

10. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

11. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

12. There will be no posthearing briefs.

13. The Award shall be rendered immediately following the close of the hearing, if possible and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

14. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

15. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.



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EXHIBIT "D"

BY-LAWS

OF

POPLAR HILL COMMUNITIES  
HOMEOWNERS' ASSOCIATION, INC.

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BY-LAWS  
OF  
POPLAR HILL COMMUNITIES  
HOMEOWNERS' ASSOCIATION, INC.

Article I  
Name, Principal Office, and Definitions

1.1. Name. The name of Association shall be Poplar Hill Communities Homeowners' Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2. Principal Office. The principal office of the Association in the Commonwealth of Virginia shall be located in Prince Edward County. The Association may have such other offices, either within or outside the Commonwealth of Virginia, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Poplar Hill Communities (the "Declaration") filed in the Office of the Recorder of Deeds of Prince Edward County, Virginia (the "Recording Office"), unless the context indicates otherwise.

Article II  
Association: Membership, Meetings, Quorum, Voting, Proxies

2.1. Membership. The Association shall have two classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either within the Properties or as convenient thereto as possible and practical.

2.3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. Meetings shall be of the Voting Members. Subsequent regular annual meetings shall be set by the Board so as to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Board of Directors.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Voting Members representing at least 5% of the total Class "A" votes of the Association.

2.5. Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of the Voting Members shall be delivered, either personally or by mail, to each Voting Member entitled to vote at such meeting, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Member at his address as it appears on the records of the Association, with postage prepaid.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Voting Members shall be deemed the equivalent of proper notice. Any Voting Member may, in writing, waive notice of any meeting of the Voting Members, either before or after such meeting. Attendance at a meeting by a Voting Member shall be deemed waiver by such Voting Member of notice of the time, date, and place thereof, unless such Voting Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Voting Members who are present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Voting Members in the manner prescribed for regular meetings.

The Voting Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough to leave less than a quorum, provided that Voting Members representing at least 25% of the total Class "A" votes in the Association remain in attendance, and provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference.

2.9. Proxies. Voting Members may not vote by proxy but only in person or through their designated alternates; provided any Voting Member who is only entitled to cast the vote(s) for his own Unit(s) pursuant to Section 3.4(b) of the Declaration may cast such vote in person or by proxy until such time as the Board first calls for election of a Voting Member to represent the Village of which the Unit is a part. No proxy shall be valid unless signed by the Owner or his duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to any meeting for which it is to be effective. No proxy shall be valid after 11 months from its date of execution unless otherwise specified in the proxy.

2.10. Majority. As used in these By-Laws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence of the Voting Members representing a majority of the total votes in the Association shall constitute a quorum at all meetings of the Association.

2.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Voting Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by Voting Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Voting Members entitled to vote thereon were present. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the Commonwealth of Virginia. Such consents shall be filed with the minutes of the Association, and shall have the same force and effect as a unanimous vote of the Voting Members.

### Article III

#### Board of Directors: Number, Powers, Meetings

##### A. Composition and Selection.

3.1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one equal vote. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time. In the case of a Member which is not a natural person, any officer, director, partner or trust officer of such Member shall be eligible to serve as a director unless otherwise specified

by written notice to the Association signed by such Member; provided, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

3.2. Number of Directors. The number of directors in the Association shall be not less than three nor more than seven, as provided in Section 3.5 below. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3. Directors During Class "B" Control Period. Subject to the provisions of Section 3.5 below, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the first to occur of the following:

(a) when 75% of the total number of Units proposed by the Master Plan for the property described on Exhibit "A" and "B" of the Declaration have been conveyed to Persons other than Builders;

(b) 30 years after the date on which the Declaration is recorded in the land records of Prince Edward County, Virginia; or,

(c) when, in its discretion, the Class "B" Member so determines.

3.4. Nomination of Directors. Except with respect to directors selected by the Class "B" Member, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three or more Members or representatives of Members, with at least one representative from each Voting Group. The Nominating Committee shall be appointed by the Board of Directors not less than 30 days prior to each annual meeting of the Voting Members to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of positions to be filled from each slate as provided in Section 3.5 below. The Nominating Committee shall nominate separate slates for the directors, if any, to be elected at large by all Voting Members, and for the director(s) to be elected by the Voting Members representing the Units within each Voting Group. Nominations for each slate shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Voting Members and to solicit votes.

3.5. Election and Term of Office. Notwithstanding any other provision of these By-Laws:

(a) Within 30 days after the time that Class "A" Members other than Builders own 25% of the Units proposed by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call a special meeting at which Voting Members representing the Class "A" Members shall be entitled to elect one of the three directors, who shall be an at-large director. The remaining two directors shall be appointees of the Class "B" Member. The director elected by the Voting Members shall

not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (b) below, whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b) below, a successor shall be elected for a like term.

(b) Within 30 days after the time that Class "A" Members other than Builders own 50% of the Units proposed by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the Board shall be increased to five directors. The President shall call a special meeting at which Voting Members representing the Class "A" Members shall be entitled to elect two of the five directors, who shall serve as at-large directors. The remaining three directors shall be appointees of the Class "B" Member. The Directors elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

(c) Within 90 days after termination of the Class "B" Control Period, the President shall call a special meeting at which Voting Members representing the Class "A" Members shall be entitled to elect three of the five directors, who shall serve as at-large directors. The remaining two directors shall be appointees of the Class "B" Member. The directors elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall serve until the first annual meeting following the termination of the Class "B" Control Period. If such annual meeting is scheduled to occur within 90 days after termination of the Class "B" control Period, this subsection shall not apply and directors shall be elected in accordance with subsection (d) below.

(d) At the first annual meeting of the membership after the termination of the Class "B" Control Period, the Board shall be increased to seven directors who shall be selected as follows: Six directors shall be elected by the Voting Members representing the Class "A" Members, with an equal number of directors elected by each Voting Group and any remaining directorships filled at large by the vote of all Voting Members. Three directors shall serve a term of two years and three directors shall serve a term of one year, as such directors determine among themselves. Upon the expiration of each director's term of office the Voting Members entitled to elect such director shall be entitled to elect a successor to serve a term of two years.

Until termination of the Class "B" membership, the Class "B" Member shall be entitled to appoint one director. Upon termination of the Class "B" membership, the director elected by the Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve the unexpired portion of the term. Thereafter, the Voting Members shall be entitled to elect a successor to fill such position.

The Voting Members within each Voting Group shall vote on separate slates for election of the directors to represent their Voting Group and the directors to be elected at large by all Class "A" Members. Each Voting Member shall be entitled to cast the total number of votes which it is entitled to cast pursuant to Section 3.4(b) of the Declaration with respect to each



vacancy to be filled from each slate on which such Voting Member is entitled to vote. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected. The directors elected by the Voting Members shall hold office until their respective successors have been elected. Directors may be elected to serve any number of consecutive terms.

3.6. Removal of Directors and Vacancies. Any director elected by the voting Members may be removed, with or without cause, by the vote of Voting Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Voting Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Voting Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Members entitled to fill such directorship may elect a successor for the remainder of the term. Any director appointed by the Board shall be selected from among Members within the Voting Group represented by the director who vacated the position.

B. Meetings.

3.7. Organizational Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

3.8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter. Notice of the time and place of the meeting shall be communicated to directors not less four days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

3.9. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The Notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) telegram, charges prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at

least four business days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least 72 hours before the time set for the meeting.

3.10. Waiver of Notice. The transactions of any meeting of the Board of directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.12. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Voting Members representing a majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board of Directors, excluding the interested director.

3.13. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

3.14. Open Meetings. Subject to the provision of Section 3.15, all meetings of the Board shall be open to all Voting Members, but a Voting Member other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Voting Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board of

Directors and reconvene in executive session, excluding Voting Members, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.15. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.16. Powers. The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these By-Laws, the Articles, and as provided by law. The Board may do or cause to be done all acts and things as are not by the Declaration, Articles, these By-Laws, or Virginia Law directed to be done and exercised exclusively by the Voting Members or the membership generally.

3.17. Duties. The duties of the Board shall include, without limitation:

(a) preparation and adoption of annual budgets and establishing each Owner's share of the Common Expenses and Village Expenses;

(b) levying and collecting assessments from the Owners to fund the Common Expenses and Village Expenses;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules and all other books, records, and financial statements of the Association;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;

(o) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association in accordance with Virginia law, and in accordance with the Articles of Incorporation and the Declaration; and

(p) assisting in the resolution of disputes between owners and others without litigation, as set forth in the Declaration.

3.18 Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the judgment of the Class "B" Member, would tend to impair rights of the Declarant or Builders under the Declaration or these By-Laws, or interfere with development, construction of any portion of the Property, or diminish the level of services being provided by the Association.

No such action, policy or program shall become effective or be implemented until and unless:

(a) The Class "B" Member shall have been given written notice of all meetings and proposed actions approved at meetings of the Association, the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board of Directors meetings with Sections 3.8, 3.9, and 3.10 of these By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member shall have and is hereby granted a right to disapprove any such action, policy, or program authorized by the Association, the Board of Directors or any committee thereof, if Board, committee, or Association approval is necessary for such action. This right may be exercised by the Class "B" Member, its successors, assigns, representatives, or agents at any time within 10 days following the meeting held pursuant to the terms and provision hereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.19. Management. The Board of Directors may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board of Directors may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy making authority or those duties set forth in Sections 3.17(a) and 3.17(i). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

The Board of Directors may delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control Period unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class "B" Control Period upon not more than 90 days' written notice.

3.20. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the month in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (Any assessment or installment thereof shall be considered to be delinquent on the fifteenth day following the due date unless otherwise specified by resolution of the Board of Directors); and

(g) an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited or reviewed basis, as determined by the Board, by an independent public accountant; provided, upon written request of any holder, guarantor or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement. During the Class "B" Control Period, the annual report shall include certified financial statements.

3.21. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, the Board shall obtain Voting Member approval in the same manner provided in Section 10.6 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the budgeted gross expenses of the Association for that fiscal year. During the Class "B" Control Period, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Voting Members representing at least 51% of the total Class "A" Votes in the Association.

3.22. Rights of the Association. The Association shall have the right to contract with any Person for the performance of various duties and functions, including an affiliate of the

Declarant, so long as the terms of such agreements are commercially reasonable. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Village and other owners or residents associations, both within and outside the Properties. Such agreements shall require the consent of a majority of the total number of directors of the Association.

3.23. Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Unit of the violator, and to suspend an Owner's right to vote or any person's right to use the Common Area for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Board to limit ingress and egress to or from a Unit or to suspend an Owner's right to vote due to nonpayment of assessments. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, guest or invitee of a Unit violates the Declaration, By-Laws, or a rule and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if any, appointed pursuant to Article V; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board of Directors or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10 day period, the hearing shall be held before the Covenants Committee, if any, or if none, before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice

of appeal must be received by the manager, President, or Secretary of the Association within 10 days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these By-Laws, or the rules of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or, following compliance with the procedures set forth in Article XVII of the Declaration, by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

#### Article IV Officers

4.1. Officers. The officers of the Association shall be a President, Vice President, Secretary and Treasurer. The President, Vice President, Secretary and Treasurer shall be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed by the Board of Directors. Such other officers may, but need not be members of the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Voting Members, as set forth in Article III.

4.3. Removal and Vacancies. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.



4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by resolution of the Board of Directors.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.12 hereof.

**Article V**  
Committees

5.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2. Covenants Committee. In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board of Directors may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.23 of these By-Laws.

5.3. Village Committees. In addition to any other committees appointed as provided above, each Village which has no formal organizational structure or association may elect a Village Committee to determine the nature and extent of services, if any, to be provided to the Village by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A Village Committee may advise the Board on any other issue, but shall not have the authority to bind the Board of Directors. Such Village Committees, if elected, shall consist of three to five Members, as determined by the vote of at least 51% of the Owners of Units within the Village.

Village Committee members shall be elected for a term of one year or until their successors are elected. Any director elected to the Board of Directors from a Village shall be an ex officio member of the Committee. A Voting Member representing such Village shall be the chairperson of the Village Committee and shall preside at its meetings and shall be responsible for transmitting any and all communications to the Board of Directors.

In the conduct of its duties and responsibilities, each Village Committee shall abide by the notice and quorum requirements applicable to the Board of Directors under Sections 3.8, 3.9, 3.10 and 3.11 and the procedural requirements set forth in Sections 3.13, 3.14, and 3.15; provided, however, the term "Voting Member" shall refer to the Owners of Units within the Village.

Article VI  
Miscellaneous

6.1. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of a resolution, the fiscal year shall be the calendar year.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceeding, when not in conflict with Virginia law, the Articles of Incorporation, the Declaration, or these By-Laws.

6.3. Conflicts. If there are conflicts between the provisions of Virginia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Virginia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made; and

(iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other Communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member or Voting Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member or Voting Member; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6. Amendment.

(a) By Class "B" Member. Prior to the conveyance of the first Unit by Declarant to a Person other than a Builder, the Class "B" Member may unilaterally amend these By-Laws. After such conveyance, the Class "B" Member may unilaterally amend these By-Laws at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Units; or (d) necessary to enable any governmental agency or reputable private insurance company to guarantee or insure mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. In addition, the approval requirements set forth in Article XIV of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon recordation in the land records of Prince Edward County, Virginia, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

If an Owner consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

BOOK 0341 PAGE 607

IN WITNESS WHEREOF, the undersigned officers of Poplar Hill Communities Homeowners' Association have set their hands and seals this 7th day of February, 2000.

POPLAR HILL COMMUNITIES  
HOMEOWNERS' ASSOCIATION, INC.

BY:

  
O. HENRY BOOTH

BOOK 0341 PAGE 608


CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Poplar Hill Communities Homeowners' Association, Inc., a Virginia non-profit corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2000.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 7th day of February, 2000.

 (SEAL)  
Secretary SOUTHARD S. BRUMFIELD

CERTIFICATION

The undersigned owners of Poplar Hill Farm (The Farm) and their heirs and assigns agree to be bound by all of the terms and conditions of the Declaration of Covenants, Conditions and Restrictions for Poplar Hill Communities.

Witness the following signatures and seals:

POPLAR HILL ASSOCIATES, L.L.C.

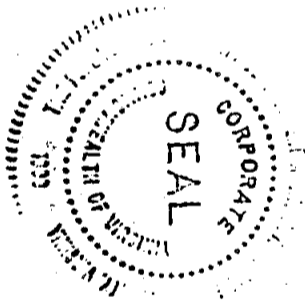
BY: [Signature] (SEAL)  
O. HENRY BOOTH  
ITS MANAGER

H-SC POPLAR HILL, L L C

BY: [Signature] (SEAL)  
NORMAN C. KRUEGER  
ITS MANAGER

POPLAR HILL COMMUNITY  
DEVELOPMENT, AUTHORITY,  
PRINCE EDWARD COUNTY,  
VIRGINIA

BY: [Signature] (SEAL)  
SCOTT M. HARWOOD  
ITS PRESIDENT



ATTESTED: [Signature]  
SOUTHARD S. BRUMFIELD  
ITS SECRETARY  
Corporate Seal

POPLAR HILL DEVELOPMENT  
GROUP, L. L. C.

BY: [Signature] (SEAL)  
SOUTHARD S. BRUMFIELD  
ITS MANAGER

STATE OF VIRGINIA

COUNTY OF PRINCE EDWARD, to-wit:

The foregoing instrument was acknowledged before me this 7th day of February, 2000, by O. Henry Booth, Manager and President of Poplar Hill Associates, L. L. C.

  
\_\_\_\_\_  
NOTARY PUBLIC


My commission expires 10/31/01



STATE OF VIRGINIA

COUNTY OF PRINCE EDWARD, to-wit:

The foregoing instrument was acknowledged before me this 7th day of February, 2000, by Norman C. Krueger, Manager of H-SC Poplar Hill, L L C.

  
\_\_\_\_\_  
NOTARY PUBLIC


My commission expires 10/31/01



STATE OF VIRGINIA

COUNTY OF PRINCE EDWARD, to-wit:

The foregoing instrument was acknowledged before me this 7th day of February, 2000, by Scott M. Harwood, President of Poplar Hill Community Development Authority, Prince Edward County, Virginia, and attested to by Southard S. Brumfield.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires 10/31/01



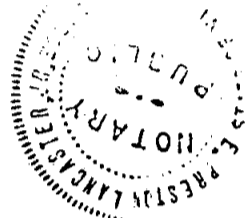
STATE OF VIRGINIA

COUNTY OF PRINCE EDWARD, to-wit:

The foregoing instrument was acknowledged before me this 7th day of February, 2000, by Southard S. Brumfield, Manager of Poplar Hill Development Group, L. L. C.

[Signature]  
NOTARY PUBLIC

My commission expires 10/31/01



VIRGINIA: CLERK'S OFFICE OF THE CIRCUIT COURT OF PRINCE EDWARD COUNTY

St. R. Tax (039)	
Co. R. Tax (213)	
Transfer (212)	
Clerk (301)	96.00
Lib. (145)	1.00
Tech T.F. (106)	3.00
Grantor Tax (338/220)	
Total \$	100.00

The foregoing instrument with acknowledgement was admitted to record on Feb 8 2000 at 9:36 A.M. in D.B. 341 Page(s) 524  
Teste: Frank L. Overton, Clerk  
By: Raymond Williams, Dep. Clerk

~~Grantor's Fee:~~  
Examined and Mailed/Delivered To:

Preston Lancaster

Date: 2-8-00