

MARINE OAKS VILLAGE

DECLARATION

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MARINE OAKS VILLAGE

DECLARATION

THIS DECLARATION, made this _____ day of _____, 197_, by MARINE OAKS, a limited partnership organized and existing under the law of Maryland, having an address at c/o Mr. Ivan Stern, 3605 Anton Farms Road, Baltimore, Maryland 21208 (hereinafter referred to as "the Developer"),

WITNESSETH, THAT WHEREAS the Developer is the owner of all of that tract of land situate and lying in Baltimore County, Maryland, which is more particularly described in Exhibit A hereto, and which has been subdivided into, and is wholly comprised of, the residential lots which are enumerated in a schedule which is attached hereto as Exhibit B, and the common areas which are enumerated in a schedule which is attached hereto as Exhibit C, together with the improvements thereon and the appurtenances thereto; and

WHEREAS the Developer intends to create upon the said tract a residential community consisting of the said residential lots and common areas, the latter containing such common improvements and other facilities for the benefit of the said community as are hereinafter more particularly described; and

WHEREAS the Developer intends by this Declaration to provide for the preservation of the values and amenities in the said community and for the maintenance of the said common areas and of the said common improvements and other facilities contained therein, (a) by insuring the proper use and appropriate development and improvement of the said residential lots and common areas; (b) by protecting the respective owners of the said residential lots and common

areas against any development or other use of any of the same in any manner which may depreciate their value; (c) by guarding against the erection upon any of the said residential lots and common areas of any building or other improvement constructed through the use of improper or unsuitable materials; (d) by securing and maintaining proper setbacks of the said buildings or other improvements from such streets, roadways and sidewalks as shall be contained within the said community; and (e) by enforcing high standards of maintenance and operation of the said common areas and the said common improvements and other facilities contained therein, for the benefit and convenience of the owners of the said residential lots and of any other residents of the said community, all in order to provide adequately for a residential community of the highest quality and character; and

WHEREAS in furtherance of the said purposes the Developer intends by this Declaration to subject the said residential lots and common areas which comprise the said tract of land, together with the said improvements and appurtenances, to certain covenants, restrictions, easements and liens, all as are hereinafter set forth; and

WHEREAS in furtherance of the said purposes the Developer has caused to be incorporated, under the general laws of the State of Maryland, a membership corporation known as "The Marine Oaks Village Company" (hereinafter referred to as "the Association"), to which are to be delegated and assigned the powers and duties of maintaining and operating the said common areas and the said common improvements and other facilities contained therein, and of administering and enforcing the said covenants, restrictions, easements and liens; and

WHEREAS the Developer desires to reserve the right, to be exercised at the Developer's sole discretion,

such dwellings as on the date hereof or at any time hereafter may exist upon any of the said residential lots), and all of the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging or in any way appertaining (all of which tract, residential lots and common areas comprising the same, improvements and appurtenances are hereinafter referred to collectively as "Parcel I"),

SUBJECT TO the operation and effect of any and all instruments which shall have been recorded among the said Land Records prior to the recordation thereamong of this Declaration,

UPON THE TERMS and subject to the conditions which are hereinafter set forth:

Section 1. Name.

The Community shall be known as "MARINE OAKS VILLAGE".

Section 2. Lots and Commons.

(a) The Community shall be comprised of (i) residential lots (each of which is hereinafter referred to as a "Lot"), and (ii) common areas (all of which are hereinafter referred to collectively as "the Commons").

(b) Lots.

(i) So long as the Community shall not have been expanded pursuant to the provisions of Section 6 hereof, but shall instead consist only of Parcel I, there shall be sixty-four (64) Lots, consisting of all of those residential lots which are enumerated in Exhibit B hereto, as aforesaid.

(ii) Upon any expansion of the Community pursuant to the provisions of Section 6 hereof, there shall be added to the Lots which are referred to in the foregoing provisions of this subsection those residential lots into

which the land thereby added to and incorporated into the Community shall have been subdivided, as set forth on such subdivision plat or plats as shall have been recorded among the said Land Records to effectuate the same, and as designated as Lots in the amendatory instrument by which, pursuant to the provisions of Section 6(b) hereof, such expansion shall be effected, and thereafter each of the said residential lots shall constitute a Lot for purposes of this Declaration.

(iii) Each of the Lots shall have, and for purposes of this Declaration shall be known by, a number corresponding to the number which is shown with respect to such Lot on the Community Plat.

(c) Commons.

The Commons shall consist of all of the land contained within the Community and not included within any Lot, together with the improvements thereon (including, by way of example rather than of limitation, any and all of the following improvements which from time to time hereafter may exist upon such land: any and all streets, roadways, sidewalks, curbs, utility lines or other facilities, buildings, fencing, swimming pools, marina facilities, tennis courts, and playgrounds).

(d) (i) Each Lot shall have the benefit of an easement for the lateral support of the improvements which from time to time shall exist thereon, which easement shall burden the Commons and each Lot which is contiguous to the first said Lot.

(ii) (A) Without limiting the generality of the foregoing provisions of this subsection, each and every wall or fence, a portion of the thickness of which is included within a Lot and the balance of the thickness of which is included within a Lot which is contiguous to the

first said Lot, and which therefore constitutes a party wall or party fence, shall be used and enjoyed as such by the Owners of such Lots jointly with each other, and each such Lot shall have the benefit of, and shall be burdened with, a reciprocal easement for the support and maintenance of such party wall or fence in accordance with the provisions of this paragraph (ii).

(B) Subject to the operation and effect of the following provisions of this paragraph (ii), the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

(C) Should any such party wall or fence be deliberately or negligently damaged or destroyed by the act or omission of one (but not both) of such Owners (or by the agent, employee, invitee, family member, visitor or guest thereof), it shall promptly thereafter be repaired by, and at the sole expense of, such Owner.

(D) Should any such party wall or fence be damaged or destroyed in any other manner, or should such party wall or fence otherwise require maintenance, it shall be repaired at the joint expense of such Owners.

(E) Should either surface of any such party wall at any time be exposed to the elements, the Owner of the Lot on which such surface of such party wall shall stand shall promptly, and at his sole expense, take such action as shall reasonably be necessary to protect such surface against such elements.

Section 3. Membership and Voting Rights in the Association.

(a) Each person who, either alone or in combination with one or more other persons, shall constitute an Owner (as that term is defined by the provisions of Section

9 hereof) including, by way of example rather than of limitation, the Developer during such times as the Developer shall be an Owner, shall, by virtue of such person's status as such, automatically be a member of the Association (each member of which being hereinafter referred to as a "Member", and all of the members of which being hereinafter referred to collectively as "the Membership").

(b) (i) During the period which is referred to in the provisions of subsection (d) of this Section (hereinafter referred to as "the Conversion Period"), the Membership shall be comprised of the Class A Membership and the Class B Membership:

(A) the Class A Membership shall consist of all of the Members other than the Developer; and

(B) the Class B Membership shall consist of the Developer.

(ii) Following the expiration of the Conversion Period, the Membership shall be all of one class, consisting of all of the Members (including by way of example rather than of limitation, the Developer during such times as it shall be a Member).

(c) (i) During the Conversion Period each Class A Member, and thereafter each Member,

(A) who alone shall be the Owner of a Lot shall be entitled to cast one (1) vote in the affairs of the Association for each such Lot; or

(B) who, in combination with one or more other persons, shall be the Owner of a Lot shall, jointly

with such other persons, be entitled to cast one (1) vote in the affairs of the Association for each such Lot. Such vote shall be exercised as such persons shall determine among themselves, provided that in no event shall such persons be entitled to cast with respect to any such Lot more than one (1) vote in the affairs of the Association.

(ii) During the Conversion Period the Developer shall as the Class B Member be entitled to cast four (4) votes in the affairs of the Association for each Lot of which it shall be the Owner.

(d) (i) The Conversion Period shall consist of that period commencing upon the date of the recordation of this Declaration among the said Land Records, and terminating upon the earliest to occur of (A) the conveyance by the Developer of the legal title to that number of Lots which is determined in accordance with the following provisions of this subsection; (B) the expiration of a period of that number of months immediately following the date of such recordation which is determined in accordance with such provisions; (C) the Developer's termination thereof pursuant to the provisions of paragraph (v) of this subsection; and (D) the fifth (5th) anniversary of the date of the recordation of this Declaration among the said Land Records.

(ii) So long as the Community shall not have been expanded pursuant to the provisions of Section 6 hereof, but shall instead consist only of Parcel I, the number of Lots referred to in the foregoing provisions of this subsection shall be sixty-four (64) and the number of months referred to therein shall be thirty-six (36).

(iii) Should there occur any one or more expansions of the Community pursuant to the provisions of

Section 6 hereof prior to the expiration of the Conversion Period as determined in accordance with the foregoing provisions of this subsection (and as extended in accordance with the provisions of this Section 3(d)(iii) as a result of any prior such expansion or expansions), for each of the Additional Parcels (as that term is defined by the provisions of Section 6(a) hereof) which is thereby incorporated within the Community the number of Lots which is referred to in the provisions of Section 3(d)(ii) hereof shall be increased by the number of Lots which are thereby added to the Community, and the number of months which is referred to therein shall be increased by twelve (12).

(iv) Anything contained in the provisions of paragraphs (ii) and (iii) of this subsection to the contrary notwithstanding (but without limiting the operation and effect of the provisions of paragraph (i)(D) of this subsection, providing for the termination of the Conversion Period by no later than the fifth (5th) anniversary of the date of the recordation of this Declaration among the said Land Records), any period of months or years, the length of which is established by reference to such provisions, shall automatically and without the necessity of further action by the Developer or by any other person be extended for a time equal to any period during which the Developer or any contractor, subcontractor, broker or agent being utilized in connection with the Developer's development, construction or marketing of all or any portion of the Community shall be delayed in commencing, continuing or completing the same by

reason of (A) any strike, lock-out or other labor troubles, (B) any governmental restrictions or limitations, (C) any inability to obtain sufficient labor or materials at substantially the levels of wages and prices existing on the date hereof, (D) any failure or shortage of electrical power, gas, water, fuel oil, or other utility or service, (E) any riot, war, insurrection or other national or local emergency, (F) any accident, flood, fire or other casualty, (G) any adverse weather condition, (H) any other act of God, or (I) any other cause similar or dissimilar to any of the foregoing and beyond the reasonable control of the Developer or its said contractor, subcontractor, broker or agent; provided, that the Developer shall be entitled expressly to waive from time to time, by written notice to the Association, the Developer's right to any such extension, in which event such extension shall not occur.

(v) Anything contained in the foregoing provisions of this Section to the contrary notwithstanding, the Developer shall be entitled to terminate the Conversion Period at any time prior to the termination thereof pursuant to the foregoing provisions of this subsection hereof by executing, ensealing, acknowledging and recording among the said Land Records an instrument expressly providing to such effect and making specific reference to this paragraph.

Section 4. Ownership of, and Rights in, the Commons.

(a) Ownership of the Commons.

(i) The Developer shall not at any time hereafter convey to any person other than the Association either the legal title to, or any easement, leasehold or other right of use or enjoyment in, the Commons or any portion thereof without the express written consent thereto of the Association and each of the Owners; provided, that anything contained in the foregoing provisions of this subsection to the contrary notwithstanding, for so long hereafter as the Developer shall continue to hold the legal title to the Commons or to the applicable portions thereof, the Developer shall not be prohibited by the said provisions from making any of the conveyances which are enumerated in the provisions of Section 4(a)(vi) hereof.

(ii) Subject to the operation and effect of the provisions of paragraph (iii) of this subsection, the Developer shall be entitled

(A) to convey to the Association the legal title to the Commons or any portion thereof at any time hereafter; and/or

(B) to retain the legal title to all or any portion of the Commons until such time as the Developer shall have completed any improvements which the Developer shall intend to make to the same, or until such earlier or later time as, in the judgment of the Developer, the Association shall be able to maintain the same in accordance with the provisions of this Declaration.

(iii) Anything contained in the foregoing provisions of this subsection to the contrary notwithstanding, the Developer shall

(A) convey to the Association the legal title to that portion of the Commons lying within Parcel I by not later than _____, 19____, and

(B) convey to the Association the legal title to any portion of the Commons as shall lie within any Additional Parcel or portion thereof which shall have been added to and incorporated within the Community pursuant to the provisions of Section 6 hereof, within two (2) years after such expansion of the Community shall have occurred.

(iv) The title to the Commons which is to be conveyed to the Association pursuant to the foregoing provisions of this subsection shall be good and marketable and insurable at regular rates by a title insurer authorized to do business in Maryland, and shall be conveyed in fee simple by a deed containing covenants by the Developer that the Developer has done nothing to encumber such title and that the Developer will give such further assurances of the same as may be requisite, all subject to and only to the operation and effect of

(A) any and all instruments which shall have been recorded among the said Land Records prior to the recordation thereamong of this Declaration; and

(B) any and all instruments which shall have been executed and delivered by the Developer pursuant to the provisions of Section 4(a)(vi) hereof, and which shall have been recorded among the said Land Records prior to the recordation thereamong of the said deed.

(v) Following the conveyance by the Developer of the legal title to the Commons or any portion thereof, as aforesaid, the Association shall not convey to any person either the legal title to, or any easement, leasehold or other right of use or enjoyment in, the Commons or any portion thereof, without the express written consent thereto of each of the Owners; provided, that anything contained in the foregoing Provisions of this subsection to the contrary notwithstanding, the Association shall not be prohibited by the said provisions from making any of the conveyances which

are enumerated in the provisions of Section 4(a)(vi) hereof.

(vi) During such times as the Developer or the Association shall hold the legal title to the Commons or any portion thereof, it shall be entitled to make any one or more of the following types of conveyances of rights in and to any or all of the same:

(A) an express conveyance, to the Owner of any Lot, of such easements in and other rights with respect to the Commons as under the provisions of this Declaration are to be held by such Owner in his capacity as such (provided, that nothing in the foregoing provisions of this subparagraph shall be deemed in any respect to alter or impair an Owner's possession of such easements and other rights through the operation and effect of this Declaration, or to condition an Owner's possession of such easements and other rights upon his having been expressly conveyed the same);

(B) a grant, conveyance or dedication to any one or more public or quasi-public governmental bodies or authorities, of any of the licenses, easements and/or rights-of-way which are referred to in the provisions of Section 8 hereof;

(C) a grant or conveyance to the Developer, for the benefit of any or all of the Additional Parcels or any portion thereof, of an easement in, over and through such portions of the Commons as shall constitute the beds of any streets, roadways or sidewalks, as shown on the Community Plat, for ingress and egress over such streets, roadways and sidewalks, to and from such Additional Parcels or portions thereof (whether or not the same shall have been subjected to the operation and effect of this Declaration pursuant to the provisions of Section 6 hereof), from and to the public

streets, roadways and sidewalks which shall from time to time adjoin the Community;

(D) a grant or conveyance to the Developer, for the benefit of any or all of the Additional Parcels or any portion thereof, of an easement in, over and through the Commons for the installation, operation, maintenance, repair, replacement and use, for the benefit of such Additional Parcels or portions thereof (whether or not the same shall have been subjected to the operation and effect of this Declaration pursuant to the provisions of Section 6 hereof) of sanitary sewer lines, water mains, storm drains, gas lines, and electrical, telephone and cable television service lines, together with any facilities which are customarily attendant to the same, as well as any other similar utility lines and facilities;

(E) a grant of a Mortgage (as that term is defined by the provisions of Section 10 hereof) which the Developer or the Association shall be entitled to grant pursuant to the provisions of Section 4(b)(i) hereof;

(F) (1) a conveyance of the legal title to, or any interest in, all or any portion of the Commons to any governmental or quasi-governmental authority through the condemnation thereof or the exercise of any power of eminent domain with respect to the same, or (2) a conveyance of the same to or at the direction of such authority, made under threat of such condemnation or exercise, and in lieu thereof;

(G) any grant of a leasehold interest in, or of a license with respect to, all or any portion of the Commons to any person, for a term or period which shall terminate not later than three (3) years after the date of such grant.

(b) Rights of Control of the Commons.

Anything contained in the foregoing provi-

sions of this Section to the contrary notwithstanding,

(i) The Developer and the Association (acting in accordance with the provisions of the articles of incorporation and by-laws of the Association) shall be entitled to borrow money for the purpose of improving the Commons in accordance with the provisions of this Declaration, and to secure the repayment of the same by subjecting all or any portion of the Commons to which it shall then hold the legal title to the lien of a Mortgage, provided, that anything contained in the provisions of such Mortgage to the contrary notwithstanding, should there occur a default in the performance of the borrower's obligations under such Mortgage, the Mortgagee's remedies thereunder on account of such default shall, with respect to the land which shall be covered by such Mortgage, be limited to those of (A) taking possession of any or all of the same, (B) charging thereafter admission and/or other fees as a condition to the continued enjoyment thereof by the Members, and (C) if necessary (and if but only if such action shall not then be prohibited by applicable law with respect to zoning, or by any other applicable law), opening the enjoyment thereof to the general public or any segment thereof until the said debt shall have been satisfied.

(ii) The Developer or the Association, as the case may be, shall be entitled to take such steps as are reasonably necessary to protect such property against foreclosure under such Mortgage, including, by way of example rather than of limitation, that of opening the enjoyment thereof to the general public or any segment thereof until the debt secured by such Mortgage shall have been satisfied (if but only if such action shall not then be prohibited by applicable law with respect to zoning, or by any other applicable law).

(iii) The Association shall be entitled (in accordance with the articles of incorporation and by-laws of the Association) to suspend the right of any Member to use

and enjoy the Commons under the provisions of paragraph (v) of this subsection (but not under the provisions of paragraph (iv) of this subsection),

(A) for so long as such an Assessment, for the payment of which such Member shall be liable, shall remain unpaid, and

(B) for any period (not exceeding in length thirty (30) days plus the time during which such infraction shall continue) for any infraction of the rules and regulations which shall then be in effect pursuant to the provisions of paragraph (vi) of this subsection.

(iv) Each Lot shall have the benefit of a non-exclusive easement for the use of

(A) each and every main, duct, stack, raceway, wire, conduit, drain, pipe, meter or other device which shall be located within any one or more other Lots or within any of the Commons, and which shall be used in providing any utility or service to the first said Lot; and

(B) each and every street and sidewalk which shall from time to time constitute a portion of the Commons.

(v) Each Lot shall have the benefit of a non-exclusive easement for the use of all of the Commons (other than those portions thereof which are referred to in the provisions of paragraph (iv) of this subsection), provided that

(A) such use

(1) is in accordance with applicable law; and

(2) is in accordance with the provisions of this Declaration, the articles of incorporation and by-laws of the Association, and such rules and regulations as the Association may have adopted pursuant to the provisions of paragraph (vi) of this subsection; and

(B) any admission or other fee which the Association may then charge for such use shall have been paid.

(vi) The Association shall be entitled, in accordance with its articles of incorporation and by-laws,

(A) to adopt reasonable rules and regulations governing the use of the Commons or any portion thereof by Members and their family members and guests, and

(B) to charge reasonable admission and other fees for the use of the same (other than those portions of the Commons which are referred to in the provisions of paragraph (iv) of this subsection).

(vii) The Association shall maintain or cause to be maintained

(A) each street, roadway and sidewalk which from time to time shall be included within the Commons;

(B) each and every main, duct, stack, race-way, wire, conduit, drain, pipe, meter or other device which from time to time shall be included within the Commons and shall be subject to the easement which is created by the provisions of paragraph (iv) of this subsection; and

(C) the remainder of the Commons.

Section 5. Assessments.

(a) Right to Make Assessments.

The Association shall be entitled to obtain funds for payment of the Association's current expenses and for the creation of reserves for the payment of its future expenses by making assessments (hereinafter referred to individually as an "Assessment" and collectively as "Assessments") against the Owners and their respective Lots, all upon the terms and for the purposes, and subject to the conditions, which are set forth in the provisions of the articles of incorporation and by-laws of the Association, and of this Declaration.

(b) Procedure for Making Assessments.

Any determination by the Association so to assess the Owners and, if the Association shall make such determination, the respective amounts of the Assessments made against the respective Owners shall be duly made in accordance with the provisions of the articles of incorporation and by-laws of the Association, subject to the opera-

tion and effect of the following provisions of this subsection:

(i) Classes of Assessments. The Assessments shall consist of annual Assessments (hereinafter referred to as "Annual Assessments") and special Assessments (hereinafter referred to collectively as "Special Assessments").

(ii) Period of Assessments.

(A) Each Assessment shall be made with respect to one of those periods of one year (each of which is hereinafter referred to as an "Assessment Year") which shall be co-extensive with the fiscal years of the Association. An Assessment Year shall commence on the first (1st) day of May during each year or portion thereof during which this Declaration shall remain in effect, and shall terminate on the thirtieth (30th) day of April next following the date of such commencement; provided, that anything in the foregoing provisions of this subparagraph to the contrary notwithstanding, the initial Assessment Year shall commence upon the date of the recordation of this Declaration among the said Land Records, and shall terminate on the thirtieth (30th) day of April next succeeding the said date.

(B) Not more than one (1) Annual Assessment shall be made with respect to a Lot for any Assessment Year.

(iii) Allocation of Assessments Among Lots.

The respective amounts of the Annual Assessments and any Special Assessments made for an Assessment Year,

(A) with respect to each of the Lots

shall be in equal amounts; provided that

(B) if at any time during an Assessment Year a Lot shall be subjected to the operation and effect of this Declaration as the result of an expansion of the Community pursuant to the provisions of Section 6 hereof, the Association shall be deemed, automatically and without the necessity of further action by the Association, to have made an Annual Assessment with respect to such Lot for such Assessment Year and (if the Association shall have made a Special Assessment with respect to the Lots for such Assessment Year) to have made such Special Assessment with respect to such Lot for such Assessment Year, and the respective amounts of such Annual Assessment and Special Assessment shall be determined in accordance with the foregoing provisions of this paragraph (iii) as if such Lot were subject to the operation and effect of this Declaration at the date of commencement of such Assessment Year; provided, that the amount of such Annual Assess-

ment (but not of any such Special Assessment) shall be reduced to a fraction thereof, the numerator of which shall be the number of days remaining in such Assessment Year as of the date of such expansion, as aforesaid, and the denominator of which shall be three hundred sixty-five (365).

(iv) Assessments to be Universally Imposed.

No Assessment shall be made for an Assessment Year with respect to one Lot unless an Assessment shall have been made for such Assessment Year with respect to each Lot, in the respective amount which shall have been determined in accordance with the provisions of paragraph (iii) hereof.

(v) Limitations Upon Assessments.

(A) Without Approval by the Membership.

The Association shall be entitled, upon resolution of its board of directors, and without the necessity of obtaining any approval thereof by the Membership,

(1) to impose with respect to each Lot, for the initial Assessment Year, an Annual Assessment in an amount which is not in excess of _____ Dollars (\$ _____); and

(2) to impose with respect to each Lot, for each Assessment Year thereafter, an Annual Assessment which is not in excess of the total of (i) the sum which is specified in the foregoing provisions of this paragraph (iv), plus (ii) ten percent (10%) of the said sum for each Assessment Year which shall have elapsed prior to the Assessment Year for which such Annual Assessment shall be made.

(B) With Approval by the Membership.

The Association shall be entitled, upon resolution of its board of directors, and upon and only upon the approval of

Members having at least two-thirds (2/3) of the Votes held by those Members who shall be present and voting thereon at a meeting of the Membership which shall have been duly called to consider such question, all in accordance with the articles of incorporation and the by-laws of the Association (provided, that anything contained in the articles of incorporation or the by-laws of the Association to the contrary notwithstanding, each Member shall have been given notice of such meeting by not later than fifteen (15) days prior to the date thereof),

(1) to impose with respect to each Lot for an Assessment Year an Annual Assessment which is in excess of the maximum sum which the Association shall be entitled to impose for such Assessment Year pursuant to the provisions of subparagraph (A) of this paragraph (iv); and/or

(2) (in addition to the Annual Assessment which the Association shall be entitled to impose with respect to each Lot pursuant to the provisions of subparagraph (A) or (B) of this paragraph (iv)), to impose with respect to each Lot for an Assessment Year a Special Assessment, the proceeds of which shall be used to defray in whole or in part the cost of the construction, reconstruction, repair or replacement of any improvement upon the Commons and/or any fixtures and personal property related thereto which cost the Association shall have duly determined to incur, provided that such improvement shall have been specified in both the said notice as given to the Members, and in the said resolution of the board of directors.

(vi) Adoption by Board of Directors; Notice of Assessment; When Assessments become Due and Payable.

(A) By no later than sixty (60) days

prior to the commencement of an Assessment Year, the board of directors of the Association shall adopt a budget for the Association for such Assessment Year, which budget shall set forth the aggregate amount of the Annual Assessments to be made against the Owners for such Assessment Year, and shall set forth the respective amount of each such Annual Assessment, as determined in accordance with the foregoing provisions of this Section. The board of directors shall cause a copy of such budget to be provided to each Owner at its Notice Address (as that term is defined by the provisions of Section 9(k) hereof) by no later than forty-five (45) days prior to the commencement of such Assessment Year.

(B) If the respective amount of such Annual Assessment for each Lot shall not exceed the maximum respective amount thereof which the Association shall be entitled pursuant to the provisions of Section 5(b) (v) (A) hereof to impose with respect to each Lot upon resolution of its board of directors alone, such Annual Assessments (or the initial installment thereof, if the Association shall have determined pursuant to the provisions of Section 5(b) (vii) hereof to permit the payment thereof in installments) shall become due and payable upon the first (1st) day of such Assessment Year, without the necessity of further action by the Association.

(C) If the respective amount of the Annual Assessment for each Lot shall exceed the maximum respective amount thereof which the Association shall be entitled pursuant to the provisions of Section 5(b) (v) (A) hereof to impose with respect to each Lot upon resolution of its board of directors alone, as aforesaid, such Annual Assessments (or the initial installment thereof, if the Association shall have determined pursuant to the provisions

of Section 5(b) (vii) hereof to permit the payment thereof in installments) shall become due and payable upon the later to occur of

(1) the first (1st) day of such Assessment Year, and

(2) the fifth (5th) day after the imposition of such Annual Assessment with respect to each Lot for such Assessment Year shall have been approved by the Membership in accordance with the provisions of Section 5(b) (v) (B) hereof.

(D) If the Association shall impose a Special Assessment with respect to each Lot for an Assessment Year, pursuant to the provisions of Section 5(b) (v) (B) hereof, such Special Assessment (or the initial installment thereof, if the Association shall have determined pursuant to the provisions of Section 5(b) (vii) hereof to permit the payment thereof in installments) shall become due and payable on the latest to occur of

(1) the first (1st) day of such Assessment Year;

(2) the fifth (5th) day after the imposition of such Special Assessment with respect to each Lot for such Assessment Year shall have been approved by the Membership in accordance with the provisions of Section 5(b) (v) (B) hereof; or

(3) such later date as shall have been specified in the said resolution of the board of directors pursuant to which such Special Assessment shall have been imposed.

(E) Anything contained in the foregoing provisions of this paragraph (iv) to the contrary notwithstanding, if at any time during an Assessment Year a Lot

shall be subjected to the operation and effect of this Declaration as the result of an expansion of the Community pursuant to the provisions of Section 6 hereof, any Annual Assessment or Special Assessment which, pursuant to the provisions of Section 5(b)(iii)(C) hereof, shall be imposed with respect to such Lot shall become due and payable upon the later to occur of

(1) the date upon which such Assessment would have become due and payable pursuant to the foregoing provisions of this paragraph (iv) were such Lot subject to the operation and effect of this Declaration at the date of the commencement of such Assessment Year, or

(2) the date upon which such Lot shall have been subjected to the operation and effect of this Declaration, as aforesaid.

(vii) Payment of Assessments in Installments.

The Association shall be entitled, upon resolution of its board of directors, to permit the Annual Assessments and/or Special Assessments made with respect to the Lots for any Assessment Year to be paid to the Association in monthly, quarterly or other installments in accordance with a schedule which shall be set forth in such resolution, in which event such Assessments shall be payable in such manner.

(c) Personal Liability of Owners for Assessments.

(i) Each Owner shall be personally liable for each Assessment (or each installment thereof, if the Association shall have determined pursuant to the provisions of Section 5(b)(vii) hereof to permit the payment thereof in installments) which shall become due with respect to a Lot while he is the Owner thereof. An Owner may not avoid such

liability by waiving any right to the use and enjoyment of the Commons or otherwise which such Owner may hold under the provisions of this Declaration or otherwise, or by abandoning or otherwise terminating his use and enjoyment of such Lot. An Owner may not terminate such liability by conveying to another person the title to his Lot.

(ii) An Owner shall not be personally liable for any Assessment (or any such installment thereof) which shall become due with respect to a Lot

(A) before he shall become the Owner thereof (notwithstanding that such Assessment shall constitute a lien upon the title to such Lot in the hands of such Owner, pursuant to the provisions of subsection (d) of this Section), or

(B) after he shall have ceased to be the Owner thereof.

(d) Lien of Assessment.

(i) Each Assessment which shall have been made with respect to a Lot shall constitute a lien upon the title to such Lot, from the time as of which such Assessment (or the initial installment thereof, if the Association shall have determined pursuant to the provisions of Section 5(b)(vii) hereof to permit the payment thereof in installments) shall first have become due, until such Assessment shall have been paid in full to the Association. Such lien may be enforced and foreclosed by the Association or by any other person specified for such purpose in the articles of incorporation or by-laws of the Association, in the same manner and subject to the same requirements as are specified by the law of Maryland for the foreclosure of mortgages or deeds of trust containing a power of sale or a consent to a decree, and covering real property situate and lying in the said County.

(e) Right of Association to Seek Recovery of Unpaid Assessments.

(i) The Association shall be entitled to recover in an action at law or in equity, from any person who shall be liable for the payment of an Assessment, the amount of any deficiency as a result of any foreclosure sale made pursuant to the provisions of subsection (d) of this Section, and shall be entitled to obtain, in an action at law or in equity, from any such person, a money judgment for any or all of any such Assessment for which such person shall be liable, all without waiving the lien of such Assessment which is set forth in the foregoing provisions of this subsection. In any such action the Association shall be entitled to recover, in addition to that portion of such Assessment for which such person shall then be liable, the full amount of any interest which shall have accrued thereon through the date of such recovery, and the full amount of any costs which the Association shall have incurred in obtaining such recovery (including, by way of example rather than of limitation, the cost of reasonable attorney's fees incurred in connection therewith).

(ii) Anything contained in the foregoing provisions of this subsection to the contrary notwithstanding, no such action or proceeding may be brought to foreclose upon the said lien or otherwise to recover all or any portion of any such Assessment,

(A) unless brought within the period of three (3) years immediately following the date upon which such Assessment (or the initial installment thereof, if the Association shall have so determined, as aforesaid) shall first have become due and payable, and

(B) unless a written notice of the Association's intention to initiate the same shall have been

given to both to the then-Owner of the Lot with respect to which such Assessment shall have been made, and to any person against whom any such action or proceeding is to be brought, by not later than ten (10) days prior to the date upon which such action or proceeding shall be initiated.

(f) Accrual of Interest on Unpaid Assessments.

Each Assessment (or each installment thereof, if the Association shall have determined pursuant to the provisions of Section 5(b)(vii) hereof to permit the payment thereof in installments) shall bear interest on the unpaid balance thereof from the thirtieth (30th) day after the date upon which the same shall first become due and payable, until paid, at the lesser of (i) the rate of twelve percent (12%) per annum, or (ii) the highest rate of interest per annum which shall from time to time be permitted by applicable law to be charged with respect to the same.

(g) Certificate as to Payment or Non-Payment of Assessments.

The Association shall, upon written request at any time by any person who shall have any liability for an Assessment or any installment thereof, or shall have any interest in a Lot which shall be subject to the lien of such Assessment, deliver to such person (or to any other person designated by such request to receive such delivery) a certificate in writing signed by an officer of the Association, setting forth whether such Assessment or installment thereof shall have been paid. Any such certificate so delivered shall be conclusive evidence of the payment of any Assessment or installment thereof which shall therein be stated to have been paid.

(h) Priority of Lien of Assessment.

The lien of an Assessment shall be subordinate to the lien of any Mortgage covering the Lot with

respect to which such Assessment shall have been made, if and only if such Mortgage shall have been recorded among the said Land Records prior to the date upon which such Assessment (or the initial installment thereof, if the Association shall have determined pursuant to the provisions of Section 5(b) (vii) hereof to permit the payment thereof in installments) shall first have become due and payable, as determined in accordance with the foregoing provisions of this Section.

- (i) Portions of the Community which shall be Exempt from the Assessment.

Anything contained in the foregoing provisions of this Section to the contrary notwithstanding, the following portions of the Community shall not be subject to the lien of any Assessment:

(i) any land, to the extent of any easement or other interest therein held by any governmental or quasi-governmental authority, and devoted to public use;

(ii) all of the Commons; and

(iii) any land, to the extent of any interest therein which shall have been exempted from real property taxation by the law of Maryland, upon the terms and to the extent of such exemption.

Section 6. Expansion of the Community.

(a) The Developer hereby reserves, for a period of seven (7) years immediately following the date of the recordation of this Declaration among the said Land Records, the right (which shall be exercisable at the sole discretion of the Developer, but only in accordance with the provisions of this Section) to expand the Community by subjecting to the operation and effect of this Declaration, and by thereby adding to and incorporating within the Community, all or any portion or portions of any one or more of those tracts of

land, situate and lying in the said County, which are designated on the Community Plat as Parcels II through IV, respectively, and are more particularly described in Exhibit D-1 through D-3 hereto, respectively, together with all of the respective improvements thereon and all of the respective rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging or in any way appertaining (which tracts, together with the said respective improvements and appurtenances, are hereinafter referred to as "Parcel II" through "Parcel IV", respectively, and are hereinafter sometimes collectively referred to as "the Additional Parcels", and all of which Additional Parcels, together with Parcel I, are hereinafter sometimes referred to singularly as a "Parcel", and plurally as "Parcels").

(b) Any such expansion shall be accomplished by, and shall be and become effective upon and only upon, the amendment of this Declaration by the recordation of an appropriate amendatory instrument among the said Land Records, which instrument

(i) shall set forth a legal description of the Additional Parcel or portion thereof being added to and incorporated within the Community; and

(ii) shall, if such Additional Parcel or portion thereof shall have been subdivided into residential lots and open spaces in accordance with the applicable laws and regulations governing the subdivision of land in the said County,

(A) describe the said residential lots and open spaces by reference to them as designated on the plat or plats which, pursuant to the said laws and regulations, shall have been recorded among the said Land Records in connection with such subdivision, and

(B) designate each of the said residential lots as a Lot and the remainder of the said Additional Parcel or portion thereof as part of the Commons, for purposes of this Déclaration; and

(iii) shall subject the same to the operation and effect of this Declaration.

(c) (i) Except to the extent that the form and contents of any amendatory instrument or subdivision plat which is to be recorded among the said Land Records pursuant to the foregoing provisions of this Section shall be dictated by applicable law, such form and contents shall be determined upon by the Developer in the exercise of its sole discretion, and neither the effectiveness of any such expansion nor the effectiveness of the execution, ensealment, acknowledgment, delivery or recordation of any such amendatory instrument or subdivision plat shall be conditioned upon there having been given any consent thereto, or upon there having occurred any joinder therein or execution thereof, by any person (including, by way of example rather than of limitation, the Association or any Owner) other than the Developer. The Developer shall be entitled to execute, enseal, acknowledge, deliver and/or record any such amendatory instrument or subdivision plat, and/or to take any other action with respect thereto, all if and to the extent that such action shall, in the opinion of the Developer's legal counsel, be necessary or desirable in order to effectuate the provisions of this Section.

(ii) Without limiting the generality of the foregoing provisions of this subsection, the Developer shall be entitled by the provisions of any such amendatory instrument or subdivision plat, or prior to the conveyance at any time thereafter to the Association of such land, if any,

as shall be added to the Commons as a result of such expansion, to reserve for the benefit of any or all of the Additional Parcels or any portion thereof (regardless of whether the same shall have been subjected to the operation and effect of this Declaration pursuant to the provisions of this Section) such easement rights of the type set forth in the provisions of Section 4(a)(vi)(C) and (D) hereof as the Developer shall determine upon in the exercise of its sole discretion, without the necessity of any joinder therein by the Developer or by any other person.

(d) Upon any such expansion of the Community as aforesaid, each Additional Parcel or portion thereof which is thereby subjected to the operation and effect of this Declaration and incorporated within the Community shall be and thereafter remain subject to the operation and effect of the provisions of this Declaration, to the same extent as if it had been so subjected and incorporated at this time.

Section 7. The Developer's Construction, Marketing and Sales Activities.

(a) The Developer shall have, and hereby reserves, an easement for ingress and egress in, over and through the Commons (including, by way of example rather than of limita-

tion, so much of the Commons as shall lie within any of the Additional Parcels which, at the time of any exercise of such easement, shall have been incorporated within the Community), to and from each of the public streets and roadways which at the time of the exercise of such easement shall abut the Community, from and to each of the Parcels (regardless of whether, at the time of any exercise of such easement, such Parcel shall have been incorporated within the Community), for access by

(i) the Developer, for any purpose whatsoever consistent with applicable law in connection with the construction, development, marketing or leasing of all or any portion or portions of the improvements within any of the Parcels (and, as to any of the Additional Parcels, whether or not so incorporated at the time of any such exercise);

(ii) any contractor or subcontractor utilized by the Developer in the construction of any of the improvements which are being or are to be constructed within any of the Parcels (and, as to any of the Additional Parcels, whether or not so incorporated at the time of any such exercise), for the purpose of such construction;

(iii) any real estate agent or broker utilized or employed by the Developer in connection with the development, marketing or leasing of any of the Lots (or any of the areas which, by virtue of an expansion of the Community pursuant to the provisions of Section 6 hereof, would become Lots), for the purposes of such development, marketing or leasing; and

(iv) the agents, employees, invitees, licensees, visitors, designees and guests of each of the persons or entities referred to in the foregoing provisions of this Section, for any purpose attendant or related to any of the purposes which are referred to in the said provisions.

(b) The burden of the easement which is reserved under the foregoing provisions of this Section shall not terminate with respect to any of the Parcels until the benefit of such easement shall have terminated with respect to all of the Parcels pursuant to the provisions of Section 7(c) hereof, at which time the burden of such easement shall terminate with respect to all of the Parcels; provided, that the burden of such easement shall, with respect to each Lot, terminate immediately upon there having occurred the conveyance or transfer by the Developer (to a person who, by virtue of such conveyance, shall become the Owner with respect to such Lot and who shall not have succeeded to the Developer's right, title and interest under this Declaration) of both the legal title to such Lot and the beneficial ownership thereof.

(c) The benefit of the easement reserved under the foregoing provisions of this Section shall terminate

(i) with respect to any portion of the Additional Parcels which shall not have been subjected to the operation and effect of this Declaration (and thereby added to and incorporated within the Community) prior to the expiration of a period of seven (7) years immediately following the date of the recordation of this Declaration among the said Land Records, upon the expiration of the said period;

(ii) with respect to so much of the Parcels as shall have been subjected to the operation and effect of this Declaration prior to the expiration of the said period, upon the later to occur of

(A) the completion of the construction of the improvements which are being, or are to be, constructed by the Developer within such portions of the Parcels as shall have been so subjected, as aforesaid, and

(B) the conveyance by the Developer (to a person who, by virtue of such conveyance, shall become the Owner of such Lot and who shall not have succeeded to the Developer's right, title and interest under this Declaration), of the legal title to such Lot.

(d) In addition to the easement reserved under the foregoing provisions of this Section, the Developer and the other persons which are enumerated therein shall be entitled to use and maintain the improvements upon any one or more of the Lots as to which the Developer shall then be the Owner, as an office or offices, or as a sample unit or sample units, in connection with the Developer's development, construction, marketing or leasing of any or all of the Lots then included within the Community (and any one or more of the said areas located within any of the Additional Parcels which, at the time of any such use and maintenance, shall not have been subjected to the operation and effect of this Declaration and thereby incorporated within the Community), which right may be exercised by the Developer until the Developer shall no longer hold the legal title to any Lot (or to any such area); provided, that upon the expiration of a period of seven (7) years immediately following the date of the recordation of this Declaration among the said Land Records, the Developer shall no longer be entitled to use and maintain any of the Lots within the Community in connection with the Developer's development, construction, marketing or leasing of any of the improvements which shall be located within any of the Additional Parcels which then shall not have been subjected to the operation and effect of this Declaration, as aforesaid, and thereby added to and incorporated within the Community.

(e) Nothing in the provisions of this Declaration shall be deemed to prohibit or restrict the Developer from taking any action with respect to any Lot of which the Developer shall then be the Owner (including, by way of example rather than of limitation, the leasing of such Lot) other than would, in the same manner, limit or restrict any other person, were he the Owner of such Lot.

Section 8. Conveyance or Dedication of Utility Easements.

(a) The Developer, for so long as it shall hold the legal title to the Commons, and thereafter the Association shall be entitled, in accordance with the provisions of its articles of incorporation and by-laws

(i) to grant, convey or dedicate

(A) to any one or more public or quasi-public governmental bodies or authorities, or to any one or more public utility companies or authorities, one or more such licenses, easements and/or rights-of-way in, over and through the Commons for the construction, installation, use, operation, maintenance, repair and replacement of any and all sanitary, sedimentary control or storm sewer lines, drains, culverts, ponds or pumping stations; water lines, mains or pumping stations; electrical lines or cables; telephone or television lines or cables; gas lines or mains; and any other similar facilities, for similar or other purposes, all as the Developer or the Association, as the case may be, shall consider necessary or appropriate in connection with the provision of any utility or utility service to any of the Parcels (and/or to any of the Additional Parcels, regardless of whether some or all of the same which are to be benefited by such grant, conveyance or dedication shall at such time have been included within the Community by virtue of an expansion thereof pursuant to the provisions of Section 6 hereof), and

(B) to the said County or to any other governmental body having jurisdiction over the Community, any of the streets, roadways and accompanying sidewalks which then form part of the Commons; and

(ii) in connection therewith, to execute, en- seal, acknowledge, deliver and record any and all instru- ments, the execution, ensealment, acknowledgment, delivery or recordation of which by or on behalf of the Developer or the Association, as the case may be, shall be deemed neces- sary or appropriate by it in order to effectuate the provi- sions of this Section or to exercise any of the said rights and powers.

(b) Anything contained in the foregoing provi- sions of this Section to the contrary notwithstanding, no such grant, conveyance or dedication shall be made

(i) unless the entity to which the same is to be made shall have agreed with, or shall have provided reasonable assurances to, the Developer or the Association, as the case may be, in a bona fide manner that it thereafter will operate and maintain the same for the use and enjoyment by the Owners, together with the use and enjoyment thereof by any other members of the general public who may thereafter be entitled to use and enjoy the same; and

(ii) unless written notice of the proposed action shall have been sent to every Member by not later than ninety (90) days prior to the taking of such action by the Association, and unless thereafter the question of the taking of such action shall have been submitted to the Membership and shall have been approved by Members entitled to cast two-thirds (2/3) of the votes of each class of the Member- ship, in the manner specified for such approvals in the arti- cles of incorporation and by-laws of the Association.

Section 9. General.

(a) Effectiveness. This Declaration shall be and become effective upon and only upon the full and complete execution, ensealment and acknowledgment thereof by the Developer, and the recordation thereof among the said Land Records.

(b) Assignment.

(i) Nothing in any of the provisions of this Declaration shall be deemed in any way to alter or impair the right of the Developer to assign or otherwise to transfer, at any time and from time to time, any or all of its right, title and interest hereunder to any person. Each and every reference herein to "the Developer" shall be deemed to refer both to the person which is hereinabove named as such, and to its successors and assigns in interest hereunder.

(ii) Without limiting the generality of the foregoing provisions of this subsection, the Developer shall be entitled at any time hereafter to assign, to and only to a person who shall have succeeded to the Developer's interest as the Developer under this Declaration, the Developer's right, title and interest under the provisions of Sections 4 and 6 hereof (in which event the assignee thereof shall be deemed for all purposes of such provisions to be "the Developer", as that term is used herein), provided that such assignment shall be effected by an instrument which shall be executed, ensealed, acknowledged and delivered by the Developer and by any such assignee, shall be recorded among the said Land Records, and shall make specific reference to this subsection.

(iii) The Developer shall be entitled at any time and from time to time hereafter to permit any or all of the rights which may then be held by the Developer under the provisions of this Declaration to be exercised on the Devel-

oper's behalf by any officer, director, employee or other agent of the Developer.

(c) Amendment.

(i) Except as is otherwise provided herein, this Declaration may be amended with and only with the express written consent thereto of each person who shall then be an Owner or a Mortgagee (as such term is defined in the provisions of Section 10 hereof).

(ii) Anything contained in the foregoing provisions of this subsection to the contrary notwithstanding, the dates of commencement and termination of the Assessment Years, and/or the maximum amount of the Annual Assessment which may be imposed without the approval of the Membership (all as set forth in the provisions of Section 5 hereof), may be amended with the express written consent thereto of at least two-thirds (2/3) of the Owners and of the respective Mortgagees of such Owners' Lots.

(iii) Any such amendment shall be and become effective upon and only upon the recordation of an appropriate amendatory instrument among the said Land Records, which instrument shall have been executed, ensealed and acknowledged by or on behalf of such number of Owners and Mortgagees as shall be required by the foregoing provisions of this subsection to give their consent to such amendment for such amendment to be effective.

(d) Waiver. The Developer shall not be deemed to have waived the exercise of any right which the Developer may hold hereunder unless such waiver is made either expressly and in writing or pursuant to other provisions of this Declaration (and, without limiting the generality of the foregoing, no delay or omission by the Developer in

exercising any such right shall be deemed to constitute a waiver of the exercise thereof). No such waiver made with respect to one or more instances involving the exercise of any such right shall be deemed to constitute a waiver with respect to other instances involving the exercise of such right, or with respect to other such rights.

(e) Applicable Law. This Declaration shall be given effect, and shall be construed, by the application of the law of Maryland, and any action, suit or proceeding arising hereunder shall be brought in the courts of Maryland; provided, that if any such action, suit or proceeding shall be based upon a cause of action, right or remedy created or existing under or by virtue of the Constitution, laws or treaties of the United States of America, or if there shall exist a diversity of citizenship between or among the parties thereto, so that such action, suit or proceeding shall be brought in a United States District Court, such action, suit or proceeding shall be brought in the United States District Court for the District of Maryland.

(f) Headings. The headings of the sections and subsections hereof are provided herein for and only for convenience of reference, and shall not be considered in construing the contents of such sections or subsections.

(g) Severability. No determination or adjudication by any court, governmental or administrative body or agency or otherwise that any provision of this Declaration or of any amendment hereto is invalid or unenforceable in any instance shall affect the validity or the enforceability (i) of any other provision of this Declaration, of such amendment or of any other such amendment or (ii) of such provision in any other instance which is neither within the

jurisdiction of such court, body or agency nor controlled by its said determination or adjudication. Each and every provision hereof and of each such amendment shall be and remain valid and enforceable to the fullest extent allowed by law, and shall be construed wherever possible as being consistent with applicable law.

(h) Construction.

As used herein,

(i) the term "person" shall be deemed to mean a natural person, a trustee, a corporation, a partnership and any other form of legal entity;

(ii) all references made herein in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders;

(iii) all references made herein in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well; and

(iv) the term "Owner" shall be deemed to refer to and only to any person or combination of persons (including, by way of example rather than of limitation, the Developer) who shall hold the legal title to a Lot under a deed or other instrument which shall have been recorded among the said Land Records at the time with respect to which such reference shall be made; provided, that where the said legal title to a Lot shall be encumbered by a Mortgage (as that term is defined by the provisions of Section 10 hereof), the term "Owner" shall not, merely by virtue of such Mortgage, be deemed to refer to the Mortgagee (as that term is defined by the said provisions) with respect to such Mortgage, but shall instead be deemed to refer to such person or combination of persons who shall hold the legal title thereto or equity of redemption thereunder, subject to the lien of such Mortgage, under a deed or other instrument which shall have been recorded, as aforesaid. Anything

contained in any of the provisions of this Declaration or of applicable law to the contrary notwithstanding, no person shall be deemed for purposes of this Declaration to be an Owner of a Lot prior to the full execution, acknowledgment and recordation among the said Land Records of a deed or other instrument conveying to such person the legal title to such Lot, notwithstanding that such person may have entered into an agreement of sale covering the sale of such Lot to such person by its Owner, and nothing in the provisions of this Declaration shall be deemed in any way to condition the effectiveness of any action upon there having been obtained the consent by such person thereto or his joinder therein, in any situation in which such effectiveness may be conditioned upon the consent thereto of the Owner of such Lot, or upon such Owner's joinder therein.

(i) Exhibits. Each and every document, plat or other writing which is referred to herein as being attached hereto as an exhibit or is otherwise designated herein as an exhibit hereto is hereby made a part hereof.

(j) Covenants to Run with Land.

(i) The provisions of this Declaration shall conclusively be deemed to be covenants running with, benefiting and burdening the respective title to each Lot and to the Commons, together with the respective improvements thereon and appurtenances thereto, (A) for a period of forty (40) years commencing upon the date of the recordation of this Declaration among the said Land Records, and (B) thereafter automatically for successive periods of ten (10) years each unless prior to the commencement of any such period of ten (10) years an instrument by which the provisions of this Declaration shall be amended, or the operation and effect of this Declaration shall otherwise be modified or terminated

in whole or in part, shall have been executed, ensealed and acknowledged by at least two-thirds (2/3) of the Owners, and recorded among the said Land Records, in which event the provisions of this Declaration or the operation and effect thereof shall be amended, modified or terminated in accordance with the provisions of such instrument.

(ii) Should any Owner or other person fail to comply with any of such provisions, such failure shall give rise to a cause of action for the recovery of damages or for injunctive relief, or both, in the Developer, the Association and any other Owner, and their respective heirs, personal representatives, successors and assigns.

(iii) (A) Both (1) the Developer, by its delivery to the Association of a deed conveying to it the legal title to all or any portion of the Commons, and by its delivery to any person of a deed conveying to such person the legal title to a Lot, and (2) the Association or such person, respectively, by accepting such delivery, shall be deemed thereby to have agreed with each other and with each other Owner to be personally bound by the provisions of this Declaration (including, by way of example rather than of limitation, those by which during the Conversion Period the Members have granted proxies to the Developer, as aforesaid), and further to have agreed and covenanted with each other and with each other Owner that such provisions shall constitute covenants running with, benefiting and burdening the respective titles to the land thereby conveyed, as well as to so much of the land constituting the Community, the title to which shall then be held by the Developer, all as if all such persons shall have been parties to this Declaration for such purpose.

(B) The Developer may cause to be placed in any deed or other instrument by which the Developer shall convey to the Association or to any such person the legal title to the Commons or to a Lot, respectively, a provision substantially to the following effect:

The Grantee, by the Grantee's acceptance of the delivery of this instrument, expressly acknowledges and agrees with the Grantor that the Grantee, or its authorized representative acting on its behalf, has read and understands the provisions of the Declaration, that the Grantee hereby agrees with the Grantor to be personally bound by the provisions of the Declaration (including, by way of example rather than of limitation, those by which during the Conversion Period the Members have granted proxies to the Grantor), and that the Grantee hereby further agrees and covenants with the Grantor that such provisions shall constitute covenants running with, benefiting and burdening the title to the property hereby conveyed, all as if the Grantee shall have been a party to the Declaration.

(k) Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address (hereinafter referred to as such person's "Notice Address") of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 10. Mortgages.

(a) As used herein, the following terms shall be deemed to have the meanings which are hereinafter ascribed to them:

(i) "Mortgage" shall mean any mortgage or deed of trust encumbering any Lot, and any other security interest in any Lot which shall exist by virtue of any other form of security instrument or arrangement which may be used from time to time in the locality of the Community (including, by way of example rather than of limitation, any such other form of security arrangement which shall arise under any deed of trust, sale and leaseback documents, lease and leaseback documents, security deed or conditional deed, or any financing statement, security agreement or other documentation used pursuant to the provisions of the Uniform

Commercial Code or of any successor or similar statute), provided that such mortgage, deed of trust or other form of security instrument, and an instrument evidencing any such other form of security arrangement, shall have been recorded among the said Land Records.

(ii) "Mortgagee" shall mean the holder of any such mortgage, the beneficiary of any such deed of trust, and the party secured by any such other security interest or arrangement; provided, that such term shall not be deemed to refer to any person who shall have acquired the legal title to a Lot from a Mortgagee thereof, if the equity of redemption in such Lot of the Mortgagor thereunder shall have been extinguished.

(iii) "Mortgagee in Possession" shall mean a Mortgagee which shall have possession of a Lot as a result of a default under a Mortgage with respect to which such person is the Mortgagee, through a foreclosure proceeding thereunder or by virtue of any deed or other arrangement in lieu of a foreclosure proceeding thereunder.

(iv) "Mortgagor" shall mean the Owner of a Lot, the legal title to which shall be subject to the lien of a Mortgage.

(b) (i) Any Mortgagee in Possession shall have, in addition to its rights as a Mortgagee hereunder, all of the rights under the provisions of this Declaration, the articles of incorporation and by-laws of the Association, and applicable law which would otherwise be held by the Owner of any Lot as to which such Mortgagee shall be a Mortgagee in Possession, subject to the operation and effect of anything contained in its Mortgage to the contrary.

(ii) Any Mortgagee in Possession shall bear all of the obligations under the provisions of this Declara-

tion, the articles of incorporation and by-laws of the Association, and applicable law which are borne by the Owner of any Lot as to which such Mortgagee shall be a Mortgagee in Possession, except as may be otherwise set forth in the provisions of this Declaration, the articles of incorporation and by-laws of the Association, applicable law or its Mortgage. Nothing in the foregoing provisions of this Article shall be deemed in any way to relieve any Owner of any of such obligations, or of any liability to such Mortgagee in Possession on account of any failure by such Owner to satisfy any of the same.

(c) Any Mortgagee of a Lot shall be entitled to written notification by the Association of any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligations under the provisions of this Declaration which shall not have been cured within a period of thirty (30) days immediately following the commencement of such default, provided that such Mortgagee shall have notified the Association of its status as such, and shall have supplied the Association with the information with respect thereto which is required under the articles of incorporation and by-laws of the Association to be furnished to the Association, all in the manner which is set forth therein.

(d) Any Mortgagee in Possession shall be exempt from any right of first refusal or any similar restriction held by the Association, to and only to the extent that such right of first refusal or similar restriction shall arise under any of the provisions of this Declaration, the articles of incorporation and by-laws of the Association, or applicable law (as any of the same shall from time to time have been amended), it being the Developer's intention that nothing in the foregoing provisions of this subsection be deemed in any way to alter or impair the operation and

effect of any right of first refusal or similar restriction which at any time may be given by a Owner or by any other person to the Association or to any other person but which does not arise under any of the provisions of this Declaration, the articles of incorporation and by-laws of the Association, or applicable law.

(e) The lien held by a Mortgagee by virtue of a Mortgage covering a Lot shall be

(i) free of any claim or lien for any Assessment which shall have been made with respect to such Lot prior to the recordation of such Mortgage among the said Land Records (unless prior to such recordation a foreclosure or similar action or proceeding shall have been initiated at law or in equity in the Circuit Court for such County, seeking to enforce such lien), other than any claim for a pro rata share of such Assessment which shall result from any pro rata reallocation of such Assessment among all of the Lots, including such Lot; and

(ii) free of any such claim or lien arising during the period following such recordation of such Mortgage, and before the earlier to occur of (A) the extinguishment or other termination, by release, operation of the doctrine of merger, foreclosure or otherwise, of the lien of such Mortgage, or (B) such Mortgagee's having become a Mortgagee in Possession with respect to such Lot.

(f) Unless each first Mortgagee of each Lot which would be affected by such action shall have given their prior written approval thereof, the Association shall not by act or omission

(i) seek to abandon, partition, subdivide, encumber, sell or transfer the Commons (provided, that the granting of easements for utilities or for other purposes

consistent with the intended use of the Commons shall not be deemed to be a transfer, for purposes of the foregoing provisions of this Section), or

(ii) use any proceeds derived from hazard insurance, and paid to the Association on account of any damage to or destruction of any of the improvements included within the Commons; for other than the repair, replacement or reconstruction of such improvements, except to the extent and in the manner provided by the provisions of the articles of incorporation and by-laws of the Association in the case of substantial loss to the Commons.

(g) (i) A Mortgagee shall be entitled, upon request by the Association, and provided that such Mortgagee shall have notified the Association of its status as such and shall have supplied the Association with the information with respect thereto which is required under the articles of incorporation and by-laws of the Association to be furnished to the Association, all in the manner which is set forth therein,

(A) to inspect the books and records of the Association during normal business hours;

(B) to receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association; and

(C) to be furnished with written notice of all meetings of the Membership, and to designate a representative to attend all such meetings.

(ii) Should there occur any substantial damage to or destruction of any of the Commons, or if any of the Commons should be made the subject of any condemnation or eminent domain proceeding or the acquisition thereof should otherwise be sought by any condemning authority, any

Mortgagee shall, provided that it shall have provided the Association with the notice and information which are referred to in the foregoing provisions of this subsection, be entitled to timely written notice thereof.

(h) Anything contained in the provisions of Section 11(c)(i) hereof to the contrary notwithstanding, any first Mortgagee of a Lot as to which such Mortgagee shall be a Mortgagee in Possession shall be entitled to lease all or any portion of such Lot for any purpose consistent with applicable law, provided that such lease shall conform to the standards set forth in the provisions of Section 11(c)(ii) hereof.

(i) Anything contained in the provisions of Section 11(a) to the contrary notwithstanding, the Association shall not effectuate any decision by it both (i) to terminate any such management agreement as is referred to therein, and (ii) thereafter to assume or undertake the management of the Commons without utilizing or employing professional management services with respect to the same, without obtaining the prior written approval thereof of each first Mortgagee.

Section 11. Miscellaneous.

(a) Management Agreements. Any agreement which may be entered into by the Association under which any person is to provide management services for the Association with respect to the Commons

(i) shall expressly provide that the Association may, without having to obtain the consent of any other party thereto, terminate such agreement for cause at any time provided that the Association shall have given each other party thereto written notice of its intention so to terminate such agreement, by no later than thirty (30) days

prior to the date upon which such termination shall become effective;

(ii) shall be for a term not exceeding one (1) year in length; and

(iii) may provide for a renewal of such agreement from time to time by the agreement of the parties thereto, provided that no such renewal agreement or combination of renewal agreements shall be effective to bind the Association to such agreement for any period longer than one (1) year from the date of entry into such renewal agreement or combination of renewal agreements. To the extent that any such agreement shall not expressly so provide, it shall be deemed expressly so to provide.

(b) Fidelity Bonds. Each and every director, officer and employee of the Association, any manager of the Commons, and any director, partner, officer or employee of such manager, whose duties as such shall require him to handle or be responsible for funds of the Association or funds in the possession or control of the Association through any trust or other arrangement, shall prior to his commencement of such duties furnish the Association with a fidelity bond covering such person's said activities, in form and amount and with a corporate surety which are reasonable and appropriate under the circumstances and which are satisfactory to the Board of Directors. The premium for any such bond shall be paid by the Association.

(c) Use of Lots.

(i) No Owner shall use his Lot, or shall lease, license or otherwise permit the same to be used, for transient or hotel purposes or for any non-residential purpose.

(ii) Any lease or licensing agreement which may be entered into by an Owner or any other person as Landlord and covering a Lot, or by the Association and covering any portion of the Commons, shall be in writing, and shall expressly provide (A) that the terms of the lease or license thereby created shall in all respects be subject to the operation and effect of the provisions of this Declaration, and (B) that any failure by the lessee or licensee thereunder to comply with such provisions shall constitute a default under such agreement. To the extent that any such agreement shall not expressly so provide, it shall be deemed expressly so to provide.

Section 12. Architectural Control Committee.

No building, fence, wall or other structure shall be commenced, erected or maintained within the Community, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing, as to harmony of external design and location in relation to surrounding structures and topography, either by the board of directors of the Association or by an architectural committee composed of three (3) or more representatives appointed by the board of directors of the Association. If the board of directors or such designated committee shall fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event if no suit to enjoin such addition, alteration or change shall have been commenced prior to the completion thereof, such approval of the same shall no longer be required and the requirements imposed by the provisions of this Section shall, with respect

to the same, be deemed to have been fully satisfied.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed, ensealed and acknowledged on its behalf by its duly authorized representatives, the day and year first above written.

WITNESS:

[Handwritten signature]

MARINE OAKS, a limited partnership organized and existing under the laws of Maryland

by *[Handwritten signature]* (SEAL)
Ivan Stern, General Partner

STATE OF *Maryland* : COUNTY OF *Waldorf* : TO WIT:

I HEREBY CERTIFY that on this *14th* day of *March*, 197*6*, before me, the subscriber, a Notary Public for the state and county aforesaid, personally appeared IVAN STERN, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the general partner of MARINE OAKS, a limited partnership organized and existing under the law of Maryland and the entity named in the foregoing instrument as "the Developer", that he has been duly authorized to execute, and has executed, the said instrument on behalf of the said entity and that the same is its act and deed.

AS WITNESS my hand and Notarial Seal.

[Handwritten signature]
Notary Public
[Notary Seal: Notary Public, State of Maryland]

My commission expires on *July 1, 1977*

[Handwritten signature]
3/24/76