
DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

BRANDYWINE, A PLANNED COMMUNITY

Pursuant to the provisions of the
Pennsylvania Uniform Planned Community Act,
68 Pa. C.S. §5101 et seq. (the "Act")

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- EXHIBIT A LEGAL DESCRIPTION OF THE REAL ESTATE
- EXHIBIT B ALLOCATED INTEREST IN COMMON EXPENSE LIABILITY AND
 VOTES APPURTENANT TO UNITS
- EXHIBIT C PLATS AND PLANS
- EXHIBIT D LEGAL DESCRIPTION OF THE CONVERTIBLE REAL ESTATE
- EXHIBIT E LEGAL DESCRIPTION OF THE WITHDRAWABLE REAL ESTATE
- EXHIBIT F LEGAL DESCRIPTION OF THE ADDITIONAL REAL ESTATE

DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

BRANDYWINE, A PLANNED COMMUNITY

ARTICLE I

SUBMISSION; DEFINED TERMS

Section 1.1. Declarant; Property; County; Name. FISHING CREEK VALLEY ASSOCIATES, L.P., a Pennsylvania limited partnership ("Declarant"), owner in fee simple of the real estate described in Exhibit A attached hereto (the "Real Estate"), located in Hampden Township, Cumberland County, Pennsylvania, hereby submits the Real Estate, including all easements, rights and appurtenances thereunto belonging and all improvements existing or to be erected thereon (collectively, the "Property" or "Brandywine") to the provisions of the Pennsylvania Uniform Planned Community Act, 68 Pa. C.S. §5101 et seq. ("Act"), and hereby creates with respect to the Property a flexible planned community to be known as "Brandywine, A Planned Community" (the "Community").

Section 1.1A. Declarant's Undertakings.

1.1A.1 The Units as initially created may consist of unimproved subdivided lots ("Unimproved Units"). The Declarant shall construct or provide for the construction of certain Common Element improvements, such as roads, water and sewer service lines, drainage facilities, and other infrastructure improvements as provided herein. The construction of improvements to be built upon the portion of the Property outside the Unit title lines (i.e., the Common Elements and certain of the Limited Common Elements) shall be performed in accordance with Section 5414(a) of the Act.

1.1A.1 It is presently anticipated that construction of Dwellings and any other improvements within the Unit title lines of Units owned by Declarant shall be undertaken by or on behalf of Declarant, either pursuant to a construction contract with a third party purchaser, or on the Declarant's own account. As seller, the Declarant shall include in each agreement pursuant to which it constructs or sells a Dwelling Unit to a third-party purchaser a warranty against structural defects that is at least as extensive as the warranty set forth in Section 5411 of the Act. The Declarant shall be responsible for the substantial completion of any Dwelling or other improvements located within the Unit title lines of any Unit owned by Declarant, including any structural components or mechanical systems located within the Unit title lines of such Unit that constitute Common Elements under the provisions hereof or the provisions of the Act.

Section 1.1B. Builder's Undertakings.

1.1B.1 Declarant may, but is not obligated to, transfer title to one or more Unimproved Units to a residential builder or builders (each, a "Builder") pursuant to a contract between the Declarant and such Builder for sale of the Unit and construction of a Dwelling thereon. Notwithstanding the foregoing, the Declarant and the Builder reserve, without limitation, the right to modify the manner in which title to Units is transferred in order to facilitate the orderly development of the Community.

1.1B.2 It is presently anticipated that construction of Dwellings and any other improvements within the Unit title lines of Units conveyed by Declarant to a Builder shall be undertaken by such Builder either pursuant to a construction contract with a third party purchaser, or on the Builder's own account with respect to any Unit which the Builder owns. Each Builder, as seller, shall include in each agreement pursuant to which it constructs or sells a Dwelling Unit to a third-party purchaser (such third-party purchaser, together with any subsequent owner of such Dwelling Unit, collectively, the "Dwelling Unit Purchaser") a warranty against structural defects that is at least as extensive as the warranty set forth in Section 5411 of the Act. The Declarant shall not be responsible for the substantial completion of any Dwelling or other improvements located within the Unit title lines of any Unit conveyed by Declarant to a Builder, including any structural components or mechanical systems located within the Unit title lines of such Unit that constitute Common Elements under the provisions hereof or the provisions of the Act.

1.1B.3 Each Dwelling Unit Purchaser acknowledges and agrees by the acceptance of the deed to the Unit that the Declarant has neither liability under Section 5411 of the Act, or otherwise, with respect to structural or other defects in the Dwelling or in any other improvements constructed within the Unit title lines by a Builder or any party other than the Declarant, nor liability under subsections (c) and (d) of Section 5414 of the Act, or otherwise, with respect to substantial completion of the Dwelling or any other improvements constructed within the Unit title lines by a Builder or any party other than the Declarant.

1.1B.4 No Builder is a Declarant under this Declaration. All of a Builder's right, title and interest in and to a Unit, is, and shall be, subject to the terms of this Declaration.

Section 1.2. Easements and Licenses. Included among the easements, rights and appurtenances referred to in Section 1.1 hereof are the following recorded easements, rights and licenses:

1.2.1. Conditions and easements shown on the Final Subdivision and Land Development Plan for the Village of Brandywine Phase 1/2A recorded in Cumberland County Plan Book 89, Page 39, as revised by a plan recorded in Plan Book 90, Page 42 and Minor Subdivision Plan for Lots 122 and 123 The Village of Brandywine recorded in Plan Book 89, Page 98, as revised by a plan recorded in Plan Book 90, Page 41.

1.2.2. Rights granted to AT&T in Miscellaneous Book 87, Page 31.

1.2.3. Rights granted to PP&L in Miscellaneous Book 179, Page 241.

1.2.4. Rights of the public and others in and to any portion of the Property lying within the bed of Good Hope Road and Jerusalem Road.

1.2.5. Rights granted to Hampden Township Sewer Authority in Record Book 706, Page 840.

1.2.6. Declaration of Easements in Record Book ____, Page ____.

Section 1.3. Defined Terms

1.3.1. Capitalized terms not otherwise defined herein or identified on the Plats and Plans shall have the meanings specified or used in the Act.

1.3.2. The following terms when used herein shall have the meanings set forth below:

(a) "Additional Real Estate" means the real estate described in Exhibit F attached hereto, so long as the Declarant's rights to add such real estate to the Community continue to exist.

(b) "Allocated Interest" means the Common Expense liability and the votes in the Association allocated to a Unit.

(c) "Annual Assessment" means a Unit's individual share of the anticipated Common Expenses for each fiscal year as reflected in the budget adopted by the Executive Board for such year.

(d) "Architectural Review Committee" means a committee comprised of three (3) members appointed by the Executive Board, the purpose of which shall be to review and evaluate any alteration to, or change in appearance of, the exterior of a Unit proposed by the Unit Owner and to make a recommendation to the Executive Board whether to approve or disapprove, or condition the approval, of such proposed alteration.

(e) "Association" means the Unit Owners' association of the Community, which shall be a Pennsylvania non-profit corporation known as "Brandywine Homeowners Association, Inc." and shall have all powers and duties designated by the Act.

(f) "Brandywine Condominium" means The Courts at Brandywine, A Condominium, a condominium community that may be constructed adjacent to and to the north of the Community.

(g) "Bylaws" means the Bylaws of the Association providing for the governance of the Association pursuant to Section 5306 of the Act, as such document may be amended from time to time.

(h) "Common Elements" means Common Facilities or Controlled Facilities.

(i) "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

(j) "Common Facilities" means any real estate within the Property as depicted on the Plats and Plans, as they may be revised from time to time, that is not a Unit and that is owned by or leased to the Association.

(k) "Community" means the Community described in Section 1.1 hereof.

(l) "Community Amenities" means certain real property and any improvements located thereon, situated within the boundaries of the Community and/or Brandywine Condominium and intended for recreational and related purposes on a use fee basis, or otherwise.

(m) "Community Documents" include the Declaration, Plats and Plans, Bylaws (including the Chart of Maintenance Responsibilities) and Rules and Regulations.

(n) "Condominium Act" means the Pennsylvania Uniform Condominium Act, 68 Pa. C.S. § 3101 et seq.

(o) "Controlled Facilities" means any real estate within the Property, whether or not a part of a Unit, that is not a Common Facility, but is maintained, improved, repaired, replaced, regulated, managed, insured or controlled by the Association.

(p) "Convertible Real Estate" means that portion of the Real Estate described in Exhibit D attached hereto, so long as the Declarant's rights to create Units or Limited Common Elements therein continue to exist.

(q) "Declarant" means the Declarant described in Section 1.1 hereof, and all successors to any Special Declarant Rights.

(r) "Declaration" means this document, as the same may be amended from time to time.

(s) "Duplex Building" means two or more Dwellings that share one or more Party Walls, each of which Dwelling is situated within or upon a separate Unit.

(t) "Dwelling" means the housing unit and related improvements situate within a Unit.

(u) "Dwelling Unit" means a Unit upon which a Dwelling has been substantially completed to the extent required for the lawful occupancy thereof for its intended purposes.

(v) "Executive Board" means the Executive Board of the Association.

(w) "First Settlement" means the date of the first closing whereby a Unit is conveyed to a Unit Owner other than Declarant or a Builder.

(x) "Initial Unit Purchaser" means an initial purchaser of a Unit, other than Declarant or a Builder.

(y) "Limited Common Elements" means Limited Common Facilities or Limited Controlled Facilities.

(z) "Limited Common Facilities" means those portions of the Common Facilities allocated by or pursuant to the Declaration or by operation of Section 5202 of the Act for the exclusive use of one or more, but fewer than all, of the Units.

(aa) "Limited Controlled Facilities" means those portions of the Controlled Facilities, not part of a Unit, allocated by or pursuant to the Declaration or by operation of Section 5202 of the Act for the exclusive use of one or more, but fewer than all, of the Units.

(bb) "Maintenance" means the maintenance, repair and replacement activities required with respect to any facility located on the Property.

(cc) "Master Association" means any nonprofit homeowners' association created pursuant to Section 5222 of the Act and as described in Section 3222 of the Condominium Act. The members of a master association shall be (i) the members of the Association and (ii) the members of any other property owners association created for any other community or condominium within the boundaries of the Property and/or Brandywine Condominium.

(dd) "Municipality" means Hampden Township, the municipality in which the Community is located.

(ee) "Notice and Comment" means the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 17.1 hereof.

(ff) "Notice and Hearing" means the right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 17.2 hereof.

(gg) "Party Wall" means a wall located at the perimeter of a Unit which is a common wall shared with an Adjacent Unit, including any fence

constructed at the perimeter of a Unit which is a common fence shared with an Adjacent Unit.

(hh) "Plats and Plans" means the Plats and Plans attached hereto as Exhibit C and made a part hereof, as the same may be amended from time to time.

(ii) "Property" means the Property described in Section 1.1 hereof.

(jj) "Rules and Regulations" means such rules and regulations as are promulgated by the Executive Board from time to time, with respect to various details of the use of all or any portion of the Property, either supplementing or elaborating upon the provisions in the Declaration or the Bylaws.

(kk) "Security Interest" means an interest in real property or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, land sales contract, and any other consensual lien or title retention contract intended as security for an obligation.

(ll) "Special Assessment" means a Unit's individual share of any assessment made by the Executive Board in addition to the Annual Assessment.

(mm) "Subdivision Plan" means the plan(s) described in Subsection 1.2.1 above.

(nn) "Unimproved Unit" shall mean a Unit upon which a Dwelling has not yet been constructed.

(oo) "Unit" means the land located within the lot lines of a lot shown on the Subdivision Plan and expressly designated as a Unit on the Plats and Plans, or the land otherwise designated as a Unit on the Plats and Plans, whether improved or unimproved, together with any Dwelling and any other permanent improvements constructed thereon from time to time.

(pp) "Unit Owner" means the holder of legal title to a Unit.

(qq) "Unit Purchaser" means a Unit Owner other than Declarant or a Builder.

(rr) "Withdrawable Real Estate" means that portion of the Real Estate described in Exhibit E attached hereto, so long as the Declarant's rights to withdraw such Withdrawable Real Estate from the Community continue to exist.

Section 1.4. Provisions of the Act. The provisions of the Act shall apply to and govern the operation and governance of the Community, except to the extent that

contrary provisions, not prohibited by the Act, are contained in one or more of this Declaration, the Plats and Plans or the Bylaws.

ARTICLE II

ALLOCATED INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES; UNIT IDENTIFICATION AND BOUNDARIES

Section 2.1. Allocated Interests, Votes and Common Expense Liabilities.

2.1.1. Attached hereto as Exhibit B is a list of the first twenty-two (22) Units being created by the Declarant that sets forth their identifying numbers and the Allocated Interest appurtenant to each such Unit, determined on the basis that all such Units shall be assigned a factor of 1.0. Subject to the provisions of this Section 2.1 and Section 9.2 hereof, a Unit's Allocated Interest shall be calculated by (a) converting a fraction to a decimal, the numerator of which fraction is one (1) and the denominator of which fraction is the total number of Units then currently existing within the Community, and (b) multiplying the aforementioned decimal by a factor to be assigned by the Declarant, as described in this Subsection or in Subsection 2.1.4 hereof.

2.1.2. The Allocated Interest shall automatically change upon conversion of Convertible Real Estate as set forth in Article XX below, and the new Allocated Interest of each Unit existing after such conversion shall be determined in accordance with Subsection 2.1.1 hereof.

2.1.3. Each Unit shall have one (1) vote. The Allocated Interest shall determine the relative weight of a Unit's vote in matters before the Association and, subject to Section 9.2 hereof, the share of Common Expense liability appurtenant to each Unit. A Unit's Allocated Interest shall always be appurtenant to that Unit, and any separate conveyance, encumbrance, judicial sale or other transfer of such Allocated Interest, whether voluntary or involuntary, shall be void unless the Unit to which the Allocated Interest is allocated is also transferred.

2.1.4. Notwithstanding the foregoing, if the Declarant converts all or any portion of the Convertible Real Estate into Units, the Declarant reserves the right to assign a factor ranging from .75 and 1.5 to any Units created therein based upon the size of the Units, the relative size of any dwellings constructed upon the Units or any other relevant characteristics of the newly created Units. The Declarant shall designate the factor to be assigned to Units in the Community in any amendment to Declaration in which additional Units are created. The Declarant's judgment regarding the factor assigned to any such additional Units shall be final.

Section 2.2. Unit Boundaries. The boundaries of each Unit are situated as shown on the Plats and Plans, and each Unit consists of the land, and all space, fixtures and improvements, including, without limitation, any Dwelling, located within the said boundaries. There are no horizontal boundaries.

Section 2.3. Relocation of Boundaries Between Units. Unit Owners desiring to relocate the boundaries between adjoining Units shall submit an application to the Association in accordance with Section 5214 of the Act, and the Association shall have the powers and duties with respect to such application for relocation as set forth therein.

ARTICLE III

LIMITED COMMON ELEMENTS; FUTURE ALLOCATION OF COMMON ELEMENTS

Section 3.1. Limited Common Elements. The following portions of the Property are hereby designated as Limited Common Elements:

3.1.1. Any portion of the Property designated as Limited Common Elements allocated by or pursuant to this Declaration or any amendment thereto, or as shown on the accompanying Plats and Plans or any amendment thereto, from time to time.

3.1.2. Individual U.S. Postal Service mailboxes serving one or more, but fewer than all, of the Units, either in locations designated on the Plats and Plans, or otherwise located outside the title lines of a Unit.

Section 3.2. Common Elements Not Previously Allocated. The Association shall have the power to allocate a Common Element not previously allocated as a Limited Common Element appurtenant to one or more, but fewer than all, Units in the Community, provided that such allocation is effected in accordance with Section 5209(c) of the Act.

ARTICLE IV

ADDITIONS, ALTERATIONS AND IMPROVEMENTS

Section 4.1. Additions, Alterations and Improvements by Unit Owners.

4.1.1. A Unit Owner:

(a) May make any improvements or alterations to the interior of his Dwelling;

(b) May not change the exterior appearance of a Unit or Dwelling or make alterations to the Limited Common Elements appurtenant to such Unit without obtaining the prior written consent of the Executive Board;

(c) May not make any alterations to any Party Wall which would affect the structural integrity or otherwise affect the Unit on the opposite side of the Party Wall (the "Adjacent Unit") without obtaining the prior written consent of the Executive Board and the Unit Owner of the Adjacent Unit.

4.1.2. Subject to the limitations of Subsections 4.1.5 and 4.1.6 hereof, a Unit Owner may submit a written request to the Executive Board for approval to do anything that he is forbidden to do under Subsection 4.1.1(b) hereof. The Executive Board shall submit all such requests to the Architectural Review Committee for review and recommendation. The Executive Board shall consider, but shall not be bound by, the recommendation of the Architectural Review Committee in deciding whether to approve, disapprove or condition the approval of such requests. The Executive Board shall answer any written request for such approval, after Notice and Hearing, within sixty (60) days after the request thereof. Failure to do so within such time shall not constitute a consent by the Executive Board to the proposed action. The Executive Board shall review requests in accordance with the provisions of the Community Documents.

4.1.3. Any applications to any department or to any governmental authority for a permit to make any addition, alteration or improvement in or to any Unit shall be the responsibility of and executed by the Unit Owner. Such execution will not, under any circumstances, create any liability on the part of the Association or any of its members to any contractor, subcontractor or materialman on account of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom.

4.1.4. All additions, alterations and improvements to the Units and/or Common Elements shall not, except pursuant to prior approval by the Executive Board, cause any increase in the premium of any insurance policies carried by the Association or by the owners of any Units other than those affected by such change. At the discretion of the Executive Board, any such insurance premium increases shall be paid by the Unit Owner(s) whose construction of additions, alterations or improvements resulted in such premium increases.

4.1.5. The provisions of this Section 4.1 shall not apply to the Declarant in the exercise of any Special Declarant Right.

4.1.6. The provisions of this Section 4.1 shall not apply to the owner of an Unimproved Unit (including, without limitation, any Builder, a contractor or designee of the Declarant) in the initial construction of a Dwelling and other improvements within a Unit.

Section 4.2. Additions, Alterations and Improvements by the Executive Board. Subject to the limitations of Sections 9.5 and 9.6 of this Declaration, the Executive Board may make any additions, alterations or improvements to the Common Elements which, in its judgment, it deems necessary or advisable.

ARTICLE V

MAINTENANCE, REPAIR AND REPLACEMENT RESPONSIBILITIES

Section 5.1. Maintenance Responsibilities. The Units and Common Elements shall be maintained and repaired by each Unit Owner and by the Association in accordance with the provisions of Section 5307 of the Act, except as expressly set forth to the contrary in the Community Documents.

Section 5.2. Common Elements. The Association shall maintain, repair and replace the Common Elements.

Section 5.3. Units and Limited Common Elements. Each Unit Owner shall maintain, repair and replace, at his own expense, all portions of his Unit and the Limited Common Elements appurtenant thereto, except any portions thereof to be maintained, repaired or replaced by the Association.

Section 5.4. Failure to Maintain Units and Common Elements. Each Unit Owner shall reimburse the Association for the reasonable cost of repair of any damage to the Common Elements caused by such Unit Owner's failure to properly maintain, repair or replace any portion of his Unit or the Limited Common Elements appurtenant thereto for which the Unit Owner is responsible. The Association shall reimburse a Unit Owner for the reasonable cost of repair of any damage to his Unit caused by the Association's failure to properly maintain, repair or replace any portion of the Common Elements or any portion of a Unit or the Limited Common Elements appurtenant thereto which is to be maintained, repaired or replaced by the Association.

Section 5.5. Chart of Maintenance Responsibilities. The respective responsibilities of the Association and the Unit Owners with respect to maintenance, repair and replacement of the Units, Common Elements and Limited Common Elements are set forth in the Chart of Maintenance Responsibilities attached as Exhibit A to the Bylaws, as amended from time to time.

Section 5.6. Access. Any person authorized by the Executive Board shall have the right to enter upon the exterior portion of each Unit, at reasonable times and in a reasonable manner, upon such notice to the Unit Owner, if any, as shall be reasonable under the circumstances, for any proper purpose. For example, any authorized person shall have the right to enter upon the exterior portion of each Unit for the purpose of correcting any condition threatening a Unit or the Common Elements; for the purpose of performing installations, alterations, maintenance or repairs; for the purpose of repairing or replacing utility meters and related pipes, valves, wires and equipment; for the purpose of performing pest control inspections and treatment; and for any other purpose necessary for the Association to carry out its powers or responsibilities, including correction of any violation of Article VII hereof, provided that all requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

ARTICLE VI

EASEMENTS

Section 6.1. Additional Easements. Each Unit Owner shall have a perpetual nonexclusive easement of use and enjoyment over, upon and through the Common Elements. In addition to such and in supplementation of the easements provided for and

hereby created pursuant to Sections 5216, 5217, 5218 and 5302(a)(9) of the Act, the following additional easements are hereby created:

6.1.1. Declarant's Use for Sales Purposes. The Declarant shall have the right to maintain one or more sales offices and models throughout the Property and to maintain one or more directional, promotional and advertising signs on the Common Elements and on Units owned by the Declarant pursuant to Section 5217 of the Act, even if such Units are under contract with a Unit Purchaser. The Declarant reserves the right to place models and sales offices on any portion of the Common Elements or in a Unit in such a manner, or such size and number and in such locations as the Declarant deems appropriate. The Declarant may from time to time relocate models and sales offices to different locations within the Property notwithstanding that the Community Documents may otherwise preclude such use in those locations. Declarant may enter into certain agreements with Builders pursuant to which Declarant may grant to the Builder the right to maintain one or more sales offices and models throughout the Property and to maintain one or more directional, promotional and advertising signs on the Common Elements and on Units owned by the Builder.

6.1.2. Utility Easements. The Units and Common Elements shall be, and are hereby made subject to easements in favor of the Declarant and appropriate utility and service companies and governmental agencies or authorities designated by Declarant (including Hampden Township and any applicable municipal authorities) for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this subsection shall include, without limitation, rights of the Declarant, or the providing utility or service company, or governmental agency or authority, to install, lay, maintain, repair, relocate and replace gas lines (including, without limitation, propane gas lines), pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits and equipment over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this subsection, unless approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant or a Builder or as shown on an approved recorded plan, or so as not to materially interfere with the use or occupancy of the Unit by its occupants.

6.1.3. Declarant's Easement to Correct Drainage. The Declarant reserves an easement on, over and under those portions of the Common Elements and Units not improved with buildings for the purpose of constructing, maintaining, replacing and correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance, and further reserves the right to grant and/or assign such easements to appropriate persons, parties or entities. The easement created by this subsection expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to take any other action reasonably necessary to achieve this purpose, following which the Declarant shall restore the affected property as closely to its original condition as practicable.

6.1.4. Declarant's Reservation of Right to Grant Easements. The Declarant reserves the right to grant, sell and convey easements for the purpose of

benefiting any tract of land adjacent to or near the Property. Without limiting the generality of the preceding sentence, the Declarant may subject the Property to storm water and detention pond easements to be used by or jointly with adjoining properties.

6.1.5. Declarant's Easement for Development of Convertible, Withdrawable, Additional and Other Real Estate. The Declarant reserves an easement on, over and under the Common Elements for all purposes relating to the construction, development, leasing and sale of improvements on the Convertible, Withdrawable and Additional Real Estate and any other real estate owned by Declarant. This easement shall include without limitation, the right of vehicular and pedestrian ingress and egress, the right to park motor vehicles and to engage in construction and marketing activities of any nature whatsoever, including the movement and storage of building materials and equipment, the conduct of sales, leasing and management activities, the maintenance of models and offices and the erection and maintenance of directional and promotional signs. The Declarant's easement hereunder shall remain in full force and effect on, over and under any portions of the Withdrawable Real Estate, even after said portion(s) have been withdrawn from the Community.

6.1.6. Temporary Easement for Construction. While the Declarant is conducting construction activities within the Property, the Declarant reserves unto itself, its agents, employees and contractors, the right to enter onto the unimproved portions of any Unit within the Community as may reasonably be necessary to facilitate the Declarant's construction, repair or replacement activities, provided however that the Declarant shall take reasonable steps to minimize any interference with a Unit Owner's use of his Unit and shall promptly repair any damage to a Unit resulting from the Declarant's exercise of such rights.

6.1.7. Access Easement. Each Unit in the Community is subject to an easement permitting the Association or its designated agents to enter upon the exterior of the Unit for any or all of the purposes, and subject to the limitations, described in Section 5.6 hereof.

6.1.8. Easement for Encroachments. To the extent that any Unit or portion of the Common Elements encroaches upon any other Unit or portion of the Common Elements because of the construction, reconstruction, repair, shifting, settlement or other movement of any portion of the improvements, a valid easement for the encroachment and its maintenance shall exist, provided that the physical boundaries of the Units after construction, reconstruction or repair will be in substantial accord with the descriptions thereof set forth in the Declaration. The easement shall extend for whatever period of time the encroachment continues to exist. This easement does not relieve the Unit Owner (including a Builder) of liability in the case of willful misconduct nor the Declarant or its agents of liability for failure to comply with the Declaration Plats and Plans.

6.1.9. Easement for Structural Support. To the extent necessary, each Unit within a Duplex Building shall have an easement for structural support with respect to the Party Wall(s) dividing the Units within the Duplex Building and otherwise as may be required.

6.1.10 Declaration of Easements. Pursuant to and subject to the provisions of the Declaration of Easements described in Section 1.2.6, Declarant has

granted easements to benefit the Community, Brandywine Condominium, the Unit Owners, occupants, and residents of both communities, and others, including, but not limited to, (1) the right to use the Bike Path (as defined in Section 19.4 below), including that portion of the Bike Path situated upon Lots 14 and 15 of the Community, and (2) an easement upon certain portions of the Common Elements of the Community and the Common Elements of Brandywine Condominium, as depicted on the Plats and Plans and on the Final Subdivision and Land Development Plan described in Subsection 1.2.3 hereof, as they may be amended from time to time, for the construction and maintenance of permanent lighting and signage identifying either or both communities.

6.1.11 Kirkwood Drive Easement. Declarant hereby reserves the right to grant a nonexclusive easement of use and enjoyment to the Association and to the unit owners' association of Brandywine Condominium over, upon and through that portion of Kirkwood Drive situated upon the Community for ingress and egress to and from Brandywine Condominium (the "Kirkwood Drive Easement"). Any Unit Purchaser of a Unit upon which any portion of Kirkwood Drive may be constructed shall take title subject to the Kirkwood Drive Easement. If any portion of Kirkwood Drive is constructed upon a Unit (the "Affected Unit"), then the Association and the unit owners' association of Brandywine Condominium shall indemnify and hold harmless the Unit Purchaser of the Affected Unit for all costs, damages and expenses whatsoever arising out of the construction, repair and maintenance of that portion of Kirkwood Drive situated upon the Unit and the use of the Kirkwood Drive Easement. Any liability insurance policies maintained by both of the unit owners' associations shall specifically include coverage for the Kirkwood Drive Easement and shall specifically name the Unit Purchaser of the Affected Unit as an additional insured.

ARTICLE VII

RESTRICTIONS

Section 7.1. Use and Occupancy of Units and Common Elements. Except as otherwise expressly set forth in the Community Documents, all Unit Owners, including the Declarant, shall have the same rights and duties that are appurtenant to each Unit. The occupancy and use of the Units and Common Elements shall be subject to the following restrictions:

7.1.1. Permitted Use. The buildings in the Community (with the exception of any Units during the time period when they are being used by the Declarant or a Builder as a sample, model or sales office and of any buildings that may be constructed upon the Common Elements for recreational or other reasonable and appropriate Community purposes) are restricted to residential use and may not be used for any other purpose by the Unit Owner or occupant. Notwithstanding the foregoing, Units may also be used for accessory uses that are customarily incidental to the foregoing use, including a professional office; provided that any such use conforms with the applicable zoning regulations of the Municipality in which the Unit is located, as the same may be amended from time to time, and further provided that the prior written consent of the Executive Board is obtained.

7.1.2. No Unlawful Purposes. No Unit Owner may permit his Unit to be used or occupied for any prohibited or unlawful purpose.

7.1.3. Preservation of Exterior of Units. The Declarant will establish the structural location, architectural style and exterior appearance of each Dwelling and other improvements that are first constructed upon a Unit (whether by the Declarant or its designee), all of which are intended to be preserved to maintain the overall appearance and continuing value of the Units within the Community. To accomplish this intention, the following requirements are created and imposed:

(a) Except as otherwise approved by the Executive Board in accordance with Subsection 4.1.2 and Section 7.2 hereof, the exterior structural appearance and architectural style of all exposed portions of all Dwelling Units shall not be altered in any way that would change the appearance of such Dwelling Units as first constructed.

(b) Except as otherwise approved by the Executive Board in accordance with Subsection 4.1.2 and Section 7.2 hereof, exterior masonry elements of all such exposed portions of all Dwelling Units shall remain as first constructed and shall not be painted, covered, enclosed or otherwise obstructed or modified in appearance.

(c) Except as otherwise approved by the Executive Board in accordance with Subsection 4.1.2 and Section 7.2 hereof: (i) the exterior colors of all such exposed portions, roofs and doorways of all Dwelling Units shall remain the same as originally installed, including, but not limited to the color of walls, roof shingles, trim materials, doors, windows, shutters, garage doors and driveway/parking surfaces; and (ii) all replacement materials, whether structural or covering, shall perpetuate the same colors as originally installed in order to provide a consistent color scheme.

7.1.4. Dwelling Condition. Each Unit Owner shall be solely responsible for maintaining the interior of the Dwelling located upon his Unit. Each Unit Owner and/or the Association shall be responsible for maintaining the exterior of the Dwelling constructed upon such Unit in a clean, sanitary and attractive condition, in accordance with the allocation of responsibilities set forth in the "Chart of Maintenance Responsibilities" (as it may be amended from time to time) attached as Exhibit A to the Bylaws.

7.1.5. Unit Grounds; Landscaping. Each Unit Owner and the Association shall be responsible for maintaining the exterior grounds of such Unit, including, but not limited to, any landscaping, in a clean, sanitary and attractive condition, in accordance with the allocation of responsibilities set forth in the "Chart of Maintenance Responsibilities" (as it may be amended from time to time) attached as Exhibit A to the Bylaws.

7.1.6. Materials. Except as otherwise approved by the Executive Board in accordance with Subsection 4.1.2 hereof, all landscaping in yards shall consist of

natural materials, e.g., shrubs, trees, bushes, rocks, timbers, etc., and shall not include any artificial or man-made articles, e.g., statues, figures, birdbaths, windmills, etc.

7.1.7. Signs. No sign or billboard of any kind shall be displayed to the public view on any Unit, except for directional signs established by the Declarant or its designee, or signs used by the Declarant, its designee, their successors in title or assigns, to advertise Units for sale or rent. The Unit Owner of a particular Unit shall be permitted to place a sign upon the Unit for the purpose of advertising the Unit for sale or rent, subject to the provisions governing signs in the Rules and Regulations.

7.1.8. Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, barn, or other out-building shall be constructed or used on any Unit at any time as a residence or storage facility, either temporarily or permanently. No motorhome, truck (except for pickup trucks up to three quarter ton size), trailer, camper, boat or similar equipment shall be permitted to remain upon any street within the Community or upon any Unit unless placed or maintained within an enclosed garage, except as permitted by the Rules and Regulations. Notwithstanding the provisions of this Subsection 7.1.8, the Declarant or a Builder may construct and maintain on any Unit it owns temporary buildings, structures and vehicles used in connection with the initial construction of improvements on any portion of the Property.

7.1.9. Satellite Dishes; Antennas.

(a) Subject to subsections 7.1.9(b) and (c) below, each Unit Owner may install and maintain on his or her Unit satellite dishes or other facilities for the receipt of radio or television broadcasts, subject to compliance with the following requirements:

(i) The satellite dish or other facilities must be of the smallest size reasonably commercially obtainable that will provide radio or television reception;

(ii) The satellite dish or other facilities may not be located in front of the plane created by the front of the Dwelling;

(iii) If possible, the satellite dish or other facilities shall not be visible from the street in front of the Dwelling;

(iv) Without limiting the preceding requirements, the location of such installations must be as unobtrusive as possible, provided reception is of adequate quality in such location;

(v) Unit Owners may not install such facilities on or over the Common Elements or any other Unit not within the exclusive use or control of the Unit Owner;

(vi) The Executive Board, in its sole discretion, may require a Unit Owner at the sole expense of the Unit Owner, to paint or screen any such installation, provided that the painting or screening does not

invalidate any manufacturer's warranty relating to such installation;
and

(vii) The Unit Owner must submit a plan showing the proposed location and size of the satellite dish or other facilities to the Executive Board at least thirty (30) days prior to the installation thereof for a determination by the Executive Board whether such installation would comply with the requirements of this Subsection 7.1.9 (subject, however, to the Executive Board's discretion pursuant to Subsection 4.1.2 and Section 7.2 hereof).

(b) As required by General Note 18 of the Subdivision Plan, the Unit Owners of Units situated adjacent to the Fairwinds residential development, which Units are identified on the Subdivision Plan as Lots 1 through 31, inclusive, shall be prohibited from erecting or installing oversized satellite dishes on those Units.

(c) In the event that the provisions of subsections 7.1.9(a) and/or (b) above contradict any rulings of the Federal Communications Commission or any other agency having jurisdiction (the "FCC") in effect, the then current rulings of the FCC shall prevail.

7.1.10. Fences. Unit Purchasers shall not be permitted to construct a fence anywhere on the Property, and no alterations, modifications or extensions may be made to a Party Wall fence constructed by the Declarant or a Builder as part of the initial construction of adjoining Units to separate patios or decks of such adjoining Units.

7.1.11. Animals. No animals other than customary household pets shall be housed, maintained or otherwise permitted in any Unit, and no animals shall be housed or maintained on any Common Element. All permitted pets shall be regularly housed inside a Dwelling, and no exterior housing of pets shall be permitted on any Unit at any time, either temporarily or permanently. All pet owners shall immediately clean up, remove and discard in a proper receptacle all animal excrement produced by his pet and shall otherwise obey the Pet Rules and Regulations promulgated by the Executive Board.

7.1.12. Hot Tubs. Hot tubs and customary accessory structures may be installed by Unit Owners only on a deck or patio, subject to the written approval of the Executive Board in accordance with Subsection 4.1.2 and Section 7.2 hereof. All installation must be done within the Unit Title Lines, and Unit Owners shall be solely responsible for obtaining all necessary governmental permits and approvals.

7.1.13. Storage Tanks. No above-ground or underground tanks for storage of petroleum products, propane or any other substance shall be permitted on any Unit without the prior written consent of the Executive Board.

7.1.14. Use of Streets. All streets within the Community are intended only for vehicular transportation and pedestrian travel of the Unit Owners, occupants and their invitees. Streets shall not be used as playgrounds, or for skateboarding, basketball, street hockey or any other athletic or recreational purposes, and such use is prohibited.

7.1.15. Use of Common Elements. There shall be no obstruction of the Common Elements. Nothing may be placed or stored on the Common Elements without the prior consent of the Executive Board. Nothing may be done on the Common Elements that would in any way interfere with the use and enjoyment of any other Unit Owner or occupant within the Community. The Executive Board may impose additional restrictions on the use of the Common Elements as it deems necessary or advisable.

7.1.16. Limitations on Application of Restrictions. The restrictions set forth herein shall not apply to the Declarant, the Declarant's agents or employees or any approved Builder or Builders, during the course of construction of improvements upon any portion of the Property, to the extent that the restrictions would interfere with such construction.

7.1.17. Laws and Ordinances. Each Unit Owner shall promptly comply with all laws, statutes, ordinances, rules and regulations of federal, state or municipal governments or authorities applicable to the use, occupancy, construction and maintenance of any Unit, including any Dwelling erected thereupon.

7.1.18. Drainage. Each Unit Owner hereby covenants and agrees for himself, his heirs, assigns, contractors and successors in interest that he will refrain from interference with the established drainage pattern over his Unit from adjoining or other Units, and that he will make adequate provision for proper drainage from any such other Unit in the event the established drainage over his Unit is changed or altered by his use of, occupation of, maintenance of, addition to, alteration of or improvements to, his Unit. For the purpose hereof, "established drainage" is defined as the drainage which will occur at the time the overall grading of the lots, including the landscaping of each lot, is completed.

7.1.19. Subdivision. Subject to the provisions of Section 2.3 hereof, no Unit Owner may transfer or convey title to any part or portion of any Unit, except for a transfer or conveyance of title to the whole of said Unit. Any attempt to transfer or convey title to a part or portion of any Unit in violation of the provisions of this Subsection 7.1.19 shall be null and void and of no effect. Declarant may re-subdivide any Units owned by the Declarant in accordance with Section 5215 of the Act and in accordance with all municipal ordinances.

7.1.20. Rules and Regulations. Reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Property, may be promulgated from time to time by the Executive Board, subject to the right of the Association to notice and comment on such Rules and Regulations. Copies of the Rules and Regulations and any amendments thereto shall be furnished to all Unit Owners by the Executive Board promptly after the adoption of such Rules and Regulations or any amendments thereto.

Section 7.2. Waiver Requests. A Unit Owner may submit a written request to the Executive Board for approval to do anything that is forbidden under Section 7.1. The Executive Board shall submit all requests for waivers of the restrictions imposed by Subsections 7.1.3, 7.1.5, 7.1.6, 7.1.9 and 7.1.12 to the Architectural Review Committee for review and recommendation. The Executive Board shall consider, but shall not be bound

by, the recommendation of the Architectural Review Committee in deciding whether to approve, disapprove or condition the approval of such requests. All other such requests may be decided by the Executive Board without prior submission of the request to the Architectural Review Committee. The Executive Board shall answer any written request for such approval, after Notice and Hearing, within sixty (60) days after the request thereof. Failure to do so within such time shall not constitute a consent by the Executive Board to the proposed action. The Executive Board shall review requests in accordance with the provisions of the Community Documents.

Section 7.3. Alterations and Improvements. Any applications to any department or to any governmental authority for a permit to make any addition, alteration or improvement in or to any Unit which shall have been approved by the Executive Board shall be the responsibility of and executed by the Unit Owner. Such execution will not, under any circumstances, create any liability on the part of the Association or any of its members to any contractor, subcontractor or materialman on account of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom. All costs incurred for such additions, alterations and improvements to a Unit shall be the responsibility of the Unit Owner.

ARTICLE VIII

LEASING

Section 8.1. Leases. A Unit Owner may lease or sublease his Unit (but not less than his entire Unit) at any time and from time to time provided that:

8.1.1. All leases and rental agreements shall be in writing;

8.1.2. No lease or rental agreement shall be for an initial term of less than six (6) months.

8.1.3. All leases and rental agreements shall state that they are subject to the requirements of the Community Documents and the Association;

8.1.4. A Unit Owner shall deliver a copy of the Declaration, the Bylaws and Rules and Regulations to the Unit Owner's tenant at the time any lease or rental agreement is executed, and the tenant shall sign a receipt therefor. Copies of any amendments to the Declaration, the Bylaws and Rules and Regulations received by the Unit Owner during the term of the lease shall be forwarded to the tenant upon receipt if the amendment(s) affect the tenant's occupancy of the Unit;

8.1.5. The rights of any lessee of a Unit shall be subject to, and each lessee shall be bound by the Community Documents, and a default thereunder shall constitute a default under the lease;

8.1.6. Notwithstanding that a lease may require the lessee to be responsible for the payment of the Common Expense assessments during the term of the

lease, any such provision shall not relieve the Unit Owner of his obligation for payment of same in the event that the lessee fails to do so;

8.1.7. A copy of such lease or rental agreement or, at the discretion of the Executive Board, a memorandum of such lease or rental agreement addressing such subjects as may be required by the Executive Board, and a copy of the receipt referred to in Subsection 8.1.4 shall be furnished to the Executive Board within ten (10) days after execution of the lease;

8.1.8. A Unit Owner intending to lease his Unit shall provide his new mailing address, if at a location other than his Unit, to the Executive Board within ten (10) days after vacating his Unit.

Section 8.2. Exceptions. Notwithstanding the foregoing, the provisions of this Article shall not apply to Units leased or subleased by the Declarant or a Builder.

ARTICLE IX

ASSESSMENT AND COLLECTION OF COMMON EXPENSES

Section 9.1. Definition of Common Expenses. Common Expenses shall include:

9.1.1. Expenses of administration, maintenance, and repair or replacement of the Common Elements, subject to the provisions of Section 9.2 hereof;

9.1.2. Expenses declared to be Common Expenses by the Community Documents or the Act;

9.1.3. Expenses agreed upon as Common Expenses by the Association; and

9.1.4. Such reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Units or Common Elements or to any other real or personal property acquired or held by the Association.

Section 9.2. Apportionment of Common Expenses.

9.2.1. Subject to the terms of this Section 9.2, and except as provided in Section 9.3, all Common Expenses shall be assessed against all Units in accordance with their Allocated Interests determined in accordance with Section 2.1 hereof. In the event that the Community is merged or consolidated with one or more additional communities, as described in Subsection 18.3.1 hereof, the Allocated Interests shall be modified as described in Subsection 18.3.2 hereof.

9.2.2. Notwithstanding Subsection 9.2.1 hereof, until a Dwelling Unit is completed to the extent required so as to permit the use of the Dwelling Unit for its

intended purpose, a Unit Owner shall be entitled to pay a reduced assessment for Common Expenses. That reduced assessment shall be an amount equal to the projected Common Expense assessment for the Dwelling Unit, less those items not then benefiting the Unit such as property insurance and replacement reserves. The owner of an Unimproved Unit or a Unit upon which improvements are incomplete shall be required to pay his proportionate share of the Common Expense assessments for such items as Common Element landscaping, snow plowing, liability insurance, property management, etc.

Section 9.3. Special Allocations of Expenses as Limited Common Expenses.

9.3.1. Any Common Expense benefiting one or more, but fewer than all of the Units shall be assessed exclusively against the Unit or Units benefited.

9.3.2. Any Common Expense for services provided by the Association to an individual Unit shall be assessed against the Unit which benefits from such service.

9.3.3. Assessments to pay a judgment against the Association may be made only against the Units in the Community at the time the judgment was rendered, in proportion to their Common Expense liabilities, except as provided in Section 5319(c) of the Act.

9.3.4. If any Common Expense is caused by the negligence or misconduct of a Unit Owner, the Association may, after Notice and Hearing, assess that expense exclusively against his Unit.

9.3.5. Fees, including attorneys' fees, late charges, recording fees, fines and interest charged against a Unit Owner pursuant to the Community Documents and the Act are enforceable as Limited Common Expense assessments.

Section 9.4. Lien.

9.4.1. The Association has a statutory lien on a Unit for (a) any assessment levied against that Unit, and (b) late fees or fines imposed against the Unit Owner, each from the time the assessment, late fee or fine becomes delinquent. Fees, including attorneys' fees, late charges, recording fees, fines and interest charged pursuant to the Act and the Community Documents are enforceable as assessments under this Section 9.4. If an assessment is payable in installments, and one or more installments is not paid when due, the entire outstanding balance of the assessment becomes effective as a lien from the due date of the delinquent installment.

9.4.2. Any lien for delinquent Common Expense assessments or other charges that the Association has on a Unit will be subordinate to a first mortgage on the Unit, if the mortgage was recorded before the due date of the assessment or the due date of the unpaid installment, if the assessment is payable in installments.

9.4.3. Recording of this Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this Section 9.4 is required.

9.4.4. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the assessments become payable; provided, that if an Owner of a Unit subject to a lien under this Section 9.4 files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

9.4.5. This Section 9.4 does not (a) prohibit actions to recover sums for which Subsection 9.4.1. creates a lien or (b) prohibit the Association from taking a deed in lieu of foreclosure.

9.4.6. A judgment or decree in any action brought under this Section 9.4 shall include costs and reasonable attorney's fees for the prevailing party.

9.4.7. The Association's lien may be foreclosed in like manner as a mortgage on real property.

9.4.8. If a holder of a first or second Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest in accordance with the provisions of the Act. Any unpaid assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Unit Owners, including the purchaser.

9.4.9. Any payments received by the Association in the discharge of a Unit Owner's obligation may, at the Association's discretion, be applied to reduce any portion of the oldest balance due.

9.4.10. Any fees, including attorneys' fees, late charges, fines and interest which may be levied by the Executive Board pursuant to Sections 5302(a)(10), (11) and (12) of the Act, shall be subordinate to the lien of a Security Interest on a Unit.

Section 9.5. Budget Adoption. Immediately after adoption of any proposed budget or approval of any capital expenditure for the Community, the Executive Board shall provide a copy or summary of the budget and notice of any capital expenditure approved by the Executive Board to all Unit Owners. Unless a majority of all Unit Owners vote to reject the budget or any capital expenditure approved by the Executive Board within thirty (30) days after the approval, the budget or capital expenditure is ratified. In the event the proposed budget is rejected, the periodic budget last ratified by the Unit Owners shall be continued until such time as a subsequent budget is adopted by the Executive Board, and such subsequent budget is not rejected in accordance with this Section 9.5 and Section 5303(b) of the Act.

Section 9.6. Adoption of Non-Budgeted Common Expense Assessments. If the Executive Board votes to levy a Common Expense assessment not included in the current budget, other than one enumerated in Section 9.3 of this Declaration, the Executive Board shall immediately submit a copy or summary of such Common Expenses to the Unit Owners and such Common Expenses shall be subject to rejection in the same manner as a

budget under Section 9.5 hereof. Notwithstanding the foregoing, the Unit Owners shall not have the power to reject the imposition of Common Expense assessments due to the actual cost of a budgeted item being in excess of the amount originally budgeted.

Section 9.7. Certificate of Payment of Common Expense Assessments. Upon receipt of a written request, the Association shall furnish to a Unit Owner a statement in recordable form setting forth the amount of unpaid assessments currently levied against the Unit as required by Section 5315(h) of the Act and any credits of surplus in favor of his Unit pursuant to Section 5313 of the Act. The statement, which shall be furnished within ten (10) business days after receipt of the request, shall be binding on the Association, the Executive Board and every Unit Owner.

Section 9.8. Frequency of Payment of Common Expenses. All Common Expenses and Limited Common Expenses assessed under Sections 9.2 and 9.3 shall be due and payable either on a monthly, quarterly or annual basis, as the Executive Board deems advisable. Special Assessments shall be due and payable in one or more installments and at such times determined by the Executive Board to be advisable.

Section 9.9. Acceleration of Common Expense Assessments. In the event of default for a period of ten (10) days by any Unit Owner in the payment of any Common Expense assessment levied against his Unit, the Executive Board shall have the right, after Notice and Hearing, to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable.

Section 9.10. Commencement of Common Expense Assessments. Common Expense assessments shall begin as of the date of the First Settlement. Notwithstanding the foregoing, the Declarant may elect to delay the commencement of Common Expense assessments until a date later than the First Settlement, provided that it shall be solely responsible for all Association expenses prior to such commencement.

Section 9.11. Personal Liability of Unit Owners. The Owner of a Unit at the time a Common Expense assessment or portion thereof is due and payable is personally liable for the assessment. Personal liability for the assessment shall not pass to a successor in title to the Unit unless he agrees to assume the obligation.

Section 9.12. No Waiver of Liability for Common Expenses. No Unit Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

Section 9.13. Initiation Fee. Commencing upon the First Settlement and thereafter at the closing with each Initial Unit Purchaser, the Association shall collect from each such Initial Unit Purchaser the sum of Two Hundred Fifty Dollars (\$250.00), which amount may be used by the Association for proper Association purposes. The Declarant shall not use the initiation fee to defray any expenses with respect to construction of the Common Elements or development of the Property for which the Declarant is obligated; however, the initiation fee may be used by the Association to offset any deficits in its budget. No amount paid hereunder shall be considered an advance payment of regular

Common Expense assessments. No Unit Owner is entitled to a refund of these monies from the Association upon the subsequent conveyance of his Unit or otherwise.

Section 9.14. Surplus Funds. Any excess amounts accumulated from Common Expense assessments, Limited Common Expense assessments or reserves, together with any income related thereto, which exceed the amounts required for each, shall, at the discretion of the Executive Board, (a) be credited to each Unit in accordance with Section 5313 of the Act and shall be applied to subsequent assessments against each such Unit until exhausted; or (b) be included in the budget of the Association for the ensuing fiscal year of the Association, to be applied against the payment of Common Expenses, Limited Common Expenses, or to fund reserves. A reasonable amount of operating capital maintained by the Association shall not be deemed to be surplus funds as described in this Section 9.14.

Section 9.15. Association Records. During the period of the Declarant control, the Association shall keep detailed financial records, including, without limitation, a record of expenses paid by the Declarant until the commencement of Common Expense assessments by the Association under Section 5314(a) of the Act, and, for the period commencing on such date, a record for each Unit in the Community, including those owned by the Declarant or a Builder, of its Common Expense assessments and the payments thereof. The Association shall keep financial records sufficiently detailed to enable the Association to comply with Section 9.7 of the Declaration and Section 5407 of the Act. All financial and other records shall be made reasonably available for examination by any Unit Owner and his authorized agents.

ARTICLE X

(Reserved)

ARTICLE XI

DECLARANT CONTROL OF THE ASSOCIATION AND SPECIAL DECLARANT RIGHTS

Section 11.1. Control of the Association.

11.1.1. The Declarant shall have the right to appoint and remove any and all officers and members of the Executive Board until the earliest of:

- (a) seven (7) years after the date of the first conveyance of a Unit to a person other than the Declarant,
- (b) sixty (60) days after seventy-five percent (75%) of the Units that may be created have been conveyed to Unit Owners other than the Declarant,

(c) two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business, or

(d) two (2) years after any development right to add new Units was last exercised by the Declarant.

11.1.2. Upon the expiration of the period of Declarant control described in Subsection 11.1.1 above, all members of the Executive Board shall resign, and the Unit Owners (including the Declarant to the extent of Units owned by the Declarant) shall elect a new five (5) member Executive Board.

11.1.3. Notwithstanding the terms of Subsections 11.1.1 and 11.1.2 above, no later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Unit Owners other than the Declarant, two (2) of the five (5) members of the Executive Board appointed by Declarant shall resign, and replacement members shall be elected by Unit Owners other than the Declarant.

11.1.4. Within sixty (60) days of the termination of the period of Declarant control of the Association, the Declarant shall deliver to the Association all property of the Unit Owners and of the Association held by or controlled by the Declarant, together with all applicable items designated in Section 5320 of the Act.

11.1.5. Following the transfer of control of the Executive Board by the Declarant to the Unit Owners pursuant to Subsection 11.1.2 hereof, the Unit Owners shall have the right to increase or decrease from time to time the number of members comprising the Executive Board.

Section 11.2. Special Declarant Rights. Notwithstanding the transfer by Declarant to Unit Owners of control of the Association pursuant to Section 11.1 hereof, the Declarant reserves unto itself all Special Declarant Rights as defined in the Act. These Special Declarant Rights include, inter alia, the right to transfer any or all of the Declarant's Special Declarant Rights to one or more successors, provided that the transfer(s) shall be effected in accordance with the provisions of this Declaration and Section 5304 of the Act. Any successor to any Special Declarant Right shall have the liabilities and obligations set forth in Section 5304(e) of the Act.

ARTICLE XII

LIMITATION OF LIABILITY

Section 12.1. Limited Liability of Members of the Executive Board. To the fullest extent permitted by Pennsylvania law, as now in effect and as modified from time to time, a member of the Executive Board shall not be personally liable for monetary damages for any action taken or any failure to take any action by:

12.1.1. the Executive Board; or

12.1.2. the Executive Board of any master association with respect to any powers delegated by the Association to the master association pursuant to Section 5302(a)(18) of the Act, following such delegation.

Section 12.2. Indemnification of Members of the Executive Board and Officers of the Association.

12.2.1. Third Party Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that the person is or was an Executive Board member or officer of the Association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by the person in connection with such threatened, pending or completed action, suit or proceeding.

12.2.2. Derivative Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that the person is or was an Executive Board member or officer of the Association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by the person in connection with such threatened, pending or completed action or suit by or in the right of the Association.

12.2.3. Procedure for Effecting Indemnification. Indemnification under Subsections 12.2.1 and 12.2.2 shall be automatic and shall not require any determination that indemnification is proper, except that no indemnification shall be made in any case where the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.

12.2.4. Expenses Advanced. The Association shall advance expenses incurred by an Executive Board member or officer of the Association who is entitled to be indemnified pursuant to the provisions of this Section 12.2 in advance of the final disposition of such action, suit or proceeding, upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined by a court of competent jurisdiction that such person is not entitled to be indemnified by the Association.

12.2.5. Indemnification of Other Persons. The Association may, at the discretion of, and to the extent and for such persons as determined by the Executive Board of the Association, (a) indemnify any person who neither is nor was an Executive Board member or officer of the Association but who is or was a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (and whether brought by or in the right of the Association), by reason of the fact that the person is or was a representative of the Association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by the person in connection with such threatened, pending or completed action, suit or proceeding, and (b) pay such expenses in advance of the final disposition of such action, suit or proceeding, upon receipt of an

undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined by a court of competent jurisdiction that such person is not entitled to be indemnified by the Association.

ARTICLE XIII

INSURANCE

Section 13.1. Coverage. Commencing no later than the date of the First Settlement and to the extent reasonably available, the Executive Board shall obtain and maintain insurance coverage as set forth in Sections 13.2 and 13.3 and in accordance with the provisions of Section 5312 of the Act. If such insurance is not reasonably available, and the Executive Board determines that any insurance described herein will not be maintained, the Executive Board shall cause notice of that fact to be hand-delivered or sent prepaid by United States Mail to all Unit Owners at their respective last known addresses.

Section 13.2. Property Insurance. The Association shall obtain and maintain all property insurance required to be maintained by the Association by Section 5312 of the Act.

Section 13.3. Liability Insurance. The Association shall obtain and maintain comprehensive general liability insurance, including medical payments insurance, in an amount reasonably determined by the Executive Board but in no event less than One Million Dollars (\$1,000,000.00), covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. The policy shall name any managing agent as an additional insured. Upon creation of any additional property owners associations within Brandywine Condominium, the Association may agree with those other property owners associations to obtain a joint policy of liability insurance for any jointly used Common Elements.

Section 13.4. Unit Owner Policies. Each Unit Owner shall be solely responsible for obtaining all property and liability insurance on his Unit in compliance with Section 5312 of the Act, including (1) property insurance on any Dwelling located upon the Unit insuring against all common risks of direct physical loss in an amount at least equal to the full replacement value of the Dwelling, exclusive of land, excavations, foundations and other items normally excluded from property policies, and (2) comprehensive general liability insurance covering all occurrences commonly insured against for death, bodily injury and property damage, arising out of or in connection with the use, ownership or maintenance of the Unit in an amount not less than Three Hundred Thousand Dollars (\$300,000.00), or such other amount as may be reasonably determined from time to time by the Executive Board. The Executive Board shall provide all Unit Owners with written notice of any change in the amount of insurance required pursuant to this Section 13.4 no less than thirty (30) days before the effective date of the new requirement.

Section 13.5. Other Provisions. Insurance policies carried by the Association pursuant to this Article shall provide that:

13.5.1. Each Unit Owner is an insured person under the policy with respect to liability arising out of his membership in the Association.

13.5.2. The insurer waives its rights to subrogation under the policy against any Unit Owner or member of his household.

13.5.3. No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

13.5.4. If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

13.5.5. The insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

Section 13.6. Fidelity Bonds. The Association shall maintain a blanket fidelity bond or similar security for anyone who either handles or is responsible for funds held or administered by the Association, whether or not he receives compensation for his services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force, and in no event less than the sum of three months' Common Expense assessments and reserve funds on deposit. The bond shall include a provision that calls for thirty (30) days' written notice to the Association before the bond can be canceled or substantially modified for any reason. However, if cancellation is for nonpayment of premiums, only ten (10) days' notice shall be required.

Section 13.7. Workers' Compensation Insurance. The Executive Board shall obtain and maintain workers' compensation insurance to meet the requirements of the laws of the Commonwealth of Pennsylvania.

Section 13.8. Indemnification Insurance. The Executive Board shall obtain directors' and officers' liability insurance to satisfy the indemnification obligations set forth in Section 12.2 hereof, if and to the extent available at a reasonable cost.

Section 13.9. Other Insurance. The Association may carry other insurance that the Executive Board considers necessary or advisable to protect the Association or the Unit Owners.

Section 13.10. Premiums and Deductibles. Insurance premiums and deductibles for policies maintained by the Association shall be a Common Expense, unless the deductible may be charged against one or more Unit Owners pursuant to Section 5314(c) of the Act.

ARTICLE XIV

DAMAGE TO OR DESTRUCTION OF PROPERTY

Section 14.1. Unit Owner's Duty to Restore. Any portion of the Property for which insurance is required to be maintained by a Unit Owner under Section 5312 of the Act or this Declaration, or for which insurance carried by the Unit Owner is in effect, whichever is more extensive, shall be repaired or replaced promptly by the Unit Owner in accordance with Section 5312 of the Act.

Section 14.2. Association's Duty to Restore. Any portion of the Property for which insurance is required to be maintained by the Association under Section 5312 of the Act or this Declaration, or for which insurance carried by the Association is in effect, whichever is more extensive, shall be repaired or replaced promptly by the Association in accordance with Section 5312 of the Act.

14.2.1. Cost. The cost of repair or replacement in excess of insurance proceeds and reserves with respect to losses for which insurance is required to be maintained by the Association by Section 5312 of the Act or this Declaration shall be a Common Expense, subject to the provisions of Section 5314(c) of the said Act.

14.2.2. Plans. The Property must be repaired and restored substantially in accordance with either the original plans and specifications or other plans and specifications which are compatible with the remainder of the Community and which have been approved by the Executive Board and the Municipality, following receipt of a recommendation from the Architectural Review Committee.

14.2.3. Replacement of Common Elements. The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Community.

14.2.4. Insurance Proceeds. The insurance trustee, or if there is no insurance trustee, the Association, shall hold any proceeds from insurance maintained by the Association in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of Section 5312(h)(1) of the Act, the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Community is terminated.

14.2.5. Certificates by the Executive Board. A trustee, if any, may rely on the following certifications in writing made by the Executive Board:

(a) Whether or not any portion of the damaged or destroyed Property is to be repaired or restored;

(b) The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

14.2.6. Certificates by Attorneys. If payments are to be made to Unit Owners, the Executive Board, and the trustee, if any, shall obtain and may rely upon an attorney's certificate of title or a title insurance certificate, based on a search of the land records of the county in which the Property is located, from the date of the recording of the original Declaration stating the names of the Unit Owners and the holders of any mortgages upon the Units.

ARTICLE XV

AMENDMENTS TO DECLARATION

Section 15.1. Amendment Generally. Except in cases of amendments that may be executed by the Declarant in the exercise of its Special Declarant Rights, including those rights described in Articles XX, XXI and XXII of this Declaration, or by the Association pursuant to Section 15.6 hereof, or as otherwise permitted or required by other provisions of this Declaration or the Act, this Declaration, including the Plats and Plans, may be amended only by vote or agreement of Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

Section 15.2. Limitation of Challenges. No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than one year after the amendment is recorded.

Section 15.3. Recordation of Amendments. Every amendment to this Declaration shall be recorded in the county in which the Property is located and shall be effective only on recording. An amendment shall be indexed in the name of the Community in both the grantor and grantee index.

Section 15.4. Execution of Amendments. Amendments to this Declaration required by the Act to be recorded by the Association, which have been adopted in accordance with this Declaration and the Act, shall be prepared, executed, recorded and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

Section 15.5. Special Declarant Rights. Provisions in this Declaration or in the Act creating or modifying Special Declarant Rights may not be amended without the consent of the Declarant.

Section 15.6. Corrective Amendments. If any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provision of this Declaration, including the Plats and Plans, that is defective, missing or inconsistent with any other provisions contained therein or with the Act, or if such amendment is necessary to conform to the requirements of the Federal Housing Administration, Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or other agency or entity with national or regional standards for mortgage loans with respect to planned community projects, then at any time and from time to time the Executive Board may effect an appropriate corrective amendment without the approval of the Unit Owners or the holders of any Security Interest in all or any part of the Property,

upon receipt by the Executive Board of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of this Section 15.6.

ARTICLE XVI

AMENDMENTS TO BYLAWS

Section 16.1. Amendments to Bylaws. The Bylaws may be amended only by vote of three-fifths (3/5) of the members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose. Corrective amendments to the Bylaws may be effected in the same manner as amendments to the Declaration described in Section 15.6 hereof.

ARTICLE XVII

RIGHTS TO NOTICE AND COMMENT; NOTICE AND HEARING

Section 17.1. Right to Notice and Comment. Before the Executive Board amends the Bylaws or the Rules and Regulations, whenever the Community Documents require that an action be taken after "Notice and Comment", and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Unit Owner in writing and shall be delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or published in a newsletter or similar publication that is routinely circulated to all Unit Owners. The notice shall be given not less than five (5) days before the proposed action is to be taken.

Section 17.2. Right to Notice and Hearing. Whenever the Community Documents require that an action be taken after "Notice and Hearing", the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing and shall be given no less than five (5) days before the hearing is to occur. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

Section 17.3. Appeals. Any person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of any person or persons other than the Executive Board by filing a written notice of appeal with the Executive Board within ten (10) days after being notified of the decision. The Executive Board shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures

as were required for the original meeting. Otherwise, the decisions of the Executive Board are final.

ARTICLE XVIII

POWERS OF THE ASSOCIATION

Section 18.1. Powers of the Association. Subject to the provisions of this Declaration, the Association shall have all of the powers designated in Section 5302 of the Act, including the right to assign its right to receive future income, including payments made on account of any assessment against any Unit for Common Expenses and Limited Common Expenses.

Section 18.2. Master Association. Following the expiration or termination of the Special Declarant Rights described in Subsection 18.2.1 hereof, the Association shall have the right to assign or delegate any of its powers listed in Section 5302 of the Act to a master association, provided that any such assignment or delegation is made subject to the provisions of Section 5222 of the Act. The Association shall also have the right to accept any assignment or delegation of powers from one or more planned community or condominium associations, also provided that such acceptance or assignment is effected in accordance with and subject to Section 5222 of the Act.

18.2.1. Reservation. The Declarant hereby explicitly reserves the Special Declarant Right, under Section 5205(13) of the Act, to assign or delegate any or all of the powers of the Association to a master association under Section 5222 thereof, without the consent of any Unit Owner or holder of any Security Interest in any Unit. This right shall continue until the seventh (7th) anniversary of the recording of this Declaration, unless terminated prior to such anniversary upon the filing of an amendment to this Declaration by the Declarant. The Declarant expressly reserves the right to make such assignment(s) or delegation(s) at any time, at different times, in any order and without limitation. The Declarant shall also have the right to accept on behalf of the Association any assignment or delegation of powers from one or more planned community or condominium associations.

Section 18.3. Merger or Consolidation. Following the expiration or termination of the Special Declarant Rights described in Subsection 18.3.1 hereof, the Association shall have the power to merge or consolidate the Community with one or more other planned communities or condominiums into a single planned community provided that such merger or consolidation is made in accordance with the provisions of Section 5223 of the Act.

18.3.1. Reservation. The Declarant hereby explicitly reserves the Special Declarant Right, under Section 5205(14) of the Act, to cause the Community to be merged or consolidated with one or more other planned communities or condominiums under Section 5223 thereof, without the consent of any Unit Owner or holder or insurer of any Security Interest in any Unit. This right shall continue until the seventh (7th) anniversary of the recording of this Declaration, unless terminated prior to such anniversary upon the filing of an amendment to this Declaration by the Declarant. The Declarant

expressly reserves the right to make such merger(s) or such consolidation(s) at any time, at different times, in any order, without limitation.

18.3.2. Restrictions. The buildings and the Units that are part of other communities or condominiums merged or consolidated with the Community shall be compatible (but not necessarily the same) in terms of architectural style, quality of construction, and materials with the Units in the Community. All restrictions in this Declaration affecting use, occupancy and alienation of Units shall apply to the units created in the other planned communities or condominiums, although there may be some differences in the restrictions applicable to different styles of homes (e.g., single-family detached homes, townhouse style homes, et al). Because the Declarant may make changes to the plans for additional planned communities or condominiums prior to obtaining final township subdivision and land development plan approval and recording, no assurances are made regarding the exact lot configuration, description or location of any other buildings, improvements, common elements or limited common elements that may be created in the additional planned communities or condominiums. No assurances are made regarding the proportion of units to limited common elements which may be created in the additional planned communities or condominiums. The maximum number of Units in the merged or consolidated planned communities (including the Community) shall be no more than Three Hundred Fifty Seven (357) Units if the Additional Real Estate is not added to the Community or Five Hundred Thirty Seven (537) Units if the Additional Real Estate is added to the Community. In the event that the Community is merged with one or more additional planned communities or condominiums as described in Subsection 18.3.1 hereof, the Allocated Interest appurtenant to each Unit shall be recalculated (decreased) by: (1) converting a fraction to a decimal, the numerator of which fraction shall be one (1) and the denominator of which fraction shall be the total number of units in the merged or consolidated planned communities (including the Community); and (2) multiplying the product by any applicable factor assigned by the Declarant, pursuant to Subsection 2.1.4 hereof. In the event that the Declarant does not merge or consolidate the other planned communities or condominiums with the Community, the assurances contained in this Section 18.3 shall not apply in any way to the other planned communities or condominiums or any portion thereof.

Section 18.4. Conveyance or Encumbrance of the Common Elements. If Unit Owners entitled to cast at least eighty percent (80%) of the votes in the Association, at least eighty percent (80%) of which affirmative votes are allocated to Units not owned by the Declarant, agree, any one or more portions of the Common Elements may be conveyed or subjected to a Security Interest by the Association. Any conveyance or encumbrance of the Common Elements by the Association shall be effected in strict accordance with Section 5318 of the Act.

Section 18.5. Judgments Against the Association. Any creditor of the Association pursuant to a Security Interest obtained under Section 18.1 hereof shall exercise its rights against the Common Elements before its judgment lien on any Unit may be enforced. Otherwise, as a general rule, any judgment for money against the Association, upon perfection as a lien on real property, shall not be a lien on the Common Elements, but shall constitute a lien against all of the Units in the Community at the time the judgment was entered. Any Unit Owner may have his Unit released from the lien of the judgment upon payment of that portion of the lien attributable to his Unit in accordance with

Section 5319(c) of the Act. After payment, the Association may not assess or have a lien against that Unit Owner's Unit for any portion of the Common Expense incurred in connection with that lien. A judgment indexed against the Association must be indexed against the Community and the Association, and when so indexed, shall constitute notice of the lien against the Units.

ARTICLE XIX

COMMON FACILITIES

Section 19.1. Reservation. The Declarant hereby explicitly reserves the right to designate as a Common Facility or Facilities any portion of the Property, or any improvement or facility, existing or contemplated, other than a Unit owned by a Unit Owner other than Declarant, as described in this Declaration and the Plats and Plans, as they may be amended from time to time, without the consent of any Unit Owner or holder or insurer of any Security Interest in any Unit.

Section 19.2. Community Amenities. Common Facilities may include certain amenities and open spaces for the enjoyment and use of Unit Owners and residents of the Community and of Brandywine Condominium.

Section 19.3. Conveyance to the Association. Declarant or Declarant's successor in interest to a Common Facility shall own the Common Facility until such time as it has been conveyed to the Association in accordance with this Section 19.3. After completion of the Common Facility, Declarant or any successor in interest to Declarant in the Common Facility shall lease, or convey fee simple title to the Common Facility by special warranty deed, or shall transfer easements or other ownership rights, title and interests, to the Association by the later of (a) the date of conveyance by the Declarant of the last Unit the Declarant reserves the right to include in the Community or (b) the seventh (7th) anniversary of the recording of this Declaration. A Common Facility shall be deemed completed upon the recording of a certificate, executed by an independent registered surveyor, architect or professional engineer stating that the Common Facility is substantially completed in accordance with the descriptions set forth in the Declaration, the Plats and Plans and the Public Offering Statement and so as to permit the use of such Common Facility for its intended purpose. The Association shall not be required to pay any consideration for any Common Facility. The obligation to convey a Common Facility to the Association shall be binding upon the Declarant and any successor in interest to Declarant in the Common Facility whether or not such successor succeeds to any Special Declarant Rights.

Section 19.4. Bike Path. The Property is subject to the Declaration of Easements referenced in Section 1.2.6 above. The Declarant intends to construct an improved bike path in accordance with the provisions of the Declaration of Easements (the "Bike Path"). Upon completion of the Bike Path, the Declarant intends to assign all right, title and interest in and to the Bike Path easement area located within the

boundaries of the Property and the improvements constructed thereon to the Association as a Common Facility.

Section 19.5. Common Expense. Upon conveyance of a Common Facility to the Association, all costs and expenses associated with the administration, maintenance, repair and replacement of the Common Facility shall become a Common Expense assessed against all Units in the Community in accordance with their Allocated Interests determined pursuant to the provisions of Section 2.1 and subject to Section 9.2 hereof. The costs of administration, maintenance, repair and replacement of any Common Facility specifically designated in the Community Documents to be for the use and enjoyment of residents of both the Community and of Brandywine Condominium shall be assessed as Common Expenses, allocated as between the Community and Brandywine Condominium in the reasonable judgment of the Association and the Brandywine Condominium owner's association in accordance with the provisions of the Declaration of Easements, the Act or the Condominium Act, as the case may be.

ARTICLE XX

CONVERTIBLE REAL ESTATE

Section 20.1. Reservation. The Declarant hereby explicitly reserves an option, until the seventh (7th) anniversary of the recording of this Declaration, to convert all or any portion of the Convertible Real Estate to Units, Limited Common Elements or any combination thereof from time to time in compliance with Section 5211 of the Act, without the consent of any Unit Owner or holder or insurer of any Security Interest in any Unit. This option to convert may be terminated prior to such anniversary only upon the filing of an amendment to this Declaration by the Declarant. The Declarant expressly reserves the right to convert any or all portions of the Convertible Real Estate at any time, at different times, in any order, without limitation and without any requirement that any other real estate be converted, added or withdrawn; provided, however, that the Convertible Real Estate shall not exceed the area(s) described as such on Exhibit D attached hereto. There are no other limitations on this option to convert Convertible Real Estate.

Section 20.2. Assurances. If the Convertible Real Estate is converted, the Units created shall be located approximately as shown on the Subdivision Plan, as the same may be amended or modified by Declarant from time to time in accordance with all municipal and other governmental requirements. Notwithstanding the foregoing, no assurances are made regarding the actual Unit configuration, the description or location of any Dwellings or other improvements, Common Elements or Limited Common Elements that may be created on the Convertible Real Estate. At such time as all of the Convertible Real Estate is completely converted, the maximum number of Units in the Community as an aggregate will be no more than one hundred eighty (180) Units. All Units that may be created within the Convertible Real Estate are restricted to residential use substantially to the same extent as all other Units. Any buildings to be constructed upon Units created by the conversion of Convertible Real Estate shall be compatible (but not necessarily the same) in quality of construction, materials and architectural style with the buildings and Units on other portions of the Property. All restrictions in this Declaration affecting use,

occupancy and alienation of Units shall apply to Units created by the conversion of Convertible Real Estate. No assurances are made as to any other improvements and Limited Common Elements to be made or created in the Convertible Real Estate, nor to the proportion of Limited Common Elements to Units therein. The Allocated Interest appurtenant to each Unit created by the conversion of the Convertible Real Estate and the other existing Units shall be recalculated as required by Sections 2.1 and 9.2 hereof.

ARTICLE XXI

WITHDRAWABLE REAL ESTATE

Section 21.1. Reservation to Withdraw. The Declarant hereby explicitly reserves an option, until the seventh (7th) anniversary of the recording of this Declaration, to withdraw all or any portion of the Withdrawable Real Estate in compliance with Section 5212 of the Act, without the consent of any Unit Owner or holder or insurer of any Security Interest in any Unit. This option to withdraw may be terminated prior to such anniversary only upon the filing of an amendment to this Declaration by the Declarant. The Declarant expressly reserves the right to withdraw any or all portions of the Withdrawable Real Estate at any time, at different times, in any order, without limitation and without any requirement that any other real estate be converted, added or withdrawn; provided, however, that the Withdrawable Real Estate shall not exceed the area(s) described as such on Exhibit E attached hereto. There are no other limitations on this option to withdraw Withdrawable Real Estate. The Allocated Interest appurtenant to each Unit in the Community as of the date this Declaration or any amendments thereto are recorded will be unaffected by the withdrawal of all or any part of the Withdrawable Real Estate. In the event that the Declarant withdraws all or any portion of the Withdrawable Real Estate, the assurances, if any, contained in this Declaration shall not apply to the Withdrawable Real Estate withdrawn from the Community.

Section 21.2. Easements Regarding Withdrawable Real Estate. If and when Withdrawable Real Estate is withdrawn from the Property in accordance with the provisions of this Declaration, the following reciprocal easements shall be created and granted in favor of and against the Unit Owners and the Association, on the one hand, and the owners and occupants of the portion of the Withdrawable Real Estate withdrawn from the Property, on the other hand:

21.2.1. A non-exclusive easement and right-of-way over, on, and upon any roads and streets created within the Property for ingress and egress to and from any public streets serving the Property;

21.2.2. The right of access for the placement and maintenance of underground utility facilities to serve any owner of any portion of the Property, including, inter alia, electrical, gas, telephone, sewer and water lines provided that the exercise of said rights does not materially interfere with the existing utility facilities;

21.2.3. The right to use and gain access to existing utility facilities located on the Property, including, inter alia, the waterlines, sanitary sewer and storm sewer facilities, and to tie into said facilities, together with the right to install and maintain new

utility facilities, provided that the exercise of such rights does not materially interfere with the existing utility facilities;

21.2.4. The right to enter upon the Property at reasonable times for the purpose of laying, constructing, inspecting, maintaining, repairing or removing said utility facilities.

Section 21.3. Declaration of Reciprocal Easements. Prior to withdrawing Withdrawable Real Estate, the Declarant shall execute and record a Declaration of Reciprocal Easements creating the rights above, subject, inter alia, to the following conditions:

21.3.1. The party exercising such easement rights for the installation of utility facilities shall be solely responsible for all expenses of whatever nature with regard to the initial construction and installation of said utility facilities;

21.3.2. Any party exercising the easement right to install utility facilities over, under or through the Property shall observe all applicable laws pertaining thereto. All work shall be done during reasonable times, following reasonable notice to any party who will be affected by the work, and shall be done in a manner which shall not unreasonably interfere with the use of the Property by the owners and occupants thereof;

21.3.3. The party exercising such easement right, at its sole cost, shall promptly restore the Property to its original condition;

21.3.4. The expense of operating, maintaining and repairing any area or facility, subject to a reciprocal easement, shall be equitably apportioned among the owners using said areas or easements, considering all pertinent use factors.

21.3.5. The party exercising any easement right shall indemnify and hold harmless all other owners within the Property from all loss, damage, claims or expenses, including reasonable attorneys' fees, resulting from its negligent or improper exercise of the easements and other rights granted herein.

ARTICLE XXII

OPTION TO EXPAND THE COMMUNITY

Section 22.1. Reservation. The Declarant hereby explicitly reserves an option, until the seventh (7th) anniversary of the recording of this Declaration, to add Additional Real Estate to the Community in compliance with Section 5211 of the Act, without the consent of any Unit Owner or holder or insurer of any Security Interest in any Unit. This option to expand may be terminated prior to such anniversary only upon the filing by the Declarant of an amendment to this Declaration. The Declarant expressly reserves the right to add the Additional Real Estate at any time, at different times, in any order, without limitation and without any requirement that any other real estate be added,

converted or withdrawn; provided, however, that the Additional Real Estate shall not exceed the area described as such on Exhibit F attached hereto. There are no other limitations on this option to add Additional Real Estate to the Community. Any Additional Real Estate added to the Community shall be added as Convertible and Withdrawable Real Estate subject to all of the provisions of Articles XX and XXI, inter alia, of this Declaration.

Section 22.2. Assurances. The Declarant makes no assurances as to the location and description of improvements and Common Elements that may be made or created within the Additional Real Estate. At such time as the Community is expanded, the maximum number of Units that may be created within the Additional Real Estate as an aggregate will be One Hundred Eighty (180) Units, which are hereby restricted to residential use substantially to the same extent as all other Units. An assurance is hereby given that any improvements to be constructed on the Additional Real Estate and the Units therein are and will be compatible (but not necessarily the same) in quality of construction, materials and architectural style with the Units in the Property. The Declarant expressly reserves the right to designate Common Elements in the Additional Real Estate which may be assigned subsequently as Limited Common Elements. The Declarant makes no assurances as to type, size, maximum number of such Common Elements and Limited Common Elements, assignment of Limited Common Elements to the Units, or the proportion of Units to Limited Common Elements. The Allocated Interest appurtenant to each Unit in the Additional Real Estate and the Property shall be recalculated as required by Sections 2.1 and 9.2 hereof. All restrictions in this Declaration affecting use, occupancy and alienation of Units shall apply to the Units created in the Additional Real Estate. In the event that the Declarant does not add any portion of the Additional Real Estate, the assurances contained in this Article shall not apply in any way to the Additional Real Estate or any portion thereof.

ARTICLE XXIII

TERMINATION OF THE COMMUNITY

Section 23.1. Procedure for Termination. Except in the case of a taking of all of the Units in the Community by eminent domain, the Community may be terminated by agreement of Unit Owners of Units to which at least eighty percent (80%) of the votes in the Association are allocated, provided that at least eighty percent (80%) of the affirmative votes are allocated to Units not owned by the Declarant or a Builder.

ARTICLE XXIV

INTERPRETATION

Section 24.1. Interpretation. The provisions of this Declaration shall be liberally construed in order to effectuate the Declarant's desire to create a uniform plan for development and operation of the Community. The headings preceding the various paragraphs of this Declaration and the Table of Contents are intended solely for the convenience of readers of this Declaration.

ARTICLE XXV

SEVERABILITY

Section 25.1. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof unless such deletion shall destroy the uniform plan for development and operation of the planned community which this Declaration is intended to create.

ARTICLE XXVI

EFFECTIVE DATE

Section 26.1. Effective Date. This Declaration shall become effective on the date on which it is recorded (the "Effective Date").

IN WITNESS WHEREOF, the Declarant, intending to be legally bound hereby has duly executed this Declaration, as of this _____ day of _____, 2005.

ATTEST/WITNESS:

FISHING CREEK VALLEY
ASSOCIATES, L.P.
By: REY, Inc., its Managing General
Partner

By _____
Name:
Title:

By _____
Richard E. Yingst, Jr., President

COMMONWEALTH OF PENNSYLVANIA

:
:
:
:

SS:

COUNTY OF _____

On this, the _____ day of _____, 2005, before me, a Notary Public, the undersigned officer, personally appeared Richard E. Yingst, Jr., who acknowledged himself to be the President of REY, INC., a Pennsylvania corporation (the "Corporation"), said Corporation being the Managing General Partner of FISHING CREEK VALLEY ASSOCIATES, L.P., a Pennsylvania limited partnership (the "Partnership"); and that he as such officer, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the Corporation by himself as such officer in the Corporation's capacity as Managing General Partner of, and as authorized by, the Partnership.

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

Notary Public

(SEAL)

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL ESTATE

ALL THAT CERTAIN lot or tract of land situate in the Township of Hampden, County of Cumberland and Commonwealth of Pennsylvania, more particularly bounded and described in accordance with Final Subdivision & Land Development Plan for The Village of Brandywine Phase I / 2A recorded in Cumberland County Plan Book 89, Page 39, as revised by a plan recorded in Cumberland County Plan Book 90, Page 42 (collectively, the "Plan"):

BEGINNING at the intersection of the eastern right-of-way of Jerusalem Road and the north western corner of lands now or formerly belonging to Deimis E. & Joan V. Bobb; thence from said beginning point along the right-of-way of Jerusalem Road the following five (5) chords:

1. North 50 degrees 46 minutes 35 seconds West, a distance of 116.68 feet,
2. North 55 degrees 03 minutes 53 seconds West, a distance of 60.17 feet,
3. North 50 degrees 46 minutes 36 seconds West, a distance of 449.97 feet,
4. A curve to the right having a radius of 124.44 feet, an arc length of 140.78 feet, a chord bearing of North 18 degrees 10 minutes 39 seconds West, a chord distance of 133.39 feet,
5. North 14 degrees 12 minutes 46 seconds East, a distance of 546.52 feet;

thence through the Village of Brandywine the following eighteen (18) chords:

1. South 76 degrees 03 minutes 04 seconds East, a distance of 41.50 feet,
2. South 75 degrees 13 minutes 37 seconds East, a distance of 171.15 feet,
3. South 82 degrees 48 minutes 50 seconds East, a distance of 455.19 feet,
4. South 82 degrees 47 minutes 30 seconds East, a distance of 440.25 feet,
5. South 82 degrees 47 minutes 20 seconds East, a distance of 132.15 feet,
6. South 72 degrees 59 minutes 23 seconds East, a distance of 15.00 feet,
7. South 88 degrees 17 minutes 01 second East, a distance of 62.73 feet,
8. South 69 degrees 28 minutes 35 seconds East, a distance of 15.00 feet,
9. South 82 degrees 47 minutes 20 seconds East, a distance of 103.08 feet,
10. South 07 degrees 12 minutes 40 seconds West, a distance of 10.00 feet,
11. South 07 degrees 07 minutes 35 seconds West, a distance of 135.67 feet,
12. North 69 degrees 06 minutes 30 seconds East, a distance of 217.13 feet,
13. North 07 degrees 11 minutes 05 seconds East, a distance of 43.42 feet,
14. South 82 degrees 48 minutes 55 seconds East, a distance of 311.13 feet,
15. South 81 degrees 25 minutes 50 seconds East, a distance of 30.99 feet,
16. South 08 degrees 34 minutes 10 seconds East, a distance of 10.00 feet,
17. South 04 degrees 26 minutes 41 seconds West, a distance of 170.92,
18. South 20 degrees 50 minutes 46 seconds East, a distance of 8.38 feet,

thence along the adjoining property line of lands now or formerly belonging to Jeffrey D. & Danielle Sauve and other adjoining properties South 69 degrees 09 minutes 14 seconds West, a distance of 1648.65 feet to the point of beginning.

CONTAINING 1,267,918 S.F. or 29.11 Acres.

BEING part of the premises which Gladys M. Watts, widow, by deed dated September 30, 2003 and recorded in Cumberland County Deed Book 259, Page 3673, granted and conveyed unto Fishing Creek Valley Associates, L.P., a Pennsylvania limited partnership, Declarant herein.

EXHIBIT B

**ALLOCATED INTEREST IN COMMON EXPENSE LIABILITY
AND VOTES APPURTENANT TO UNITS**

Unit Number	Allocated Interest	Number of Votes
1	4.545	1
2	4.545	1
3	4.545	1
4	4.545	1
5	4.545	1
6	4.545	1
7	4.545	1
8	4.545	1
9	4.545	1
10	4.545	1
85	4.545	1
86	4.545	1
87	4.545	1
88	4.545	1
89	4.545	1
90	4.545	1
91	4.545	1
92	4.545	1
93	4.545	1
94	4.545	1
95	4.545	1
96	4.545	1
TOTAL (22 Units)	99.99	22

EXHIBIT C

PLATS AND PLANS

The Declaration Plat for Brandywine, A Planned Community, consisting of two (2) pages dated November 22, 2004, is being filed in the Office of the Recorder of Deeds in and for Cumberland County, Pennsylvania, concurrently with the filing of this Declaration, and said Plats and Plans are hereby incorporated herein and made an integral part hereof by this reference thereto.

EXHIBIT D

LEGAL DESCRIPTION OF THE CONVERTIBLE REAL ESTATE

ALL THAT CERTAIN parcel of land containing 29.11 acres, more or less, more particularly described on Exhibit "A" to this Declaration, less and excepting therefrom: Units 1 through 10, inclusive, and Units 85 through 96, inclusive, as described on the Plats and Plans.

EXHIBIT E

LEGAL DESCRIPTION OF THE WITHDRAWABLE REAL ESTATE

ALL THAT CERTAIN parcel of land containing 29.11 acres, more or less, more particularly described on Exhibit "A" to this Declaration, less and excepting therefrom: Units 1 through 10, inclusive, and Units 85 through 96, inclusive, as described on the Plats and Plans.

EXHIBIT F

LEGAL DESCRIPTION OF THE ADDITIONAL REAL ESTATE

ALL THAT CERTAIN tract or parcel of land situate in Hampden Township, Cumberland County, Pennsylvania, containing approximately 30 acres, more or less, identified as Cumberland County Tax Parcel No. 10-15-1281-0003, being a portion of the land more particularly bounded and described in Cumberland County Deed Book T, Volume 21, Page 863.

BEING part of the same premises which Elizabeth F. Swartz, widow, by her Deed dated October 15, 1965 and recorded in Cumberland County Deed Book T, Volume 21, Page 863 granted and conveyed unto Edgar F. Swartz and Virginia R. Swartz, husband and wife.

