

**DECLARATION  
OF  
COVENANTS, CONDITIONS,  
RESTRICTIONS, EASEMENTS AND  
ASSESSMENTS FOR  
LIBERTY VILLAGE**

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# **DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND ASSESSMENTS FOR LIBERTY VILLAGE**

This Declaration of Covenants, Conditions, Restrictions, Easements and Assessments is made this \_\_\_\_\_ day of \_\_\_\_\_, 1998 by Merlin H. and Catherine H. Porter-Borden, Nellie H. Porter, James E. Lane, Teresa and Kenneth A. Film, and Naomi J. and George F. Davis, III, as Partners of Libertytown Cohousing Partnership LLP, a Maryland Limited Liability Partnership, (hereinafter referred to as "Declarant"),  
WITNESSETH

WHEREAS, Declarant is the owner of certain real property situated in Frederick County, Maryland, as more fully described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as "the Development"); and

WHEREAS, Declarant intends by this Declaration to impose upon the Development Covenants, Conditions, Restrictions, Easements and Assessments (hereinafter referred to as "the Covenants") under a general plan of improvement for the benefit of all owners of any part of the Development and to establish methods for the administration of the Covenants, and the management, maintenance, preservation, use and enjoyment of such property;

NOW, THEREFORE, Declarant hereby declares that the Development of any Lots, outlots, or other portions thereof shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, and assessments which are for the purpose of protecting the value, desirability and marketability of, and which shall run with, the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the Development or any part thereof, their heirs, successors, successors in title, and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE 1 STATEMENT OF PURPOSE AND INTENT

The Property is planned as an intentional community under the provisions of the Planned Unit Development (PUD) regulations of the Frederick County, Maryland, Zoning Ordinance. The Declarant is committed to creating a community which

- a. Encourages social contact among neighbors while protecting the right to privacy;
- b. Fosters a sense of belonging and community participation;
- c. Preserves the environment while providing comfortable, convenient housing;
- d. Recognizes human diversity as a benefit to the community;
- e. Creates a safe atmosphere for living;
- f. Respects senior citizens as elders;
- g. Values children as responsible members of the community;
- h. Provides a barrier free neighborhood for people with disabilities;
- i. Supports, sustains and extends the family.

To these ends, these Covenants are created to protect this commitment and the property rights and investments of the Declarant, its lenders and financiers, future purchasers, owners and residents.

## ARTICLE 2 DEFINITIONS

Section 1. 'Association' means and refers to THE LIBERTY VILLAGE COMMUNITY ASSOCIATION, INC., a not-for-profit, non-stock, Maryland Corporation, and its successors and assigns, incorporated on \_\_\_\_\_ in the State of Maryland.

Section 2. 'Cluster Lot' means and refers to those Lots not fronting or abutting a public right-of-way. Cluster Lots may be zero lot line lots with property lines close to coincident with the walls of the residence with little or no yard space on the Lot itself, but may have a right of use of a portion of the Common Area immediately adjacent to the Lot for the purposes of private or semiprivate yard spaces adjacent to the residence, subject to the granting of license for such use by the Association, and the approval of plans for such use by the Development Review Team.

Section 3. 'Common Area' means and refers to all real and personal property within the Property now or hereafter owned or leased by the Association or otherwise held for the common use and enjoyment of the Owners, including the Common House.

Section 4. 'Common Expenses' means and refers to and includes the estimated and actual expenses incurred by the Association in connection with the use, maintenance, and operation of the Common Area and operation of the Association. Common Expenses shall include amounts necessary to establish and maintain any reserve fund determined to be necessary and appropriate by the Association.

Section 5. 'Common House' means and refers to the community center building located in and considered to be part of the Common Area.

Section 6. 'Community Assessment' means and refers to those assessments that are levied against all Lots within the Development to cover the basic expenses for services and facilities of the Common Area managed by the Association that benefit all Members and all Lots.

Section 7. 'Community Standard' means and refers to the standard of maintenance, condition, repair, appearance, cleanliness, or other activity generally established for the Common Area. Such Standard may be specifically determined and set forth in Operating Agreements, or otherwise adopted by the Association.

Section 8. 'Covenants' means and refers to this "Declaration of Covenants, Conditions, Restrictions, Easements and Assessments for Liberty Village" and any amendments thereto as such may be in force from time to time.

Section 9. 'County' means and refers to the government of Frederick County, Maryland.

Section 10. 'Declarant' means and refers to the forenamed Partners of the Libertytown Cohousing Partnership LLP and their successors and assigns to whom any or all of the special rights, reservations, easements, interests, exemptions, privileges, and powers of the Declarant are specifically assigned or transferred in writing.

Section 11. 'The Development' means and refers to the real property described in Exhibit "B" attached hereto and shall further refer to such additional property as described in Exhibit "A" attached hereto, or portions thereof, when and if any of which may be annexed pursuant to the filing of a Supplementary Declaration.

Section 12. 'Development Review Team' means and refers to that Management Team of the Association established by the Bylaws thereof.

Section 13. 'Directors' means and refers to the Directors of the Association as provided for in the Articles of Incorporation thereof with duties and authority as provided for therein and in the Bylaws thereof.

Section 14. 'Eligible Mortgage Holder' means and refers to a holder of a Mortgage on a property who has requested notice from the Association of amendments to the Association documents or other significant matters, which would affect the interests of the Mortgagee.

Section 15. 'Frontage Lot' means and refers to those lots fronting or abutting a public right-of-way and being at least one-quarter (1/4) of an acre in land area.

Section 16. 'Improvement Plan' means and refers to those plans approved for any respective Lot as required by Article 8, Section 2 hereof.

Section 17. 'Lot' means and refers to any plot of land (with the exception of the Common Area), regardless of the size, shown as a Lot or Outlot upon any recorded subdivision plat of the Development, on which is intended to be constructed any structure for separate ownership.

Section 18. 'Maximum Community Annual Assessment' means and refers to the maximum amount of assessment that may be, but is not necessarily, levied against any class of Member or Lot or size of house for a specific year of assessment.

Section 19. 'Member' means and refers to any person or entity entitled to membership in the Association, as provided for in the Articles of Incorporation thereof.

Section 20. 'Minimum Living Area' means and refers to the minimum portion of a residence that shall be finished as habitable space according to local building code requirements.

Section 21. 'Mortgage' means and refers to any recorded instrument, including a deed of trust, encumbering a Lot which is intended to secure the performance of an obligation.

Section 22. 'Mortgagee' means and refers to the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots and shall also include a beneficiary, holder or party secured by a deed of trust.

Section 23. 'Mortgagor' shall include the trustor of a deed of trust as well as a mortgagor.

Section 24. 'Operating Agreements' means and refers to the administrative conditions established through the authority of the Association by authorized parties for the use of the Common Area and facilities and the personal conduct of the Members and their guests thereon.

Section 25. 'Owner' means and refers to one or more persons or entities who in total hold the record title to any Lot but shall not include any party holding an interest merely as security for the performance of an obligation.

Section 26. 'Person' means and refers to a natural person, a corporation, a partnership, trustee, or any other legal entity.

Section 27. 'Property' or 'Properties' shall mean and refer to the real property described in Exhibit 'B' attached hereto and shall further refer to such additional property such as that described in Exhibit 'A' attached hereto when and if any additional areas are annexed pursuant to the filing of a Supplementary Declaration.

Section 28. 'Supplementary Declaration' means and refers to a supplement to this Declaration which, in accordance with Article VIII of this Declaration, adds additional real property to the real property encumbered by this Declaration. Such Supplementary Declaration may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land subjected by that Supplementary Declaration to the provisions of this Declaration.

Section 29. 'Utilities' means and refers to, but is not limited to, water, sewer, gas, electric, cable television, telephonic, drainage and storm water management facilities to be installed within the Development.

Section 30. 'Yards', with respect to front, rear or side of any dwelling, shall be established as indicated on the respective Improvement Plan for the subject Lot.

## ARTICLE 3 PROPERTY RIGHTS

### Section I. Owners Easements of Enjoyment.

Every Owner shall have a non-exclusive right and easement of enjoyment, in common with others, in and to the Common Area, including an easement for the use and enjoyment of any private streets, parking lots, and walkways within the Common Area, which shall be appurtenant to and inseparable from and shall pass with the title to every Lot subject to the following provisions

(a) the right of the Association to charge reasonable and uniform admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes as are consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless each class of the then Members consent to such dedication or transfer, at any special meeting of the Members duly called for such purpose; provided, that any such dedication or transfer shall also be subject to the limitations provided for in Article 11 and Article 18 of this Declaration;

(d) the right of the Association to establish uniform Operating Agreements pertaining to the use of the Common Area and the right of the Association to suspend the voting rights and the right to use of facilities situated located within the Common Area in any way determined appropriate by the Association for infraction of established Operating Agreements;

(e) the right of the Association to provide for the exclusive use by certain Members of designated parking spaces within the Common Area;

(f) the right of the Association, the Declarant, utility companies, cable companies, and other Owners with respect to the easements established under Article 10 hereof;

(g) the right of the Association in accordance with its Articles of Incorporation and By-Laws, and with consent of each class of the Members, considered separately, to borrow money for the purpose of improving the Common Area in a manner designed to promote the enjoyment and welfare of the Members and in aid thereof to mortgage any of the Common Area;

(h) the right of the Association to take such steps as are routinely necessary to protect the Common Area against mortgage default and foreclosures; provided, however, that such steps are in conformity with the other provisions of this Declaration;

(i) the right of the Association, acting by and through its Directors to grant easements, licenses, or other rights of use of the Common Area to Members and persons or entities who are not Members for such consideration and on such terms and conditions as the Membership may from time to time consider



appropriate; provided, however, that no such easements, licenses, or other rights of use of the Common Area shall be unreasonably and permanently inconsistent with the rights of Members to the use and enjoyment of the Common Area; and

(j) the right of the Association to assign maintenance obligations of any portion of the Common Area to the County if the County agrees to accept such maintenance obligation.

## **Section 2. Walkway Easements.**

Every Owner shall also have a nonexclusive right and easement of enjoyment, in common with others, to use and enjoy walkways intended for common use but located on private property within the Development, if any.

## **Section 3. Utility Easements.**

The rights and duties with respect to access to and use of Utilities and the easements therefor shall be governed by the following

(a) Whenever Utilities or any portion thereof, are or have been installed within the Property, the Owner of any Lot, or the Association, may have the right, and is hereby granted an easement to the extent necessary therefor, to enter upon or have the utility company enter upon any portion of the Development in which said installations lie, to repair, replace, and generally maintain said installations,

(b) The right granted in subparagraph (a) above shall be only to the extent necessary to entitle the Owner or Association serviced by said installation to the full and responsible use and enjoyment thereof, and provided further that anyone exercising said right shall be responsible for restoring the surface of the easement area so used to equal or better condition than prior to such use.

## **Section 4. Limitations.**

The Association shall have no right to suspend the right of any Owner to use the appropriate portions of the Common Area for necessary, ordinary, and reasonable pedestrian or vehicular ingress and egress to and from his Lot or to suspend any easement over the Common Area for Utilities or similar service to the Lot, notwithstanding any other provision of this Declaration to the contrary.

## **Section 5. Delegation of Use.**

Any Owner may delegate, in accordance with the By-Laws and adopted Operating Agreements, his right of enjoyment to the Common Area, and to walkways intended for common use but located on privately owned property, to the members of his family, his tenants, guests, invitees, or contract purchasers.

## ARTICLE 4 ASSESSMENTS

### Section 1. Creation of Assessments and Personal Obligation of Owners.

The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay the Association a Community Assessment which shall include (i) annual assessments or charges; and (ii) special assessments. This Community Assessment shall be uniform within each housing type (e.g., cluster lot or frontage lot, etc.). However, this Community Assessment may differ as between different housing sizes to reflect the fact that there may be higher costs associated with the maintenance, repair and replacement of those common areas and facilities (e.g., parking areas, etc.) which increasingly benefit larger housing sizes. The Membership may, at its discretion, establish such different Community Assessments provided that in no event does such Community Assessment exceed the Maximum Community Annual Assessment as established in Article III, Section 4 of this document unless increased in accordance with the provisions of that Section.

### Section 2. Purpose of Community Assessment.

The Community Assessment levied by the Association shall be used exclusively for the improvement and maintenance of the Common Area, including any storm water management facilities and common utilities, the payment of real estate taxes, assessments, and utility services for the Common Area, and management fees, administration expenses, and all other costs and expenses incurred by the Association in the proper conduct of its activities, including without limitation, charges accruing under any cross-easement or reciprocal easement agreements, and as otherwise approved by the Membership, to promote the recreation, health, safety, and welfare of the residents in the Property.

### Section 3. Creation of Lien for Assessments.

The Community Assessment, together with interest, costs, and reasonable attorneys fees when necessary for the collection thereof, shall be a charge on a Lot and shall be a continuing lien upon the property against which each such assessment is made; provided, however, that the provisions of the Maryland Contract Lien Act (Section 14-201, et seq., Real Property Article, Maryland Annotated Code) shall, if applicable, govern the establishment and enforcement of said lien. Any such respective attorneys fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessments fell due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them personally.

### Section 4. Maximum Community Annual Assessments.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Maximum Community Annual Assessment for each housing type shall be as follows

- (i) Frontage Lot - \$ 1,200.00
- (ii) Cluster Lot - \$1,200.00

(1) The Membership may from time to time fix the Community Annual Assessment at an amount not in excess of the maximum. The Declarant shall pay twenty-five percent (25%) of all assessments for each Lot which it owns which has been platted and annexed into the Association. Notwithstanding the foregoing, the Declarant, its successors and assigns, shall pay the full Maximum Community Annual Assessment and Special Assessments for Lots owned by Declarant, its successors and assigns, upon which a dwelling unit has been completed and is occupied.

(2) If the Maximum Annual and Special Assessments levied are insufficient in any given year to pay the expenses incurred by the Association, Declarant hereby covenants and agrees for the benefit of each Class "A" member to pay all such expenses incurred by the Association but in an amount not to exceed what could be collected from such Lots had they been owned by a "Class A" members.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Maximum Community Annual Assessment may be increased by the Membership of the Association, without consent of the Class "A" membership, by an amount equal to five percent (5%) of the Maximum Community Annual Assessment for the preceding year, plus the prevailing consumer price index for the Washington Metropolitan Area, plus the amount by which any ad valorem real estate taxes and insurable premiums payable by the Association have increased over amounts payable for the same or similar items for the previous year.

(c) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Maximum Community Annual Assessment may be increased above the amount provided for in Article III, Section 4(b), immediately above, by the consent of the membership at a meeting duly called for this purpose.

(d) Because of the desirability of creating working capital for the initial operation of the Association, the Declarant hereby establishes a one-time capital contribution to be payable by an initial purchaser and collected upon the settlement of any Lot. This initial capital contribution shall be in the amount of One Hundred Twenty-five Dollars (\$125.00) and may be increased annually by the Declarant in an amount up to, but not exceeding the percent of change equal to the increase in the prevailing consumer price index for the Washington Metropolitan Area. The "Initial Operating Fund" collected by such a capital contribution shall be applied to operating expenses, contingencies, or a capital asset replacement fund as the Membership sees fit in its sole discretion.

#### **Section 5 Special Assessments for Capital Improvements and Expenditures.**

In addition to the annual assessment authorized above, the Association may levy a Special Assessment applicable to the year of assessment only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a Capital Improvement upon the Common Area, including fixtures and personal property related thereto, and to meet unforeseen or special expenditures as well as any budget deficit, provided that any such assessment shall have the consent of each class of Members at a meeting duly called for this purpose.

#### **Section 6. Notice and Quorum for any Action Authorized Under Section 4 or 5.**

Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast seventy-five percent (75%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Meetings shall continue to be called subject to the same notice requirement until a quorum is present. At each meeting, the required quorum shall be one-half (1/2) of the required quorum at the preceding meeting.

#### **Section 7. Uniform Rate of Assessment.**

Except as otherwise provided in Sections 1, 4 and 5 of this Article 4, both Annual and Special Community Assessments must be fixed at a uniform rate for the respective type of Lot and size of house and may be collected in advance at a frequency established by the Membership.

#### **Section 8. Date of Commencement of Annual Assessments Due Dates.**

The annual assessments provided for herein shall commence as to each Lot as of the date of settlement. The first annual assessment shall be adjusted on a daily pro-rata basis from the date of settlement. The Membership shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The failure of the Membership to fix the annual assessment thirty (30) days in advance of each annual assessment shall not waive, but instead, postpone the effective date of the annual assessment. The due dates for payment shall be established by the Membership. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an Officer or Director for the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association with the status of assessments on the Lots shall be binding on the Association upon the date of its issuance.

#### **Section 9. Effect of Nonpayment of Assessments --Remedies of the Association.**

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date until paid at a rate of twelve percent (12%) per annum or any lesser maximum amount permitted by law (or such lesser sum as VA and/or FHA may specify if any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is guaranteed by VA or insured by FHA). Additionally the entire balance of the unpaid annual assessments for the remainder of the fiscal year shall also become due, payable, and collectible in the same manner as the delinquent portion of such annual assessment.

The Association may also impose a "late charge," the amount of which shall be determined by the Membership. The Association may bring an action of law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot (and all improvements thereon), in the manner as provided by law for the foreclosure of mortgages containing a power of sale, and in either event, interest, costs, and reasonable attorneys fees of any such action shall be added to the assessment, provided, however, that the provisions of the

Maryland Contract Lien Act (Section 14-201, et seq., Real Property Article, Maryland Annotated Code) shall, if applicable, govern the establishment and enforcement of said lien.

Notwithstanding the foregoing, for any Lot subject to this Declaration which is encumbered by a deed of trust or mortgage which is guaranteed by the Veterans' Administration ("VA") or insured by the Federal Housing Administration ("FHA"), any provision of the Maryland Contract Lien Act which provides that failure to pay assessments constitutes a default under such insured mortgage shall be unenforceable.

No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

#### **Section 10. Subordination of the Lien to Mortgages.**

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on any Lot (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

#### **Section 11. Reserves for Replacements.**

The Association shall establish and maintain a capital asset replacement fund for replacements of improvements to the Common Area including any storm water management facilities and community facilities. The annual appropriation to this fund shall be based on the replacement value of all common properties and facilities which have been placed in service and their expected life. Such fund shall not be used to finance operating or maintenance costs.

The Association may establish such other reserves for such other purposes as the Membership may from time to time consider to be necessary or appropriate. The proportional interest of any Member in any such reserves shall be considered an appurtenance of his Lot and shall not be separately withdrawn, assigned, or transferred or otherwise separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.

## ARTICLE 5 MAINTENANCE

### Section 1. Association's Responsibility.

The Association shall maintain and keep in good order the Common Area to the Community Standard, such maintenance to be funded as elsewhere herein provided. This responsibility shall include the maintenance, repair and replacement of walkways and parking areas intended for common use and/or located within the Common Area.

### Section 2. Owner's Responsibility.

Each Owner shall keep each Lot owned by him, and all improvements therein or thereon, and any specifically licensed or assigned parking area or other portion of the Common Area in good order and repair and free of debris, including but not limited to the seeding, watering and mowing of all lawns, the pruning of all trees and shrubbery, and the painting (or other appropriate external repair and maintenance care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. Each Owner shall be responsible for the removal of snow, ice, and debris from all walkways located on his property, including those walkways intended for common use and those walkways in the public ways along the frontage of each Lot. Each Owner shall also be responsible for the removal of snow, ice, and debris from those parking spaces either assigned (if spaces are assigned) or directly adjacent to said Owner's Lot, whether within the Common Area or within the public way. To the extent that the Community Association agrees to accept any such portion of walkways or other areas for common association maintenance, the Owner shall be proportionally relieved of the same responsibility.

### Section 3. Remedial Work by Association.

In the event an owner of any Lot shall fail to maintain the Lot and the improvements situated thereon, the Membership or its agent shall have the right, but not the obligation, to enter upon said Lot to correct drainage and to repair, maintain, or restore the Lot and the exterior of the buildings and any other improvements erected thereon. Except in the case of an emergency, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to undertaking such maintenances.

### Section 4. Creation of Lien.

All costs related to such correction, maintenance, repair, or restoration, if not timely paid, shall be recorded as a lien upon such Lot, and such lien may be enforced in the same manner as an assessment levied in accordance with Article 4 hereof. Any such lien shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect such lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish such lien as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot Owner from liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on any Lot (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the

holder thereof (or the indebtedness secured thereby) shall join the execution of such amendment.

## ARTICLE 6 INSURANCE AND CASUALTY LOSSES

### Section 1. Insurance.

The Association shall be required to obtain, maintain, and pay the premiums, as a Common Expense, upon policies of insurance providing the coverage described below

(a) Property Insurance a policy of property insurance covering all of the Common Area (except land, foundation, excavation, and other items normally excluded from coverage) including fixtures and building service equipment, to the extent that they are a part of the Common Area of the Association, as well as common personal property supplies. Such insurance policy shall afford, at a minimum, protection against loss or damage by fire and other perils normally covered by the standard extended coverage endorsement, as well as all other perils which are customarily covered with respect to projects similar in construction, location, and use, including all perils normally covered by the standard "All Risk" endorsement, where such is available. Such policy shall also contain or have attached the following

- (1) a standard mortgage clause;
- (2) an Agreed Amount endorsement;
- (3) an Inflation Guard Endorsement, if available; and
- (4) a Construction Code Endorsement, if the Common Areas in the Association are subject to a construction code provision which would become operative and require changes to undamaged portions of the buildings) thereby imposing significant costs in the event of partial destruction of the property by an insured peril.

Such property insurance policy shall be in an amount equal to one hundred percent (100%) (less a deductible deemed reasonable by the Membership) of the current replacement costs of the Common Area and shall name as the insured the Association.

(b) Comprehensive General Liability Policy. The Association shall obtain and maintain a policy providing comprehensive general liability insurance coverage covering all of the Common Area, public ways, and other areas that are under the supervision of the Association (collectively, the "Common Area"). Any such comprehensive general liability policy shall be at least \$3 million for bodily injury and property damage for any single occurrence. If the policy does not include "severability of interest" in its terms, it must contain a specific endorsement to preclude the insurer's denial of a Lot owners claim because of negligent acts of the Association or of other Lot owners. The policy shall provide for at least thirty (30) days written notice to the Association before the insurer can cancel or substantially modify it.

(c) Blanket Fidelity Bonds. The Association shall be required to maintain blanket fidelity bonds for all officers, directors, managers, trustees, employees, and volunteers of the Association and all other persons handling or responsible for funds of or administered by the Association. The bonds should name the Association as the obligee and the premiums should be paid as a common expense. Where the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such bonds are required for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity

coverage required shall be based upon the best business judgment of the Association.

(d) Workers Compensation Insurance. The Association shall obtain worker's compensation policies covering the employees of the Association, if such insurance is required by law.

(1) In no event shall the insurance coverage obtained and maintained by the Association or its duly authorized agent hereunder be brought into contribution with insurance purchased by individual owners, occupants, or their mortgagees.

## **Section 2. Damage or Destruction.**

Immediately after damage or destruction by fire or other casualty to all or any part of the improvements on the Common Area, the Association shall proceed with the adjustment of all claims arising from such loss and shall apply such proceeds to repair and reconstruction of the damage, or may retain the proceeds for the benefit of the Association, as it sees fit.

## **ARTICLE 7 ANNEXATION OF ADDITIONAL PROPERTY**

### **Section 1. Annexation Without Approval of Class "A" Membership.**

As the owner thereof, or if not the Owner, with the consent of the Owner thereof, Declarant shall have the unilateral right and privilege (but under no circumstances, the obligation), from time to time until the year 2008, to annex, subject to the provisions of this Declaration and the jurisdiction of the Association, all or any portion of the real property described in Exhibit "A" attached hereto and by reference made a part hereof, by filing in the Land Records of Frederick County, Maryland a Supplementary Declaration annexing such real property, provided that, for as long as a Lot is encumbered by a deed of trust or mortgage which is guaranteed or insured by the VA or FHA, the VA or FHA as applicable, approves any annexations not in accord with a Development Plan (and amendments thereto), submitted to and approved by VA or FHA.

Such Supplementary Declaration shall not require the vote of Members and shall be effective upon the filing for record of the Supplementary Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of said real property described in said Exhibit "A" attached hereto and that such transfer is memorialized in a written recorded instrument.

### **Section 2. Annexation With Approval of Class "A" Membership.**

Subject to the consent of the Owner thereof, upon the written consent of (i) two-thirds (2/3) of the Class "A" Members (present or represented by proxy at a meeting duly called for such purpose); and, (ii) the Declarant (so long as Declarant owns property or Lots, subject to this Declaration or which may become subject in accordance with Section 1 of this Article), the Association may annex to the provisions of this Declaration real property other than that shown on Exhibit "A". Following the expiration of the right reserved unto the Declarant in said Section 1, any real property described in Exhibit "A" which has not theretofore been annexed to the provisions of this



Declaration may be so annexed upon the written consent of the owner of such real property and the written consent or affirmative vote of a majority of the Class "A" Members by filing in the Land Records of Frederick County, Maryland a Supplementary Declaration in respect to the real property being annexed.

Any such Supplementary Declaration shall be signed by the President and the Secretary of the Association and the owner of the real property being annexed, and any such annexation shall be effective upon filing unless otherwise provided herein. The time within which and the manner in which notice of any such meeting of the Class "A" Members of the Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the By-Laws of the Association for regular or special meetings, as the case may be.

### **Section 3. Acquisition of Additional Common Area.**

Declarant may convey additional real property improved or unimproved, located within the real property described in Exhibit "A", to the Association which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be deemed to be a part of the Common Area and shall be maintained by the Association as a Common Expense.

### **Section 4. Amendment.**

This Article shall not be amended without the written consent of Declarant, so long as the Declarant owns any property described in Exhibit "A".

## **ARTICLE 8 DEVELOPMENT REVIEW**

### **Section 1. General Authority.**

This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any of the property described in Exhibit "A".

### **Section 2. Prior Review of Construction or Alteration Required. Section**

(a) No building, fence, wall, excavation, grading or landscaping or other structure or change to topography shall be constructed, erected, or otherwise undertaken or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made (including change in color) until the plans and specifications (the "Improvement Plan") showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of location and external design in relation to surrounding structures and topography and conformity with the design concept for the Property as approved by the Development Review Team or by the Membership of the Association.

(b) Design approval by the Development Review Team or by the Association shall in no way be construed as to pass judgment on the correctness of the location, structural quality, utilities, or other qualities of the item being reviewed, nor will it eliminate the need for Owner to obtain legal permits and licenses to perform such construction or alteration. The Owner is still required to obtain

all permits, including but not limited to building permits, and licenses from appropriate governmental agencies and utility corporations.

(c) The Development Review Team shall review and approve or disapprove the proposed use of the Lot and/or the plans, within fourteen (14) days from receipt thereof. The aforesaid fourteen (14) day period for the Development Review Team review of the proposed use and plans shall not commence to run until two (2) complete sets of the final drawings, plans and specifications have been received by the Development Review Team in final form.

If the Development Review Team fails either to approve or disapprove said plans and specifications within the period provided above (provided the Owner submitting such plans and specifications has complied with all of the requirements set forth herein), the application may and shall be set for review by the Membership at the next scheduled membership Meeting, under the provisions of appeal as set forth in Section 5 of this Article hereafter. If the Development Review Team has approved said plans and specifications prior to such Meeting, there shall be no further review. If the Development Review Team disapproves said plans and specifications prior to such Meeting, the scheduled review at the Membership Meeting may be considered an appeal hearing at the request of the applicant.

The Development Review Team or the Membership shall have the right, but not the obligation, to conditionally approve proposed plans by specifying the changes to the plans that would make the plans acceptable.

(d) The Association shall have the right to charge a reasonable fee, proportional to the relative complexity of the review, for Development Review Team review of each application which shall be payable upon the submission of such application.

(e) Any such exterior addition to or change or alteration made without application having first been made and approval obtained as provided above, shall be deemed to be in violation of this covenant and may be required to be restored to the original condition at the Owners' cost and expense. In any event, no such exterior addition to or change or alteration shall be made without approvals and permits therefor having first been obtained by the owner from other applicable authorities.

(f) Notwithstanding any provision of this Declaration to the contrary, the provisions of this Article 9 shall not be applicable to the Declarant or any part of the property owned by the Declarant.

### **Section 3. Completion of Work.**

Construction or alterations in accordance with plans and specifications approved by the Development Review Team pursuant to the provisions of this Article shall be completed within three (3) months following the date upon which the same are approved by the Development Review Team (whether by affirmative action or by forbearance from action as provided in Section 2 of this Article). Once work has commenced, it shall be diligently pursued, and, if not completed within the period aforesaid, a request for extension of the time for completion may be granted for up to another three months upon approval of the Development Review Team of progress to date. Otherwise approval of the plans and specifications by the Development Review Team shall be exclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Development Review Team to disapprove such plans and

specifications or any elements thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

#### **Section 4. Operating Agreements.**

The Development Review Team may from time to time promulgate such Operating Agreements regarding the form and content of plans and specifications to be submitted for review for adoption by the membership and may therein publish such statements of policy standards and guidelines and/or establish such criteria relative to architectural styles or details, or other matters, as it may consider appropriate. No such Operating Agreements, standards, guidelines, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration.

#### **Section 5. Appeal of Decisions.**

Any member who is aggrieved by any action or forbearance from action by the Development Review Team may appeal the decision of the Team to the Membership. Such appeal must be submitted in writing within fifteen (15) days of notification of action of the Team, and if not filed within that period, the appeal right is forfeited. If appealed on a timely basis, consent of the membership to any specific proposal may change any aspect of the decision of the Development Review Team.

#### **Section 6. Team Members and Failure to Act.**

The Development Review Team initially shall be 1. Earlene Duncan; 2. James Lane; and 3. Betsy Algire. The right to appoint and remove all members of the Development Review Team or to appoint any other entity to perform the functions thereof shall be and is hereby vested solely in the Declarant and in any assignees to whom such right is specifically transferred. The Association shall accept the responsibility for architectural control if such responsibility is assigned to it.

A majority of the Development Review Team may designate a chairperson to act for it. None of the members of the Team nor its designated representatives shall be entitled to any compensation for services, other than expenses, performed pursuant to these covenants. The Team's approval or disapproval as required shall be in writing. A majority of the members of the Development Review Team shall constitute a quorum, and all actions considered shall be effective with the consent of the quorum.

The mailing address of the Development Review Team shall be Post Office Box 430, Libertytown, Maryland, 21762, or such other address as shall from time to time be designated by the Association.

### **ARTICLE 9 USE RESTRICTIONS**

In addition to all other covenants contained herein, the use of the Development and each Lot therein is subject to the following restrictions. Any interpretation required of these restrictions shall be the responsibility of the Development Review Team.

#### **Section I. Permitted Uses.**

The Lots shall be used for any uses permitted, whether by right or by special zoning, in the zones in which they are located, as set forth in the Frederick County Zoning ordinance except as further restricted by these Covenants and any

Amendments thereto. Nothing contained in this Article or elsewhere in this Declaration shall be construed to prohibit the Declarant from the use of any Lot or dwelling or improvement thereon for promotional or display purposes or as "model homes" or as a temporary community center, sales and/or construction office, or the like.

## **Section 2. Signage.**

Signs of any kind will be permitted only subject to the standards to be set by the Development Review Team. Further, signs used by Declarant to advertise the Development or any Lot during the construction and sales period and all permanent community identification signs erected by Declarant are permissible and are exempt from this restriction.

## **Section 3. No Interference with Quiet Enjoyment.**

All owners and residents shall be responsible for the maintenance of the peacefulness and tranquility of the community and the avoidance of any annoyance or nuisance to the neighborhood which shall in any way unreasonably interfere with the quiet enjoyment of each of the owners of their respective Lot or dwelling unit thereon, or the Common Area, or which shall in any way increase the rate of insurance for any other Lot, or a dwelling unit thereon, or the Common Area.

## **Section 4. Prohibited Structures and Vehicles.**

No vehicles, trailers, boats or any other equipment of a similar nature shall be allowed on any Lot or portion of the Common Area unless they are stored in a garage or designated parking space, which shall be provided to the extent of two (2) parking spaces per Lot. To the extent that there is land area available in appropriate locations as approved by the Membership, Lot Owners may apply for approval of, and the Association may build at such applicant's expense, additional parking spaces or areas on Common Area to be licensed for such use. Further, no such vehicle shall be temporarily parked on the private streets, access roads or fire lanes, if any, of the Development for a continuous or intermittent period to exceed four (4) hours. No trucks over two (2) tons rated cargo capacity, buses, tractors, trailers or similar items are permitted to be parked on any Lot or any street or access road of the Development, except for loading or unloading or vehicles that any builder may require to be located during the construction and sales period. The Association shall have the right to tow and remove from the Property (at the expense of the Owner of such vehicle) any vehicle in violation of this Declaration or any adopted Operating Agreements.

## **Section 5. Animals.**

Animals are the responsibility of their owners to insure that such animals do not destroy property, endanger persons or become a nuisance. Owners must abide by all local laws, ordinances and regulations and must abide by all adopted Operating Agreements of the Association concerning the keeping of animals (e.g., licensing, leashing, cleanup, disposal of waste, liability for acts, etc.).

## **Section 6. Trash Removal.**

All rubbish, trash, and garbage shall be regularly removed from the Property and shall not be allowed to accumulate thereon, except as permitted in designated compost piles, nor be burned on any Property, except in a designated portion of

the Common Area. No rubbish, trash or garbage shall be kept or placed outside of any dwelling on the Property. Trash collection for the Development shall be at one or more designated collection points. All trash must be deposited within containers at such points. All refuse containers, woodpiles, storage areas, and machinery and equipment shall be stored only in designated areas of the Common Area, or the designated yard of any Frontage Lot, in a neat and orderly fashion.

#### **Section 7. Antennas and Fences.**

(a) No radio or television receiving or transmitting antennas or external mechanical apparatus shall be installed on any Lot except as approved by the Development Review Team, consistent with pertinent governmental regulation. Normal radio and television installations wholly within a building are excepted, provided there shall be no unacceptable electromagnetic emanations therefrom, as may be determined by the Development Review Team.

(b) No chain link fences shall be installed on or adjacent to any Lot. Other fences may be permitted as approved by the Development Review Team. No fences shall be permitted in the front yard of any Cluster Lot.

#### **Section 8. Tree Removal.**

Trees may be removed from a Lot or the Common Area where reasonably necessary for the construction of driveways, paths, utility lines and structures, but in order to preserve the scenic beauty of the Property hereby subjected to these restrictions, except for such designated purposes, no tree shall be removed from the Property or destroyed without the written approval of the Development Review Team. Said permission is not required for removal of dead fall.

#### **Section 9. Minimum Living Area.**

The total Minimum Living Area (excluding basements, porches and garage areas) required for any dwelling erected on any Lot shall be determined by the Development Review Team from time to time.

#### **Section 10. Prohibited Dwellings, Structures and Equipment.**

No unlicensed vehicle or trailer, shack, shed, or garage only or basement only shall be erected or allowed to remain on any Lot; nor shall the same at any time be used as a dwelling, temporarily or permanently; nor shall any structure of a temporary character be used as a dwelling. The Development Review Team may allow an animal shed, structure or an accessory structure (including, but not limited to, a shed or storage structure) provided such structure meets the requirements of Article 8 hereof.

#### **Section 11. Subdivision.**

No Lot shall be divided or subdivided and no portion of any Lot (other than the entire Lot) shall be transferred or conveyed for any purpose, except by correction plat or addition plat approved by the County. Further, the provisions hereof shall not be construed to prohibit the granting of any easement or right-of-way to any municipality, political subdivision, public utility or other public body or authority, by the Declarant, the Association, or any other person for any purpose.

#### **Section 12. Obstructions.**

No building, structure, tree, hedge or other landscape feature shall be constructed, planted or maintained in a location which obstructs, or may reasonably be expected to grow to obstruct, sight-lines for vehicular traffic on public streets or private streets or roadways, or desirable views or desired

solar access or transmission reception. Due consideration shall be given by the Development Review Team to avoiding obstruction of any native animal pathway to natural habitat and maintaining a barrier free environment for humans.

### **Section 13. Exterior Installations.**

No water pipe, sewer pipe, gas pipe, drainage pipe, television cable, wire or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground or attached to the exterior of any structure on any Lot, except for rooftop drains and down spouts and such items as installed by a utility company which cannot be reasonably concealed, buried and/or hidden from view.

### **Section 14. Interference with Easements.**

No structure, planting or other material shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, obstruct or retard direction or flow of any drainage channels. Such easement area on each Lot shall be maintained continuously by the Owner of the Lot except for those improvements in such easement areas for which a public authority or utility company is responsible to maintain.

### **Section 15. Vacant Lots.**

That portion of any Lot covered by this Declaration, which is not occupied by a building shall be kept free and clear of all weeds and debris so that the same may be identified as a residential lot. Any Lot which has been sold, but on which no building has been constructed, shall likewise be kept free and clear of debris, pending the construction of a residence thereon. Each owner shall promptly remove or otherwise dispose of any accumulation of trash, garbage or rubbish, and at all times maintain said Lot in a neat and sanitary condition.

### **Section 16. Operating Agreements.**

All owners and occupants shall abide by the Bylaws and any Operating Agreements adopted by the Association.

### **Section 17. Lease Agreements.**

Any lease agreement between a Lot owner and a lessee shall provide that the terms of the lease are subject in all respects to the provisions of this Declaration, and the Articles of Incorporation and By-Laws of the Association and any Operating Agreements, and any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All such leases shall be in writing.

### **Section 18. Exemptions.**

None of the foregoing restrictions shall be applicable to the activities of  
(a) Declarant, its officers, employees, agents or assigns in their development, marketing, and sale of Lots or other parcels within the Development; or  
(b) the Association, its officers, employees, and agents in connection with the proper maintenance, repair, replacement, and improvement of the Common Area and community facilities thereon.

## ARTICLE 10 RESERVED RIGHTS AND EASEMENTS

### Section 1. Right to Create Easements.

As long as it owns any part of the property, Declarant reserves the right to sell or grant easements, both temporary and permanent, to all public authorities and utility companies over any part of the Common Area, provided such easements shall be specific in location and not an unmapped blanket easement across the Development.

### Section 2. Right to Use Easements.

Any easement for utilities include the right of access upon, across, over, and under all of the rights-of-way within the Development for ingress, egress, installation, replacement, repair, and maintenance of all utilities, subject to an obligation on the part of the user of the easement to repair and replace the ground disturbed as near as possible to equal or better than the condition that existed prior to the work.

### Section 3. Declarant's Right of Entry & Maintenance.

An easement is hereby reserved to Declarant to enter the Common Area during the period of construction and sale of the Property and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction and sale of residences, including without limitation, a business office, sales office, storage area, construction yards, signs, displays, and model units. Declarant also reserves the right to enter into the Common Area for the purpose of carrying out any obligations it may have or assume with respect to the curing of any defects in workmanship or materials in the Property or the Improvements thereon.

### Section 4. Declarant's Right to Maintain and Correct Drainage.

For a period of twelve (12) years from the date of conveyance of the first Lot, the Declarant reserves a blanket easement and right on, over and under the Property to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety, and appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice of intent to take such action to all affected owners, unless in the opinion of the Declarant, an emergency exists which precludes such notice.

## ARTICLE 11 PARTY WALLS AND PARTY FENCES

The rights and duties of the owners of Lots with respect to party walls shall be governed by the following

### Section 1. General-Rules of Law to Apply.

Each wall which is constructed as a part of the original construction on the Property and any part of which is placed at or on the dividing line between

separate Lots shall constitute a party wall and, with respect to such wall, each of the adjoining owners shall assume the burdens and be sub-beneficiaries of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

## **Section 2. Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty.**

If any such party wall is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, their agents or households (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly, in proportion to their respective use of the party wall.

## **Section 3. Repairs of Damage Caused by One Owner.**

If any such party wall is damaged or destroyed through the act of one adjoining Owner or any of his or her agents or guests or members of his or her household (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then, the first of such Owners shall forthwith proceed to rebuild and repair the same to as good a condition as formerly, without costs to the adjoining Owner.

## **Section 4. Other Changes.**

In addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions, or rebuild his residence in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner.

## **Section 5. Right to Contribution Runs with Land.**

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

## **Section 6. Dispute.**

In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Development Review Team who may decide the dispute, and the decision of such Development Review Team shall be final and conclusively binding upon the parties.

## **Section 7. Party Fences.**

Each fence which is constructed as part of the original construction on the Property which is placed on the dividing line between separate Lots shall constitute a party fence, and the same general provisions governing the rights and duties of the Owners of Lots with respect to party walls shall govern party fences,



## ARTICLE 12 NO PARTITION

Except as is permitted in this Declaration, there shall be no physical partition of the Common Area or any part thereof, nor shall any person acquiring any interest in any portion of the Development seek any such judicial partition unless the Development has been removed from the provisions of this Declaration. This Article 12 shall not be construed to prohibit the Association from acquiring and disposing of any tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration,

## ARTICLE 13 CONDEMNATION

### Section 1. Notice of Condemnation.

Whenever all or any part of the Common Area shall be considered for taking by any authority having the power of condemnation or eminent domain (or conveyance in lieu of or under threat of condemnation), each Owner shall be entitled to notice thereof.

### Section 2. Disbursement of Condemnation Proceeds.

Any award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows

(a) If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five percent (75%) of the Class "A" Members of the Association shall otherwise agree, the Association shall promptly restore or replace such improvements as taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Development Review Team. If such improvements are to be repaired or restored, the preceding provisions in Article 6 hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

(b) If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then, such award or net funds shall be disbursed to the Association and used for such purposes as the Membership of the Association shall determine.

## ARTICLE 14 MANAGEMENT

### Section 1. Management Agent, Employees or Contractors.

The Membership may employ for the Association a professional management agent or manager (the "Management Agent") or other employees or contractors at a rate of compensation established by the Membership to perform such duties and services as the Membership shall from time to time authorize.

### Section 2. Duration of Agreements.

Any management or employment agreement or other contract entered into by the Association shall provide, inter alia, that such agreement may be terminated for cause by either party upon thirty (30) days written notice thereof to the other party. The terms of any such agreement shall not exceed two (2) years, provided, however, that the terms of any such agreement may be renewable by mutual agreement of the parties for successive one (1) year periods, but shall not have any provisions for automatic renewal without specific consideration by the Members.

### Section 3. Limitation of Liability.

The Association shall not be liable to any member for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Area or at community facilities. No diminution or abatement of assessments, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Area or community facilities or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

## ARTICLE 15 FHA/VA APPROVALS

Provided that any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is insured by FHA or guaranteed by VA, and further provided that there are then Class "B" memberships of the Association outstanding, neither the members, nor the Association, nor its Directors or Officers shall by act or omission take any of the following actions without the prior written consent or approval of the Federal Housing Administration ("FHA") or the Veterans Administration ("VA"), as circumstances may require

(a) change the basic organization of the Community Association, including the merger, consolidation, or dissolution of the Community Association; or

(b) dedicate, convey, or mortgage the Common Area; or

(c) annex additional properties not in conformance with the description or plan of future annexation area (and amendments thereto), as approved by FHA and/or VA.

(d) modify or amend any material provision of this Declaration, the By-Laws or the Articles of Incorporation of the Association.

## ARTICLE 16 IMPLIED RIGHTS OF THE ASSOCIATION

The Association may exercise any right or privilege given to it through its Articles of Incorporation or by its Bylaws or by this Declaration, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## ARTICLE 17 TRANSFER OF DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that no such transfer shall be effective unless it is in a written instrument signed by the Declarant.

## ARTICLE 18 GENERAL PROVISIONS

### Section 1. Term.

Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the Development and shall inure to the benefit of and shall be enforceable by the Association and the owners of the Lots, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

### Section 2. Amendments.

Except as otherwise provided herein, this Declaration may be amended during the first thirty (30) year period by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots, and thereafter by an instrument signed by the Owners of not less than a majority of the Lots. Any amendment must be recorded.

### Section 3. Indemnification.

The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Membership), to which he or she may be a party by reason of being or having been an officer or director, The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Owners), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall

not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled, The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors liability insurance to fund this obligation, if such insurance is reasonably available,

#### **Section 4. Enforcement.**

The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. If the Association shall prevail in a Court of Law, then all costs or expenses incurred by the Association in such enforcement proceedings, including attorney's fees, shall become a lien upon such Lot, and such lien may be enforced in the same manner as an assessment levied in accordance with Article 4 of this Declaration. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

#### **Section 5. Severability.**

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

#### **Section 6. Required Changes.**

Notwithstanding any provisions to the contrary contained in the Articles of Incorporation or By-Laws of the Association or this Declaration, the Declarant shall have and hereby reserves the right to make modifications, additions, or deletions to the Declaration, the Articles of Incorporation, and the By-Laws of the Association if such modifications, additions, or deletions are required by VA, FHA, FHLMC or FNMA. The Declarant further reserves the right to waive in writing any exemption, right or privilege granted or reserved the Declarant by this Declaration or the Articles of Incorporation or the Bylaws of the Association.

#### **Section 7. Taxes and Assessments.**

It is the intent of this Declaration that inasmuch as the interests of each Owner to use and enjoy the Common Area is an interest in real property appurtenant to each Lot, the value of the interest of each Owner in such Common Area shall be included in the assessment for each such Lot and as a result, any assessment directly against such Common Area should be of a nominal nature reflecting that the full value of the same should be included in the several assessments of the various Lots.

#### **Section 8. Captions and Genders.**

The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, any designation of gender shall include all genders and the singular shall include the plural.

#### **Section 9. Counterparts.**

This Declaration may be executed in counterpart copies, all of which together shall be considered as one document.

IN WITNESS WHEREOF, the following owners, as Partners of The Libertytown Cohousing Partnership LLP, a Maryland Limited Liability Partnership, has caused this instrument to be signed by themselves on the day and year first above written.

_____ Witness	_____ Nellie H. Porter
_____ Witness	_____ Merlin H. Porter-Borden
_____ Witness	_____ Catherine H. Porter-Borden
_____ Witness	_____ James E. Lane
_____ Witness	_____ Teresa Film
_____ Witness	_____ Kenneth A. Film
_____ Witness	_____ Naomi J. Davis
_____ Witness	_____ George F. Davis, III,

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 1998, before me the undersigned officer, personally appeared each of the forenamed persons, each personally known to me or satisfactorily proven to be such person whose name is subscribed to the within instrument and acknowledged that he or she executed the foregoing instrument for the purposes therein contained, by signing his or her name thereto.

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

Notary Public  
My Commission Expires \_\_\_\_\_

TRUSTEES' CONSENT

The undersigned, \_\_\_\_\_ and \_\_\_\_\_, Trustees under the Deed of Trust recorded at Liber \_\_\_\_\_, Folio \_\_\_\_\_ among the Land Records of Frederick County, Maryland, hereby consent to the within Declaration and agree that the lien and effect of said Deed of Trust shall be subordinate and subject to the lien, effect, and operation of this Declaration and all Supplementary Declarations filed pursuant thereto.

WITNESS

\_\_\_\_\_, Trustee  
\_\_\_\_\_, Trustee

STATE OF MARYLAND  
COUNTY OF FREDERICK

On this \_\_\_\_\_ day of \_\_\_\_\_, 1998, before me, the undersigned officer, personally appeared \_\_\_\_\_ and \_\_\_\_\_, Trustee, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument as Trustee and acknowledged that (s)he executed the same for the purposes therein contained as his/her own free act and deed.

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

Notary Public  
My Commission Expires \_\_\_\_\_

Attorney's Certificate

I HEREBY CERTIFY that I am an attorney duly admitted to practice before the Court of Appeals of the State of Maryland and that the within Declaration of Covenants, Conditions, Restrictions, Easements and Assessments has been reviewed by me and determined to be consistent with the requirements of Law of the State of Maryland.

\_\_\_\_\_, Esquire  
Covenants, Conditions & Restrictions, Liberty Village, 8/20/98