

McLEAN PROVINCE HOMEOWNERS ASSOCIATION, INC.
CONSOLIDATED AND AMENDED
DECLARATION OF COVENANTS AND RESTRICTIONS

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**McLEAN PROVINCE HOMEOWNERS ASSOCIATION, INC.
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THIS CONSOLIDATED DECLARATION OF COVENANTS AND RESTRICTIONS (“Declaration”) is made this _____ day of _____, 2001, by the Owners of all Lots within McLEAN PROVINCE HOMEOWNERS ASSOCIATION INC. (collectively, “the Owners”), located within Fairfax County, Virginia and by the McLEAN PROVINCE HOMEOWNERS ASSOCIATION, INC. (the “Association”) (the Owners and the Association are jointly referred to herein as the “Declarants”).

WITNESSETH

WHEREAS, the Owners and the Association are the owners of that certain real property, located in Fairfax County, Virginia and described and known as Parcel B, Section Two, McLean Province, and Lots One (1) through (32), inclusive, and Parcel A, Section 3, McLean Province, as duly dedicated, platted and recorded in the Deeds of Dedication and Subdivision recorded at Deed Book 6359, Page 1049, et seq. and Deed Book 6549, Page 0086, et seq. among the land records of Fairfax County, Virginia (the “Property”); and,

WHEREAS, the McLean Province Sections I and II Homeowners Association, Inc. (“MPHA”) and the McLean Province Section III Homeowners Association, Inc. (“MPHA3”) were created and developed as two separate associations and corporate entities by the original Declarants; and,

WHEREAS, the MPHA and MPHA3 Owners voted to merge the corporate entities of the two associations in accordance with the requirements of their respective Articles of Incorporation, and passed a Resolution of Merger and Articles of Merger in June of 1991 to accomplish the merger; and

WHEREAS, the two corporations were merged into one corporation know as McLean Province Homeowners Association, Inc. and the Virginia State Corporation Commission issued a Certificate of Merger effective June 27, 1991 recognizing and accepting the merger (attached hereto as “**Exhibit A**”); and

WHEREAS, the Association has enforced the separate Declarations of both MPHA and MPHA3 since the merger; and

WHEREAS, the Owners and the Association desire to amend the Declarations of MPHA and MPHA3 in accordance with the requirements of Article VIII, Section 3 of the MPHA Declaration of Covenants, Conditions and Restrictions and Article XII, Section 4 of the MPHA3 Declaration of Covenants, Conditions, and Restrictions to replace the existing Declarations for MPHA and MPHA3 with this Consolidated and Amended Declaration; and

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WHEREAS, more than ninety percent (90%)of the MPHA owners and more than eighty percent (80%) of the MPHA3 owners have voted in favor of amending the respective Declarations to eliminate the existing Declarations and to adopt this Consolidated and Amended Declaration for the Association; and,

WHEREAS, in order to provide for the preservation and enhancement of the property values and amenities in McLean Province Homeowners Association, Inc., and to contribute to the personal and general health, safety, and welfare of residents and for the maintenance of the land and improvements thereon, the Declarants desire to subject the Property described in **Exhibit B** hereto to the covenants, restrictions, conditions, easements, charges, and liens of this Consolidated and Amended Declaration, said covenants, restrictions, easements, conditions, and charges to run with said Property and to bind all persons or entities occupying or having or acquiring any right, title, or interest in the Property or any part thereof, and inuring to the benefit of each owner thereof.

NOW, THEREFORE, the Declarants hereby grant, establish, and convey to each Owner mutual non-exclusive rights, privileges, and easements of enjoyment on equal terms in common with all other Owners in and to the use of the Common Areas and facilities; and do hereby declare the Property described in **Exhibit B** to be held, transferred, sold, conveyed, and occupied subject to the following covenants, restrictions, easements, conditions, charges, and liens (hereinafter referred to as “Covenants and Restrictions”), which are for the purpose of protecting the value, desirability and attractiveness of, and shall run with, title to the Property and Lots and be binding on all parties having any rights, title, or interest in the herein described real property or any portions thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

AND FURTHER, the Declarants hereby delegate and assign to the Association (as defined below) the powers of owning, maintaining, and administering the Common Areas, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety, and welfare of the Owners.

ARTICLE I -- DEFINITIONS

Unless the context clearly indicates to the contrary, the capitalized terms in this Declaration shall have the following definitions:

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

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Section 2. “Association” shall mean and refer to the corporate entity created by the merger of McLean Province Section Three Homeowners Association Inc., into McLean Province Homeowners Association, Inc., and now known as McLean Province Homeowners Association, Inc., its successors and assigns.

Section 3. “Board of Directors” or “Directors” means the executive and administrative body of the entity established by the merger of McLean Province Section Three Homeowners Association, Inc. into McLean Province Homeowners Association, Inc., and provided for by Section 4 of the Association’s Articles of Incorporation as the governing body of the Association.

Section 4. “Bylaws” shall mean and refer to the Bylaws of the Association, as amended from time to time.

Section 5. “Common Areas” shall mean and refer to all property owned or leased by the Association for the common use and enjoyment of the Owners of the Association and any improvements thereon and all interests therein and shall include easements intended for the common use and benefit of the Owners, including, without limitation, all areas within each of the easements described and created in Article VII, §7, below.

Section 6. “Declaration” shall mean and refer to this Consolidated and Amended Declaration of Covenants and Restrictions.

Section 7. “Federal Mortgage Agencies” shall mean and refer to those Federally related agencies, if any, which may from time to time have an interest in the Property, or any portion thereof, including, but not limited to, the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Association, and successors to their interests.

Section 8. “First Mortgagee” shall mean and refer to an Institutional Lender which holds the first lien deed of trust on a Lot and which has notified the Association in writing of its interest in the Lot.

Section 9. “Founding Documents” shall mean and refer to this Consolidated and Amended Declaration, any amendments to this Declaration, the Articles of Incorporation, and the Bylaws of the Association, all as may be duly amended from time to time.

Section 10. “Governing Documents” shall mean and refer collectively and severally to the Founding Documents and any rules and regulations, as such may be promulgated and amended from time to time by the Board of Directors.

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Section 11. “Institutional Lender” shall mean and refer to one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, mortgage companies, pension funds, Federal Mortgage Agencies, or business trusts, including, but not limited to, real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any private or governmental institution which has insured a loan of such a lender, or any combination of any of the foregoing entities.

Section 12. “Living Unit” shall mean and refer to any structure or portion of a structure situated upon the Property designed and intended for use and occupancy as a residence by a Single Family.

Section 13. “Lot” shall mean and refer to a portion of the Property designated as a separate subdivided lot of record on a plat of subdivision, resubdivision, consolidation, or boundary-line adjustment of a portion of the Property, recorded among the land records of Fairfax County, Virginia or any other plot of land shown upon any recorded subdivision plat of the Property, with the exception of Common Areas, and areas dedicated to public use.

Section 14. “Member” shall mean and refer to any person or entity who holds membership in the Association, each of whom shall be the Owner of a Lot.

Section 15. “Notice” shall mean and refer to (i) written notice delivered personally or mailed to the last known address of the intended recipient; or (ii) notices published at least once a week for two consecutive weeks in a newspaper having general circulation in Fairfax County; or (iii) notice published in two consecutive issues of the newsletter of the Association, if any, which is delivered personally or mailed to the address of record for the Owner.

Section 16. “Occupant” shall mean and refer to a resident of a Living Unit, including tenants and contract purchasers who reside in the Living Unit. There shall be only one Occupant per Living Unit for the purposes of this Declaration, although the Living Unit may house several individuals.

Section 17. “Owner” shall mean and refer to the record holder of the fee simple title to any Lot which is a part of the Property, whether referring to one person or entity or collectively to more than one person or entity who have joint ownership of a Lot. The term “Owner” shall include contract sellers, but shall not include those having an interest merely as security for the performance of an obligation or by virtue of a contract to purchase a Lot.

Section 18. “Property” shall mean and refer to all real property that is hereby subjected to the Declaration and all improvements now or hereafter existing thereon. At this time, the Property consists of the real property described in Exhibit B hereto, know as Parcel B, Section 2, McLean Province, and Lots 1 through 32, inclusive, and Parcel A, Section 3, McLean Province,

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as the same is duly dedicated, platted and recorded by Deeds of Dedication and Subdivision recorded among the land records of Fairfax County.

Section 19. “Quorum of Members” shall mean and refer to the representation at a duly called Meeting of the Members, in person or by proxy, of Members who hold at least twenty-five percent (25%) of the votes except for votes to increase the assessments beyond the maximum permissible assessment increase, votes for annexation of additional property or votes to levy a special assessment in which case a quorum of Members shall be the presence at the meeting of members or proxies entitled to cast sixty percent (60%) of all the votes of the Members. In the event a “Quorum of Members” is not present at a duly called meeting of the Members, no action may be taken which requires the vote of a Quorum of Members. At the next duly called meeting of the Members after failure of the attending Members at the previous meeting to constitute a quorum, the quorum requirement shall be one-half (½) of the required quorum at the preceding meeting, provided that in order for the reduced quorum requirement to apply, the purpose of the meeting as recited in the notice given to all Members is the same as the purpose recited in the notice of the preceding meeting at which no quorum was present.

Section 20. “Registered Notice” shall mean and refer to any Notice which has been sent by registered United States mail, return receipt requested, postage paid, to the last known address of the intended recipient and which has been signed for or has been certified by the United States Postal Service that delivery was attempted at that address. Non-delivery of a Notice because of the refusal of an intended recipient to acknowledge or accept such Notice shall nevertheless constitute receipt.

Section 21. “Rules” shall mean and refer to the rules and regulations governing the use, occupancy, operation and physical appearance of the Property and the actions of Members on the Common Areas, as may be adopted from time to time by the Board of Directors.

Section 22. “Single Family” shall mean and refer to a single housekeeping unit, which includes not more than three adults who are legally unrelated.

**ARTICLE II -- PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS
THERE TO**

Section 1. The Property. The Property is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration and all covenants, restrictions, conditions, easements, charges and liens set forth herein.

Section 2. Merger. The real estate, personal property, rights, and obligations of the Association may, by operation of law, be transferred to another surviving or consolidated association similar in corporate nature and purposes. Similarly, the real estate, personal property, rights, and obligations of an association similar in corporate nature and purpose to the

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Association may, by operation of law, be added to the property, rights, and obligations of the Association as a surviving association pursuant to a merger. The surviving or consolidated Association may administer the covenants and restrictions established by this Declaration upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change, or addition to the covenants established by this Declaration within the Property except as hereinafter provided. Such merger or consolidation shall require the affirmative vote of at least two-thirds (2/3rds) of the Members, in person or by proxy, at a meeting duly called for this purpose. Written notice of such meeting shall be sent to all Members at their address of record in the Association's books not less than thirty (30) days not more than sixty (60) days in advance of the meeting.

Section 3. Annexation. Annexation of additional property shall require the assent of two-thirds (2/3rds) of the Members voting in person or by proxy at a meeting duly called for this purpose. Written notice of such meeting shall be sent to all Members at their address of record in the Association's books not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

ARTICLE III -- THE ASSOCIATION

Section 1. Organization. The Association is a non-profit, non-stock corporation organized and existing under the laws of the Commonwealth of Virginia and charged with the duties and vested with the power prescribed by law and set forth in the Governing Documents, as the same may be amended from time to time; provided, however, that no other Governing Documents shall be amended for any reason, or otherwise changed or interpreted, so as to be inconsistent with the provisions of this Declaration.

Section 2. Membership

(a) Basis. Membership shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed, or alienated in any way except as provided in the Governing Documents. Each person or entity, that is a recorded owner of a Lot, shall be a member of the Association.

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

(c) Voting Rights. The Association shall have one (1) class of voting membership. Each Owner shall be a Member and shall be entitled to cast one vote for each Lot owned.

(d) Exercise of Vote. Any vote held by more than one person may be exercised by any one of them, provided that no protest by any other holder of such membership is made prior to the completion of a vote. If such protest is lodged prior to the completion of the vote, the vote

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for such membership shall not be counted, but the Member whose vote is protested shall be counted as present at the meeting for quorum purposes if the protest is lodged at such meeting. In no event shall more than one vote be cast with respect to any Lot.

Section 3. Board of Directors.

(a) Composition. The number of Directors and method of selection of Directors shall be as provided in the Bylaws.

(b) Extent of Power.

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

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

(c) Powers and Duties. By way of example and without limiting the generality thereof, the Board of Directors shall have the power and obligation to perform the following duties:

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

(2) Rule Making. To establish rules and regulations for the actions of Members on the common areas and the use of the Property as provided in Articles IV and VI and to adopt, review, modify, and approve architectural standards and guidelines.

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

(4) Easements. To grant and convey easements over and across the Common Areas as may become necessary and as provided in Article VII.

(5) Employment of Agents. To employ, enter into contracts with, delegate authority to, and supervise such persons or entities as may be appropriate to manage, conduct, and perform the business obligations and duties of the Association.

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

(7) Enforcement of Governing Documents. To perform acts, as may be reasonably necessary or appropriate, including bringing suit, causing a lien to be filed or foreclosed, and suspending membership rights, for enforcing or effectuating any of the provisions of the Governing Documents.

Section 4. Additions, Alterations, or Improvements by Board of Directors. Whenever in the judgment of the Board of Directors, the Common Area requires additions, alterations or improvements costing in excess of Ten Thousand and No/100 Dollars (\$10,000.00), the making of such additions, alterations or improvements must be approved by a majority of the Owners, except for expenses for safety purposes and from the road reserves which may be approved by the Board as hereafter provided. The Board of Directors shall proceed with approved additions, alterations or improvements, and shall assess all Owners for the cost thereof, as a Common Expense. Any additions, alterations or improvements costing Ten Thousand and No/100 Dollars (\$10,000.00), or less, or expenses in excess of Ten Thousand and No/100 Dollars (\$10,000.00) for the purpose of safety maintenance or from the road reserves, may be made by the Board of Directors without approval of the Owners and the cost thereof shall constitute part of the Common Expense. Notwithstanding the foregoing, if, in the opinion of a majority of the members of the Board of Directors, such additions, alterations, or improvements are exclusively or substantially for the benefit of the Owner or Owners requesting the same, such requesting Owner or Owners shall be assessed therefor in such proportion as they jointly approve, or if they are unable to agree thereon, in such proportions as may be determined by the Board of Directors.

Section 5. Exterior Architectural Changes.

(a) Regulation. The Board of Directors, or an Architectural Review Committee ("ARC") appointed by and at the discretion of the Board of Directors, shall regulate the external design, appearance, and location of improvements located on the Property in such a manner as to (i) preserve and enhance Property values, (ii) prevent activities deleterious to the aesthetic or property values at the Property, (iii) maintain a harmonious relationship among the structures and the natural vegetation and topography at the Property, and (iv) promote the general welfare and safety of the Owners, the Occupants and their household guests, employees, agents and invitees. Except for purposes of proper maintenance and repair, no building, fence, wall, deck or other improvements or structures shall be commenced, directed, placed, moved, altered or maintained upon the Property, nor shall any exterior addition or change (including any change of exterior color) or other alteration thereupon be made until the complete plans and specifications showing the location, nature, shape, height, material, color, type of construction and any other proposed form of change (including, without limitation, any other information specified by the Board of Directors) shall have been submitted to and approved in writing by the Board, or ARC, as

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applicable, as to safety, harmony of external design, color and location in relation to surrounding structures and topography and conformity with the design concept for the community.

In furtherance of these purposes, the Board of Directors shall:

- (1) Have the power to delegate its authority to an Architectural Review Committee (“ARC”) appointed by the Board.
 - (2) Review and approve, modify, or disapprove written applications of Owners and of the Association, for improvements or additions to Lots, Living Units, or Common Areas. Notice of any disapproval of applications may be by regular or registered mail. Approvals shall be sent by regular mail. A copy of the plans and specifications, as approved by the Board of Directors, shall be retained among the permanent records of the Association.
 - (3) Monitor Lots for compliance with architectural standards and approved plans for alteration in accordance with the Bylaws and Rules.
 - (4) Adopt and amend architectural standards.
 - (5) Adopt procedures for the exercise of its duties under this Section and enter them in the Rules.
- (b) Failure to Act. In the event that the Board of Directors or ARC fails to approve, modify, or disapprove, in writing, a correctly filed and complete application within sixty (60) days after the plans and specifications (and all other materials and information required by the Board of Directors) have been submitted to it in writing, and provided the request set forth in such application does not violate any provisions of this Declaration, the Bylaws or the Rules or architectural standards, approval by the Board of Directors or ARC shall be deemed granted. Notification of disapproval shall include the reasons for such disapproval. Failure of the Board of Directors or the ARC to enforce the architectural standards or to notify an Owner of noncompliance with architectural standards or approved plans for any period of time shall not constitute a waiver of the enforcement of this Declaration at any later date.
- (c) Reconsideration. Within sixty (60) days after a decision is rendered, an applicant or any effected Member may request that the Board of Directors reconsider its decision or the ARC’s decision, as applicable. The Board of Directors may reverse or modify such decision, but in no event shall the Board of Directors be required to reconsider an adverse decision if the proposal violates applicable zoning ordinances or approvals relating to the Property.
- (d) Limitations. Construction or alterations in accordance with plans and specifications approved by the Board of Directors pursuant to the provisions of this Article III, Section 5, shall be commenced within sixty (60) days following the date upon which the same

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are approved by the Board of Directors or ARC (whether by affirmative action or by forbearance from action, as in paragraph (c) of this Section 5 provided), and shall be substantially completed within six (6) months following the date of commencement, or within such other period as the Board of Directors or ARC may specify in its approval. If construction cannot be commenced within sixty (60) days for good cause shown, the owner may request an extension of the sixty (60) day period in writing to the Board or ARC. In the event construction is not commenced within the period aforesaid and a request for extension has not been made and granted, then approval of the plans and specifications by the Board of Directors or ARC shall be conclusively deemed to have lapsed and compliance with the provisions of the Section 5 shall again be required. There shall be no deviation from the plans and specifications approved by the Board of Directors or ARC without the prior written consent of the Board of Directors or ARC. Approval of any particular plans and specifications, or any elements or features thereof, shall not mandate their future approval in the event such plans and specifications, or an application including such elements or features, are subsequently submitted for approval in any other instance.

Section 6. Insurance.

(a) Association.

The Association shall maintain insurance against loss or damage by fire and all other hazards that are normally covered by the standard extended coverage and all risk endorsements for 100% of the replacement cost of any improvements on the Common Areas, and a comprehensive policy of public liability insurance covering all Common Areas. The policy shall provide coverage of at least \$1,000,000 for bodily injury and property damage for any single occurrence. Flood insurance shall also be obtained, if applicable. All insurance policies shall provide for at least ten (10) days written notice to the Association before material modification or cancellation of any policy. All premiums shall be paid as a common expense by the Association. In the event that the Association shall fail to maintain insurance for the Common Areas or allow insurance coverage to lapse, one or more of the First Mortgagees shall have the right, upon reasonable notice of the Association, to obtain such insurance and to advance premiums on behalf of the Association. The Association shall reimburse such First Mortgagees for premiums advanced. The Association will obtain fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees or agents responsible for handling funds collected and held for the benefit of the Association.

(b) Owners.

In order to protect adjoining Owners and to ensure the availability of sufficient funds for an owner to restore his Living Unit in case of damage or destruction, each Owner of a Lot upon which a single attached Living Unit is constructed shall maintain a fire and extended coverage insurance policy in an amount equal to the full replacement value (exclusive of land, excavation and other items normally excluded from coverage), of all improvements constructed on such Lot.

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Any policy obtained shall provide that it may not be cancelled except upon ten (10) days written notice to the Association.

ARTICLE IV -- COMMON AREAS

Section 1. Obligations of the Association. The Association, subject to the rights of the Members set forth in this Declaration, shall be responsible for the maintenance, repair, replacement and management and control for the benefit of the Members of the Common Areas, including private streets and drives, sidewalks and walkways adjacent thereto, and all improvements thereon (including retaining walls, walls between Lots, and privacy walls on Common Areas; steps, parking areas and private streets, and equipment related thereto), and shall keep the same in good, clean, attractive, and sanitary condition, order and repair in compliance with standards contained in the Rules, which shall include snow removal from Common Area streets and drives.

Section 2. Easement of Enjoyment. Subject to the provisions herein, every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, and the facilities thereon.

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

(a) The right of the Association to regulate the use of the Common Areas for the benefit of the Members, to reasonably limit the number of guests of Members who may use any facilities which are developed on the Common Areas, and to establish Rules for the use of the Common Areas, including the imposition of monetary charges for the violation thereof.

(b) The right of the Association, acting by and through its Board of Directors, to enter onto a Lot to perform emergency repairs.

(c) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility upon the Common Areas.

(d) The right of the Association to suspend the voting rights and right to use of the recreational facilities by a Member for any period of time during which any assessment against the Member's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of the Association's published Rules.

(e) The right of the Association, in accordance with the Articles of Incorporation and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof, to mortgage said property, subject to this Declaration and the easement of enjoyment created thereby, and to acquire property encumbered by the lien or liens of the deed or deeds of

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trust securing improvements on said property, provided that any such mortgage of the Common Area must state that it is subject to this Declaration and the easement of enjoyment created hereby and shall not be in conflict with its designation as “open space.”

(f) The right of the Association at any time consistent with the then existing zoning ordinances of Fairfax County and its designation as “open space,” or upon dissolution, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to by the Members, provided that any such dedication or transfer shall have the assent of more than two-thirds (2/3rds) of the Members who are voting in person or by proxy, at a meeting duly called for this purpose at which a Quorum of Members is present, written notice of which shall be sent to all Members not less than thirty (30) days, not more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. Upon such assent and in accordance therewith, the officers of the Association shall execute the necessary documents.

(g) The right of the Association to lease common area, provided, however, that such leases must: (a) be only to non-profit organizations; (b) require that such organizations give preference to Members of the Association with regard to membership and use of facilities; (c) prohibit assignment and subleasing; (d) require approval by the Association of uses of the Common Area and facilities which uses must be in accordance with this Declaration; and (e) be consistent with the then existing ordinances of Fairfax County and be consistent with the “open space” designation thereof.

Section 4. Delegation of Use. Members may delegate their right of enjoyment to the Common Areas and facilities to the members of their family and to their guests and to Occupants and/or Tenants, members of their family and guests, subject to such regulations as may be established from time to time by the Board of Directors and included in the Rules.

ARTICLE V -- COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner by acceptance of a deed to a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association such Annual and Special Assessments as are established herein and to pay the same in the manner hereinafter provided.

All such assessments, together with interest thereon and costs of collection thereof, including attorneys fees, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, including attorneys fees, shall also be the personal obligation of the person(s) who was the Owner of such Lot at the time when the assessment fell due and shall not pass as a personal obligation to his successors in title unless expressly assumed by them. Prior to or at the time of any conveyance of a Lot, all liens, unpaid charges and

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assessments shall be paid in full and discharged. No Owner may waive or otherwise escape liability for the assessments provided for herein by a non-use or waiver of the use or enjoyment of the Common Areas, or any portion thereof, or abandonment of his Living Unit or Lot.

Section 2. Method of Assessment. All assessments shall be levied by the Association against Lots and collected from the Owners thereof and disbursed by the Association. The Board of Directors shall fix the amount of the assessments and set the dates on which such assessments shall be come due.

Section 3. Annual Assessments.

(a) Purpose. The Annual Assessments shall be used exclusively to promote the recreation, health, safety, and welfare of the Members of the Association and in particular to improve, maintain, and operate the Common Areas and facilities, and shall include but not be limited to the following:

(i) The cost of all operating expenses of the Common Areas and facilities, and the services furnished to or in connection with the Common Areas and charges by the Association for any services furnished by it, including the maintenance expenses with respect to maintaining the private road over Fairfax County Tax Map Parcel 40-2((1))-32 by virtue of ingress and egress easements created in two Deeds of Dedication, Subdivision and Easement both dated November 15, 1985, and recorded in Deed Book 6359, at Page 1049, and Deed Book 6332, at Page 967, respectively among the land records of Fairfax County, Virginia, and related to the use and enjoyment of the Common Area.

(ii) The cost of necessary management and administration of the Common Areas and of discharging the duties of the Association, including fees paid to any management agent.

(iii) The cost of liability insurance for the Common Areas and facilities and the cost of such other insurance as the Association may obtain.

(iv) The cost of utilities and other services which may be provided by the Association, including snow removal on the Common Areas and facilities, site security and trash removal, to the extent that such services may be provided by the Association.

(v) The cost of maintaining, replacing, repairing and landscaping all Common Areas, including without limitation, lawn maintenance, maintenance of any storm water detention basins or the like located upon the Common Areas, the cost of the maintenance of all walkways, private streets, sidewalks and walkways and on the Common Areas and any retaining walls, privacy walls and fences upon the Common Area, together with such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith.

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(vi) The cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and a reserve for repair and replacements.

(vii) The implementation, administration, and enforcement of this Declaration, including, but not limited to, court costs and attorney's fees.

(b) Budget: Method of Assessment. The Board of Directors shall prepare, or cause to be prepared, an annual operating budget for the Association that shall provide, without limitation, for the management, operation and maintenance of all Common Areas and other areas for which the Association is responsible. Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital (available cash for day-to-day expenses which is otherwise uncommitted), a general operating reserve (including an amount to cover operating losses due to insurance deductibles), and reserves for contingencies (potential costs or liabilities which have not been incurred but which should be planned for), and reserves for replacements.

By a vote of at least two-thirds (2/3rds) of the Board of Directors, the Board may fix the annual assessment to be collected annually at an amount not to exceed the Consumer Price Index (All Items Index) for the Washington D.C., standard metropolitan area for the preceding year, or five percent (5%) more than the current year's annual assessment, whichever is greater; provided, however, that the annual assessment shall be sufficient to meet the obligations imposed by the Declaration. Increases of the annual assessment in excess of five percent (5%) or the CPI Index in any year shall be approved by a vote of two-thirds (2/3rds) of the Members, in person or by proxy, at a meeting duly called for this purpose. The Board of Directors shall make reasonable efforts to fix the amount of the annual assessment against each Lot for each assessment period at least thirty (30) days in advance of the commencement of such period. Written notice of the annual assessment shall thereupon be sent to the Members. The omission by the Board of Directors, before the expiration of any assessment period, to fix the amount of the annual assessment hereunder for that or the next period shall not be deemed a waiver or modification in any respect of the provisions of this Article or a release of any Member from the obligation to pay annual assessment, or any installment thereof, for that or any subsequent assessment period, but the annual assessment fixed for the preceding period shall continue until a new annual assessment is fixed. The Association shall upon written demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be levied by the Board for the issuance of such a certificate, and said certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(c) Payment of Annual Assessment. The annual assessment, when assessed for each year, shall become a lien on the Lot for the entire annual assessment, and shall be payable in such installments to be determined by the Board. Upon resolution of the Board of Directors,

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installments of annual assessment may be levied and collected on a monthly, quarterly, semi-annual or annual basis.

(d) Surplus and Deficit. Any amount accumulated in excess of the amount required for actual expenses and reserves established by the Board of Directors for working capital, replacements and contingencies, shall, at the discretion of the Board of Directors, (i) be placed in reserve accounts, (ii) be placed in a special account to be expended solely for the general welfare of the Owners, (iii) be credited to the next periodic installment of annual assessment due from Owners under the current fiscal year's budget, until exhausted, or (iv) be distributed to each owner in proportion to the percentage (if any) of the annual assessment paid by such Owner. The budget for the succeeding fiscal year may be adjusted to amortize the deficit from the preceding fiscal year.

Section 4. Special Assessments.

(a) Capital Improvement Assessment. The Association may levy in any assessment year a special assessment against Lots, applicable to that year and payable over not more than the next three (3) succeeding years, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, or other specified Association purpose, provided that any such assessment shall require the affirmative vote of at least two-thirds (2/3) of the Members who are present and voting, in person or by proxy, at a meeting at which a Quorum of Members is present. A majority of votes cast, in person or by proxy, at a meeting of the Members convened in accordance with the provisions of the Bylaws within sixty (60) days of the notice of the special assessment is required to rescind or reduce the special assessment. No director or officer of the Association shall be liable for failure to perform his fiduciary duty if a special assessment for the funds necessary for the Director or officer to perform his fiduciary duty is rescinded by the Members, and the Association shall indemnify such Director or officer against any charges resulting from any claimed breach of fiduciary duty arising therefrom.

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

Section 5. Effect of Nonpayment of Assessments: Remedies of the Association.

(a) Notice of Default; Remedies. Any assessment installment not paid within thirty (30) days after the due date shall be delinquent. Thereupon, the Association, or the managing agent (if any) at the request of the Board of Directors, shall provide Notice of such delinquency and may, at its option, (i) declare the entire balance of such annual or special assessment due and

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payable in full; (ii) charge interest from the due date at a percentage rate no greater than is permissible by law, such rate to be set by the Board of Directors for each assessment period; (iii) charge a late charge in an amount equal to ten percent (10%) of the delinquent installment or such other amount as may be determined by the Board of Directors; (iv) give Notice to the Owner that in the event payment with accrued interest and penalties is not made within thirty (30) days from the date of such Notice, then the express contractual lien provided for herein shall be recorded, foreclosed, or both; and (v) upon Registered Notice to the Owner of the Lot, suspend the right of such Owner to vote, run for or hold office in the Association until such time as the assessments, accrued interest, penalties and costs of collection have been paid in full.

(b) Lien Priorities. Once perfected, the lien for assessments provided for herein shall be prior to all other subsequent liens and encumbrances except (i) real estate tax liens on the Lot, (ii) liens and encumbrances recorded prior to the recordation of this Declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of said lien. The lien established hereby shall bind the Lot(s) and Living Unit(s) herein described in the hands of the then Owners, their heirs, devisees and personal representatives, and the personal obligation of the Owners to pay such assessment shall, in addition, remain their personal obligation.

(c) Remedies Cumulative. No remedy reserved to the Association herein is intended to be exclusive of any other remedy or remedies, and each and every remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity or by statute.

(d) Costs of Collection. If default is made in the payment of any assessment payable hereunder, then the Owner who is so delinquent shall pay to the Association, upon demand, all costs of collection, including the Association's attorney's fees incurred in pursuing collection, whether or not suit is filed.

(e.) Prepayment. Any Member may prepay one or more installments on any Assessments levied by the Association, without penalty or interest.

Section 6. Exempt Property. The following properties subject to this Declaration shall be exempt from the assessments created herein:

- (a) All properties dedicated to and accepted by a local public authority;
- (b) The common areas; and
- (c) All property owned by charitable and non-profit organizations exempt from taxation by the laws of the State of Virginia. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

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ARTICLE VI -- USE OF PROPERTY

Section 1. Protective Covenants

(a) Nuisances. No nuisance shall be permitted to exist or operate upon the Property, or any portion thereof, so as to jeopardize property values or be detrimental to the well being of the Members. There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances into the atmosphere (other than normal residential chimney emissions), no production, storage or discharge of hazardous wastes on the Property or discharges of liquid, solid wastes or other harmful matter into the ground or any body of water, if such emissions, products, storage or discharge may adversely affect the use or intended use of any portion of the Property or may adversely affect the health, safety or comfort of any person. No waste nor any substance or materials of any kind shall be discharged into any public sewer serving the Property or any part thereof in violation of any regulation of any public body having jurisdiction over such public sewer. No exterior lighting shall be directed outside the boundaries of a lot.

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

(c) Residential Use; Leasing.

(1) All Living Units shall be used for private residential purposes exclusively for single family habitation. With the exception of Lot No. 32, no building shall be erected, altered, placed or permitted to remain on any Lot other than one single-family attached dwelling and other approved structures. A single-family detached dwelling currently exists on Lot 32 and shall be allowed to remain, provided, however, that any alteration to the exterior of the building now on Lot 32 or the erection, placement or installation of any building or improvement to Lot 32 which does not exist as of the date of this Declaration, must comply in all respects with the restrictions of this Article. Except for those related to real estate sales and construction, no sign, advertisement, or message, other than for identification purposes only, shall be displayed or published which offers or implies commercial or professional services, or which might constitute any other kind of business solicitation from any residents or residential property. No part of the Common Areas shall be used for commercial activities of any character.

(2) Any lease or rental agreement for the lease of a Lot and the improvements thereon shall be in writing, shall be subject to the conditions, restrictions and requirements of this Declaration, and shall contain a provision to the effect that the rights of the tenant to use and

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occupy the Lot and Living Unit shall be subject and subordinate in all respects to the provisions of the Governing Documents and to such other rules and regulations as the Board of Directors may from time to time promulgate. No Lot or Living Unit shall be leased for a period of less than thirty (30) days and the initial term of any lease shall be for a minimum period of one (1) year. The Board of Directors may suggest or require a standard form of lease or certain standard form language to be incorporated into any lease agreement to be used by Owners for the leasing of Living Units in order to assure compliance with the terms, conditions, covenants, restrictions, rules and regulations under this Declaration. Each Owner shall, promptly after entering into any lease of a Living Unit, forward a conformed copy of the lease to the Board of Directors.

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

(e) Fences. No fences shall be constructed upon the Property other than those necessary to replace those fences in existence at the time of the signing of this Declaration, or those fences approved in writing by the Board of Directors or ARC.

(f) Parking. The Association, through its Board of Directors shall regulate parking upon the Common Areas and private streets.

(1) The Board of Directors may assign Common Area parking spaces and may limit the number of parking spaces assigned to an Owner. The Board is not required to uniformly assign the Common Area parking spaces.

(2) Parking shall be permitted along the private streets within the Common Areas except where prohibited by appropriate markings or signage. No vehicle shall be parked on the Property in a manner that interferes with access to or along, or encroaches upon the private streets or pedestrian walkways or emergency vehicle ingress/egress easements within the Property. The garages that are included in a Living Unit and the driveways shall be used for passenger vehicle storage only. No commercial vehicle, truck, boat, recreational vehicle or trailer shall be permitted to remain on or be parked on the Common Areas overnight. No junk or derelict vehicle on which current registration plates are not displayed shall be kept on any portion of the Property. Nothing shall be stored upon any of the private streets or walkways, nor shall the same be permitted to accumulate trash or debris.

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(3) No portion of the Property shall be used for the repair of automobiles or shall any vehicle other than a private automobile be parked in any of the parking spaces maintained by the Association. After ten (10) days written notice to the owner of any vehicle parked in violation of this covenant, the Association may remove such vehicle at the expense of the owner.

(g) Pets. Pets shall not be permitted upon the Common Areas unless accompanied by a responsible person and unless they are carried or leashed. Any Owner or Occupant who keeps or maintains any pet upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Association, each of the other Owners, and Occupants free and harmless from any loss, claim, or liability of any kind or character arising by reason of keeping or maintaining such pet at the Property. All pets shall be registered, inoculated and tagged as required by law. The Board of Directors shall have the right to order any person whose pet is a nuisance to remove such pet from the Property and the Board of Directors, after affording the right to a hearing to the appropriate Owner or Occupant, shall have the authority to declare any pet a nuisance.

(h) Refuse. No burning of any trash and no unreasonable or unsightly accumulation or storage of litter, new or used materials, refuse, bulk materials, building materials or trash of any other kind shall be permitted on any Lot or upon any of the Common Areas. All refuse shall be deposited with care in containers designed for such purpose only at such times and in such manner as the Board of Directors may direct. Trash containers shall not be permitted to remain in public view except on days of trash collection.

(i) Temporary Structure. No structure of a temporary character, including but not limited to, basketball backboards and roller-blade ramps, and no trailer, tent, shack, barn, pen, kennel or stable shall be maintained upon any Lot or upon the Common Areas. Outdoor clothes dryers or clotheslines shall not be maintained upon any Lot or the Common Areas. No clothing, laundry or the like shall be hung from any part of Living Unit which may be visible from the exterior of the Living Unit or upon any of the Common Areas or from or upon any balcony or patio. Except for reasonably appropriate flags, no article shall be hung or shaken from the doors and windows or placed upon the window sills of a Living Unit or other improvement upon any Lot.

(j) Outdoor Antennas, Appliances. No exterior antennas, aerials, satellite dishes or other apparatus for the reception of television, radio, satellite or other signals or any kind shall be placed, allowed, or maintained upon any portion of the property, including any lot, which is visible from any street, common area or other lot, unless it is impossible to receive signals from said location. Likewise, no air conditioning unit or other appliance or equipment shall protrude through the walls, windows or the roofs of the Living Units. In the event that it is impossible to receive signals from a location, a receiving device may be placed in a visible location as approved by the Board of Directors or the ARC. The ARC or Board of Directors as applicable,

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may require as much screening as possible while not substantially interfering with the reception. The Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the property. No satellite dishes shall be permitted which are larger than one meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roof line. No multi-channel, multi-point distribution service ("MMDS") antenna mast may exceed the height of twelve feet (12') above the center ridge of the roof line. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted which transmit television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the property. The Declarant by promulgating this section is not attempting to violate the Telecommunications Act of 1996 ("the Act"), as may be amended from time to time. This section shall be interpreted to be as restrictive as possible while not violating the Act.

(k) Landscaping; Utility Lines. No tree, hedge or other landscape feature shall be planted or maintained in a location that obstructs sight lines for vehicular traffic on public or private streets. Pavements, plantings and other landscape materials shall not be placed or permitted to remain upon any Lot (i) if such materials may damage or interfere with any easement for the installation or maintenance of utilities, (ii) in violation of the requirements of such easements, or (iii) if such materials may unreasonably change, obstruct, or retard direction or flow of any drainage channels. No tree of a diameter of more than four inches measured two feet above ground level, lying outside of the building driveway and parking area, shall be removed without the approval of the Architectural Review Committee or Board of Directors. Open space not contained on lots and streets shall not be denuded, defaced or otherwise disturbed in any manner, with the exception of regular landscaping that does not obstruct site lines, at any time without the approval of the appropriate County departments and in concurrence with the County Planning Engineer.

(l) Signs. No signs of any character shall be erected, posted, or displayed in a location that is visible from another Lot or from the Common Areas that does not comply with the rules established by the Board of Directors, except for temporary signs advertising the Living Unit for sale or rent. In that regard, no sales/marketing signs for the resale or rent of Living Units shall exceed two feet (2') in width or two feet (2') in height. Signs advertising a unit for rent or sale shall only be permitted in front of the living unit and are specifically prohibited at the entrance to the community, except "open house" signs on the day of the open house.

(m) Livestock. No livestock including horses, cattle and hogs nor fowls such as chickens and pigeons shall be kept on the Property. The breeding of animals for commercial use is prohibited, but nothing contained herein shall be construed to prohibit the keeping of the usual domestic pets as set forth herein.

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(n) Prohibited Uses and Nuisances.

(i) No portion of the exterior of any Living Unit may be painted a color different from the original color of the Living Unit without the written permission of the Board of Directors or ARC.

(ii) The walkways in front of the Living Units and the entranceways to the Living Units shall not be obstructed or used for any purposes other than ingress to and egress from the Living Unit.

(iii) No bicycles, scooters, baby carriages or similar vehicles or toys or other personal articles shall be allowed to stand in any of the Common Areas.

(iv) No noxious or offensive trade or activity shall be carried on within the Common Areas or within any Living Unit, nor shall anything be done therein or thereon which may be or become an annoyance to the neighborhood or other Owners or Occupants.

(v) No exterior shades, awnings, window guards, storm windows, ventilators, fans or air conditioning devices shall be used in or about the buildings except such as shall have been approved by the Board of Directors or ARC.

(vi) All Owners and Occupants are responsible for the actions of their children and their guests. Any damage to the buildings or Common Areas or equipment caused by an Owner, Occupant, guests, children or pets shall be repaired at the expense of the Owner.

(vii) Nothing shall be done or maintained on any Lot, within any Living Unit or upon the Common Areas which will increase the rate of insurance on any Living Unit or Common Areas, or result in the cancellation thereof. Nothing shall be done or maintained on any Lot, in any Living Unit or upon the Common Areas in violation of any law. No waste shall be committed upon the Common Areas.

(o) Rules. The Board of Directors may adopt additional general rules, including, but not limited to, rules related to storage and use of machinery, signs, maintenance and removal of vegetation on the Property, and the type and manner of application of fertilizers or other chemical treatments to the Property in accord with non-point source pollution control standards.

(p) Exceptions. The Board of Directors may issue temporary permits to except any prohibitions expressed or implied by this section.

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Section 2. Maintenance of Property.

(a) Owner Obligation. All Owners shall keep their Lots, and all improvements therein or thereon, including, without limitation, the Living Unit, steps, stoops, fences (including privacy fences located on the Lot or on Common Areas), patios, individual driveways, yards and landscaping, in good order and repair, in a clean and sanitary condition, free of debris, all in a manner and with such frequency as is consistent with good property management. If lights are attached to a Living Unit which provide lighting for the Lots or the Common Areas, or both, the Owners of the Living Units in which such lights are attached shall maintain them in good operating order. No Owner shall disconnect or otherwise impair the use of such lights. Owners shall perform their responsibilities in such a manner as shall not unreasonably interfere with the other Owners or Lots. The exteriors of all structures, including walls, doors, windows, and roofs shall be kept in good maintenance and repair. No structure shall be permitted to stand with its exterior in an unfinished condition for longer than six months after the commencement of construction, or in the event of fire, windstorm or other damage, in a damaged condition for longer than three months.

(b) Failure to Maintain – Right to Remove or Correct Violations. If any Owner shall fail to keep such Owner's Lot or Living Unit in good repair and condition and in a neat and orderly condition consistent with the covenants set forth in the Governing Documents, or otherwise violates the requirements of the Governing Documents, then the same shall be considered to have been undertaken in violation of this Article and without the approval of the Board of Directors required herein, and, upon written notice from the Board of Directors, such violation shall be promptly removed or abated. In the event the same is not removed, or the violation is not otherwise terminated or abated, within twenty (20) days (or such shorter period as may be required in any such Notice) after Notice of such violation is delivered to the Owner of the Lot upon which such violation exists, and to the Member responsible for such violation if the same shall be committed or attempted on premises other than the Lot owned by such Member, then the Association shall have the right, through its agents and employees, to enter upon such Lot and take such steps as may be necessary to remove or otherwise terminate or abate such violation and the cost thereof may be assessed as a restoration assessment against the Lot upon or in which such violation occurred. When so assessed, a statement for the amount thereof shall be rendered to the Owner of said Lot, at which time the assessment shall become due and payable and a continuing lien upon such Lot, and a binding personal obligation of the Owner of such Lot, in all respects as provided in Article V of this Declaration. The Association shall have the further right, through its agents, employees or committees, to enter upon and inspect any Lot at any reasonable time for the purpose of ascertaining whether any violation of the provisions or requirements of this Declaration exists on such Lot, and neither the Association nor any such agent, employee or committee member shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection. Notwithstanding anything else contained in this paragraph to the contrary, the Association shall initiate judicial proceedings before any item of construction shall be altered or demolished. The Association shall have the

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right if after twenty (20) days notice to the owner of the Lot or Lots involved, setting forth the action intended to be taken, such action has not been taken by the owner, to trim or prune, at the expense of the owner, any hedge or planting that in the opinion of the Board or ARC, by reason of its location or the height to which or to the manner in which it is permitted to grow, is detrimental to the adjoining property or is unattractive in appearance.

(c) Assignment of Insurance Proceeds. Each Owner covenants and agrees, by acquisition of title to a Lot, that if any insurance proceeds are payable by reason of any event or circumstances caused by a condition rectified by the Association pursuant to this Article, those proceeds are hereby assigned to the Association to the extent not assigned to a First Mortgagee for such Lot. Each Owner shall, promptly upon request on behalf of the Association, execute such documents as may be requested to effect or confirm such assignment. Amounts received by the Association pursuant to such assignment in excess of the costs expended by or on behalf of the Association in rectifying that condition shall be paid by the Association to the Owner, subject to the rights of any First Mortgagee having a lien upon such Owner's Lot.

Section 3. Party Walls.

(a) General Rules of Law to Apply. Each wall built as a part of the original construction of the Living Unit upon the Property and placed on the dividing line between the Lots, and each fence dividing the rear yards between the Lots, shall constitute a party wall. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty. If any party wall is damaged or destroyed by any cause (including ordinary wear and tear and deterioration from lapse of time) other than the act of one of the Owners or Occupants, or the agents, guests or family members of any Owner or Occupant, the Owners of the Lots adjoining the party wall shall forthwith rebuild or repair the same to as good condition as formerly existed and they shall share equally the costs of the same.

(c) Damage Caused by One Owner. If any party wall, party wall fence, or retaining wall is damaged or destroyed through the act of an Owner or Occupant or any of the agents, guests, or members of the family such Owner or Occupant (whether or not such act is negligent or otherwise culpable), then the Owner who is at fault (or the Owner of the Lot whose Occupant is at fault) shall forthwith rebuild and repair the same to as good condition as formerly existed at its sole cost and expense.

(d) Other Changes. In addition to meeting the other requirements of the Declaration and of any building code or similar regulations or ordinances, any Owner or Occupant proposing to modify, make additions to or rebuild a Living Unit or other improvements on a Lot which

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requires the extension or other alteration of any party wall or party wall fence, shall first obtain the written consent of the adjoining Owners.

(e) Right to Contribution Runs with the Land. The right of any Owner to contribution from any other Owner and the duty of contribution under this Section 3 shall be appurtenant to the land and shall pass with title to the Lots.

(f) Weatherproofing. Notwithstanding any other provisions of this Article, an Owner, who by his negligent or willful act caused a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(g) Dispute. In the event of a dispute with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, the matter shall be submitted in writing to the Board of Directors, who shall decide the dispute. The decision of the Board of Directors shall be final and conclusive upon the parties.

Section 4. Upkeep by Association. The Association shall be responsible for the management, maintenance, repair and replacement of the Common Areas including, without limitation, all Common Area landscaping, and all retaining walls (whether located on a Lot or on the Common Areas). The Association shall not be responsible for the upkeep, maintenance, repair or replacement of the Living Units or any other improvements on the Lots, except as otherwise provided herein. The Board of Directors may, in its discretion, recommend that the Association enter a community wide contract for maintenance or repair of part of the Living Units, and the Association may enter such a contract if a majority of the Owners approve the recommendation. If the Board of Directors determines that any maintenance, repair or replacement was necessitated by the negligence, misuse or neglect of an Owner or Occupant, the cost of such maintenance, repair or replacement shall be assessed against such Owner's or Occupant's Lot as a restoration assessment pursuant to Article V, Section 4, of this Declaration.

Section 5. Resale of Lots.

(a) Reference to Declaration. The deed or instrument transferring title to any Lot shall contain a provision incorporating by reference the provisions of the Founding Documents.

(b) Notification. Upon entering a contract for the disposition of any Lot, the Owner of the Lot shall notify the Association of the identity of the acquiring party, and the scheduled date of transfer and the identity of any transfer or settlement agent.

(c) Statement of Assessments. Upon receipt of the notification described in Section 5(b) of this Article VI, the Board of Directors shall prepare a written statement which shall set forth any assessments and charges due upon such Lot at the time of conveyance (or a statement that the amount of unpaid assessments and charges is zero) and shall certify as to

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whether there are any violations of the Governing Documents with respect to the Lot as of the date of preparation of such statement. This statement shall be mailed or delivered to the transfer or settlement agent, and outstanding assessments, if any, shall be collected at or prior to transfer of ownership of the Lot and remitted directly to the Association. The Board of Directors may charge a reasonable fee for the preparation of this statement.

ARTICLE VII -- EASEMENTS

Section 1. Utility Easements; Structural Easements; Easements for Encroachments.

There is hereby created a perpetual easement upon, across, over, through, and under the Property for ingress, egress, and for the location, installation, replacement, repair, and maintenance of all utility and service lines and systems, including water, sanitary sewers, storm water drainage, gas, telephones, cable television, fiber optic cable, or other future underground communications conduits, electricity lines and systems, and all pipes, wires, lines, ducts, shafts, conduits and equipment related thereto. By virtue of this easement, it shall be expressly permissible for the providing utility or service company, with the written consent of the Board of Directors, to install and maintain facilities and equipment on the Property, to excavate for such purposes, and to affix and maintain wires, circuits, and conduits underground and on, in, and under the roofs and exterior walls of Living Units, provided that such company restores as nearly as is practicable all disturbed areas to the condition in which they were found.

A perpetual easement is hereby established over, across and upon each Lot for the encroachment, maintenance, repair and replacement of the decks, gutters and downspouts, including the structural elements and railings which are necessary for the support of such decks, gutters and downspouts, which are part of or belong to Living Units on adjacent Lots.

Notwithstanding anything to the contrary contained in this paragraph: (1) no sanitary sewers, storm water drainage facilities, electrical lines, water lines, gas lines, or other utility service lines or facilities for such utilities may be installed or relocated on said premises except as approved by the Board of Directors; and, (2) this Section 1 of Article VII shall not be construed to apply to the relocation, installation or removal of utility lines within a Living Unit which serve only that Living Unit. This easement shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

There is also hereby created across, through and under each Lot and the Common Areas, a perpetual, non-exclusive easement of support in and to all structural members, columns, footings and foundations which are necessary for support of improvements in adjacent Lots and the Common Areas. To the extent that any Living Unit or other improvements on a Lot or the Common Areas encroaches on any other Lot or on the Common Areas, whether by reason of settling or shifting of any land or improvements, or by deviation in the construction, repair, restoration or replacement of any improvements, a valid easement shall exist for the encroachment and for the maintenance of same so long as the encroaching Living Unit or

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Common Areas exist. In the event that any Living Unit shall be partially or totally destroyed as a result of a fire or other casualty or as a result of condemnation or eminent domain proceedings, and then such Living Unit is reconstructed or repaired, encroachment of parts of the Common Areas upon any Living Unit or any Living Unit upon the Common Areas resulting from such reconstruction or repair shall be permitted and valid easements for such encroachment shall exist so long as the encroaching improvements shall exist.

Section 2. Easement to Inspect. There is hereby created an easement in favor of the Association for ingress and egress and entry over any Lot (a) to inspect such property for alleged violations of the Governing Documents and for compliance with architectural standards and approved plans for alterations and improvements and (b) to perform such maintenance as is required by this Declaration, provided the Owner of a Lot to be entered is given written notice of the purpose and time of inspection at least three (3) days in advance thereof and such inspection is performed during reasonable hours. Notwithstanding the foregoing, in the event of the risk of injury or damage to person or property, the right of entry shall be immediate and shall require only such notice as in the circumstances is practical.

Section 3. Easement for Maintenance. The right of access over, across and through any portion of the Property (excluding occupied Living Units) is hereby granted to the Association, the managing agent (if any) and any other persons authorized by the Board of Directors as may be reasonably necessary to the exercise and discharge of their respective powers and responsibilities, including, without limitation, performance of repairs and maintenance of the Common Areas, or other improvements located on the Property for which the Association is responsible, and to correct any condition which violates the Governing Documents. The agents, contractors, officers and Directors of the Association may also enter any portion of the Property (excluding any occupied Living Unit) in order to provide for the upkeep of the areas subject to easements granted to the Association by this Declaration.

Section 4. Easement for Governmental Personnel. A right of entry on any Lot and the Common Areas is hereby granted to all law enforcement officers, fire and rescue personnel as need to carry out their duties, including enforcement of emergency vehicle access laws or ordinances.

Section 5. Buffer Easement. The Association shall have the right to inspect and maintain any area which lies within a buffer easement conveyed to the Association, and to remove any improvements or other items which are constructed or located within the buffer easement in contravention of the terms of said easement. Where the buffer easement lies within any Lot, any cost incurred by the Association in maintaining the easement or removing any improvements or other items shall be chargeable to the Lot owner as a Restoration Assessment.

Section 6. Access Easement. There is hereby created a perpetual easement and right-of-way upon, across, over, and through those portions of the Property (including the Lots)

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designated as private streets and walkways (the “Access Easements”) for the benefit of the Owners and Occupants of the Property, and their respective invitees, contractors, agents, and employees and their successors and assigns. The Access Easements shall be for the purpose of ingress and egress to and from the Property and ingress and egress to and from each of the Lots and Living Units within the Property. The Access Easements shall be maintained, repaired and replaced by the Association.

Section 7. Sanitary Sewer, Emergency Vehicle, Ingress/Egress, Water Main & Private Storm Sewer Easements. There are hereby created easements for existing sanitary sewer, emergency vehicle ingress and egress, water main and private storm sewer easements.

Section 8. Maintenance Easement. Each Member of the Association is granted an easement upon and across any Lot adjacent to a lot owned by said Member for the purpose of temporary support of ladders during cleaning, painting and maintenance operations of said Member’s lot, and all Members are granted an easement over and across all sidewalks and walkways not dedicated to public use.

ARTICLE VIII – RIGHTS OF INSTITUTIONAL LENDERS AND PUBLIC AGENCIES

Section 1. Consents. The Association shall not, without the consent of at least eighty percent (80%) of the Members take any of the following actions unless the action is required by one or more of the Federal Agencies or Fairfax County, in which case none of these consents shall be required.

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

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

(c) Use hazard insurance proceeds for other than the repair, replacement, or reconstruction of such property.

(d) Amend any material provisions of this Declaration or related Association documents concerning the following:

(i) voting rights of any Member;

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- (ii) assessments, assessment liens, collection of assessments or subordination of such liens for assessments;
- (iii) reserves for maintenance, repair, and replacement of those parts of the Common Areas that may be replaced or require maintenance on a periodic basis;
- (iv) insurance or fidelity bond coverages;
- (v) responsibility for maintenance and repair of the Property;
- (vi) annexation or withdrawal of property to or from the Property, subject to the provisions of Article II;
- (vii) leasing of Living Units;
- (viii) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his property;
- (ix) termination of this Declaration after substantial destruction or condemnation occurs; or
- (x) any provisions that are for the express benefit of First Mortgagees.

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

Section 2. Notice and Other Rights. The Association shall maintain a file of all First Mortgages from whom it receives notice that the First Mortgagee holds an interest in any Lot, with a proper designation of the property in which it has an interest. The Association shall send the list, if any, to any First Mortgagee who shall submit a written request for the list to the Board of Directors, but not more frequently than once every twelve months.

If requested in writing by a First Mortgagee, the Association shall provide to such First Mortgagee:

- (a) Written notification of any default in the performance of any obligation under the Governing Documents by the Owner of a Lot which is the security for the indebtedness due the First Mortgagee, which is not cured within thirty (30) days; and

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(b) Written notice of any condemnation or eminent domain proceeding or other proposed acquisition by a condemning authority of any portion of the Common Areas or of a Lot which is the security for the indebtedness due to the First Mortgagee; and

(c) Written notice of any casualty loss that affects a material portion of the Lot that is the security for the indebtedness due to the First Mortgagee; and

(d) Written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

Section 3. Books and Records. All Institutional Lenders who have an interest in the Property or any portion thereof shall have the right to examine the books and records of the Association during normal business hours. The Association shall provide an unaudited financial statement for the preceding fiscal year to any Institutional Lender requesting such statement in writing.

Section 4. Notice of Actions. The Board shall give to such First Mortgagees as may request it, expeditious notice of any civil action or liens lodged against the Association or officers or Directors regarding their conduct in administering the affairs of the Association.

Section 5. Payment of Taxes and Charges. A First Mortgagee may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Areas, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage upon the lapse of a policy for such Common Areas. The First Mortgagee or First Mortgagees making such payments shall be owed, upon demand, reimbursement therefor by the Association.

ARTICLE IX -- GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty-five (25) years, unless the covenants and restrictions are expressly terminated by an instrument signed by not less than eighty percent (80%) of the Members, and sixty-seven percent (67%) of the First Mortgagees. A termination must be recorded among the Land Records of Fairfax County, Virginia in order to become effective.

Section 2. Amendment. For a period of three (3) years after the recordation of this Declaration, the Association may unilaterally make any amendment that is required by any of the Federal Mortgage Agencies, or Fairfax County, Virginia. Any such amendment shall be made by the execution and recordation of such amendment following Registered Notice to all Owners.

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After such three (3) year period, or to make any amendment which is not required by the Federal Mortgage Agencies or Fairfax County, Virginia, the amendment shall require (a) the written approval of not less than sixty-seven percent (67%) of the Members, and, if applicable, (b) the approval required in Article VIII above. Any amendment must be recorded in the Land Records of Fairfax County, Virginia, in order to become effective.

Section 3. Enforcement. The Association, the Board of Directors, any Member and any First Mortgagee, as their interests may appear, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of the Governing Documents. Failure to enforce any covenant or restriction or other provision of the Governing Documents in any instance shall not be deemed a waiver of the right to do so thereafter. If any provision contained in this Declaration or any amendment hereto is found to violate any law, then the provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

Section 4. Limitation of Liability. The Association shall not be liable for loss or damage, by theft or otherwise, of property placed or stored upon the Common Areas or common facilities. No diminution or abatement of assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or facilities, or from any action by the Association.

Section 5. Severability. Each provision of the Founding Documents is severable from every other provision, and the invalidity of any one of the provisions of the Founding Documents by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect. To the extent that any provision of the Founding Documents is determined to be unenforceable, and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall be applied and, to the extent practicable, the provision shall be enforced.

Section 6. Conflict. In the event of conflict among the Governing Documents, this Declaration shall control, then the Bylaws, and then the Rules; provided, however, that in all cases where the Governing Documents are found to be in conflict with any statute, the statute shall control.

Section 7. Interpretation. Unless the context otherwise requires, the use of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including, without limitation." This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a common plan for the use and enjoyment thereof. The headings used herein are for

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indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

ARTICLE X -- DISSOLUTION OF THE ASSOCIATION

The Association may be dissolved with the written consent of at least eighty percent (80%) of the Members and the written consent of at least sixty-seven percent (67%) of the First Mortgagees.

WITNESS the following signatures and seals as of the date first above written.

I hereby certify that more than ninety percent (90%) of the lot owners in McLean Province Homeowners Association and more than eighty percent (80%) of the lot owners in McLean Province Section Three voted in favor of adopting this Consolidated and Amended Declaration of Covenants and Restrictions and that the votes were tallied at an annual meeting of the Association conducted on April 30, 2001.

McLEAN PROVINCE HOMEOWNERS ASSOCIATION, INC.

By: _____
James H. Fall III, President

Subscribed, acknowledged and sworn to before me, the undersigned Notary Public in and for the County of _____, in the Commonwealth of Virginia, this ____ day of _____, 2001.

Notary Public

My Commission Expires:

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