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MONTGOMERY COUNTY, MD

THIS DECLARATION, made this 1st day of January 1981, by AUDUBON SQUARE JOINT VENTURE, a Maryland Limited Partnership, hereinafter sometimes called "the Declarant",

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of the real property described in Article II hereof and desires to create thereon a residential community with permanent common areas and community facilities for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common areas and community facilities; and to this end, desires to subject the real property described in Article II hereof to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and the subsequent owners thereof; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an association to which should be delegated and assigned the powers and duties of maintaining and administering the common areas and community facilities, administering and enforcing the within covenants and restrictions, and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed (or intends to form) Audubon Square Community Association, Inc., as a non-profit corporation without capital stock under the laws of the State of Maryland for the purposes of carrying out the powers and duties aforesaid.

19. NOW, THEREFORE, the Declarant hereby declares that the real property described in Article II hereof is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens (hereinafter sometimes referred to as "covenants and restrictions") hereinafter set forth, all of which are declared and agreed to be in aid of a plan for improvement of said property, and shall be deemed to run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, its successors and assigns, and any person acquiring or owning an interest in said property and improvements, including, without limitation, any person, group of persons, corporation, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation:

ARTICLE I

Section 1. Definitions. The following words, when used in this Declaration, shall have the following meanings:

(a) "Association" shall mean and refer to Audubon Square Community Association, Inc., and its successors and assigns.

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(b) The "Property" shall mean and refer to all real property described in Article II hereof and such additions thereto as may hereafter be made pursuant to the provisions in said Article II.

(c) "Lot" shall mean and refer to all subdivided parcels or property which are part of the property.

(d) "Common Areas" and "Community Facilities" shall mean and refer to all real property owned by the Association or otherwise available to the Association for the benefit, use and enjoyment of its members. The Common Areas to be conveyed to the Association prior to conveyance of the first lot by the Declarant are designated as "Parcels A, B, C and D" on Exhibit A attached hereto and incorporated herein by this reference.

(e) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot situated on the Property, including contract sellers, other than the Declarant, but excluding those having such interest solely as security for the performance of an obligation.

(f) "Dwelling" shall mean and refer to any building or portion of a building situated upon the Property and designed and intended for use and occupancy as a residence by a single person or family.

(g) "Developer" or "Grantor" shall mean and refer to the Declarant, and its successors; provided, however, that any of the rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant are specifically assigned or transferred to such successor.

(h) "Mortgage", as used herein, means 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. "Mortgage", as used herein, shall include deed of trust. "First Mortgage", as used herein, shall mean a mortgage with priority over other mortgages. As used in this Declaration, the term "mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgagees. As used in this Declaration, the term "institutional mortgagee" or "institutional holder" shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations and any agency or department of the United States Government or of any state or municipal government. As used in this Declaration, the term "holder" or "mortgagee" shall include the parties secured by any deed of trust or any beneficiary thereof.

(i) "Member" shall mean and refer to every person, group of persons, corporation, trust or other legal entity, or any combination thereof, who holds any class of membership in the Association.

(j) The "Project" and the "Community", as used in this Declaration, means that certain community being developed by the Declarant in Montgomery County, Maryland and known as "Audubon Square".

Whenever in this Declaration any action is required to be taken by a specified percentage of "each class of the then members" of the Association, then such action shall be required to be taken separately by the specified percentage of the then outstanding Class A members of the Association and by the specified percentage of the then outstanding Class B members of the Association. Whenever in this Declaration any action is required to be taken by a specified percentage of the "then members" taken by the specified percentage of the then outstanding cumulative membership of the Association.

ARTICLE II

Section 1. Property Subject to Declaration. The real property which is, and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in Montgomery County, Maryland, and is more particularly described on "EXHIBIT A", attached hereto and by this reference made a part hereof.

Section 2. Additions. So long as there are Class B members of the Association, additional property may be annexed to the above-described property without the assent of the Class A members of the Association, if any. The scheme of the within Covenants and Restrictions shall not, however, be extended to include any such additional property unless and until the same is annexed to the real property described on "EXHIBIT A" as hereinafter provided.

Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration of Covenants and Restrictions among the Land Records for Montgomery County, Maryland, which Supplementary Declaration shall extend the scheme of the within Declaration of Covenants and Restrictions to such annexed property. Such Supplementary Declaration may contain such complementary additions and modifications to the Covenants and Restrictions set forth in the within Declaration as may be necessary to reflect the different character or use, if any, of such annexed property provided, however, that in no event shall any such addition or modification be substantially inconsistent with the provisions of the within Declaration except as may be provided for in Section 6 of Article V of this Declaration.

So long as any lot is encumbered by a deed of trust or mortgage which is either insured by the Federal Housing Administration or guaranteed by the Veterans Administration, no annexation shall be made pursuant to this Article, or otherwise, except following a determination by the Federal Housing Administration and the Veterans Administration, as the circumstances may require, that the annexation conforms to a general plan for the development of the community of "Audubon Square" previously approved by the Federal Housing Administration and the Veterans Administration.

ARTICLE III

Section 1. Membership. The Association shall have two classes of voting membership which shall be known as "Class A" and "Class B":

(a) Except for the Declarant, every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who is a record owner of a fee interest in any lot which is part of the premises described in

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Article II of this Declaration, or which otherwise becomes subject by the covenants set forth in this Declaration to assessment by the Association, shall be a Class A member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity who holds such interest solely as security for the performance of an obligation shall not be a Class A member solely on account of such interest. Each Class A member shall be entitled to one (1) vote for each lot in which such member holds the interest required for Class A membership.

(b) The Class B member shall be the Declarant, its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who shall obtain any Class B membership by specific assignment from the Declarant. The Class B member or members shall have one Class B membership for each lot in which such member holds the interest otherwise required for Class A membership. Each Class B member shall be entitled to three (3) votes for each lot in which such member holds the interest otherwise required for Class A membership. Each Class B membership shall lapse and become a nullity on the first to happen of the following events:

- (i) thirty (30) days following the date on which the total authorized, issued and outstanding Class A memberships equal the total authorized, issued and outstanding Class B memberships multiplied by three (3); or
- (ii) on January 1, 1987; or
- (iii) upon the surrender of said Class B memberships by the then holders thereof for cancellation on the books of the Association.

Upon the lapse or surrender of any of the Class B memberships as provided for in this Article, the Declarant shall thereafter become and remain a Class A member of the Association as to each and every lot in which the Declarant then holds the interest otherwise required for such Class A membership. In the event additional property is annexed to the property described in Article II of this Declaration subsequent to the date specified in Section 1(b)(i) or Section 1(b)(ii) of this Article, then the Declarant shall be a Class B member as to each lot which it owns in such annexed property subject to the limitations set forth in this Article.

The members of the Association shall have no preemptive rights, as such members, to acquire any memberships of this Association that may at any time be issued by the Association except as may specifically be provided in this Article.

ARTICLE IV

Section 1. Member's Right of Enjoyment. Every member shall have a right and easement of enjoyment in and to the common areas and community facilities and such easement shall be appurtenant

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to and shall pass with the fee simple title to every lot subject to the following:

(a) the right of the Association, in accordance with its Articles of Incorporation and By-Laws, and with the consent of two-thirds (2/3) of each class of the then members of the Association, voting separately, to borrow money for the purpose of improving the common areas and community facilities in a manner designed to promote the enjoyment and welfare of the members and in aid thereof to mortgage any of the common areas and community facilities; and

(b) the right of the Association, acting by and through its Board of Directors, to levy reasonable admission and other fees for the use of any community facilities situated upon the Property by the members of the Association and their families, tenants and guests; provided, however, that any such fees shall be charged on a uniform basis for each member and, provided further, that in no event shall the Association levy any fee for the use of any streets, roadways or parking areas which are situate upon the Property; and

(c) the right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosures; provided, however, that the same are in conformity with the other provisions of this Declaration; and

(d) the right of the Association to adopt reasonable rules respecting use of the common areas and community facilities to reasonably limit the number of guests of members to the use of any facilities which are developed upon the Property; and

(e) the right of the Association to suspend the voting rights and the rights to use of the common areas and community facilities (except for rights to the use of streets, roadways and parking areas, which shall not be subject to suspension for any reason) for any period during which any assessment remains unpaid and for any period not to exceed thirty (30) days for any infraction of any of the published rules and regulations of the Association; and

(f) the right of the Association to dedicate or transfer all or any part of the common areas or community facilities to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the members; provided, however, that no such dedication or transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless two-thirds (2/3) of each class of the then members of the Association consent to such dedication, transfer, purpose and conditions, at any special meeting of the members duly called for such purpose.

(g) the right of the Association, acting by and through its Board of Directors, to grant licenses, rights-of-way and easements for access or for the construction, reconstruction, maintenance and repair of any utility lines or appurtenances, whether public or private, to any municipal agency, public utility, the Declarant or any other person; provided, however, that no such licenses, rights-of-way or easements shall be unreasonably

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and permanently inconsistent with the rights of the members to the use and enjoyment of the common areas and community facilities, and

(h) the right of the Association, acting by and through its Board of Directors, to open the common areas and community facilities, or any portions thereof, to a wider public, all for such purposes and on such basis as the Board of Directors may from time to time consider appropriate; and

(i) the rights of the owners of the lots to perpetual easements over and upon any of the common areas or community facilities for such portions of their dwellings that may overhang or otherwise encroach upon any of the common areas or community facilities, for support, for the purpose of necessary repairs and maintenance, for the maintenance of reasonable appurtenances to their dwellings, and for reasonable ingress and egress to and from any dwelling through and over the common areas and community facilities.

Section 2. Rights Not Subject to Suspension. Notwithstanding anything in this Declaration to the contrary, the Association shall have no authority to suspend, either temporarily or permanently, any of the rights created in Paragraph (i) of Section 1 of this Article for any reason whatsoever.

Section 3. Delegation of Right of Use. Any member of the Association may delegate his rights to the use and enjoyment of the common areas and community facilities to the members of his family who reside permanently with him and to his tenants, contract purchasers and guests, all subject to such reasonable rules and regulations which the Association may adopt and uniformly apply and enforce.

ARTICLE V

Section 1. Annual Maintenance Assessments. Each person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who becomes a fee owner of a lot within the Property, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay the Association in advance, a monthly sum (hereinafter sometimes referred to as "maintenance assessments") equal to one-twelfth (1/12) of the member's proportionate share of the sum required by the Association, as estimated by its Board of Directors, to meet its annual expenses, including but in no way limited to the following:

(a) the cost of all operating expenses of the common areas and community facilities and the services furnished to or in connection with the common areas and community facilities, including charges by the Association for any services furnished by it; and

(b) the cost of necessary management and administration of the common areas and community facilities, including fees paid to any Management Agent; and

(c) the amount of all taxes and assessments levied against the common areas and community facilities; and

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(d) the cost of fire and extended liability insurance on the common areas and community facilities and the cost of such other insurance as the Association may affect with respect to the common areas; and

(e) the cost of maintaining, replacing, repairing, and landscaping the common areas and community facilities and such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith; and

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

The Board of Directors shall determine the amount of the maintenance assessment annually, but may do so at more frequent intervals should circumstances so require. Upon resolution of the Board of Directors, installments of annual assessments may be levied and collected on a quarterly, semi-annual or annual basis rather than on the monthly basis hereinabove provided for. Any Class A member may prepay one or more installments on any annual maintenance assessment levied by the Association, without premium or penalty.

The Board of Directors shall prepare, or cause the preparation of an annual operating budget for the common areas and community facilities. The Board of Directors of the Association shall make reasonable efforts to fix the amount of the annual maintenance assessment against each lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the lots and the annual maintenance assessment applicable thereto which shall be kept in the office of the Association and shall be open to inspection by an owner upon reasonable notice to the Board. Written notice of the annual maintenance assessments shall be thereupon 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 maintenance 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 the annual maintenance assessment, or any installment thereof, for that or any subsequent assessment period, but the annual maintenance assessment fixed for the preceding period shall continue until a new maintenance assessment is fixed. No member may exempt himself from liability for maintenance assessments by abandonment of any lot belonging to him or by the abandonment of his right to the use and enjoyment of the common areas and community facilities.

Except as may be specifically provided for herein, this Declaration does not contemplate that the Association shall have any responsibility for the maintenance or repair of the dwellings or their appurtenances and the responsibility and duties of the Association for maintenance and repairs shall be limited to the common areas and community facilities. The owner of any lot shall, at his own expense, maintain his lot and dwelling and any and all appurtenances thereto, in good order, condition and repair and in a clean, sightly and sanitary condition at all times.

Section 2. Special Maintenance Assessments. In addition to the regular maintenance assessments authorized by this Article, the Association may levy in any assessment year a special maintenance assessment or assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, inordinate repair or replacement of a described capital improvement located upon, or forming a part of the common areas, including the necessary fixtures and personal property related thereto, or for such other purpose as the Board of Directors may consider appropriate; provided that any such assessment shall have the assent of the members representing two-thirds (2/3) of each class of the then members of the Association. A meeting of the members shall be duly called for this purpose.

Section 3. Reserves for Replacements. The Association may establish and maintain reserve funds for replacements of the common areas and community facilities by the allocation and payment monthly to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited in any banking institution, the accounts of which are insured by any State or by an agency of the United States of America, or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacements of the common areas and community facilities may be expended only for the purpose of affecting the replacement of the common areas, major repairs, equipment replacement, and for start-up expenses and operating contingencies of a non-recurring nature relating to the common areas and community facilities. The Association may establish such other reserves for such other purposes as the Board of Directors 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 or otherwise separated from the lot to which it appertains and shall be deemed to be transferred with such lot.

Section 4. Annual Maintenance Assessments. The initial maximum annual maintenance assessment for each of the lots to which Class A membership is appurtenant shall not exceed the sum of Two Hundred Forty and * * * No/100 Dollars (\$240.00) per annum. Except as may otherwise be provided in Section 6 of this Article or any Supplementary Declaration made pursuant to Article II of this Declaration, the annual maintenance assessment shall be levied at a uniform rate for each lot to which Class A membership is appurtenant.

Section 5. Increase in Maximum Annual Maintenance Assessment.

(a) From and after January 1, 1980, the maximum annual maintenance assessment for all Class A memberships hereinabove provided for, may be increased by the Board of Directors of the Association, without a vote of the Class A membership, by an amount equal to ten percent (10%) of the maximum annual assessment for the preceding year plus the amount by which any ad valorem real estate taxes and casualty and other insurance premiums payable by the Association have increased over amounts payable for the same or similar items for the previous year.

(b) from and after January 1, 1980, the maximum annual maintenance assessment for all Class A memberships hereinabove provided for may be increased above that established by the preceding paragraph by a vote of the members, as hereinafter provided, for the next succeeding year and, thereafter, at the end of such year, for each succeeding year. Any change made pursuant to this paragraph shall have the assent of two-thirds (2/3) of the then Class A members of the Association and two-thirds (2/3) of the then Class B members of the Association. A meeting of the members shall be duly called for this purpose.

ARTICLE VI

Section 1. Non-Payment of Assessments. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid on the date when due shall be delinquent and shall together with interest thereon and the cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the lot or lots belonging to the member against whom such assessment is levied and shall bind such lot or lots in the hands of the then owners, his heirs, devisees, personal representatives and assigns. The personal obligation of the member to pay such assessment shall, in addition, remain his personal obligation for the statutory period and a suit to recover a money judgment for non-payment of any assessment levied pursuant to this Declaration, or any installment thereof, may be maintained without foreclosing or waiving the lien herein created to secure the same.

Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid within ten (10) days after it is due, may, upon resolution of the Board of Directors, bear interest at a rate not to exceed the maximum legal rate permitted from time to time in the State of Maryland, and may, by resolution of the Board of Directors, subject the member obligated to pay the same to the payment of such penalty or "late charge" as the Board may fix, and the Association may bring an action at law against the member personally obligated to pay the same, or foreclose on the lien against the lot or lots then belonging to said member in the manner now or hereafter provided for the foreclosure of mortgages, deeds of trust or other liens on real property in the State of Maryland containing a power of sale and consent to a decree, and subject to the same requirements, both substantive and procedural, or as may otherwise from time to time be provided by law, in either of which events interest, cost and reasonable attorneys' fees of not less than twenty percent (20%) of the sum claimed shall be added to the amount of each assessment.

The Association shall notify the holder of the first mortgage on any lot for which any assessment levied pursuant to this Declaration becomes delinquent for a period in excess of sixty (60) days and in any other case where the owner of such lot is in default with respect to the performance of any other obligation hereunder for a period in excess of sixty (60) days, but any failure to give such notice shall not affect the validity of the lien for any assessment levied pursuant to this Declaration, nor shall any such failure affect any of the priorities established in this Article.

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In the event any proceeding to foreclose the lien for any assessment due the Association pursuant to this Declaration is commenced with respect to any lot or lots in the community then the owner of such lot or lots, upon resolution of the Board of Directors, may be required to pay a reasonable rental for such lot or lots, and the Association shall be entitled to the appointment of a receiver to collect the same.

The Board of Directors may post a list of members who are delinquent in the payment of any assessments or other fees which may be due the Association, including any installment thereof, which become delinquent, in any prominent location upon the Property.

Section 2. Assessment Certificates. The Association shall upon demand at any time furnish to any member liable for any assessment levied pursuant to this Declaration (or any other party legitimately interest in the same) a certificate in writing signed by an officer of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A charge not to exceed Thirty Dollars (\$30.00) may be levied in advance by the Association for each certificate so delivered.

Section 3. Acceleration of Installments. Upon default in the payment of any one or more monthly installments of any assessment levied pursuant to this Declaration, or any other installment thereof, the entire balance of said assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full.

Section 4. Priority of Lien. The lien established by this Declaration shall have preference over any other assessment, liens, judgments or charges of whatever nature, except the following:

(a) general and special assessments for ad valorem real estate taxes on the lot; and

(b) the liens of any deeds of trust, mortgage instrument or encumbrances duly recorded on the lot prior to the assessment thereon of the lien provided for in this Declaration or duly recorded on said lot after receipt of a written statement from the Board of Directors reflecting that payments on said lien were current as of the date of recordation of said deed of trust, mortgage instrument or encumbrance.

Notwithstanding any other provision of this Declaration to the contrary, the lien of any assessment levied pursuant to this Declaration upon any lot, as in this Article provided, shall be subordinate to the lien of any deed of trust, mortgage, or other encumbrance duly recorded on such lot and made in good faith and for value received and shall in no way affect the rights of the holder of any such deed of trust, mortgage or other encumbrance; provided, however, that such subordinate shall apply only to assessments, and installments thereof, which have become due and payable prior to a sale or transfer of the lot pursuant to a foreclosure of such deed of trust, mortgage or other encumbrance, or any deed, assignment or other proceeding or arrangement in lieu of foreclosure. Any holder of any deed of trust, mortgage or other encumbrance duly recorded on the lot and made in good faith and for value received who comes into

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possession of the lot pursuant to a foreclosure of such deed of trust, mortgage or other encumbrance, or any deed, assignment or other proceeding or arrangement in lieu of foreclosure, and any other purchaser at a foreclosure sale, shall take the lot free of any claims for unpaid maintenance assessments levied against the lot which accrue prior to the time such holder comes into possession of the lot or prior to the foreclosure sale, except for claims for a proportionate share of such unpaid maintenance assessments resulting from a reallocation of such unpaid maintenance assessments among the lots upon the Property. Such foreclosure deed, assignment or other proceeding or arrangement in lieu of foreclosure shall not, however, relieve the mortgagee in possession or the purchaser at any foreclosure sale from any liability for any maintenance assessments thereafter becoming due, or from the lien herein created to secure the payment of such maintenance assessments, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein.

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.

The Board of Directors may, in its sole and absolute discretion, extend the provisions of this Section to the holders of mortgages (or the indebtedness secured thereby) not otherwise entitled thereto.

Section 5. Additional Default. Any recorded first mortgage secured on a lot in the Property shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such mortgage (or the indebtedness secured thereby) but failure to include such a provision in any such mortgage shall not affect the validity or priority thereof and the protection extended to the holder of such mortgage (or the indebtedness secured thereby) by reason of Section 4 of this Article shall not be altered, modified or diminished by reason of such failure.

Section 6. Commencement of Annual Assessments. The annual maintenance assessment for each Class A membership shall commence on the date a deed for the lot to which such membership is appurtenant is delivered by the Declarant to the Association. The first monthly installment of each such annual assessment shall be made for the balance of the month during which a deed for the lot is delivered to the member and shall become due and payable and a lien on the date a deed for the lot is delivered to the member. Except as hereinelsewhere provided, the monthly installments of each such annual assessment for any lot for any month after the first month shall become due and payable and a lien on the first day of each successive month.

Section 7. Assessment of Declarant.

Anything in this Declaration to the contrary notwithstanding, any regular or special assessment levied by the Association for any lot held by the Declarant shall be in an amount equal to twenty-five percent (25%) of the assessment levied by the Association against lots not held by the Declarant. Until lapse of the Class B memberships, however, the Declarant shall be required to pay all budgeted expenses of the Association for the maintenance of common areas to the extent that regular assessments for maintenance levied by the Association are in sufficient amount to pay such costs of maintenance of such common area facilities. Additionally, the Declarant shall pay its pro rata share of reserves for replacements to the extent the assessment of such reserves in the regular assessment for budgeted reserves is insufficient to pay such reserves for replacement.

Section 8. Exempt Property. No portion of the common areas or community facilities shall be subject to assessment of any kind by the Association

ARTICLE VIISection 1. Architectural and Environmental Control Committee.

Except for construction or development by, for or under contract with the Declarant, and except for any improvements to any lot or to the common areas accomplished by the Declarant concurrently with said construction and development, and except for purposes of proper maintenance and repair, no building, fence, wall or other improvements or structures shall be commenced, directed, placed, moved, altered or maintained upon the Property, nor shall any exterior addition to or change (including any change of 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 Architectural and Environmental Control Committee) shall have been submitted to and approved in writing 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 by an Architectural and Environmental Control Committee designated by the Board of Directors.

Subject to the same limitations as hereinabove provided for, it shall be prohibited to install, erect, attach, apply, paste, hinge, screw, nail, build, alter, remove or construct any lighting, shades, screens, awnings, patio covers, decorations, fences, wall, aerials, antennas, radio or television broadcasting or receiving devices, slabs, sidewalks, curbs, gutters, patios, balconies, porches, driveways, walls, or to make any change or otherwise alter (including any alteration in color) in any manner whatsoever the exterior of any improvements constructed upon any lot or upon any of the common areas, or to combine or otherwise join two or more dwellings, or to partition the same after combination, or to remove or alter any windows or exterior doors of any dwelling, or to make any change or alteration within any dwelling which will alter the structural integrity of the building or otherwise affect the property, interest or welfare of any other lot owner, materially increase the cost of operating or insuring any of the common areas or impair any easement, 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 Architectural and Environmental Control Committee) shall have been submitted to and approved in writing as to safety, harmony of external design, color and location in relation to surrounding

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structures and topography and conformity with the design concept for the community by the Architectural and Environmental Control Committee designated by the Board of Directors.

Section 2. Architectural and Environmental Control Committee - Operation. The Board of Directors shall appoint an Architectural and Environmental Control Committee. The Architectural and Environmental Control Committee shall be composed of three (3) or more natural persons designated from time to time by the Board of Directors of the Association and such persons shall serve at the pleasure of the Board of Directors. The affirmative vote of a majority of the members of the Architectural and Environmental Control Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any finding, determination, ruling or order, or to issue any permit consent, authorization, approval or the like pursuant to the authority contained in this Article.

Section 3. Approvals, etc. Upon approval by the Architectural and Environmental Control Committee of any plans and specifications submitted pursuant to the provisions of this Article, a copy of such plans and specifications, as approved, shall be deposited among the permanent records of such Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. In the event the Committee fails to approve or disapprove any plans and specifications which may be submitted to it pursuant to the provisions of this Article within sixty (60) days after such plans and specifications (and all other materials and information required by the Architectural and Environmental Control Committee) have been submitted to it in writing, then approval will not be required and this Article will be deemed to have been fully complied with.

Section 4. Limitations. Construction or alterations in accordance with plans and specifications approved by the Architectural and Environmental Control Committee pursuant to the provisions of this Article shall be commenced within six (6) months following the date upon which the same are approved by the Committee (whether by affirmative action or by forbearance from action, as in Section 3 of this Article provided), and shall be substantially completed within twelve (12) months following the date of commencement, or within such other period as the Committee shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviation from the plans and specifications approved by the Committee without the prior consent in writing of the Committee. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Committee to disapprove such plans and specifications, or any elements or features thereof in the event such plans and specifications are subsequently submitted for use in any other instance.

Section 5. Certificate of Compliance. Upon the completion of any construction or alterations or other improvements or structure in accordance with plans and specifications approved by the Architectural and Environmental Control Committee in accordance with the provisions of this Article, the Architectural and Environmental Control Committee shall, at the request of the owner thereof, issue a certificate of compliance which shall be prima facie evidence that such construction, alteration or other improvements referenced in such certificate have been approved

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by the Architectural and Environmental Control Committee and constructed or installed in full compliance with the provisions of this Article and with such other provisions and requirements of the Declaration as may be applicable.

Section 6. Rules and Regulations, etc. The Architectural and Environmental Control Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted for approval and may publish and record such statements of policy, standards, guidelines and establish such criteria relative to architectural styles or details, colors, set-backs, materials or other matters relative to architectural control and the protection of the environment, as it may consider necessary or appropriate. No such rules, regulations, statements, 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. The Architectural and Environmental Control Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to the provisions of this Article. The decisions of the Architectural and Environmental Control Committee shall be final except that any member who is aggrieved by any action or forbearance from action by the Committee (or by any policy, standards or guidelines established by the Committee) may appeal the decision of the Architectural and Environmental Control Committee to the Board of Directors and, upon the request of such member, shall be entitled to a hearing before the Board of Directors of the Association.

Section 7. Prohibited Uses and Nuisances. Except for the activities of the Declarant during the construction or development of the committee, or except with the prior written approval of the Architectural and Environmental Control Committee, or as may be necessary in connection with reasonable and necessary repairs or maintenance to any dwelling or upon the common areas:

(a) no noxious or offensive trade or activity shall be carried on upon any lot or within any dwelling, nor shall anything be done therein or thereon, which may be or become an annoyance or nuisance to the neighborhood or other members. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any dwelling or upon the exterior of any other improvement.

(b) the maintenance, keeping, boarding or raising of animals, livestock, or poultry of any kind, regardless of number, shall be and is hereby prohibited on any lot or within any dwelling, except that this shall not prohibit the keeping of dogs, cats, or caged birds as domestic pets provided they are not kept, bred, or maintained for commercial purposes and, provided further, that such domestic pets are not a source of annoyance or nuisance to the neighborhood or other members. The Board of Directors or, upon resolution of the Board of Directors, the Architectural and Environmental Control Committee, shall have the authority, after hearing, to determine whether a particular pet is a nuisance or a source of annoyance to other members, and such determination shall be conclusive. Pets shall be attended at all times and shall be registered, licensed and inoculated as may from time to time be required by law. Pets shall not be permitted upon the common areas unless accompanied

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by an adult and unless they are carried or leashed. The Board of Directors shall have the right to adopt such additional rules and regulations regarding pets as it may from time to time consider necessary or appropriate.

(c) no burning of any trash and no accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash of any other kind shall be permitted on any lot.

(d) except as hereinelsewhere provided, no junk vehicle, commercial vehicle, trailer, truck, camper, camp truck house trailer, boat or other machinery or equipment of any kind or character (except for such equipment and machinery as may be reasonable, customary and usual in connection with the use and maintenance and operation of the common areas and community facilities) shall be kept upon the Property nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of the Architectural and Environmental Control Committee, provide and maintain a suitable area designated for the parking of such vehicles or the like.

(e) trash and garbage containers shall not be permitted to remain in public view except on days of trash collection. No incinerator shall be kept or maintained upon any lot. Garbage, trash and other refuse shall be placed in covered containers.

(f) 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. No portion of any dwelling (other than the entire dwelling) shall be leased. The provisions of this subsection shall not apply to the Declarant and, 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, or to the Association the Declarant or any other person for any purpose.

(g) except for hoses and the like which are reasonably necessary in connection with normal lawn maintenance, no water pipe, sewer pipe, gas pipe, drainage pipe, television cable or similar transmission line shall be installed or maintained on any lot above the surface of the ground.

(h) no lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.

(i) no sound hardwood trees measuring in excess of six (6) inches in diameter two (2) feet above the ground shall be removed from any lot without written approval of the Association acting through the Architectural and Environmental Control Committee or duly appointed subcommittee. The Architectural and Environmental Control Committee may from time to time adopt and promulgate such additional rules and regulations regarding the preservation of trees and other natural resources and wildlife as it may consider appropriate.

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(j) no structure of a temporary character, and no trailer, tent, shack, barn, pen, kennel, run, stable, outdoor clothes dryer, playhouse, shed or other buildings shall be erected, used or maintained on any lot at any time.

(k) except for entrance signs, directional signs, signs for traffic control or safety, community "theme areas" and such promotional sign or signs as may be maintained by the Declarant or the Association, no signs or advertising devices of any character shall be erected, posted or displayed upon, in or about any lot or dwelling, provided, however, that one sign not exceeding two (2) square feet in area and not illuminated may be attached to a dwelling where a professional office (as herein elsewhere in this Declaration defined) is maintained, and provided further, that one temporary real estate sign not exceeding six (6) square feet in area, may be erected upon any lot or attached to any dwelling placed upon the market for sale or rent. Any such temporary real estate sign shall be removed promptly following the sale or rental of such dwelling. The provisions and limitations of this sub-section shall not apply to any institutional first mortgagee of any lot who comes into possession of the lot by reason of any remedies provided by law or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, assignment or deed in lieu of foreclosure.

(l) 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.

(m) no outside television or radio aerial or antenna, or other aerial or antenna or similar device, for reception or transmission, shall be maintained upon the exterior of any dwelling.

(n) no member shall engage or direct any employee of the Association on any private business of the member during the hours such employee is employed by the Association, nor shall any member direct, supervise or in any manner attempt to assert control over any employee of the Association.

Section 8. Residential Use - Leasing. All dwellings shall be used for private residential purposes exclusively, except that a professional office may be maintained in a dwelling, provided that such maintenance and use is limited to the person actually residing in the dwelling and, provided further, that such maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation. As used in this Section the term "professional office" shall mean rooms used for office purposes by a member of any recognized profession including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics. 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 for promotional or display purposes, or as "model homes", a sales office, or thelike.

No portion of any lot or dwelling (other than the entire lot or dwelling) shall be leased for any period. Any owner of any lot or dwelling who shall lease such lot or dwelling

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shall, promptly following the execution of any such lease and upon the request in writing of the Board of Directors, forward a conformed copy of such lease to the Board of Directors. All such leases shall be in writing. Any such lease shall contain a provision to the effect that the rights of the tenant to use and occupy the premises which are the subject matter of the lease shall be subject and subordinate in all respects to the provision of this Declaration and to the By-Laws of the Association and to such other reasonable rules and regulations relating to the use of the common elements and community facilities or other "house rules" that the Board of Directors may from time to time promulgate, and any such lease shall provide, further, that any failure by the tenant to comply with the provisions of such documents shall be a default under the lease. The provisions of this sub-section shall not apply to any institutional first mortgagee of any lot or dwelling who comes into possession of the lot or dwelling by reason of any remedies provided by law or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, assignment or deed in lieu of foreclosure.

Section 9. Easements. The common areas and community facilities shall be subject to easements to the benefit of the Association and the owners of the adjoining and abutting lots and dwellings for maintenance, and for the unobstructed and uninterrupted uses of any and all pipes, ducts, flues, chutes, conduits, cables and wire outlets and utility lines of any kind, to easements for the maintenance of adjoining and abutting dwellings, and to easements for such portions of any dwelling that may overhang any portion of the common areas and community facilities, and to easements for the leadwalks and sidewalks serving adjoining and abutting dwellings. Such easements shall not be subject to suspension for any reason.

Section 10. House Rules, etc. There shall be no violation of any rules for the use of the common areas and community facilities or "house rules" or other community rules and regulations not inconsistent with the provisions of this Declaration, which may from time to time be adopted by the Board of Directors of the Association and promulgated among the membership by them in writing and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt such rules.

Section 11. Enforcement - Right to Remove or Correct Violations. In the event any violation or attempted violation of any of the covenants or restrictions contained in this Article shall occur or be maintained upon any lot, or in the event of any other conduct in violation of any of the provisions and requirements of this Article, then the same shall be considered to have been undertaken in violation of this Article and without the approval of the Architectural and Environmental Control Committee required herein, and, upon written notice from the Architectural and Environmental Control Committee, 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 fifteen (15) 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, or 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

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employees (but only after a resolution of the Architectural and Environmental Control Committee) to enter upon such lot and to take such steps as may be necessary to remove or otherwise terminate or abate such violation and the cost thereof may be assessed against the lot upon which such violation occurred and, 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 (and subject to the same limitations) 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 of this Article or any of the other provisions or requirements of this Declaration, exist on such lot; and neither the Association nor any such agent or employee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE VIII

Section 1. Management Agent. The Board of Directors may employ for the Association a management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing. The Management Agent shall perform such duties and services as the Board of Directors shall authorize in writing, including, without limitation:

- (a) to establish (with the approval of the Board of Directors of the Association) and provide for the collection of the annual maintenance assessments and any other assessments provided for in this Declaration and to provide for the enforcement of liens therefor in a manner consistent with law and the provisions of this Declaration; and
- (b) to provide for the care, upkeep, maintenance and surveillance of the common areas and community facilities; and
- (c) to designate, hire and dismiss such personnel as may be required for the good working order, maintenance and efficient operation of the common areas and community facilities; and
- (d) to promulgate (with the approval of the Board of Directors of the Association) and enforce such rules and regulations and such restrictions or requirements, "house rules" or the like as may be deemed proper respecting the use of the common areas and community facilities; and
- (e) to provide such other services (including accounting services) for the Association as may be consistent with law and the provisions of this Declaration.

Any management agreement entered into by the Association shall provide *inter alia*, that such agreement may be terminated without cause or payment by either party upon thirty (30) days' written notice thereof to the other party. The term

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of any such management agreement shall not exceed one year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods.

Section 2. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the common expense funds, or for injury or damage to person or property caused by the element or resulting from water which may leak or flow from any portion of the common areas or community facilities, or from any wire, pipe, drain, conduit or the like. 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 areas or community facilities. No diminution or abatement of assessments, as hereinelsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the common areas 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 IX

Section 1. Reservation of Easement Rights by the Declarant. The Declarant hereby reserves a non-exclusive easement and right-of-way in, through, over and across the common areas and community facilities for the purpose of the storage of building supplies and materials, the installation, construction, maintenance, reconstruction and repair of sanitary sewer lines, water lines, CATV cables, storm drains and appurtenances to any of the same, and for all other purposes reasonably related to the completion of construction and the provisions of utility services, whether public or private, to the community and to other property adjacent to, or in the vicinity of, the community. Any and all instruments of conveyancing made by the Declarant to the Association with respect to any of the common areas and community facilities shall be conclusively deemed to incorporate this reservation, whether or not specifically set forth in such instruments. At the request in writing of the Declarant, the Association shall from time to time execute, acknowledge and deliver to the Declarant such further assurances of this reservation as may be necessary.

Section 2. Easements for Utilities and Related Purposes. The Association is authorized and empowered to grant (and shall from time to time grant) such other licenses, easements and rights-of-way over the common areas and community facilities for sewer lines, electrical cables, telephone cables, gas lines, storm drains, CATV cables, underground conduits and such other purposes related to the provisions of utility services to the community as may be considered necessary and appropriate by the Board of Directors for the orderly maintenance, preservation and enjoyment of the common areas and community facilities and for the preservation of the health, safety, convenience and welfare of the owners of the lots or the Declarant.

Any and all streets, walkways, roadways, sidewalks and the like which are owned by the Association shall be subject to non-exclusive easements for ingress, egress and regress for the benefit of all members of the Association, the Declarant,

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their respective heirs, personal representatives and assigns and all other persons or other parties claiming under any of them.

ARTICLE X

Section 1. Amendment. Subject to the other limitations set forth in this Declaration, prior to the lapse of all of the Class B memberships in the Association, as in Article III provided, this Declaration may be amended only by an instrument executed and acknowledged by two-thirds (2/3) of the Class A members of the Association, if any, and by the Declarant, which instrument shall be recorded among the Land Records for Montgomery County, Maryland. Subject to the other limitations set forth in this Declaration, following the lapse of all of the Class B memberships in the Association, as in Article III provided, this Declaration may be amended by an instrument executed and acknowledged by a majority of the Class A members of the Association, which instrument shall be recorded among the Land Records for Montgomery County, Maryland. Unless a later date is specified in any such instrument, any amendment to this Declaration shall become effective on the date of recording.

Section 2. Duration. Unless amended in accordance with the provisions of Section 1 of this Article and the other requirements of this Declaration, and 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 land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date of recordation of this Declaration, after which the said covenants shall be automatically extended for successive periods of ten (10) years each.

Section 3. Construction and Enforcement. The provisions hereof shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the community. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, or both, and against any lot to enforce the lien created hereby; and the failure or forbearance by the Association or the owner of any lot to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The provisions hereof may be enforced, without limitation, by the Association, by any owner or any mortgagee of any lot which becomes subject to the provisions hereof and by any other person, firm, corporation or other legal entity who has any right to the use of any of the common areas and community facilities owned by the Association, including, again without limitation, any person, firm, corporation or other legal entity who has any right to the use of any of the streets or roadways owned by the Association.

There shall be and there is hereby created and declared to be a conclusive presumption that any violation or

breach or attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

Section 4. Successors of Declarant. Any and all rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant, with or without notice to the Association.

Section 5. Incorporation by Reference on Resale. In the event any owner sells or otherwise transfers any lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration.

Section 6. Notices. Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage prepaid, to the last known address of the person who appears as a member or owner on the records of the Association at the time of such mailing.

Section 7. No Dedication to Public Use. Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any common areas or community facility by any public or municipal agency, authority, or utility and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the common areas or community facilities.

Section 8. Severability. In validation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provisions hereof, each of which shall remain in full force and effect.

Section 9. Consents. Any other provision of this Declaration to the contrary notwithstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the holders of all first mortgages of record on the lots:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the common areas and community facilities; provided, however, that the granting of rights-of-way, easements, and the like for public utilities or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate this Declaration; or

(c) modify or amend any material or substantive provisions of this Declaration or the By-Laws of the Association; or

(d) substantially modify the method of determining and collecting maintenance assessments as provided in this Declaration.

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Section 10. Consent of Federal Housing Administration and Veterans Administration. Provided that any lot in the project is then encumbered by a deed of trust or mortgage which is insured by the Federal Housing Administration or guaranteed by the Veterans Administration and, provided further, that there are then Class B memberships of the Association outstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the Federal Housing Administration and the Veterans Administration, as the circumstances may require:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the common areas and community facilities; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate this Declaration; or

(c) modify or amend any provision of this Declaration or the By-Laws of the Association.

Section 11. Additional Rights of Mortgagees- Notice. The Association shall promptly notify the holder of the first mortgage on any lot for which any assessment levied pursuant to the Declaration or any installment thereof, becomes delinquent for a period in excess of sixty (60) days and the Association shall promptly notify the holder of the first mortgage on any lots with respect to which any default in any other provision of this Declaration remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice on any lot and the protection extended in this Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure.

No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except after ten (10) days' written notice to the holder of the first mortgage on the lot which is the subject matter of such suit or proceeding.

Any institutional first mortgagee of any lot upon the Property may pay any taxes, utility charges or other charge levied against the common areas and community facilities which are in default and which may or have become a charge or lien against any of the common areas and community facilities and any such institutional first mortgagee may pay any overdue premiums on any hazard insurance policy or secure new hazard insurance coverage on the lapse of any policy, with respect to the common areas and community facilities. Any first mortgagee who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Association.

Section 12. Casualty Losses. In the event of substantial damage or destruction to any of the common areas or community facilities, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the holders of all first mortgages of record on the lots. No provision of this

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Declaration or the By-Laws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his lot with respect to the distribution to such member of any insurance proceeds paid or payable on account of any damage or destruction of any of the common areas or community facilities.

Section 13. Condemnation or Eminent Domain. In the event any part of the common areas and community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Association shall give prompt written notice of any such proceeding or proposed acquisition to the holders of all first mortgages of record on the lots. No provision of this Declaration or the By-Laws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his lot with respect to the distribution to such member of the proceeds of any condemnation or settlement relating to a taking of any of the common areas and community facilities.

Section 14. Captions and Gender. 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, the male shall include all genders and the singular shall include the plural.

IN WITNESS WHEREOF, AUDUBON SQUARE JOINT VENTURE, a Maryland Limited Partnership, has caused these presents to be executed and delivered by AUDUBON SQUARE, INC., a Maryland corporation, which has caused these presents to be executed by T. Kevin Carney, its President and attested by its Assistant Secretary, and by the execution and delivery of these presents, Audubon Square, Inc. does appoint T. Kevin Carney its true and lawful Attorney-in-Fact to execute, acknowledge and deliver this Declaration.

AUDUBON SQUARE JOINT VENTURE,
a Maryland Limited Partnership

By: AUDUBON SQUARE, INC. ✓
General Partner

By: 
T. Kevin Carney, President

STATE OF MARYLAND
COUNTY OF MONTGOMERY
HARRIS TOWNSEND COUNTY

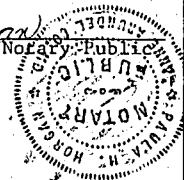
} ss:

THIS IS TO CERTIFY that on this *1st* day of *October* 1980, before me, the subscriber, a Notary Public in and for the jurisdiction aforesaid, personally appeared T. Kevin Carney, being well known to me, and by virtue of the authority vested in him as President of Audubon Square, Inc., a Maryland corporation, General Partner of Audubon Square Joint Venture, a Maryland Limited Partnership, and executed, delivered and acknowledged the foregoing Declaration to be his act and deed on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal
the year and day first above written.

Paula M. Morgan

My Commission Expires:
July 1, 1982.



I HEREBY CERTIFY that I am an attorney admitted to practice
before the Court of Appeals of Maryland and that the within in-
strument was prepared by me or under my supervision.

G. Vann Canada, Jr.

"EXHIBIT A"

Lots numbered 1 through 28, inclusive, in Block lettered A, in the subdivision known as Plat 1, AUDUBON SQUARE as per plat of said subdivision recorded in Plat Book 108 at plat 12512, among the Land Records for Montgomery County, Maryland;

and

Common Area Parcel "A" and Common Area Parcel "B" in the subdivision known as Plat 1, AUDUBON SQUARE as per plat of said subdivision recorded in Plat Book 108 at plat 12512, among the Land Records for Montgomery County, Maryland; and

Common Area Parcel "C" in the subdivision known as Plat 2, AUDUBON SQUARE as per plat of said subdivision recorded in Plat Book 108 at plat 12513, among the Land Records for Montgomery County, Maryland;

and

Lots numbered 37 through 43, inclusive, in Block lettered "B" in the subdivision known as Plat 3, AUDUBON SQUARE as per plat of said subdivision recorded in Plat Book 108 at plat 12514, among the Land Records for Montgomery County, Maryland;

and

Common Area Parcel "D" in the subdivision known as Plat 3, AUDUBON SQUARE as per plat of said subdivision recorded in Plat Book 108 at plat 12514 among the Land Records for Montgomery County, Maryland.