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OF
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NOTE: The official copy is located in South Kingstown Town Hall. An unofficial copy may be obtained at Kinko's in the Emporium near URI for a modest fee.

EXHIBIT I.

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, CHARGES AND LIENS FOR TEFFT
HILL FARM HOMEOWNERS ASSOCIATION**

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EXHIBIT C Additional Property (NOT INCLUDED)

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EXHIBIT I.

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, CHARGES AND LIENS FOR TEFFT HILL FARM HOMEOWNERS ASSOCIATION

This Declaration of Covenants, Conditions, Restrictions, Charges and Liens for Tefft Hill Farm Homeowners Association (hereinafter referred to as the "Declaration") is made as of January 3, 1989, by CHESTNUT HILL ASSOCIATES, a Rhode Island General Partnership, hereinafter referred to as "Declarant".

WITNESSETH:

Declarant intends by this Declaration to impose upon the real property described in EXHIBIT "A" attached hereto and incorporated herein by reference, mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of property within Tefft Hill Farm. Declarant desires to provide a flexible and reasonable procedure for the overall development of the property and to establish a method for the administration, maintenance, preservation, use and enjoyment of such property as is now or may hereafter be submitted to this Declaration. The Association hereby created may perform education, recreation, charitable, and other social welfare activities.

NOW, THEREFORE, Declarant hereby declares that all of the property described in EXHIBIT "A" and any additional property as may by subsequent amendment be added to and subjected to this Declaration shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, affirmative obligations, charges and liens which are for the purpose of protecting the value and desirability of and which shall run with the real property submitted to this Declaration and which shall be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, successor-in-title and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: Definitions

- Section 1.1.** "Area of Common Responsibility" shall mean and refer to the General Common Area and Special Use Properties.
- Section 1.2.** "Assessments" shall mean and refer to General Assessments, Special Assessments and Special Use Properties Fees.
- Section 1.3.** "Association" shall mean and refer to Tefft Hill Farm Homeowners Association, a Rhode Island nonprofit corporation, its successors and assigns.
- Section 1.4.** "Board of Directors" or "Board" shall be the elected body of the Association having its normal meaning under Rhode Island corporate law.
- Section 1.5.** "Bylaws" shall refer to the Bylaws of Tefft Hill Farm Homeowners Association attached to the Declaration as EXHIBIT B and incorporated by this reference.
- Section 1.6.** "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, including a reasonable reserve, all may be found to necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation.
- Section 1.7.** "General Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. General Common Area shall contain such properties as shown and designated as such or as "Open Space" and "100' Buffer" on a recorded plat of any portion of Tefft Hill Farm and shall be deeded to the Association by the Declarant. Such deed of

conveyance of General Common Area to be held for the common use and enjoyment of all Owners and Residents as set forth in this declaration.

- Section 1.8.** "Lot" shall mean a portion of the Properties other than the General Common Area and the lot designated as "Proposed Water Tower Lot" intended for any type of independent ownership and use as may be set out in this Declaration and shown as the 220 numbered lots on the Plat of Tefft Hill Farm filed in the Land Evidence Records of the Town of South Kingstown. Where the context indicates or requires, the term Lot includes any structure on the Lot.
- Section 1.9.** "Lot Assessment" shall mean assessments for Common Expenses provided for herein or by an Amendment hereto which shall be used for the purposes of promoting recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Lot against which the specific Lot Assessment is levied and for the purpose of maintaining the properties within Tefft Hill Farm, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized herein.
- The Lot Assessment shall be levied equally against Owners of Lots for such purposes that are authorized by this Declaration or by the Board of Directors from time to time.
- Section 1.10.** "Member" shall mean and refer to a person or entity entitled to membership in the Association as provided herein.
- Section 1.11.** "Mortgage" shall include a beneficiary or holder of a deed of trust as well as a mortgagee.
- Section 1.12.** "Mortgagee" shall include the trustor of a deed of trust as well as mortgagor.
- Section 1.13.** "Mortgagor" shall include the trustor of a deed of trust as well as mortgagor.
- Section 1.14.** "Open Space" shall mean and include all real estate designated as "Open Space" and "100' Buffer" on the Plats.
- Section 1.15.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of any Lot which is part of the Properties but excluding in all cases any party holding an interest merely as security for the performance of an obligation.
- Section 1.16.** "Plat" or "Plats" shall mean that certain plat entitled "Final Plat of Tefft Farm Location South Road South Kingstown, R.I., owned by Chestnut Hill Associates" consisting of 26 sheets and recorded on January 3, 1989 at 2:30 PM in the Land Evidence Records of the Town of South Kingstown, endorsed as final plats by the Planning Board of the Town of South Kingstown and recorded in the Land Evidence Records of the Town of South Kingstown.
- Section 1.17.** "Person" means a natural person, a corporation, a partnership, trustee, or other legal entity.
- Section 1.18.** "Properties" shall mean and refer to the real property described in EXHIBIT "A" attached hereto and shall further refer to such additional property as may hereafter be annexed by amendment to this Declaration or which is owned in fee simple by the Association.
- Section 1.19.** "Special Use Properties" shall mean and refer to General Common Area real and personal property designated by the Board of Directors as Special Use Properties. Only those Members who join, pay special fees, or otherwise comply with Special Use Properties Regulations which the Board may adopt shall have a right to use and to enjoy such Special Use Properties. The designation Special Use Properties may be removed by a vote of a majority of the members of each class present in person or by proxy, at a meeting of the Association duly called for such purpose, provided that the Board of Directors shall recommend such approval.
- Section 1.20.** "Tefft Hill Farm" shall mean the development consisting of a 220 lot residential cluster subdivision as shown on the plats to be filed in the Land Evidence Records of the Town of South Kingstown and endorsed as the final plats by the Planning Board of the Town of South Kingstown.

ARTICLE II: Property Rights

Section 2.1. Owner's Easement of Enjoyment. Every Owner shall have a right easement of ingress and egress, use and enjoyment in and to the General Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a) the right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed upon the General Common Area and to impose reasonable limits on the number of guests who may use the facilities;
- b) the right of the Association to suspend an Owner's voting rights and the right to use any of the facilities for any period during which any assessment of the Association against that Owner's Lot remains unpaid, and for any infraction by any Owner of the Association's rules and regulations for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days;
- c) the right of the Declarant, with regard to the Properties which may be owned for the purpose of development, to grant easements in and to the General Common Area contained within the Properties to any public agency, authority, or utility for such purposes as benefits only the Properties or portions thereof and Owners of Lots contained therein;
- d) the right of the Association to borrow money for the purpose of improving the General Common Area, or any portion thereof, for acquiring additional General Common Area, or for construction, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the General Common Area, provided two-thirds (2/3) of each Class of members present at a meeting called for such purpose shall approve; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Declaration for the benefit of Declarant or any Owner, or the holder of any mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within Tefft Hill Farm; and
- e) the right of the Association to dedicate or transfer all or any portion of the General Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved
 - 1) by at least two-thirds (2/3) of the votes of those Class A members of the Association who are present or represented by proxy and entitled to cast a vote at a meeting duly called for such purpose, and
 - 2) by the Class B member of the Association, so long as such membership shall exist.

Article II, Section 2.1 (c) may not be amended without written consent of Declarant.

Section 2.2. Antennas. No exterior television or radio antennas of any kind shall be placed or allowed, or maintained upon any Lot, without the prior written consent of the Board or its designee. The Association may erect an aerial for a master antenna system should any such master system or systems be utilized by the Association and require any such exterior antenna.

Section 2.3. Exterior Lighting. No exterior lighting fixture (other than standard fixtures approved by the Architectural Review Committee or installed by Declarant) shall be installed within or upon any Lot without adequate and proper shielding of the fixture. No lighting fixture shall be installed that may become an annoyance or a nuisance to owners or occupants of adjacent properties. All modifications of exterior lighting must be approved in writing by the Architectural Review Committee in advance.

Section 2.4. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association and subject to reasonable rules, regulations, and limitations as may be adopted in accordance therewith, his or her right of enjoyment to the General Common Area and facilities to the members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the occupants of any leased Lot.

Section 2.5. Owner's Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the General Common Area necessary for access to his or her Lot and shall have the right to lateral support for his or her Lot, and such rights shall be appurtenant to and pass with the title to each Lot.

Section 2.6. Use of Lots. Except as may be otherwise expressly provided in this Declaration, each Lot shall be used for residential purposes only as a residence for a single family related by blood, adoption, or marriage. No trade or business of any kind may be conducted on the Lot. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this covenant, so long as the lease is in compliance with reasonable rules and regulations as the Board of Directors may promulgate. Any leasee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the Bylaws, and the rules and regulations adopted hereunder.

Without prior written consent of the Association's Board of Directors, nothing shall be done or kept on any Lot or on the General Common Area or any part thereof to increase the rate of insurance on the Properties or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot or on the General Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules and regulations in the furtherance of this provision.

Section 2.7. Landscaping, Fences and Lawn Ornaments. No planting or gardening shall be done, and no fences, hedges, or walls and no statures or lawn ornaments shall be erected or maintained upon the General Common Area or upon any Lot, except in accordance with a plan approved by the Architectural Review Board. It is expressly acknowledged and agreed by all parties concerned that this Section is for the mutual benefit of all Owners and is necessary for the protection of all Owners.

Section 2.8. Signs. No sign of any kind shall be displayed to the public view on any Lot or the General Common Area without the prior written consent of the Board or its designee, except customary name and address signs and one (1) For Sale sign per Lot of not more than one and a half (1 1/2) feet by two (2) feet and set back from the street at least fifteen (15') feet. The Board, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on the General Common Area.

Section 2.9 Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the General Common Area, facilities located thereon, and individual Lots. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule or requirement shall be specifically overruled, or modified by the Board or the Association in a regular or special meeting by the vote of Class "A" members holding a majority of the total votes in the Association and by the vote of the Class "B" member, so long as such membership shall exist. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected by lien and foreclosure, as provided in the Declaration and By-laws.

Section 2.10 Declarant's Reserved Easement. Notwithstanding any provisions contained in the Declaration to the contrary, Declarant hereby expressly reserved unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to Tefft Hill Farm for the benefit of Declarant, its successors, and assigns over, under and/or in the Properties, except Lots conveyed to purchasers, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development sale, maintenance, repair, replacement, use, and enjoyment, and/or otherwise dealing with

Tefft Hill Farm and any other property now owned or which may in the future be owned by Declarant (such other property is hereinafter referred to as Additional Property). The reserved easement shall constitute a burden on the title to the Properties except Lots conveyed to Purchaser and specifically includes, but is not limited to:

- a) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in Tefft Hill Farm; and the right to tie into any portion of Tefft Hill Farm with driveways, parking areas, and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocated, maintain, and repair any device which provides utility or similar services, including without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over the Properties; and
- b) the right to construct, install, replace, located, maintain, repair, use, and enjoy signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of Declarant, may be required, convenient, or incidental to the construction and sale by the Declarant of Lots or residences in Tefft Hill Farm or in any portion of the Additional Property.
- c) An easement and right of way for access over, upon, and across the Properties, including, without limitation the general Common Area, for the construction, installation, repair, replacement, and maintenance of roads, drainage lines, ditches and structures, utilities of any and all types, including without limitation underground electrical, telephone and gas lines as may be required for the development of Tefft Hill Farm and for additional property. This reserved easement shall specifically include the easement to dig and remove sand, loam, gravel, rocks and soil and to bury rocks, stumps, trees, and soil in the Borrow and Fill Areas shown on the Plats. Declarant may dedicate and transfer to the Town of South Kingstown roads and easements over, under and in the General Common Area for the purpose of providing access and serving additional property located outside of Tefft Hill Farm and the Properties.
- d) No rights, privileges, and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, Lots and the General Common Area, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quitclaim deed from Declarant releasing such right, privilege, or easement by express reference thereto.

This Section may not be amended without the written consent of the Declarant.

Section 2.11. Storage and Parking. There shall be no outside storage or parking upon any Lot of any commercial vehicle, truck (except pick-ups), tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, snowmobile, recreational vehicles or any other transportation device of any kind. No owners or tenants shall repair or restore any vehicle of any kind upon any Lot or General Common Area, except within a garage or except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after the alteration is less than the number of automobiles that could have been reasonably parked in the garage as originally constructed. The Board of Directors may provide for an area in the General Common Area in which vehicles and boats may be parked or stored in accordance with the rules and regulations promulgated by the Board of Directors.

Section 2.12. Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Properties, except that no more than a total of two (2) dogs and such number of cats, or other normal household pets as established by the Rules and Regulations may be kept in residences subject to rules and regulations adopted by the Association through its Board of Directors, provided that such pets are not kept, bred, or maintained for any commercial purpose. The Board shall have the absolute power to prohibit a particular individual pet from being kept on the Properties, including inside residences constructed thereon.

Section 2.13. Residential Use. The Lots shall be used solely and exclusively for private residence purposes.

- Section 2.14. Approval by Declarant of Construction.** No buildings or structures shall be erected or reconstructed upon the Lots unless or until the grading plan of the Lot, including the grade elevations of said buildings and structures, the plot plan showing the proposed location of said buildings and structures upon said Lots and the plans, specification and details of said buildings and structures shall have been approved in writing by the Declarant, their agent, or nominee, and a true copy of said plan, specifications and details shall have been lodged permanently with the Declarant, their agent or nominee. The landscaping plan, location of fences and walls and location of driveways must also be approved by the Declarant, their agent or nominee. All dwellings having only one story shall contain not less than thirteen hundred (1,300) square feet of floor area exclusive of porches or attached garage on the ground floor. All dwellings having more than one story shall contain not less than eight hundred (800) square feet of floor area, exclusive of porches or attached garage, on the ground floor. A bonafide purchaser or mortgagee of any lots on said plat with a structure thereon at the time of such purchase or mortgage shall not be required to determine that the plans for such structures or other improvements have been so approved.
- Section 2.15. Garages.** The building plans for each of the Lots shall include a garage designed to hold at least one car, and said garage shall be built at the same time as the dwelling.
- Section 2.16. Setbacks.** No portion of any Lot on said plat, nearer to any highway than the buildings lines established by the zoning ordinance of the Town of South Kingstown shall be used for any purpose other than that of a lawn; nothing herein contained, however, shall be construed as preventing the use of such portion of said Lots for walks and drives, the planting of trees or shrubbery, the growing of flowers or ornamental plants, or for statutory fountains and similar ornamentations, approved by the Architectural Review Board, for the purpose of beautifying said premises; but no vegetables, so-called, nor grains of the ordinary garden or field variety shall be grown upon such portion thereof; and no weeds, underbrush or other unsightly growth, shall be permitted to grow or remain anywhere upon said Lots, and no unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Domestic vegetable gardens may be grown on the portion of the lot inside the building lines.
- Section 2.17. Chickens, Fowl and Live Stock.** No chickens or other fowl or live stock of any kind shall be kept or harbored on the Lots.
- Section 2.18. Firearms.** The use of firearms within the Properties is prohibited. The term firearms includes BB guns, pellet guns, and other firearms of all types, regardless of size.
- Section 2.19. Proposed Water Tower Lot.** The restrictions set forth in this Declaration shall not apply to the lot designated as "Proposed Water Tower Lot". The Proposed Water Tower Lot may be used as a site for a water tower without any restrictions. The Proposed Water Tower Lot shall not be subject to any obligation from assessments by the Association. The Proposed Water Tower Lot shall not be entitles to the use of the General Common Area.

ARTICLE III: Membership and Voting Rights

- Section 3.1. Membership.** Each Owner (including Declarant) who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not separated from such ownership. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in the Bylaws. The rights and privileges of membership, including the right to vote, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote for each class of membership applicable to a particular Lot be cast for each such Lot.
- Section 3.2. Voting.** The Association shall have two (2) classes of membership, Class "A" and Class "B" as follows:
- a) Class "A". Class "A" members shall be all Owners of Lots, with the exception of the Class "B" members, if any. Class A Members shall be entitled on all issues to one (1) voted per Lot; provided, however, no voted shall be cast or counted for any Lot not subject to assessment. When more than one person or entity hold such interest in any Lot, the vote for such Lot shall be

exercised as those persons or entities themselves determine and advise to the Secretary of the Association prior to any meeting. In the absence of such advise, the Lot's vote shall be suspended in the event more than one person or entity seeks to exercise it.

Any Owner of Lots which are leased may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is received by the Secretary prior to any meeting.

b) Class "B". Class "B" member shall be the Declarant, and any successor of Declarant who takes title for the purpose of development and sale. The Class "B" members shall originally be entitled to two hundred twenty (220) votes; this number shall be decreased by one (1) vote for each Class "A" vote outstanding at any one time. The Class "B" membership shall terminate and become converted to Class "A" membership upon the happening of the earlier of the following:

- i) When the total outstanding Class "A" votes equal or exceed two hundred (200); or
- ii) January 1, 1998
- iii) When, in its discretion, the Declarant so determines and executes and records, in the Land Evidence Records of the Town of South Kingstown an instrument stating such determination.

From and after the happening of these events, whichever occurs earlier, the Class "B" members shall be deemed to Class "A" members entitled to one (1) vote for each Lot in which the interest required for membership under Section 1 hereof is held. At such time, the Declarant shall call a meeting as provided in the By-Laws for special meetings to advise the membership of the termination of Class "B" status.

Unless otherwise provided in this Declaration, or the By-Laws, the presence, in person or by proxy, at any meeting of members, entitled to cast ten (10%) percent of the voting power of each Class shall constitute a quorum at such meeting of the Association. In the event a quorum is not present, another meeting may be called, and the presence in person or by proxy, at such meeting of members entitles to cast five (5%) percent of the Class "A" voting power shall constitute a quorum at such meeting.

Section 3.3. Board of Directors. The affairs of the Association shall be governed by a Board of Directors. It is the intent of this Article that the right to elect the members of the Board of Directors shall pass from the Declarant (Class B Member) to the Class A Members at such time as the Class B Membership terminates as set forth in Section 2(b) of this Article.

ARTICLE IV: Maintenance

Section 4.1. Maintenance. The Association shall operate and maintain and keep in good repair the General Common Area and Special Use Properties. Such operation and maintenance of the General Common Area shall be funded by the General Assessments. Such operation and maintenance of the Special Use Properties shall be funded by membership fees, user charges and special fees applicable to use thereof. Maintenance shall include but not be limited to maintenance, repair and replacement, subject to any insurance then in effect, of all fauna and flora, structures, and improvements situated upon the General Common Area and Special Use Properties.

ARTICLE V: Insurance and Casualty Losses

Section 5.1. Insurance. The association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the General Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

The Board shall also obtain a public liability policy covering the General Common Area, the Association and its members for all damage or injury caused by the negligence of the Association or any of its members

or agents. The public liability policy shall have at least a One Million and 00/100 (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Two Million and 00/100 (\$2,000,000.00) Dollar limit per occurrence, and a Two Hundred Fifty Thousand and 00/100 (\$250,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the General Common Area shall be common expenses of the Association included in the General Assessment, as defined in Article IX, Section 9.1. The policy may contain a reasonable deductible, and the amount thereof shall be added to the fact amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the association as Trustee for the respective benefited parties, as further identified as (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- a) All policies shall be written with a company licensed to do business in Rhode Island and holding a rating of VI or better in the Financial Category as established by A.M. Best Company, Inc., if available and, if not available, the most nearly equivalent rating.
- b) All policies on the General Common Area shall be for the benefit of the Association, the Owners and their mortgagees as their interest may appear.
- c) Exclusive authority to adjust losses under policies in force on the property obtained by the Association shall be vested in the Association's Board of Directors; provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- d) In no event shall the insurance coverage obtained and maintained by the Association's board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants or their mortgagees.
- e) The Association's board of Directors shall conduct at least once every two (2) years an insurance review which shall include a replacement cost appraisal, without respect to depreciation, of all insurable improvements on the General Common Area by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Washington County, Rhode Island, area.
- f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
 - i) A waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its Manager, the Owners and their respective tenants, servants, agents and guests;
 - ii) A waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
 - iii) That no policy may be cancelled, invalidated or suspended on account of any one or more individual Owner;
 - iv) That no policy may be cancelled, invalidated or suspended on account of the conduct of any director, officer or employee of the Association or its duly authorized Manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its Manager, any Owner or Mortgagee;
 - v) That any "other insurance" clause in any policy exclude individual Owners' policies from consideration.
 - vi) That no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice.

Section 5.2. No Partition. Except as is permitted in the Declaration, there shall be no physical partition of the General Common Area or Special Use properties or any part thereof, nor shall any person acquiring any interest in the Properties or any part thereof seek any such judicial partition until the happening of the conditions set forth in section 5.4 of this Article in the case of damage or destruction, or unless the properties have been removed from the provisions of this Declaration. This Section shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Section 5.3. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

- a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such cost of repairs or reconstruction to the General Common Area or Special Use Properties or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners if any Lot is involved and with their mortgagee(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of a Lot and may be enforced by such mortgagee.
- b) If it is determined as provided for in Section 5.4 of this Article that the damage or destruction to the General Common Area or Special Use Properties for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 5.3(a) hereof.

Section 5.4 Damage and Destruction.

- a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty.
- b) Any damage or destruction to the General Common Area shall be repaired or reconstructed unless at least seventy-five (75%) percent of the total vote of both the Class "A" and Class "B" Members of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, that such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the General Common Area damage or destruction shall be repaired or reconstructed.
- c) In the event that it should be determined by the Association in the manner described above that the damage or destruction of the General Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the General Common Area by the Association in a neat and attractive condition.

Section 5.5 Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Association may levy a special assessment as permitted in Article IX, Section 9.7 of the Declaration against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE VI: CONDEMNATION

Section 6.1 **Condemnation.** Whenever all or any part of the General Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the vote of at least seventy-five (75%) percent of the Class "A" Membership and of the Class "B" Membership) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the General Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) percent of the Class "A" members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the General Common Area to the extent lands are available therefore, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the General Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE VII: Annexation of Additional Property

Section 7.1 **Annexation Without Approval of Class "A" Membership.** As the Owner thereof, or if no the Owner, with the consent of the Owner thereof, Declarant shall have the unilateral right, privilege and option, from time to time at any time until ten (10) years from the date this Declaration is recorded in the Land Evidence Records of the Town of South Kingstown, Rhode Island, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in EXHIBIT "C" attached hereto and by reference made a part hereof, whether in fee simple or leasehold, by filing in the Land Evidence Records of the Town of South Kingstown, Rhode Island, an amendment annexing such property. Such amendment to this Declaration shall not require the vote of members. Any such annexation shall be effective upon the filing for record of such amendment.

Declarant shall have the unilateral right to transfer to any other person the said right, privilege and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in said EXHIBIT "C" attached hereto.

Section 7.2 **Annexation With Approval of Class "A" Membership.** Subject to the written consent of the Owner thereof and of the Declarant, if the Class "B" Membership has not terminated, upon the written consent or affirmative vote of a majority of the Class "A" members, other than Declarant, of the Association present in person or by proxy at a meeting duly called for such purpose, the Association may annex real property other than that shown on EXHIBIT "C" and, following the expiration of the right in Section 7.1, the property shown on EXHIBIT "C", to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Land Evidence Records of the Town of South Kingstown, Rhode Island, a supplementary amendment in respect to the property being annexed. Any such supplementary amendment shall be signed by the President and the Secretary of the Association, and any such annexation shall be effective upon filing unless otherwise provided therein. The meeting of the Class "A" members of the Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified by the By-Laws of the Association for regular or special meetings as the case may be.

Section 7.3 **Development Plan.** The Declarant intends to develop Tefft Hill Farm and the Properties in accordance with a Master Development Plan prepared by consultants and its planning department and placed on display in its reception and sales office, and other areas. The Declarant reserves the right to review and modify the Master Development Plan at its sole option from time to time based upon its continuing research, market surveys, and design programs. The Master Development Plan shall not bind the company, its successors and assigns to adhere to the Master Development Plan in the development of the land shown thereon.

The property described in EXHIBIT "C" when subjected to this Declaration as provided herein, and not before such time, shall become part of Tefft Hill Farm. Nothing herein shall be construed to obligate the Declarant to develop any lands other than as described in EXHIBIT "A".

ARTICLE VIII: Rights and Obligations of the Association

Section 8.1 **The Area of Common Responsibility.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Area of Common Responsibility and all improvements thereon (including furnishings and equipment related thereto), and shall keep it in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof.

Section 8.2 **Personal Property and Real Property for Common Use.** The Association through action of its Board of Directors may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board acting on behalf of the Association shall accept any real or personal property, leasehold, or other property interests within Tefft Hill Farm conveyed to it by the Declarant.

Section 8.3 **Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include suspension of the right to vote and the right to use recreational facilities. The Board shall in addition have the power to seek relief in any court for violations or to abate unreasonable disturbances and to levy fines.

Section 8.4 **Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 8.5 **Self-Help.** In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the General Common Area to abate or remove, using such force as may be reasonable necessary, any improvement, thing or condition which violates this Declaration, the By-Laws, the Rules and Regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner then (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

Section 8.6 **Right of Entry.** The Association shall have the right, in addition to and not in limitation of all the rights it may have, to enter on to Lots for emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the owner or occupant of the Lot.

Section 8.7 **Services.** The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Properties, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Properties or the enforcement of this Declaration and the By-Laws. The Association may, but shall not be required to, arrange as an Association expense with third parties to furnish water, trash collection, sewer service, and other common services to each Lot.

ARTICLE IX: Assessments

Section 9.1 **Purpose of Assessment.** The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and

occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the board of Directors.

Section 9.2. Creation of Assessments. Each Lot Owner, by acceptance of a deed therefore, whether or not it shall be expressed in such deed, covenants and agrees to pay to the Association: (a) General Assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors; (b) Special Assessments and Assessments established and collected as hereinafter provided; and (c) Special Assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration and the By-Laws. All such herein as "Delinquent Payment Fees"), interest, not to exceed the actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made.

Each Owner by acceptance of his or her deed, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to all terms and provisions of this Declaration and to pay to the Association the Assessments. Each such assessment, together with Delinquent Payment Fees, interest costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Lot Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for delinquents. Unless the Board otherwise provides, the assessments shall be paid in monthly installments.

Section 9.3. Computation of General Assessment. General Assessments shall be allocated equally, except as provided herein for Exempt Lots, among all Lots within the Association and shall be for expenses determined by the Board of Directors to be for the benefit of the Association as a whole. It shall be the duty of the Board at least fifteen (15) days prior to the meeting at which the budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list general expenses. The Board shall cause a copy of the budget, and the amount of the General Assessments to be levied against each Lot for the following year, to be mailed to each Lot Owner at least fifteen (15) days prior to the meeting. The budget and assessments shall become effective unless disapproved at the meeting by a vote of at least a majority of both classes of the total Association Membership or, after termination of the Class "B" membership, the majority vote of the total Association Class "A" Membership whether or not a quorum is present. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget and General Assessment or the Board fails for any reason to determine the budget and General Assessment for the succeeding year, then and until such time as a budget and General Assessment shall have been determined as provided herein, the budget and General Assessment in effect for the then current year shall continue for the succeeding year.

Section 9.4. Maximum Annual General Assessments. Until January 1, 1992, maximum General Assessment shall be Two Hundred Dollars (\$200.00) per Lot. The maximum annual General Assessment may be increased as follows:

- a) From and after January 1, 1992, the General Assessment may be increased without the vote or written assent of a majority of each Class of Membership entitled to vote in any fiscal year by ten (10% percent of the previous years General Assessment.
- b) From and after January 1, 1992, the maximum General Assessment may be increased above that established by the formula set forth above, by the vote or written consent of a majority of each Class of Membership entitled to vote, present in person or by proxy, at a meeting duly called for this purpose.

Section 9.5. Capitalization of Association. Upon the transfer of a Lot by the Declarant to an Owner, such Owner shall pay to the Association the sum of \$200.00 to be used for such purposes as determined by the Board of

Directors. This amount shall be paid in addition to the amount prorated for the then existing Annual General Assessment.

Section 9.6. Date of Commencement of Assessments.

- a) The Assessments provided for herein shall commence as to a Lot on the date the Lot is eligible to be conveyed to a third party by the Declarant as permitted by the subdivision Rules and Regulations of the town of South Kingstown, provided however, that lots owned by the Declarant shall be assessed at one-tenth (1/10) of the Assessment applicable to Lots. The Declarant shall, however, be assessed the full Assessment for any Lot owned by it upon which a foundation is constructed.
- b) In the case of additional Properties annexed by amendment to this Declaration, on the first day of the month following said annexation, the assessment shall be due and payable in a manner consistent with this Declaration And on a schedule as the Board of Directors may provide.
- c) The first annual General Assessment on a Lot shall be adjusted according to the number of days then remaining in that fiscal year.

Section 9.7. Special Assessments. In addition to the General Assessments authorized in this Article, the Association may levy a Special Assessment; provided, however, such assessment shall have the vote or written assent of at least a majority of both Classes of the association Membership, present and voting in person or by proxy at a special meeting of the membership duly called for this purpose, or after the termination of the Class "B" membership, the majority of the Class "A" membership present and voting in person or by proxy at a special meeting of the membership duly called for this purpose. The Association may also levy a Special Assessment against any Member and his or her Lot into compliance with the provisions of the Declaration, the Amendments thereto, By-Laws, and the Association Rules and Regulations. Such Special Assessment against a particular Lot may be levied by a two-thirds vote of the entire membership of the Board of Directors after notice and hearing by the Covenants Committee as provided in the Bylaws. The costs of such repairs and maintenance and attorney's fees shall be added to and become a part of the General Assessment to which such Lot is subject. Said Special Assessment against a particular Lot shall be a lien and be enforced and collected in the same manner as a General Assessment.

Section 9.8. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for

- a) liens of real estate taxes of the Town of South Kingstown and the Union Fire District or Kingston Fire District; or
- b) liens for all sums unpaid on a first Mortgage or any Mortgage to Declarant duly recorded in the Land Evidence Records of the Town of South Kingstown, and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such Land Evidence Records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 9.9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge (sometimes referred to herein as "Delinquent Payment Fees") in an amount as the Board of Directors may from time to time determine. The Association shall cause a notice of delinquency to be given to any Lot Owner who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, the lien shall include the Delinquent Payment Fee, interest, not to exceed the maximum legal rate, on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts

provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board of Directors shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Lot Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as a mortgage on real estate in the State of Rhode Island containing a Statutory Power of Sale. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of all other Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Lot. No Lot Owner may waive or otherwise except liability for the Assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of any Assessments which are not the subject matter of suit in order of their coming due, and then to any unpaid installments of the Assessments which are the subject matter of suit in the order of their coming due.

Section 9.10. Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget which shall take in to account the number and nature of replacement assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect to both amount and timing by annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessment as provided in Section 9.3 of this Article. A copy of the capital budget shall be distributed to each Member in the same manner as the operating budget.

Section 9.11. Subordination of the Lien to Mortgages. The lien of the assessments, including interest, Delinquent Payment Fees, costs (including Attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage or Mortgage to Declarant upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a first Mortgage or Mortgage to Declarant shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record, Declarant as the holder of the Mortgage, or other purchaser of a Lot obtains title, his or her successors and assigns shall not be liable for the share of the common expenses or Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to Common Expenses collectible from all the Lots, Including such acquirer, his or her successors and assigns.

Section 9.12. Exempt Lots. The following Properties subject to this declaration shall be exempt from the Assessments created herein:

- a) any portion of the Properties transferred to or dedicated to and accepted by the Town of South Kingstown, the Kingston Fire District, or any other public authority;
- b) any portion of the Properties transferred to or dedicated to and accepted by a public utility;
- c) the General Common Area;
- d) any portion of the Properties which is designed and/or reserved for easements; and
- e) any Lots shown on the Tefft Hill Farm plats which may not be sold or transferred by the Declarant as an approved lot subdivided in accordance with the subdivision rules and regulations of the Town of South Kingstown. It is intended by this subparagraph (e) to exempt the Lots which are in a phase that has not been bonded for construction or which are in a phase that cannot be sold until a certain date as provided in the approval of the Planning Board for the Tefft Hill Farm Plats.

Section 9.13. Assessments on Lots Owned by Declarant.

- a) After the commencement of assessment payments as to any Lot, Declarant covenants and agrees to pay the full amount of the annual assessment for each Lot it owns on which a foundation has been constructed; notwithstanding anything contained herein to the contrary, the Declarant shall be required to pay only (10%) percent of the Assessments for Lots that it owns on which a foundation has not been constructed and which are not Exempt Lots as provided in Section 9.12 hereof.
- b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called in-kind contribution). The amount by which monetary assessments shall be decreased as a result of any in-kind contribution shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as tot the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

Section 9.14. Special Use Properties Areas and Special Use Properties Fees. The Board of Directors shall have the power in its discretion from time to time to grant revocable licenses to some of the Lot Owners by designating portions of the Common Area as Special Use Properties Areas. Such Special Use Properties Areas shall be subject to such restrictions, reasonable charges and conditions on the use thereof as the Board may deem appropriate and shall be maintained by the Association or, at the Board's option, by the Persons having the exclusive right to use the Special Use Properties Areas.

The Board of Directors may levy Special Use Properties Fees against the Lot Owners and their Lots for the use of the Special Use Properties and the purchase of improvements and the maintenance and repair thereof and for all other expenses related thereto. Such Special Use Properties Fees shall be an Assessment against such Lot Owners and Lots and shall be a lien on said Lots and shall be enforced and collected as provided in Section 9.9 or Article IX.

ARTICLE X: Architectural Standards

Section 10.1 Architectural Review Board. All property which is now or may hereafter be subject tot his Declaration is subject to architectural and environmental review by the Architectural Review board (the "ARB") which shall be in accordance with this Article and the Architectural Guidelines. No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no plantings or removal of plants, trees or shrubs shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the appropriate Committee has been obtained. The ARB shall consist of a chairman who shall be appointed by the Board of Directors of the Association and who shall function as the administrative officer of the ARB, and the members of the New Construction Committee (the "NCC") and Modification Committee (the "MC") as herein set forth. All plans and specifications shall be submitted to the chairman of the ARB who shall refer the same to the appropriate committee. In those instances where exclusive jurisdiction is vested in the NCC or the MC, actions of such committee shall be given the effect of action by the ARB, including the right to promulgate Architectural Guidelines appropriate to the functioning of the such committee, and shall be administered as such by the chairman of the ARB.

Section 10.2. New Construction Committee. The new Construction Committee (NCC) shall have exclusive jurisdiction over all original construction on any portion of the Properties. Until all of the 22 Lots in Tefft Hill Farm have been conveyed to purchasers in the normal course of development and sale, the Declarant shall appoint the members of the NCC which shall consist of at least three (3), but no more than five (5) persons, none of whom shall be required to be Lot Owners or residents of Tefft Hill Farm. There shall be no surrender of this right prior to that time, except in a written instrument executed by the Declarant and recorded in the Land Evidence Records of the Town of South Kingstown. Upon the termination of such right of the Declarant, the Board of Directors shall appoint the members of the NCC. The NCC shall

prepare and, on behalf of the Board of Directors, shall promulgate design guidelines and application procedures. The standards and Procedures shall be those of the Association, and the NCC shall have sole and full authority to prepare and to amend the standards and procedures. It shall make both available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Properties and who shall conduct their operations strictly in accordance therewith.

Section 10.3 **Modifications Committee.** The Modifications Committee (MC) shall consist of at least three (3) and no more than five (5) members all of whom shall be appointed by the Board of Directors. None of the members shall be required to be Lot Owners or residents of Tefft Hill Farm. The MC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing houses, garages, buildings, walls, fences, swimming pools, lawn ornaments and statues, or other structures or improvements of any nature and to existing lawns, landscaping, plants, trees or shrubs.

The MC shall promulgate detailed Standards and Procedures governing its area of responsibility and practice. In addition thereto, the following shall apply. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the Modifications Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an owner to remodel the interior of his or her residence, or to paint the interior of his or her residence any color desired.

Section 10.4. **Submission of Plans and Specifications.** No construction of any nature, shall be commenced, erected, placed or altered in any way until plans and specifications therefor shall have been submitted to and approved in writing by the ARB. Such plans and specifications shall be in form and shall contain such information as may be required by the ARB in the Architectural Guidelines promulgated by the ARB.

Upon approval by the ARB of plans and specifications submitted to it, a letter of approval from the ARB shall be sent to the person submitting the same and such letter shall be posted on the Lot in a conspicuous place open to public view.

A copy of the letter of approval must be presented to the Building Inspector of the Town of South Kingstown together with the application for the building permit.

In the event that the ARB shall fail to take action on any plans and specifications as herein provided within thirty (30) days after receipt thereof, such plans and specifications shall be resubmitted. If not approved within thirty (30) days of such resubmission, the same shall be deemed to have been approved as submitted, and no further action by the ARB shall be required for the applicant to begin construction. A letter of approval from the ARB shall be sent to the applicant indicating such action.

Section 10.5. **Architectural Guidelines.** The ARB, acting through the NCC and MC, may adopt, promulgate, amend, revoke and enforce guidelines (herein referred to as "Architectural Guidelines") for the purposes of

- 1) governing the form and content of plans and specifications to be submitted for approval;
- 2) governing the procedure for such submission of plans and specification; and
- 3) establishing policies with respect to the approval and disapproval of all proposed uses and all construction or alteration of any Lot, building, wall, fence, swimming pool, lawn ornaments and statues, or other structure on any Lot or of the lawns, landscaping, plants, trees or shrubs on any Lot.

The ARB shall make a published copy of its current Architectural Guidelines readily available to architects, builders, owners and prospective owners upon request. The ARB shall establish and promulgate Architectural Guidelines for Tefft Hill Farm and such additional Architectural Guidelines as the ARB may, in its discretion, deem necessary and appropriate for any specific portion thereof.

Section 10.6. Violations. If any structure or building shall be erected, placed, maintained or altered upon any Lot, or any staking, clearing, grading or other site work or planting or removal of lawns, plants, trees, or shrubs be commenced on any Lot, otherwise than in accordance with the plans and specifications approved by the ARB pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article, and without the approval required therein. If, in the opinion of the ARB, such violation shall have occurred, the ARB shall notify the Board of Directors. If the Board of Directors shall agree with the determination of the ARB with respect to the violation, then upon written notice of the violation to the Owner from the Board of Directors (which shall be deemed to have been delivered if sent by registered or certified mail, return receipt requested, postage paid), and, if the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same within ten (10) days after the mailing of the aforesaid notice of violation, the Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in Courts of Competent jurisdiction decisions of the ARB, NCC and MC as provided in Article XIV, Section 14.1 hereof.

ARTICLE XI: Use Restrictions

Section 11.1. Use Restriction. The Properties and Lots shall be use only for residential, recreational, and related purposes as may more particularly be set forth in this Declaration or amendments thereto. The Association, acting through its Board of Directors, shall have the standing and power to enforce use restrictions contained in the Declaration and Bylaws and any amendments thereto.

The Association, acting through its Board of Directors, shall have the authority to make and to enforce standards and restrictions governing the use of lots and the General Common Area, including, but not limited to, a vehicle storage area, a pathway system, swimming pools, tennis courts, community center and parking facilities, if any.

ARTICLE XII: Mortgage Provisions

Section 12.1. Payment of Taxes. First mortgagees of Lots may, jointly or singularly, pay taxes or other charges which are in default and which may have become a charge against any General Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such General Common Area. First mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 12.2. No Priority. No provision of this Declaration of the By-Laws gives or shall be construed as giving any Lot Owner, or any other party, priority over any rights of the first mortgagee of a Lot pursuant to its mortgage in the case of a distribution to such Lot owner of insurance proceeds or condemnation awards for losses to or a taking of General Common Area.

Section 12.3. Notice to Mortgagee. Notwithstanding anything contained herein which might otherwise be construed to the contrary, a first mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by any Owner of a Lot, in which such mortgagee has an interest, of any obligation under this Declaration, the By-Laws, or the Article of Incorporation, which is not cured within sixty (60) days.

Section 12.4. Management Agreement Limitations. Notwithstanding anything contained herein which might otherwise be construed to the contrary, any agreement for professional management of Association, or any other agreement providing for services by the Declarant, may not exceed one year and must provide for termination by either party without cause and without payment of a termination fee on thirty (30) days or fewer written notice.

ARTICLE XIII: Duration and Amendment

Section 13.1. Duration. This Declaration and the covenants, condition, restriction, charges and liens contained herein shall be covenants running with the land and shall burden and bind the Properties, shall inure to the benefit of and be enforceable by the Declarant, the Association and each Owner, their respective legal representatives, heirs, successors and assigns, until January 1, 2013, after which time the Declaration shall be automatically renewed for successive periods of twenty-five (25) years, unless prior to the commencement of any such renewal period, an instrument terminating this Declaration shall be executed by the proper Association Officers and recorded in the Land Evidence Records of the Town of South Kingstown, Rhode Island, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution to such effect approved in writing by not less than two-thirds (2/3) of the Class A votes, which resolution shall have been approved within six months prior to January 1, 2013, or the end of any such twenty-five (25) year extension period.

Section 13.2. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant

- a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith;
- b) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration;
- c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration; or
- d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this declaration; provided, however, any such amendment shall not adversely affect the title on any Lot Owner's Lot unless any such Owner shall consent thereto in writing. Further, so long as the Class "B" membership exists, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a majority of the Class "A" members and the consent of the Declarant, so long as the Class "B" Membership exists.

The procedure for amendment by the Lot Owners after the Class "B" Membership terminates shall be as follows: All proposed amendments shall be submitted to a vote of the Members at a duly called meeting of the Association and any such proposed amendment shall be deemed approved if two-thirds (2/3) of the Class "A" votes cast at such meeting, person or by proxy, approve such amendment. Notice shall be given each Member at least thirty (30) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the Members as set forth above the President and Secretary of the Association shall execute an Addendum to this Declaration which shall set forth the amendment, the effective date of the amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such amendment was adopted), the date of the meeting of the Association at which such amendment was adopted, that date that notice of such meeting was given, the total number of votes necessary to adopt the amendment, the total number of votes cast in favor of such amendment, and the total number of votes cast against the amendment. Such amendment shall become effective upon recordation in the Land Evidence Records of the Town of South Kingstown. The quorum required for any action authorized to be taken by the Association under this Section 13.2 shall be as follows:

The first time any meeting of the Members of the Association is called to take action under this Section 13.2, the presence at the meeting of the Members or proxies entitled to cast twenty-five (25%) percent of the total vote of the Class "A" Membership shall constitute a quorum. If the required quorum is not present at any such meeting, a second meeting may be called subject to the

giving of proper notice and the required quorum at such subsequent meeting shall be the presence of Members or proxies entitled to cast five (5%) percent of the total vote of the Class "A" Membership.

ARTICLE XIV: General Provisions

Section 14.1. Enforcement. If any person, firm or corporation shall violate or attempt to violate any provision of this Declaration or the Bylaws, it shall be lawful for the Board of Directors, on behalf of the Association, the Declarant or any Lot Owner to prosecute any proceeding at law or in equity against the person, firm or corporation violating or attempting to violate the same, and either to prevent it or them from so doing or to recover damages or other amounts due for such violation.

Violation or breach of any provision of this Declaration or the Bylaws shall give the Declarant or the Association, their respective legal representatives, heirs, successors and assigns, in addition to all other remedies, the right to enter upon the Lot upon or as to which such violation or breach exist and summarily to abate and remove at the expense of the Lot Owner thereof, any improvement, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, if after then (10) days written notice of such violation it shall not have been corrected by the Lot Owner. Any such entry or abatement or removal shall not be deemed a trespass.

Any person entitled to file a legal action for the violation of this Declaration or the Bylaws shall be entitled to reasonable attorney's fees as a part of such action. The failure to enforce any rights, reservations, restriction, or conditions contained in this Declaration or the Bylaws, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior or subsequent thereto and shall not alter or affect its enforcement.

Section 14.2. Indemnification. The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgement, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by the, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or directors, or former officer or director, may be entitled. The Association shall as a common expense maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

Section 14.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, his or her right of enjoyment to the General Common Area and facilities to the members of his or her family, tenants, and social invitees.

Section 14.4. Owner's Right to Support. Each Owner shall have the right to lateral support for his or her Lot, and such right shall be appurtenant to and pass with the title to each Lot.

Section 14.5. Easements for Utilities, Etc. There is hereby reserved, to the Association, the power to grant blanket easements upon, across, over, and under all of the General Common Area for ingress and egress, installation, replacing, repairing, and maintaining master television and antenna systems, security, and similar systems, and all utilities, including, but not limited to, water, sewers, telephones, gas and electricity. The Board of Directors shall, upon written request, grant such easements as may be reasonably necessary for the development of any property made subject to this Declaration. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the General Common Area except as may be approved by the Board Of Directors or as provided in the Plats or as constructed pursuant to the easements reserved by the

Declarant. Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement on said General Common Area without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

Section 14.6. Construction and Sale. Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the General Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots owned by the Declarant and the LlubhOUSE complex, if any, which may be owned by the Association, as models and sales offices. This Section may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Section 14.6 shall terminate upon the earlier of (a) ten (10) years from the date this Declaration is recorded or (b) upon the Declarant's recording a written statement that all sales activity by it has ceased.

Section 14.7. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 14.8. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 14.9. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 14.10. Perpetuities. If any of the covenants, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of Elizabeth, Queen of England.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 3rd day of January, 1989.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Stephan B. Kenyon

CHESTNUT HILL ASSOCIATES

Lawrence C. LeBlanc
General Partner

STATE OF RHODE ISLAND
COUNTY OF WASHINGTON

In South Kingstown on the 3rd day of January, 1989, before me personally appeared LAWRENCE C. LEBLANC, General Partner of CHESTNUT HILL ASSOCIATES, to me known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument, by him executed, to be his free act and deed individually and in his said capacity, and the free act and deed of said CHESTNUT HILL ASSOCIATES.

Stephan B. Kenyon

Notary Public

EXHIBIT B.

BY-LAWS OF TEFFT HILL FARM HOMEOWNERS ASSOCIATION

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, CHARGES AND LIENS**

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NOTE: The official copy is located in South Kingstown Town Hall. An unofficial copy may be obtained at Kinko's in the Emporium near URI for a modest fee.

EXHIBIT B.

BY-LAWS OF TEFFT HILL FARM HOMEOWNERS ASSOCIATION

ARTICLE 1: APPLICABILITY, DEFINITIONS, AND COMPLIANCE

- 1.1_ **Applicability:** These By-Laws shall apply to Tefft Hill Farm Homeowners Association, (hereinafter sometimes called the "Association"), to the Members thereof as hereinafter defined, and to the property in the Town of South Kingstown, County of Washington, State of Rhode Island, known as the Tefft Hill Farm Subdivision, (sometimes referred to as "Tefft Hill Farm"). These By-Laws provide for the governance of Tefft Hill Farm pursuant to the Declaration of Covenants, Conditions, Restrictions, Charges and Liens for Tefft Hill Farm Homeowners Association.
- 1.2_ **Definitions:** Insofar as the terms used in these By-Laws are defined in the said Declaration, they shall have the same meaning provided for therein, unless otherwise stated or unless the context demands otherwise, or if not defined therein, the meanings specified for such term in the Condominium Act. The following terms when used herein shall have the meanings set forth below:
- 1) The tem "Member" as used in these By-Laws shall mean and include the Lot Owner of a Lot, his heirs, devisees, personal representatives and successors in title. Initially, the Declarant, being the sole owner of all the Lots, shall be the sole Class "A" member and the sole Class "B" member. Thereafter, any person on becoming a Lot Owner, shall automatically become a Class "A" Member of the Association and be subject to these By-Laws, and such Membership shall terminate without any formal action whenever such person ceases to own a Lot, but such termination shall not relieve or release any such former Lot Owner or Member from any liability or obligations incurred under or in any way connected with the Tefft Hill Farm Subdivision during the period of such ownership and membership, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former Lot Owner and Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.
 - 2) The term "Membership" in the Association as used in these By-Laws shall be limited to Lot Owners of Lots in Tefft Hill Farm, provided that whenever title to a Lot is vested in Two (2) or more persons, whether as Tenants by the Entirety, Joint Tenants, Tenants in Common or otherwise, such co-Owners shall be entitled jointly to only the vote hereinafter defined for each Lot so owned by them at any meeting, whether annual or special, at which Members are entitled to vote as hereinafter provided.
- 1.3 **Compliance:** These By-Laws, to the extent permitted by law, shall apply automatically to all Lot Owners and to all tenants and all persons controlling, occupying or using a Lot.

ARTICLE 2: THE ASSOCIATION

- 2.1 **Composition:** The Association is hereby organized as a non-profit corporation under the laws of the State of Rhode Island. The Members and the Membership of the Association shall consist of those persons as defined in Section 1.2 of these By-Laws.
- 2.2 **Purpose:** The purpose of the Tefft Hill Farm Homeowners Association is to be the Association to which reference is made in the Declaration of Covenants, Conditions, Restrictions, Charges and Liens for Tefft Hill Farm Homeowners Association filed in the Land Evidence Records of the Town of South Kingstown, County of Washington, State of Rhode Island, and to provide an entity for the furtherance of the interests of the Lot Owners.

The Association shall have the responsibility of administering , establishing the means and methods of collecting assessments and charges, arranging for the management of the Association and performing all other acts that may be required or permitted to be performed by the Association pursuant to the Declaration. Except as to those matters which the Act specifically requires to be performed by the vote of the Association, the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth in these By-Laws.

- 2.3 **Principal Office:** The principal office of the Association shall be located initially at Unit B-4, South Kingstown Office Park, Salt Pond Road, Wakefield, Rhode Island, but thereafter may be located at such other suitable and convenient place or places as are permitted by law and designated by the Board of Directors.

ARTICLE 3: MEETING OF MEMBERS

- 3.1 **Place of Meetings:** All meetings of the Members of the Association, both annual and special, shall be held at the principal office of the Association, or at such other suitable and convenient places as may be permitted by law, fixed by the Board of Directors, and designated in the notices of such meetings.
- 3.2 **Annual Meetings:**
- 1) The first annual meeting of Members shall be held on the first Saturday of December 1988, or such earlier date as may be determined by the Declarant. Subsequent annual meetings shall be held on the first Saturday of December in each succeeding year, or at such other time (not more than Sixty days before or after such date) as may be designated by the Board of Directors. At each annual meeting, there shall be elected a Board of Directors in accordance with the provisions of Article IV of these By-Laws. The Members may also transact such other business as may properly come before the meeting.
 - 2) The Secretary shall hand deliver or mail notice of annual meetings to each Member of the Association (regardless of whether he is entitled to vote at such meeting) directed to his last known post office address as shown on the records of the Association, by US mail, first-class, with postage prepaid. Such notice shall be hand delivered or mailed not less than ten (10) days nor more than sixty (60) days before the date of such meeting, and shall state the date, time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or By-Laws, any budget changes, and any proposal to remove a Director or Officer. The mailing of such notice as in this sub-Section provided shall be deemed notice duly served.
- 3.3 **Special Meetings:** Special meetings may be called by the President and the President shall call a special meeting of the Association if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by Lot Owners of not less than twenty percent (20%) of the Lot Owners. The notice of any special meeting shall state the time, place, and purpose thereof. Such meeting shall be held within forty-five (45) days after receipt by the President of said resolution or petition, unless the Declaration or the By-Laws require otherwise. No business shall be transacted at a special meeting except as stated in the notice.
- 3.4 **Adjournment of Meetings:** If at any meeting of the Association a quorum is not present, Lot Owners entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days after the time for which the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings.
- 3.5 **List of Members:** The Secretary shall compile and keep up to date at the principal office of the Association, or such place as shall be from time to time designated by the Board of Directors, a complete list of Members and their last known post office addresses as shown on the records of the Association. Such list shall also show opposite each Member's name the number or other appropriate designation of the Lot owned by him. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at all reasonable times during regular business hours.
- 3.6 **Voting:** The Association shall have two (2) classes of membership, Class "A" and Class "B" as follows:

- 1) **Class A :** Class "A" members shall be all Owners of Lots, with the exception of the Class "B" members, if any. Class "A" Members shall be entitled on all issues to one (1) vote for each Lot in which they hold interest required for membership by Section 3.1 of the Declaration; there shall be only one (1) vote per Lot; provided, however, no vote shall be cast or counted for any Lot not subject to assessment. When more than one person or entity holds such interest in any Lot, the vote for such Lot shall be exercised as those persons or entities themselves determined and advise to the Secretary of the Association prior to any meeting. In the absence of such advise, the Lot's vote shall be suspended in the event more than one person or entity seeks to exercise it. Any Owner of Lots which are leased may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is received by the Secretary prior to any meeting.

- 2) **Class B :** Class "B" member shall be the Declarant, and any successor of Declarant who takes title for the purpose of development and sale. The Class "B" members shall originally be entitled to two hundred-twenty (220) votes; this number shall be decreased by one (1) vote for each Class "A" vote outstanding at any one time. The Class "B" membership shall terminate and become converted to Class "A" membership upon the happening of the earlier of the following:
 - 1) When the total outstanding Class "A" votes equal or exceed two hundred (200); or
 - 2) January 1, 1998; or
 - 3) When, in its discretion, the Declarant so determines and executes and records, in the Land Evidence Records of the Town of South Kingstown, an instrument stating such determination.

From after the happening of these events, whichever occurs earlier, the Class "B" members shall be deemed to Class "A" members entitled to one (1) vote for each Lot in which the interest required for membership under Section 1 hereof is held. At such time, the Declarant shall call a meeting as provided in the By-Laws for special meetings to advise the membership of the termination of Class "B" status.

Unless otherwise provided in this Declaration, or the By-Laws, the presence, in person or by proxy, at any meeting of members, entitled to cast ten (10%) percent of the voting power of each Class shall constitute a quorum at such meeting of the Association. In the event a quorum is not present, another meeting may be called, and the presence in person or by proxy, at such meeting of members entitled to cast five (5%) percent of the Class "A" voting power shall constitute a quorum at such meeting.

Where the ownership of a Lot is in more than one person, then:

- 1) the Person who shall be entitled to cast the vote of such Lot shall be the Person named in a certificate executed by all of the owners of such Lot and filed with the Secretary; such certificate shall be valid until revoked by a subsequent certificate similarly executed;
- 2) in the absence of such named Person from the meeting, there Person whom shall be entitled to cast the vote of such Lot shall be the Person owning such Lot who is present;
- 3) if more than one Person owning such Lot is present, then such vote shall be cast only in accordance with their unanimous agreement. There shall be deemed to be unanimous agreement if any one of the multiple owners casts the vote allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the Lot;
- 4) The vote of the Lot shall be suspended in the event more than one Owner of the Lot seeks to exercise it.

Except where a greater number is required by the Declaration or the By-Laws, a Majority Vote is required to adopt decisions at any meeting of the Association. If the Declarant owns or holds title to one or more Lots, the Declarant shall have the right at any meeting of the Association to cast the votes to which such Lot or Lots are entitled.

No Lot Owner may vote at any meeting of the Association or be elected to or serve on the Board of Directors if payment of the assessment on his Lot is delinquent more than thirty days and the amount necessary to bring his account current has not been paid at the time of such meeting or election. There shall be no cumulative voting.

"Majority Vote" means 50% of the total vote present and entitled to vote at any meeting in person or by proxy.

No votes allocated to a Lot owned by the Association may be cast.

- 3.7 **Proxies:** Votes may be cast in person or by proxy. Proxies must be duly executed in writing, shall be witnessed and dated, shall be valid only for the particular meeting designated therein, and must be filed with the Secretary before the time appointed for each meeting in the notice thereof. If a Lot is owned by more than one person, each such Lot Owner may vote or register protest to the casting of votes by the other Lot Owners through a duly executed proxy. A Lot Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. Except with respect to proxies in favor of a holder of a mortgage on the Lot, a proxy terminates one year after its date, unless it specifies a shorter term
- 3.8 **Quorum:**
- 1) Except as set forth below, the presence in person or by proxy of ten percent (10%) or more of the Lot Owners at the commencement of a meeting shall constitute a quorum at all meetings of the Association.
 - 2) If a meeting is adjourned pursuant to Section 3.4 above, the quorum at such second meeting shall be deemed present throughout any meeting of the Association if five percent (5%) of the Lot Owners are present in person or by proxy at the beginning of the meeting.
 - 3) The members present at duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, provided that any action taken shall be approved by least a majority of the members required to constitute a quorum.
- 3.9 **Waiver of Notice:** Waiver of notice of meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.
- 3.10 **Action Without a Meeting:** Any action which may be taken by the vote of members at a regular or special meeting, except the election of Board members, may be taken without a meeting as and to the extent permitted by Rhode Island law.
- 3.11 **Conduct of Meetings:** The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration or these By-Laws. All votes shall be tallied by tellers appointed by the President.

ARTICLE 4: BOARD OF DIRECTORS

- 4.1 **Number and Qualifications:** The affairs of the Association shall be governed by the Board of Directors. Prior to the termination of the Class "B" Membership, the Board of Directors shall be composed of three natural persons who shall be appointed by the Declarant. After the termination of the Class "B" Membership, the Board of Directors shall be composed of three natural persons elected by the Class "A" Members. All members of the Board of Directors shall be Lot Owners or designees of the Declarant.
- 4.2 **Delegation of Powers; Managing Agent:** The Board of Directors may employ for the Association a "Managing Agent" at a compensation established by the Board of Directors. The Managing Agent shall perform such duties and services as the Board of Directors shall authorize, including, but not limited to, all of the duties listed in the Declaration and these By-Laws; provided, however, where a Managing Agent does not have the power to act under the Declaration or these By-Laws, such duties shall be performed as advisory to the Board of Directors. The Board of Directors may delegate to the Managing Agent all of the Powers granted to the Board of Directors

by the Declaration and these By-Laws other than the following powers

- 1) to adopt the annual budget, and amendment thereto or to assess any Common Expenses;
- 2) to adopt, repeal or amend Rules and Regulations;
- 3) to designate signatories on Association bank accounts;
- 4) to borrow money on behalf of the Association; and
- 5) to acquire and mortgage Lots or property of any kind.

Any contract with the Managing Agent must provide that it may be terminated with cause on no more than thirty (30) days' written notice and without cause and without penalty or any termination fee on no more than (90) days' written notice. The term of any such contract may not exceed three (3) years. The Managing Agent shall be a bona fide business enterprise which manages common interest residential communities. Such firm or its principals shall have a minimum of two years experience in real estate community management and shall employ persons possessing a high level of competence in the technical skills necessary to proper management of the Association. The Managing Agent must be able to advise the Board of Directors regarding the administrative operation of the Association and shall employ personnel knowledgeable in the areas of condominium insurance, accounting, contract negotiation, labor relations and association regulation.

The Board of Directors shall impose appropriate standards of performance upon a Managing Agent. Unless a Managing Agent is instructed otherwise by the Board of Directors:

- 1) The accrual method of accounting shall be employed and expenses required by these By-Laws to be charged to more than one but less than all Lot owners shall be accounted for separately;
- 2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures;
- 3) cash accounts of the Association shall not be commingled with any other accounts;
- 4) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association;
- 5) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and
- 6) a monthly financial report shall be prepared for the Association containing:
 - 1) an "income statement" reflecting all income and expense activity for the preceding month on an accrual basis;
 - 2) an "account activity statement" reflecting all receipt and disbursement activity for the preceding month on a cash basis;
 - 3) an "account status report" reflecting the status of all accounts in an "actual" versus "projected" (budget) format;
 - 4) a "balance sheet" reflecting the financial condition of the Association on an unaudited basis;
 - 5) a "budget report" reflecting an actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent (10%) of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and
 - 6) a "delinquency report" listing all Lot Owners who are delinquent in paying assessments and describing the status of any actions to collect such assessments.

Until the termination of Class "B" Membership, the Board of Directors may not employ a Managing Agent for a term exceeding one year. The Association and the Board of Directors may use "self management" at any time.

If there is no acting Managing Agent, the Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the Managing Agent or Manager, if any, which might arise between meetings of the Board of Directors.

4.3 Election and Term of Office:

- 1) At the annual meetings of the Association, subject to Section 4.1 of the By-Laws, the election of members of the Board of Directors shall be held. The term of office of any Board of Directors member to be elected (except as set forth in Sections 4.4 and 4.5 hereof) shall be fixed at three (3) years, commencing on January 1st of each year; provided, however, the initial term of the Directors elected by the Class "A" Members shall be one (1) year, two (2) years and three (3) years. The members of the Board of Directors shall hold office until the earlier to occur of the election of their respective successors or their death, adjudication of incompetency, removal or resignation. A Board of Directors member may serve an unlimited number of terms and may succeed himself.
- 2) Persons qualified to be members of the Board of Directors may be nominated for election only as follows:
 - 1) Any Lot Owner may submit to the Secretary at least thirty (30) days before the meeting at which the election is to be held a nominating petition signed by the Lot Owners owning at least (3) Lots and a statement that the person nominated is willing to serve on the Board of Directors. The Secretary shall mail or hand deliver the submitted items to every Lot Owner along with the notice of such meeting;
 - 2) Nominations may be submitted from the floor at the meeting at which the election is held for each vacancy on the Board of Directors for which no more than one person has been nominated by petition.

In all elections for Board of Directors Members, each Lot Owner shall be entitled to cast for each vacancy to be filled at such election the number of votes allocated to the Lot. Those candidates for election receiving the greatest number of votes cast in such elections shall be elected, and, if the Board of Directors Members are being elected to unequal terms, the candidates receiving the highest number of votes shall be elected to the longest term.

4.4 Removal or Resignation of Members of the Board of Directors:

- 3) Except with respect to members appointed by Declarant, at any regular or special meeting of the Association duly called and subject to the notice requirements set forth in subsection b) below, any one or more of the members of the Board of Directors may be removed with or without cause by Lot Owners entitled to a majority of all votes in the Association. A successor may then and there be elected to fill the vacancy thus created for the remainder of the term of the member being replaced. In case of multiple vacancies, the person receiving the greatest number of votes shall be elected for the longest term.
- 4) Any Lot Owner proposing removal of a Board of Directors Member shall give notice thereof to the Secretary. Any member whose removal has been proposed by a Lot Owner shall be given at least twenty (20) days' notice by the Secretary of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting.
- 5) A member of the Board of Directors may resign at any time and shall be deemed to have resigned upon transfer of title to his Lot, if, as a result of such transfer, such member of the Board of Directors has no ownership interest in any Lot.
- 6) Declarant shall have the right to remove and replace any or all members appointed by the Declarant at any time and from time to time.

4.5 Vacancies: Vacancies in the Board of Directors caused by any reason, excluding the removal of a Director by

vote of the Association, shall be filled by a vote of the majority of the remaining Directors, even though less than a quorum, at any meeting of the Board. Each person so elected shall serve the unexpired portion of the vacated term.

- 4.6 **Organizational Meeting:** The first meeting of the Board of Directors following each annual meeting of the Association (hereinafter) referred to as the “Organizational Meeting”) shall be held within ten (10) days thereafter at such time and place fixed by the President (even if he is the outgoing President) at the meeting at which such Board of Directors shall have been elected. No notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, providing a majority of the whole Board of Directors shall be present at such meeting.
- 4.7 **Regular Meetings:** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the members, but such meetings shall be held at least once every two (2) months. Notice of regular meetings of the Board of Directors shall be given to each member, by mail or telegraph, and posted at a prominent place within the General Common Area at least five (5) days prior to the day named for such meeting.
- 4.8 **Special Meetings:** Special meetings of the Board of Directors may be called by the President on at least three (3) days’ notice to each member, given by mail or telegraph, and by posting a notice at a prominent place within the General Common meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) members of the Board of Directors.
- 4.9 **Waiver of Notice:** Any member may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time, any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.
- 4.10 **Quorum of the Board of Directors:** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any reconvened meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted at the meeting originally called may be transacted without further notice. One or more members of the Board of Directors may participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communication equipment pursuant to which all persons participating in the meeting can hear each other.
- 4.11 **Compensation:** No member of the Board of Directors shall receive any compensation from the Association for acting as such, but may be reimbursed for any reasonable expenses incurred in the performance of his duties.
- 4.12 **Conduct of Meetings:** The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of the Board of Directors meetings, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. Such minute records shall be kept at the office of the Association and may be examined, at any time by any member who may make copies of any provisions. The Secretary shall, upon request of such member, for a reasonable charge, supply such member with copies of such minutes as such member shall designate certified by such Secretary as being true and correct. The then current edition of Robert’s Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Declaration or these By-Laws. All meetings of the Board of Directors shall be open to all members, but members other than Directors may not participate in any decision or deliberation unless expressly so authorized by a majority of the Directors present at such meeting.

The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

- 4.13 **Action Without Meeting:** Any action by the Board of Directors required or permitted to be taken at any meeting

may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors. An explanation of the action taken shall be posted at a prominent place within the General Common Area within three (3) days after the written consents of all the Board Members have been obtained.

- 4.14 **Validity of Contracts with Interested Board of Directors Members:** No contract or other transaction between the Association and one or more of its Board of Directors members or between the Association and any corporation, firm, or association in which one or more of the Board of Directors members of the Association are directors or officers, or are financially interested, shall be void or voidable because such Board of Directors member or members are present at any meeting of the Board of Directors which authorized or approved the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:
- 1) The fact that a Board of Directors member is also a director or officer or has such financial interest is disclosed or known to the Board of Directors and is noted in the minutes thereof, and the Board of Directors authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Board of Directors member or members; or
 - 2) The contract or transaction is made in good faith and is not unconscionable to the Association at the time it is authorized, approved or ratified.
- 4.15 **Inclusion of Interested Board of Directors Members in the Quorum:** Any Board of Directors member holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the essence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 4.14 hereof.
- 4.16 **Powers:** The Board of Directors shall have and exercise all lawful powers and duties necessary for the proper conduct and administration of the affairs of the Association and the operation and maintenance of a first class subdivision project, and may do or cause to be done all such other lawful acts and things as are not by law or by the Declaration directed or required to be done or exercised by Members or Lot Owners, or by others. These powers and duties shall include, by not be limited to, the following:
- 1) The operations, maintenance, renewal and protection of the General Common Area and Special Properties Area and general supervision and surveillance of all of the property of the Association.
 - 2) The adoption of an annual budget and any amendment thereto and the assessment of Common Expenses.
 - 3) By majority vote of the Board of Directors, to adjust or increase the amount of any annual assessment and monthly installments, and to levy and collect in addition thereto, special assessments in such amounts as the Board of Directors may deem proper, whenever the Board of Directors is of the opinion that it is necessary so to do in order to meet increased operating or maintenance costs, or additional capital expenses, or because of emergencies; provided, however, that all such increased or special assessments shall be made or levied against such Lot Owners and the Lot owned by them respectively, equally or as provided in the Declaration.
 - 4) To use and expend any sums collected from such assessments or levies for the operation, maintenance, renewal and protection of the General Common Area and of the Association Property, as herein provided and contemplated.
 - 5) To require all Officers and employees of the Association handling or responsible for funds of the Association, or funds in its possession or under its control, to furnish adequate fidelity bonds, in form, penalties and with corporate surety satisfactory to the Board of Directors. The premiums on such bonds shall be paid by the Association as part of the Common Expenses.
 - 6) To pay all taxes and assessments levied or assessed against any property of the Association, exclusive of any taxes or assessments levied against any Lot or otherwise properly chargeable to the Lot Owners thereof.

- 7) To employ and dismiss such clerks, stenographers, workmen, janitors, gardeners, watchmen and other personnel, and to purchase or arrange for such services, machinery, equipment, tools, material and supplies as in the opinion of the Board of Directors may from time to time be necessary for the proper operation and maintenance of the Association, except the portions thereof required to be maintained by Lot Owners.
- 8) To enter or cause to be entered any Lot in any building when deemed necessary for or in connection with the operation, maintenance, repair, renewal or protection of any General Common Areas and Facilities or to prevent damage to the General Common Area, or to any Lot or Lots, or in emergencies, provided that such entry and work shall be done with as little inconvenience as possible to the Lot Owners and occupants of such Lots. Each Lot Owner shall be deemed to have expressly granted such rights of entry by accepting and recording the deed to his Lot.
- 9) To collect delinquent levies or assessments made by the Association through the Board of Directors against any Lot and the respective Lot Owners thereof, together with such costs and expenses incurred in connection therewith, including, but not limited to court costs and Attorneys' fees, whether by suit or otherwise, to abate nuisances, and enforce observations of the Rules and Regulations that may be adopted from time to time, by injunction or other legal action or means as the Board of Directors acting with the advice of Legal Counsel may deem necessary or appropriate.
- 10) To employ or retain Legal Counsel, Engineers and Accountants and to fix their compensation whenever such professional advice or services may be deemed necessary by the Board of Directors for any proper purposes of the Association, including, but not limited to, those hereinbefore or hereinafter referred to in these By-Laws.
- 11) To cause such operating accounts, and escrow and other accounts, if any, to be established and opened as the Board of Directors may deem appropriate from time to time and as may be consistent with good accounting practices.
- 12) To cause a complete audit of the books and accounts of the Association to be made by a Public Accountant or Certified Public Accountant at the end of each fiscal year, and at such other time or times as may be deemed necessary. The Board of Directors shall also prepare at the end of each fiscal year and furnish to the Lot Owners a report of the business and affairs of the Association, showing its transactions and reflecting fully and accurately its financial condition.
- 13) To make and enforce compliance with such reasonable Rules and Regulations relative to the operation, use and occupancy of the Lots and General Common Area and to amend the same from time to time as the Board of Directors shall deem necessary or appropriate, which Rules and Regulations when approved by appropriate resolutions, shall be binding on the Lot Owners, their successors in title, and assigns. A copy of such Rules and Regulations and copies of any amendments thereof shall be delivered or mailed to each Lot Owner promptly upon the adoption thereof. The initial Rules and Regulations, which shall be effective until amended by the Board of Directors, are set forth in Schedule A attached hereto.
- 14) The board of Directors may borrow funds for any authorized purpose, including, but not limited to, the purchase of Lots, under the provisions contained in the Declaration and these By-Laws or for the payment of Common Expenses.
- 15) All agreements, contracts, deeds, mortgages, leases, checks and other instruments shall be executed by such Officers or Member or Members of the Board of Directors as may be authorized by the Board of Directors.
- 16) The Board of Directors shall be required to obtain and maintain, to the extent obtainable, the casualty, liability and other forms of insurance in connection with the General Common Area and any property of the Association, the Lot Owners, the Association and its members, directors, officers, employees, agents and managers as more fully provided in the Declaration.

- 17) To cause to be repaired, reconstructed, restored or replaced the General Common Area or any portion thereof damaged, destroyed, or taken by condemnation to the extent that insurance proceeds, condemnation awards and other amounts actually received by the Association are sufficient for the purpose in accordance with the Declaration.
- 18) To carry out, or cause to be carried out, any other obligations of the Association set forth in the Declaration and bye By-Laws as they may be amended from time to time.

4.17 **Limited Liability of the Board of the Directors:** The Board of Directors, and its members in their capacity as members, officers and employees:

- 1) Shall not be liable for the failure of any service to be obtained by the Board of Directors and paid for by the Association, or for injury or damage to persons or property caused by the General Common Area or by another Lot Owner or person on the property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of a building, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Board of Directors;
- 2) Shall not be liable to the Lot Owners as a result of the performance of the Board of Directors members' duties for any mistake of judgement, negligence or otherwise, except for the Board of Directors members' own willful misconduct or gross negligence;
- 3) Shall have no personal liability in contract to a Lot Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Board of Directors or the Association in the performance of the Board of Directors members' duties;
- 4) Shall not be liable to a Lot Owner, or such Lot Owner's tenants, employees, agents, customers, or guests for loss or damage caused by theft of or damage to personal property left by such Lot Owner or his tenants, employees, agents, customers or guests in a Lot, or in or on the General Common Area, except for the Board of Directors members' own willful misconduct or gross negligence;
- 5) Shall have no personal liability in tort to a Lot Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Board of Directors members' own willful misconduct or gross negligence in the performance of their duties; and
- 6) Shall have no personal liability arising out of the use, misuse or condition of the General Common Area or Lots, or which might in any other way be assessed against or imputed to the Board of Directors members as a result of or by virtue of their performance of their duties, except for the Board of Directors members' own willful misconduct or gross negligence.

4.18 **Indemnification:** Each member of the Board of Directors in his capacity as a Board of Directors member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Board of Directors, or any settlement of any such proceeding, whether or not he is a Board of Directors member, officer or both at the time such expenses are incurred, except in such cases wherein such Board of Directors member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; provided that, in the event of a settlement, this indemnification shall apply only if and when the Board of Directors (with the affected member abstaining if he is then a Board of Directors member) approves such settlement and reimbursement as being in the best interests of the Association. The indemnification by the Lot Owners set forth in this Section 4.18 shall be paid by the Association on behalf of the Lot Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Board of Directors member and/or officer may be entitled as a matter of law or agreement or by vote of the Lot Owners or otherwise.

4.19 **Hearing Procedure:** The Board shall not impose a fine, suspend voting, or infringe upon any other rights of a member or other occupant for violations of rules unless and until the following procedure is followed:

- 1) **DEMAND:** Written demand to cease and desist from an alleged violation shall be served upon the violator specifying:
 - 1) the alleged violation
 - 2) the action required to abate the violation; and
 - 3) a time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a sanction after notice of hearing if the violation is not continuing
- 2) **NOTICE:** At any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same rule is subsequently violated, the Board or its delegate shall serve the violator with written notice of a hearing to be held by the Covenants Committee in executive session. The notice shall contain:
 - 1) the nature of the alleged violation;
 - 2) the time and place of the hearing, which time shall not be less than ten (10) days from the giving of the notice;
 - 3) an invitation to attend the hearing and produce any statement, evidence, and witness on his or her behalf; and
 - 4) the proposed sanction to be imposed.
- 3) **HEARING:** The hearing shall be held in executive session pursuant to this notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.
- 4) **APPEAL:** Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the Manager, President, or Secretary of the Association within thirty (30) days after the hearing date.

4.20 **Covenants Committee:**

- 1) **Purpose:** The Board of Directors shall establish a Covenants Committee, consisting of three members appointed by the Board of Directors. The term of office of any member shall be three (3) years; provided, however, the members initially appointed shall have terms of one (1), two (2) and three (3) years as designated by the Board of Directors, Acting in accordance with the provisions of the Declaration and By-Laws and Rules and Regulations, the Covenants Committee shall be the hearing tribunal of the Association.
- 2) **Powers:** The Covenants Committee shall regulate the appearance, use and maintenance of the General Common Area and Lots. The Covenants Committee shall have the power to impose reasonable fines (pursuant to subsection 8.1 (g) hereof) upon, and issue of cease and desist request to a Lot owner, his guests, invitees, or lessees whose actions are inconsistent with the provision of the Declaration, the Rules and Regulations or resolutions of the Board of Directors (upon petition of any Lot Owner, the Board of Directors, or upon its own motion). The Covenants Committee shall from time to time, as required, provide interpretations of the Declaration, Rules and Regulations and resolutions pursuant to the intents, provisions and qualifications thereof when requested to do so by a Lot Owner or the Board of Directors. Any action, ruling, or decision of the Covenants Committee may be appealed to the Board of Directors by any party deemed by the Board of Directors to have standing as an aggrieved party and the Board of Directors may modify or reverse any such action, ruling or decision.
- 3) **Authority:** The Covenants Committee shall have such additional duties, power and authority as the

Board of Directors may from time to time provide by resolution. The Board of Directors may relieve the Covenants Committee of any of its duties, powers and authority either generally or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by resolution of the Board of Directors.

ARTICLE 5: OFFICERS

- 5.1 **Officers:** The Officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer. The Board of Directors may appoint such other Officers as in their judgment are necessary. The President and Vice-President shall be Lot Owners or the designated representative of a corporation, partnership or other legal entity which is a Lot Owner, or a designated representative of the Developer, and may or may not be members of the Board of Directors. Any other Officer may, but need not, be a Lot owner or a Member of the Board of Directors. Not more than Two (2) offices may be held by the same person.
- 5.2 **Election:** The Officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office until their successors are elected or appointed by the Board of Directors and qualify. A vacancy in any office arising because of death, resignation, renewal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.
- 5.3 **Removal:** Each Officer shall hold office at the pleasure of the Board of Directors and may be removed with or without cause, and his successor elected at any annual, or at any special meeting of the Board of Directors called for such purpose, upon the affirmative vote of a majority of the members of the Board of Directors.
- 5.4 **President:**
- 1) The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the Members and of the Board of Directors, provided, however, that unless he be a member of the Board of Directors, he shall have no vote at the meetings of said Board of Directors. He shall have the general powers and duties usually vested in the office of the committees from among the Members from time to time as he may deem appropriate to assist in the conduct of the affairs of the Association.
 - 2) The President shall execute and seal deeds, contracts and other instruments, in the name and on behalf of the Association, except when such documents are required or permitted by law to be otherwise executed, and except when the signing and execution thereof shall be delegated by the Board of Directors to another Officer or Agent of the Association.
- 5.5 **Vice President:** The Vice-President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board of Directors shall appoint a Member of the Board of Directors to act in the place of the President, on an interim basis. The Vice-President shall also perform such other duties as shall from time be imposed by the Board of Directors or by the President.
- 5.6 **Secretary:**
- 1) The secretary shall attend all meetings of the Board of Directors and all meetings of the Members and record all votes and the minutes of all meetings and proceedings in a minute book to be kept for that purpose and shall perform like duties for the Committees when required. He shall have charge of the minute book, and such records and papers as the Board of Directors shall direct, and perform all duties incident to the Office of Secretary, including the sending out of notices of meetings of the Members, Board of Directors and Committees, and such other duties as may be described by these By-Laws, by the Board of Directors and by the President.
 - 2) In the absence or disability of the Secretary, a Clerk or Secretary pro tem shall be appointed by the Board of Directors to perform the duties and exercise the powers of the Secretary, and shall perform such duties as may be prescribed by the Board of Directors.

5.7 **Treasurer:**

- 1) The Treasurer shall have responsibility for the Association funds and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies, checks, and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors.
- 2) The Treasurer shall disburse the funds of the Association as may from time to time be ordered by the Board of Directors, making proper vouchers for such disbursements, and shall render to the President and the Board of Directors, at the regular meetings of the Board of Directors, or whenever they or either of them so require, an account of his transactions as Treasurer and of the financial condition of the Association.

5.8 **Resignation:** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary

5.9 **Agreements, Contracts, Deeds, Leases, Checks:** All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

ARTICLE 6: BUDGET PROCEDURE, ASSESSMENT AND COLLECTION

6.1 **Fiscal Year:** The fiscal year of the Association shall be January 1st through December 31st unless otherwise determined by the Board of Directors.

6.2 **Preparation and Approval of Budget:**

- 1) At least sixty (60) days before the beginning of each fiscal year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Area of Common Responsibility, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Declaration or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Area of Common Responsibility and the Association and the rendering to the Owners of all related services. Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operation reserve and reserves for contingencies and replacements.
- 2) Within thirty (30) days after adoption of the proposed budget, the board of Directors shall send to each Lot owner a summary of the budget in a reasonably itemized form which sets forth the amount of the Common Expenses and any Special Assessment payable by each Owner. Such budget shall be available for inspection at the Association Office. Such budget shall constitute the basis for determining each Lot Owner's assessment for the Common Expenses of the Association.
- 3) The Board of Directors shall also, within thirty (30) days after the adoption of any proposed budget, set a date for a meeting of the Lot Owners to consider ratification of the proposed budget to be held not less than fifteen (15) nor more than thirty (30) days after the mailing of the summary. Unless at that meeting a Majority of all the Owners of each Class entitled to vote rejects the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors. The total amount of such budget shall be assessed against all the Lots and the respective Owners thereof, in equal amounts as to the General Assessments.
- 4) The Board of Directors shall make reasonable efforts to meet the deadlines set forth above, but compliance with such deadlines shall not be a condition precedent to the effectiveness of any budget.

- 6.3 **Assessment and Payment of Common Expenses:** Subject to the provisions of subsection 6.2 (a) hereof, the total amount of the estimated funds required from assessments for the operation of the Association set forth in the budget adopted by the Board of Directors shall be assessed against each Owner in equal amounts, except for Special Assessments which shall be assessed against each Owner and shall be a lien against such Owner's Lot as provided in Section 9.8 of the Declaration. On or before the first day of each fiscal year, and the first day of each of the succeeding eleven months in such fiscal year, each Owner shall be obligated to pay to the Board of Directors or the Managing Agent (as determined by the Board of Directors), one-twelfth (1/12th) of such assessment. Within ninety days after the end of each fiscal year, the Board of Directors shall supply to all Owners, and to each Mortgagee requesting the same, an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Board of Directors, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the Owners, or be credited to each Owner's monthly installments due under the current fiscal year's budget, until exhausted. Any net storage shall be assessed promptly against the Owners after such notice of a proposed additional budget and ratification thereof as provided in Section 6.2 hereof, and shall be payable either: 1) in full with payment of next monthly assessment due; or 2) in not more than six equal monthly installments, as the Board of Directors may determine.
- 6.4 **Reserves:** The Board of Directors shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including non-payment of any Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Owners equally and which may be payable in a lump sum or in installments as the Board of Directors may determine.
- 6.5 **Further Assessments:** The Board of Directors shall serve notice of any such further assessment on Lot Owners pursuant to Sections 6.3 or 6.4 and shall hold a meeting of Owners to consider ratification of the Proposed assessment as provided in Section 6.2 hereof or otherwise as permitted or required by the Declaration. Such further assessment shall become effective with the next monthly payment which is due more than ten days after the ratification of such further assessment. All Owners so notified shall be obligated to pay the adjusted monthly amount or, if such further assessment is not payable in installments, the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in Section 6.3 hereof.
- 6.6 **Initial Capital Payment:**
- 1) Upon taking office, the first Board of Directors elected or designated pursuant to these By-Laws shall determine the budget, as defined in this section, for the period commencing thirty (30) days after such election and ending on the last day of the fiscal year in which such election occurs. Assessments shall be levied and become a lien against the Owners during such period as provided in Section 6.3 hereof.
 - 2) The Declarant, as the agent of the Board of Directors, will collect each initial purchaser at the time of settlement an "initial capital payment" in the amount of Two Hundred and 00/100 (\$200.00) dollars. The Declarant will deliver the funds so collected to the Board of Directors to provide the necessary working capital for the Association and for reserves. Such funds may be used for certain prepaid items, initial equipment, supplies, organizational costs and other start-up costs, and for such other purposes as the Board of Directors may determine and one hundred (\$100.00) dollars of the funds shall be allocated to the reserves for the purposes set forth in Section 6.4 hereof.
- 6.7 **Effect of Failure to Prepare or Adopt Budget:** The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay his allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notice of the monthly payment which is due more than ten days after such new annual or adjusted budget shall have been delivered.
- 6.8 **Accounts:** All sums collected by the Board of Directors with respect to assessments against the Owners or from any other source may be commingled into a single fund or held for each Owner.

6.9 **Payment of Common Expenses:** Each Owner shall pay the general Assessments and Special Assessments, assessed by the Board of Directors pursuant to the provisions of Article 6 hereof. No Lot Owner may be exempted from liability for the assessment of Common Expenses by waiver of the use or enjoyment of any of the General Common Area or by abandonment of his Lot. No Lot Owner shall be liable for the payment of any part of the Common Expenses assessed against his Lot subsequent to the date of recordation of a conveyance by him in fee of such Lot. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged.

The purchaser of a Lot shall be jointly and severally liable with the selling Lot Owner for all unpaid assessments against the latter, without prejudice to the purchaser's right to recover from the selling Owner amounts paid by the purchaser therefor; provided, however, that any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Owner within five (5) business days following a written request therefor to the Board of Directors or Managing Agent and such purchaser shall not be liable for, nor shall the Lot conveyed be subject to a lien for any unpaid assessments in excess of the amount therein set forth: and provided, further, that each first Mortgagee who comes into possession of a Lot by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments or charges against such Lot which accrue prior to the time such Mortgagee comes into possession thereof, except for claims for a pro rate share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Lots including the mortgaged Lot.

6.10 **Collection of Assessments:** The Board of Directors, or the Managing Agent at the request of the Board of Directors, shall take prompt action to collect any assessments due from any Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof. Any assessment, or installment thereof, not paid within ten days after due shall accrue a late charge in the amount of twenty-five (\$25.00) dollars, or such other amount as may be established from time to time by the Board of Directors.

6.11 **Statement of Common Expenses:** The Board of Directors shall promptly provide any Owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses and any other assessments due from such Lot owner. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

6.12 **Collection of Assessments and Liens:** All sums assessed for the share of the Common Expenses or any other assessment chargeable to a Lot or fines imposed against an Owner shall be a debt of the Lot Owner at the time assessed and shall be collectable as such as provided by Section 9.9 of the Declaration.

6.13 **Obligations:**

- 1) Each Lot Owner shall perform promptly and at his own risk, cost and expense, all maintenance and repair work with respect to each Lot owned by him and shall maintain his Lot in good order and condition, and each Lot Owner shall be liable for damages, liabilities, costs, detriments and expenses, including Attorneys' fees, caused by or arising out of his failure to perform promptly any such maintenance and repair work.
- 2) each Lot Owner shall be obligated to reimburse the Association for any expenditures incurred by it in repairing or replacing any part or parts of the General common Area damaged solely by his negligence, or by the negligence of his tenants, agents, or guests, promptly upon receipt of the statements therefor from the Association.

6.14 **Default:** In the event a Owner shall fail to pay any assessment levied against him and any Lot owned by him as provided in Section 6.12, or shall fail to reimburse the Association for any maintenance or repair work performed by it as provided in Section 6.13, within Thirty (30) days after the same shall become due and payable and a statement showing the amounts due on account of either or both of said items, as the case may be, shall have, been mailed by the Secretary to such Owner by United States mail, first class, with postage prepaid, directed to such Owner at his last known post office address as the same appears on the records of the Association, then and in either or both of such events, the Association, acting by and through its Board of Directors, shall be entitled to proceed to foreclose the lien created on such Lot in the same manner as provided in Section 6.12 for the foreclosures of liens for delinquent assessments, or to proceed with a legal action to collect the sum due.

Nothing herein contained shall be deemed to impair the right of the Association to proceed personally against any such delinquent Lot Owner for the recovery of a personal judgment against him, or for such other, relief, legal or equitable, as may be deemed appropriate.

- 6.15 **Acceleration of Assessment Installments Upon Default:** If an Owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice thereof to the Owner, and thereupon the unpaid balance of the assessment, together with interest, shall come due upon the date stated in the notice, but not less than ten (10) days after delivery thereof to the Lot owner, or not less than Twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.
- 6.16 **Assessments for Emergencies:** Assessments for expenses for emergencies which cannot be paid from the annual assessments for Common Expenses shall be made only after notice of the need therefor to the owners concerned. After such notice of a proposed additional budget and ratification thereof as provided in Section 6.2 hereof, the assessment shall become effective, and it shall be due after Thirty (30) days notice thereof in such manner as the Board of Directors may require.
- 6.17 **Interest and Cost of Collection:** Any past due assessment for Common Expenses or installment thereof, or any other amount due to the Association from a Lot owner, shall bear interest at the rate of Eighteen (18%) Percent per annum or at such other rate set by the Board of Directors. The cost of collection including a reasonable attorney's fee, shall also be the obligation of an Owner.

ARTICLE 7: MAINTENANCE, REPAIR AND REPLACEMENT OR RECONSTRUCTION

- 7.1 **By the Association:** The Association shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of not less than eighty percent of the Board of Directors such expense was necessitated by the negligence, misuse or neglect of an Owner) of all of the General Common Area as defined herein or in the Declaration, the cost of which shall be charged to all Lot Owners as a common expense; provided, however, that each Lot Owner shall perform normal maintenance on any portion of the General Common Area which the Board of Directors pursuant to the Rules and Regulations has given him permission to utilize, including without limitation the items enumerated in Section 7.2.
- 7.2 **By the Owner:**
- 1) Each owner shall keep his Lot in good order, condition and repair and in a clean and sanitary condition, and shall do all mowing, cutting, landscaping and painting which may at any time be necessary to maintain the good appearance and condition of his Lot. In addition, each Owner shall be responsible for all damage to all other Lot or to the General Common Area resulting from his failure or negligence to make any of the repairs required by this Section. Each Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other owners. Each owner shall promptly report to the Board of Directors or the Managing Agent any defect or need for repairs for which the Association is responsible.
 - 2) Any Owner permitted by the Board of Directors to use a specific portion of the General Common Area is responsible for the maintenance and care of such portion and shall use such portion in a safe and sanitary manner.
- 7.3 **Additions, Alterations or Improvements by the Board of Directors:** Whenever in the judgment of the Board of Directors the General Common Area shall require additions, alterations or improvements costing in excess of ten thousand dollars during any period of twelve consecutive months, the making of such additions, alterations or improvements shall be included in a proposed budget and the procedure set forth in Section 6.2 shall be followed in order to allow the owners an opportunity to reject the proposed expenditure. Any additions, alterations or improvements costing ten thousand dollars or less during any period of twelve consecutive months may be made by the Board of Directors without approval of the owners and the cost thereof shall constitute a Common Expense. The ten thousand dollar limitation shall be increased annually by the percentage equal to the percentage increase in the annual budget of the Association.

ARTICLE 8: COMPLIANCE AND DEFAULT

- 8.1 **Relief:** Each Owner shall be governed by, and shall comply with, all of the terms of the Declaration and Bylaws as any of the same, may be amended from time to time. A default by an Owner shall, entitle the Association, acting through its Board of Directors or through the Managing Agent, to the following relief:
- 1) **Additional Liability:** Each Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of any member of his family or his employees, agents or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.
 - 2) **Costs and Attorneys' Fees:** In any proceedings arising out of any alleged default by an owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be determined by the court.
 - 3) **No waiver of Rights:** The failure of the Association, the Board of Directors or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration shall not constitute a waiver of the right of the Association, the Board of Directors or the Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Owner pursuant to any term, provision, covenant or condition of the Declaration shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Declaration or at law or in equity.
 - 4) **Interest:** In the event of a default by any Owner in paying any sum assessed against his Lot other than for common expenses which continues for a period in excess of thirty (30) days, interest at a rate of Eighteen (13%) Percent per annum or such interest rate imposed in the discretion of the Board of Directors shall be due and payable on the principal amount unpaid from the date due until paid.
 - 5) **Abating and Enjoining Violations by Owners:** The violation of any of the Rules and Regulations adopted by the Board of Directors, the breach of any provision of the Declaration or Bylaws shall give the Board of Directors the right, in addition to any other rights set forth in these By-Laws:
 1. to enter the Lot in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or
 2. to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.
 - 6) **Legal Proceedings:** Failure to comply with any of the terms of the Declaration, Association By-Laws, and the Rules and Regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these By-Laws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the Managing Agent or, if appropriate, by an aggrieved owner and shall not constitute an election, of remedies.
 - 7) **Fines:** The Board of Directors and the Covenants Committee may levy reasonable fines against Lot Owners for violations of the Rules and Regulations, the Declaration or the Association By-Laws. No fine may be levied for more than ten percent of such owner's annual assessment for any one violation;

but each day a violation continues, after notice is given to the Owner, is a separate violation. If an Owner requests in writing a hearing before the fine is imposed, the imposition of the fine shall be suspended until the hearing is held. Fines are special assessments and shall be collectible as such.

ARTICLE 9: INSURANCE

- 9.1 **Power of Attorney:** The Association is hereby irrevocably appointed as attorney-in-fact for each Owner and for each holder of a mortgage or other lien upon a Lot and for each owner of any other interest in the properties for the purpose of purchasing and maintaining insurance as set forth in Article V of the Declaration, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.

ARTICLE 10: AMENDMENT

- 10.1 **Amendments to By-Laws:** The provisions of these By-Laws may be amended unilaterally at any time and from time to time by Declarant until the termination of the Class "B" Membership and thereafter only by vote of two-thirds (2/3rds) of the Class "A" Members, cast-in person or by proxy, at a meeting duly held in accordance with the provisions of these By-Laws.

ARTICLE 11: GENERAL PROVISIONS

- 11.1 **Seal:** The form of the seal of the Association shall contain the name of the Association and the State of Rhode Island. 1
- 11.2 **Severability:** The provisions of these By-Laws shall be deemed independent and severable and the invalidity, partial invalidity or unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision or portion thereof unless the deletion of such invalid or unenforceable provision shall destroy the 1197 uniform plan for development and operation of Tefft Hill Farm which the Declaration (Including the Plats and Plans) and these By-Laws are intended to create.
- 11.3 **Conflicts:** The Declaration shall control in the event of any conflict between the provisions thereof and the provision of these By-Laws. The Declaration and these By-Laws shall control in the case of any conflict between the provisions thereof and the provisions of the Rules and Regulations.
- 11.4 **Notices:** All notices, demands, bills, statements, or other communications required or permitted under these By-Laws shall be in writing and shall be deemed to have been duly given if personally delivered or sent by United States mail, postage prepaid or if notification is of a default or lien, sent by registered or certified mail, return receipt requested, postage prepaid, (a) if to an Owner, at the single address which the Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Lot of such owner, or (b) if to the Association, the Board of Directors or to the Managing Agent, at the principal office of the Association or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section. If a Lot is owned by more than one Person, each Person who so designates a single address in writing to the Secretary shall be entitled to receive all notices hereunder.
- 11.5 **Headings:** The headings preceding the various Sections of these By-Laws and the Table of Contents are intended solely for the convenience of readers of the By-Laws and in no way define, limit or describe the scope of these By-Laws or the intent of any provision thereof.
- 11.6 **Gender:** The use of the masculine gender in these By-Laws shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.
- 11.7 **Construction:** These By-Laws are intended to comply with all of the applicable provisions of the General

Laws of the State of Rhode Island and shall be so interpreted and applied.

NOTE: The official copy is located in South Kingstown Town Hall. An unofficial copy may be obtained at Kinko's in the Emporium near URI for a modest fee.

**RULES AND REGULATIONS
FOR
TEFFT HILL FARM HOMEOWNERS ASSOCIATION**

GENERAL

1. In addition to the provisions of the Declaration, including, without limitation, Article II and Article XI of the Declaration, the following Rules and Regulations (Regulations), together with such additional Rules and Regulations as may hereafter be adopted by the Board of Directors, shall govern the use of the Properties comprising Tefft Hill Farm and the conduct of all residents thereof.
2. Wherever in these Regulations reference is made to "Owners," such term shall apply to the owner of any Lot, to his family, tenants whether or not in residence, servants, employees, agents, visitors and to any guests, invitees or licensees of such Owner, his family or tenant of such Owner. Wherever in these Regulations reference is made to the Association, such reference shall include the Association and the Managing Agent when the Managing Agent is acting on behalf of the Association.
3. The Association reserves the right to alter, amend, modify, repeal or revoke these Regulations and any consent or approval given hereunder at any time by resolution of the Association or the Board of Directors.
4. Nothing in these Rules and Regulations shall be considered to prohibit the Declarant from using the easements and rights retained by it to construct Tefft Hill Farm and sell Lots and improvements.

RESTRICTIONS ON USE

5. No part of a Lot shall be used for any purpose other than residential housing for a single family, their servants and guests.
6. No exterior of any building on any Lot or the windows or doors thereof or the lighting that would affect the exterior appearance shall be painted, decorated or changed by any Owner in any manner without prior written consent of the Architectural Review Board.
7. No Owner shall make or permit any objectionable odor or noxious or offensive activity

that will disturb or annoy the occupants of any other Lot or do or permit anything to be done therein which will interfere with the rights, comfort or convenience of other Owners, their tenants, or guests.

8. Each Owner shall keep his Lot and porches or patios in a good state of preservation and cleanliness and shall keep his lawn mowed and shall remove any unsightly brush or weeds.
9. No Owner or occupant of a Lot shall make or permit any disturbing noises to be made on the Lot or on the General Common Area by himself, his family, friends, tenants, servants, or other invitees; nor do or permit anything to be done by such persons that would interfere with the rights, comforts, or conveniences of other Owners or occupants. No Owner or occupant shall play or allow to be played any musical instrument, radio, TV, hi-fi, tape recorder, or the like on the Properties between the hours of 11:00 PM and the following 8:00 AM if the same shall disturb or annoy other Owners.

PET RULES

10. Section 2.12 of the Declaration provides for certain restrictions governing the maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles and by this reference is included herein.
11. An authorized pet may be maintained in a Lot so long as it is not a nuisance. Actions which will constitute a nuisance include, but are not limited to, abnormal or unreasonable crying, barking, scratching or unhygienic offensiveness.
12. Pet Owners are fully responsible for personal injuries and/or property damage caused by their pets.
13. Except in designated pet exercise areas, pets must be leashed; leashes may not exceed six feet in length.
14. Owners of pets walked upon the General Common Area must promptly clean up their pet's droppings in all areas outside the authorized pet exercise areas.

PARKING AND STORAGE

15. Should an employee of the Association at the request of an Owner move, handle or store any articles in storage areas or remove an articles therefrom or handle, move, park or drive any automobile placed in the parking areas, then, and in every such case, such employee shall be deemed the agent of the Owner. The Association shall not be liable for any loss,

damage or expense that may be suffered or sustained in connection therewith.

16. All Owners shall observe and abide by all parking and traffic regulations as posted by the Association or by municipal authorities. Vehicles parked in violation of any such regulations may be towed away at the Owner's sole risk and expense.
17. Parking so as to block sidewalks or driveways shall not be permitted. If any vehicle owned or operated by an Owner, any member of his family, tenants, guests, invitees or licensees shall be illegally parked or abandoned on the Properties, the Association shall be held harmless by such Owner for any and all damage or losses that may ensue, and any and all rights in connection therewith that the owner or driver may have under the provisions of state or local laws ordinances are hereby expressly waived. The Owner shall indemnify the Association against any liability which may be imposed on the Association as result of such illegal parking or abandonment and any consequences thereof.
18. The Owner shall not cause or permit the blowing of any horn from any vehicle in which his guests, family, tenants, invitees, or employees shall be occupants, approaching or upon the Properties, except as may be necessary for the safe operation thereof.

RECREATIONAL FACILITIES

19. All persons using any of the recreational facilities do so at their own risk and sole responsibility. The Association does not assume responsibility for any occurrence, accident or injury in connection with such use. No Owner shall make any claim against the Association, its servants, agents, or employees, for or on account of any loss or damage to life, limb or property sustained as a result of or in connection with any such use of any of the recreational facilities. Each Owner shall hold the Association harmless from any and all liabilities and any action of whatsoever nature by any tenants, guests, invitees or licensees of such Owner growing out of the use of the recreational facilities, except where such loss, injury or damage can be clearly proved to have resulted from and been proximately caused by the direct negligence of the Association or its agents, servants or employees in the operation, care or maintenance of such facilities.
20. Any damage to recreational facilities, General Common Area or equipment caused by an Owner or such Owner's pets shall be repaired at the expense of the Owners.

SUSPENSION OF RIGHT TO USE RECREATIONAL FACILITIES

21. In addition to all other rights which the Board of Directors has for nonpayment of assessments, the Board of Directors shall have the right to bar the use of an Owner of any of the recreational facilities for failure to make payment of any assessments or fees due as provided for in the By-Laws of the Association.

ASSOCIATION

22. All charges and assessments imposed by the Association are due and payable on the first day of each month, unless otherwise specified. Payment shall be made at the Managing Agent's office by check or money order, payable to the Tefft Hill Farm Homeowners Association. Cash will not be accepted.
23. Complaints regarding the management of the Association or regarding actions of other Owners shall be made in writing to the Managing Agent or the Board of Directors. No Owner shall direct, supervise or in any manner attempt to assert control over or request favors of any employee of the Managing Agent or the Association.

MISCELLANEOUS

24. All persons shall be properly attired when appearing in the General Common Area.
25. Neither the Board of Directors, the Association, nor any Owner or Declarant shall be considered a bailee of any personal property stored on the General Common Area (including property located in storage areas on the General Common Area), whether or not exclusive possession of the particular area is given to an Owner for storage purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

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RULES AND REGULATIONS

Guidelines for Sitting Services: 1996

1. Any and all children must be less than 18 years old.
2. Number of children must no exceed 4 total at any time.
3. No noxious destruction or offensive activities or annoyances shall be conducted or permit anything to be done which will interfere with the rights, comfort or convince of other homeowners.
4. Any and all traffic from the pick up or dropping off by parents must be done as not to create a visual or noise nuisance (ex. use of horns, cars parked running)
5. All rules subject to compliance inspections.
6. Any complaints made from another homeowner, if deemed to be appropriate or reflective of these rules, must be immediately rectified as not to create a confrontation between any owner or Association.
7. Any and all rules in the handbook must be strictly adhered to with the exception to the above interpretations.
8. No advertising of any kind will be allowed with the exception of word of mouth.

Approved by:

Kevin Currier
Lawrence LeBlanc

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FIRST AMENDMENT

TO

THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, CHARGES AND LIENS FOR TEFFT HILL FARM HOMEOWNERS ASSOCIATION

Pursuant to the provisions of Section 13.2 of THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, CHARGES AND LIENS FOR TEFFT HILL FARM HOMEOWNERS ASSOCIATION (the "Declaration"), recorded in Book 350 at Page 392 in the Land Evidence Records of the Town of South Kingstown, county of Washington, State of Rhode Island, the Secretary of Tefft Hill Farm Homeowners Association, hereby amends the Declaration as follows:

1. The "Index to Declaration of Covenants, Conditions, Restrictions, Charges and Liens for Tefft Hill Farm Homeowners Association" is amended as follows:

1. The pages are numbered to read as "i", "ii", "iii", and "iv".
2. Section 2.5. shall read as "2.5. Owner's Right to Ingress, Egress and Support."
3. Section 2.19. shall read as "2.19. Proposed Water Tower Lot."
4. Article VII shall read as "Article VII Annexation of Additional Property."
5. Section 7.2. shall read as "7.2. Annexation With Approval of Class "A" Membership."
6. Section 9.4. shall read as "9.4. Maximum Annual General Assessments."

2. Section 1.16. of the Declaration is amended to read as follows:

"Section 1.16. "Plat" or "Plats" shall mean that certain plat entitled "Final Plat of Tefft Hill Farm Location South Road South Kingstown, RI Owned by Chestnut Hill Associates" consisting of 26 sheets and recorded on January 3, 1989 at 2:30 PM in the Land Evidence Records of the Town of South Kingstown and shall also mean any other additional plats of Tefft Hill Farm endorsed as final Plats by the Planning Board of the Town of South Kingstown and recorded in the Land Evidence Records of the Town South Kingstown."

3. Section 2.6 is amended to read as follows:

"Section 2.6. Use of Lots. Except as may be otherwise expressly provided in this Declaration, each Lot shall be used for residential purposes only as a residence for a single family related by blood, adoption, or marriage or by no more than two (2) unrelated persons. No trade or business of any kind may be conducted on the Lot. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this covenant, so long as the lease is in compliance with reasonable rules and regulations as the Board of Directors may promulgate. Any leasee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the Bylaws, and the rules and regulations adopted hereunder.

Without prior written consent of the Association's Board of Directors, nothing shall be done or kept on any Lot or on the General Common Area or any part thereof to increase the rate of insurance on the Properties or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot or on the General Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to

make and to enforce reasonable rules and regulations in furtherance of this provision.”

4. Section 2.11. of the Declaration is amended to read as follows:

2.11. Storage and Parking. There shall be no outside storage or parking upon any Lot of any commercial vehicle, truck (except pick-ups), tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, snowmobile, recreational vehicles or any other transportation device of any kind, except passenger cars. No owners or tenants shall repair or restore any vehicle of any kind upon any Lot or General Common Area, except within a garage or except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after the alteration is less than the number of automobiles that could have been reasonably parked in the garage as originally constructed. The Board of Directors may provided for an area in the General Common Area in which vehicles and boats may be parked or stored in accordance with the rules and regulations promulgated by the Board of Directors.”

5. In Section 2.19. of the Declaration, Line six (6), the word “fro” is corrected to read as “for”.

6. In Section 9.10. of the Declaration, Line one (1), the word “Captial” is corrected to read as “Capital”.

7. The first sentence of the first paragraph of Section 1.2. Definitions, on page B-1 of the By-Laws is amended to read as follows:

“1.2. Definitions. Insofar as the terms used in these By-Laws are defined in the said Declaration, they shall have the same meaning provided for therein, unless otherwise stated or unless the context demands otherwise.”

8. The last sentence of Section 2.2. Purpose, on page B-2 of the By-Laws is amended to read as follows:

“Except as to those matters which the Declaration or the By-Laws specifically require to be performed by the vote of the Association, the foregoing responsibility shall be performed by the Board of Directors as more particularly set forth in the By-Laws.”

9. In Section 3.5. of the By-Laws Line three (3), the word “Baord” is corrected to read as “Board”.

10. In Section 3.6. of the By-Laws, the next to last paragraph is amended to read as follows:

“ ‘Majority Vote’ means more than Fifty (50%) Percent of the total vote present and entitled to vote at any meeting, in person or by proxy.”

11. In Section 3.8. (c) of the By-Laws, Line three (3), the word “withdrawel” is corrected to read as “withdrawal..”

12. In Section 4.18. of the By-Laws, Line eighteen (18), the reference to “Section 4.17” is corrected to read as “Section 4.18.”

13. In Section 17 of the Rules and Regulations for Tefft Hill Farm Homeowners Association attached as Schedule A to the By-Laws, Line eight (8), the word “ordiances” is corrected to read as “ordinances.”

IN WITNESS WHEREOF, THE UNDERSIGNED Secretary has executed this Declaration this 30th day of May, 1989.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:
Archibald Kenyon

TEFFT HILL FARM HOMEOWNERS ASSOCIATION
Lawrence LeBlanc

STATE OF RHODE ISLAND
COUNTY OF WASHINGTON

In South Kingstown on the 30th day of May, 1989, before me personally appeared Lawrence C. LeBlanc, General Partner of Chestnut Hill Associates, to me known and known by me to be the party executing the foregoing instrument, and he

acknowledged said instrument, by him executed, to be his free act and deed individually and in his said capacity, and the free act and deed of said Chestnut Hill Associates.

Archibald Kenyon
Notary Public

NOTE: The official copy is located in South Kingstown Town Hall. An unofficial copy may be obtained at Kinko's in the Emporium near URI for a modest fee.

SECOND AMENDMENT

TO

THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, CHARGES AND LIENS FOR
TEFFT HILL FARM HOMEOWNERS ASSOCIATION

Pursuant to the provisions of Section 13.2 of THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, CHARGES AND LIENS FOR TEFFT HILL FARM HOMEOWNERS ASSOCIATION (the "Declaration"), recorded in Book 350 at Page 392 in the Land Evidence Records of the Town of South Kingstown, county of Washington, State of Rhode Island, the Secretary of Tefft Hill Farm Homeowners Association, hereby amends the Declaration as follows:

1. To amend the By-Laws Article 3.2. Annual Meetings: the second (2nd) Wednesday of January in each succeeding year
2. To add to the By-Laws Article 4.4. Removal or Resignation of Members of the Board of Directors:
 - 1) A member of the Board of Directors who misses two consecutive meetings without notifying the Secretary or any other member of the Board of Directors may be removed from office by a vote of the other Board Members plus at least two officers.
3. To amend the By-Laws Article 5.1. Officers to change "may or may not be member of the Board of Directors" to "and may not be members of the Board of Directors."
4. To amend the Declaration page 54 last paragraph to "shall be deemed approved if 51% of the Class "A" votes cast at such meeting ...
5. To amend Article 10.1. Amendments to the By-Laws to "two-thirds (2/3 rds) of Class "A" members to fifty-one (51%) percent of Class "A" members.
6. To amend By-Laws Article 4.20. Covenants Committee (a) to add "Members of the Covenants Committee may be removed by a vote of at least two Board of Directors and two officers."
7. To amend the Declaration page 21 Section 5.1. typographical error .. "a two million and 00/100 (\$2,000,0000)" to "a one million and 00/100 (\$1,000,000)"

IN WITNESS WHEREOF, THE UNDERSIGNED Secretary has executed this Declaration this day of March, 1999.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:
Sarah M. Smith
Notary Public

TEFFT HILL FARM HOMEOWNERS ASSOCIATION
Tracy Kubricy