

VB Cover Sheet Version 2.0

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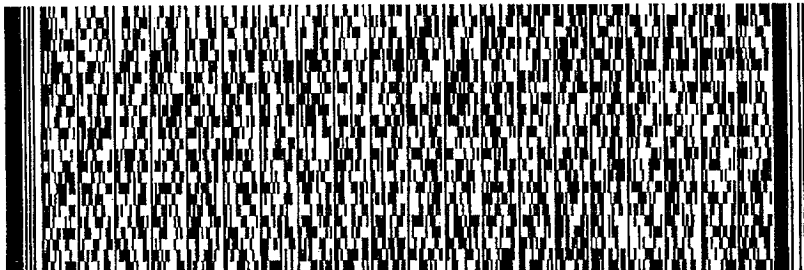
**Fairfax Land Records Cover Sheet -  
16843-007 DECLARATION****Instrument(s)**

DECLARATION, COVENANT

**Grantor(s)**GULICK GROUP, INC\_F\_N; GOEPFERT, MARY, TRUSTEE , MINNESOTA MEDICAL  
FOUNDATION\_I\_T**Grantee(s)**

AUTUMN WOOD HOMEOWNERS ASSOCIATION\_F\_N

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Tax Exemption	None	Amount Not Taxed	
DEM Number		Tax Map Number	011-2- -01- -0021- _Y 011-2- -01-
Original Book		Original Page	
Title Company	O'HARA LAW FIRM, PLC	Title Case	16843-007
Property Descr.	GOEPFERT PROPERTY, LOTS 1-18 & PARCEL A		
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1/21/2010

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**AUTUMN WOOD HOMEOWNERS ASSOCIATION**

**GOEPFERT PROPERTY**

Fairfax County, Virginia

Grantors: Gulick Group, Inc.  
Mary Goepfert, Trustee, Minnesota Medical Foundation 2004 Charitable  
Remainder Unitrust  
Grantee: Autumn Wood Homeowners Association

*PREPARED BY*

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**BOX 161**

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**AUTUMN WOOD HOMEOWNERS ASSOCIATION**

**GEOPFERT PROPERTY**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "**Declaration**") is made as of November 16, 2009 by and between **GULICK GROUP, INC.**, a Virginia corporation (the "**Declarant**"); **MARY GOEPFERT, TRUSTEE, MINNESOTA MEDICAL FOUNDATION 2004 CHARITABLE REMAINDER UNITRUST** ("**Goepfert**"); and **AUTUMN WOOD HOMEOWNERS ASSOCIATION**, a Virginia non-stock corporation (the "**Association**").

**RECITALS:**

A. The Declarant is the owner of **Lots 1 through 9 and Lot 18, GOEPFERT PROPERTY** as the same are duly subdivided, platted and recorded by the Deed of Subdivision (the "**Deed of Subdivision**") recorded immediately prior hereto among the Fairfax County, Virginia land records.

B. Goepfert is the owner of **Lots 10 through 17, GOEPFERT PROPERTY** as the same are duly subdivided, platted and recorded by the Deed of Subdivision.

C. The Association is the owner of **Parcel A, GOEPFERT PROPERTY** as the same is duly subdivided, platted and recorded by the Deed of Subdivision.

D. The Declarant and Goepfert desire to create on the Property (as hereinafter defined) a residential community for which it has designed a style of architecture, residence sitings, land use, landscapes, street layouts and vistas for the benefit of the community (the "**themescape**").

E. The Declarant, Goepfert and the Association desire to provide for the maintenance of the open spaces and other facilities, and, to this end, declare and publish their intent to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, it being intended that they shall run with the Property and shall be binding on all persons or entities having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each owner thereof.

F. The covenants, conditions, restrictions and rights contained herein will assure residents that the themescape and the standards of design quality will be maintained.

G. The Declarant has deemed it desirable for the efficient preservation of the values of said community to create an association to which shall be delegated and assigned the powers of owning, maintaining and administering the common areas and facilities, administering and enforcing the covenants and restrictions made in and pursuant to this Declaration and collecting and disbursing the assessments and charges hereafter created.

H. The Declarant has incorporated AUTUMN WOOD HOMEOWNERS ASSOCIATION as a non-stock corporation under the laws of the Commonwealth of Virginia, for the purpose of exercising the functions of the Association.

NOW, THEREFORE, the Declarant and Goepfert, for and in consideration of the premises and the covenants contained herein, grant, establish and convey to each owner of a Lot (as hereinafter defined), with the express concurrence of the Association, mutual, non-exclusive rights, privileges and easements of enjoyment as set forth herein and in common with all other owners of Lots in and to the use of any Common Area (as hereinafter defined) and facilities; and further, the Declarant, Goepfert and the Association declare the Property to be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, reservations, easements, charges and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of, and shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their respective successors and assigns, and shall inure to the benefit of each owner thereof.

#### ARTICLE I DEFINITIONS

Section 1. **"Association"** shall mean and refer to Autumn Wood Homeowners Association, a Virginia non-stock corporation, its successors and assigns.

Section 2. **"Board of Directors"** shall mean and refer to the executive and administrative entity established by the Articles of Incorporation of the Association as the governing body of the Association.

Section 3. **"Common Area"** shall mean and refer to all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Members, and shall include any private streets shown on an approved plat of the Property and located within the Common Area's boundaries.

Section 4. **"County"** shall mean Fairfax County, Virginia.

Section 5. **"Declarant"** shall mean and refer to Gulick Group, Inc. and its successors or assigns (i) to whom Gulick Group, Inc. assigns any or all of its rights as Declarant pursuant to this Declaration by assignment recorded in the appropriate land

records, or (ii) who is a purchaser at foreclosure of the Property or a grantee in a deed in lieu of foreclosure from the Declarant. Such an assignment shall only operate as to the land which is owned by such successor or assign. If the Declarant consists of more than one (1) person or entity, unless otherwise agreed in writing between the co-Declarants, the rights and obligations of the Declarants shall be several and shall be based upon and apportioned in accordance with the number of Lots that each co-Declarant has made subject to this Declaration.

Section 6. **"Declaration"** shall mean and refer to this Declaration of Covenants, Conditions and Restrictions applicable to the Property, which Declaration is recorded in the Office of the Clerk of the Circuit Court of Fairfax County, Virginia, as the same may be amended, supplemented, restated or otherwise modified from time to time.

Section 7. **"Developer"** shall mean and refer to Gulick Group, Inc. and its assignees if such assignees receive a written assignment from the Developer.

Section 8. **"Dwelling Unit"** shall mean and refer to any improvement to the Property intended for any type of independent ownership for use and occupancy as a residence by a single household for which a residential use permit has been issued by the County, and shall, unless otherwise specified, include within its meaning (by way of illustration but not limitation) patio or zero lot line homes, townhouses and detached homes.

Section 9. **"Entrance Features"** shall mean and refer to the structures, landscaping, and utility lines and meters serving them installed by the Developer as part of the initial development of the Property and located within the Entrance Feature easements granted in Article VIII, Section 1(c) of this Declaration. It is initially contemplated, that the Entrance Features will include stone walls and metal fencing running parallel to Georgetown Pike (Rt. 193); stone light piers with signs; hedges, shrubs, and flowers running along Autumn Mist Lane; electric lines and meters; trees and tree beds.

Section 10. **"Garden Wall and Gate"** shall mean and refer to the stone garden wall and wood gate constructed by the Declarant and attached to the Dwelling Unit on both Lot 1 and Lot 18, extending from the Dwelling Unit to the Lot's frontage on Georgetown Pike (Rt. 193). The Garden Gate and Wall does not include the portion of the stone wall or metal fence that is part of the Entrance Features.

Section 11. **"Gas Line Easements"** shall mean and refer to the gas line easements recorded in Deed Book 2607 at Page 503 and Deed Book 5407 at Page 622 among the Land Records.

Section 12. **"Gas Line Easement Plantings"** shall mean and refer to the planting beds of tall ornamental grasses that screen the Property from the public streets,



within and adjacent to the Gas Line Easements on **Lots 11 and 16**. The Gas Line Easement Plantings on **Lot 11** are the planting beds located within the Gas Line Easements, between the eastern boundary of **Lot 11** and the stormwater management pond. The Gas Line Easement Planting on **Lot 16** is the planting bed, approximately fifty feet by eighty feet (50' x 80'), located in the northwest corner of **Lot 16**, adjacent to the Gas Line Easements.

Section 13. **"Land Records"** shall mean and refer to the land records of Fairfax County, Virginia.

Section 14. **"Lot"** shall mean and refer to any plot of land created by and shown on a lawfully recorded subdivision plat of the Property upon which a Dwelling Unit could be constructed in accordance with applicable zoning ordinances, with the exception of the Common Area and streets dedicated to public use.

Section 15. **"Member"** shall mean and refer to every person or entity who holds a membership in the Association, as more particularly set forth in Article II below.

Section 16. **"Mortgagee"** shall mean and refer to any person or entity secured by a first mortgage or first deed of trust on any Lot or the Common Area who has notified the Association of this fact in writing.

Section 17. **"Owner"** shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot, including a contract seller but excluding those holding such interest in a Lot solely by virtue of a contract to purchase a Lot or as security for the performance of an obligation. If more than one (1) person or entity is the record owner of a Lot, the term "Owner" as used herein shall mean and refer to such owners collectively, so that there shall be only one (1) Owner of each Lot.

Section 18. **"Participating Builder"** shall mean and refer to a person or entity (other than the Declarant) who is regularly in the homebuilding business and who purchases land or two (2) or more Lots within the Property for the purpose of constructing improvements for resale or rental.

Section 19. **"Perimeter Fence"** shall mean and refer to the approximately eight foot (8') tall painted solid board fence running parallel to Georgetown Pike (Rt. 193) from the stone pier on Lot 1 to the northeast corner of Lot 1; and from the stone pier on Lot 18 to the northwest corner of Lot 14 [note: there is an intentional gap in the Perimeter Fence on Lot 16 to accommodate the Gas Line Easements].

Section 20. **"Property"** shall mean and refer to that certain real property described as **Lots 1 through 18 and Parcel A, GOEPFERT PROPERTY** as duly subdivided, platted and recorded by the Deed of Subdivision, and such additions thereto

which, from time to time, may be annexed under this Declaration in accordance with Article XII.

## ARTICLE II MEMBERSHIP

Section 1. Every Owner of a Lot which is subject to this Declaration, except the Class B Member(s), shall be a Class A Member of the Association. Except for the Class B Member, membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration. Ownership of such Lot shall be the sole qualification for Class A membership. No Class A Member shall have more than one (1) membership in the Association for each Lot it owns.

Section 2. The Class B Member shall be the Declarant, including any successor to or assignee of the Declarant.

## ARTICLE III VOTING RIGHTS

Section 1. Classes. The Association shall have two (2) classes of voting membership:

Class A: A Class A Member shall be entitled to one (1) vote for each Lot in which it holds the interest required for membership by the Article entitled "Membership" herein.

Class B: The Class B Member shall have nineteen (19) votes. A Class B Member shall cease to be a Class B Member upon the happening of any of the following events, whichever occurs first:

- (a) ten (10) years following the date of recordation of this Declaration;
- (b) the completion of construction of all homes within the Property by the Declarant and Participating Builders and the release of all improvement bonds posted with the State, County or other municipal agency by the Declarant or a Participating Builder in connection with the Property; or
- (c) the recordation among the Land Records of a written instrument signed by the Class B Member, specifically terminating such rights.

Section 2. Annexation. Upon annexation of additional properties pursuant to this Declaration, the Class B Member shall have nineteen (19) votes plus one (1) additional vote for each annexed lot. In the event that Class B membership shall have

ceased as hereinabove provided, Class B membership shall be revived and the number of votes the Class B Member shall have shall be the number of Lots already subject to this Declaration plus the number of annexed Lots plus one. The Class B membership shall cease on the happening of any of the following events, whichever occurs first:

- (a) ten (10) years following the date of annexation of the property;
- (b) the completion of construction of all homes within the Property by the Declarant and Participating Builders and the release of all improvement bonds posted with the State, County or other municipal agency by the Declarant or a Participating Builder in connection with the Property; or
- (c) the recordation among the Land Records of a written instrument signed by the Class B Member, specifically terminating such rights.

### Section 3. Multiple ownership interests.

Class A: If more than one (1) person or entity holds an ownership interest in any Lot, the vote for such Lot shall be exercised as the owners of the Lot among themselves determine and may be exercised by any one (1) of the people or entities holding such ownership interest, unless any objection or protest by any other holder of such ownership interest is made prior to the completion of a vote, in which case the vote for such membership shall not be counted, but the Member whose vote is in dispute shall be counted as present at the meeting for quorum purposes if the protest is lodged at such meeting. In no event shall more than one (1) vote be cast with respect to any Lot owned by a Class A Member.

Class B: If there is more than one Class B Member, unless otherwise agreed in writing between the Class B Members, the Class B votes shall be divided between or among them in proportion to the number of Lots existing on the property each Class B Member has subjected to this Declaration.

## ARTICLE IV PROPERTY RIGHTS/MAINTENANCE

Section 1. Member's Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to:

- (a) the right of the Association to limit the number of guests of Members or non-Members on the Common Area;

(b) the right of the Association to adopt and enforce rules and regulations governing the use of the Common Area and facilities, including, without limitation, the imposition of fines for the violation thereof;

(c) the right of the Association, subject to Virginia Code Section 55-513, as amended from time to time, to adopt and enforce rules and regulations governing the use of the Common Area and such other areas of responsibility assigned to the Association by this Declaration;

(d) the right of the Association, subject to the limitations and requirements of Virginia Code Section 55-513 as amended from time to time, to (i) suspend the voting rights and/or the right to run for office within the Association for any period during which any assessment against such Member's Lot remains unpaid, (ii) suspend a Member's right to use facilities or services, including utility services, provided directly through the Association for nonpayment of assessments, to the extent that access to the Lot through the Common Areas is not precluded and provided that such suspension shall not endanger the health, safety, or property of any owner, tenant, or occupant, and (iii) assess charges against any Member for any violation of the Declaration or rules and regulations for which the Member or its family members, tenants, guests or other invitees are responsible;

(e) the right of the Association to borrow money for the improvement, maintenance or repair of the Common Area or facilities and in aid thereof, with the assent of at least two-thirds (2/3) of the votes of each class of Members who are entitled to vote and who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present, to mortgage the Common Area, subject to this Declaration and the easement of enjoyment created hereby, and to acquire property encumbered by a lien or liens of a mortgage or deed of trust; provided that any such mortgage of the Common Area must state that it is subject to this Declaration and the easement of enjoyment created hereby and shall not be in conflict with its designation as "open space";

(f) the right of the Association at any time or upon dissolution or termination of the Association, and consistent with the then-existing zoning ordinances of the County and its designation of the Common Area as "common open space", to dedicate or transfer all or any part of the Common Area for such purposes and subject to conditions as may be agreed to by the Members; provided however, the Association shall not dispose of any common open space, by sale or otherwise, except to an organization conceived and organized to own and maintain the common open space, without first offering to dedicate the same to the County or other appropriate governmental agency. Except in the case of dissolution or termination, any such dedication or transfer shall have the assent of at least two-thirds (2/3) of the Members entitled to vote and who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present, written notice of which shall be sent to all Members not less than twenty-five (25)

days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting. Upon such assent and in accordance therewith, the officers of the Association shall execute the necessary documents. The resubdivision or adjustment of the boundary lines of the Common Area, the dedication to the County for public purposes, and the granting of easements by the Association shall not be deemed a transfer within the meaning of this Article;

(g) the right of the Association to grant, with or without payment to the Association, licenses, rights-of-way and easements through or over any portion of the Common Area;

(h) the right of the Association to lease the Common Area to Members or non-Members;

(i) the right of the Declarant or the Association to resubdivide and/or adjust the boundary lines of the Common Area as either deems necessary for the orderly development of the subdivision;

(j) all rights reserved by the Declarant in the Article herein entitled "Easements";

(k) the right of the Declarant and Participating Builders to erect, maintain and operate real estate sales and construction offices, displays, signs and other facilities for sales, marketing and construction purposes; and

(l) the right of the Declarant or the Association to dedicate the Common Area or portions thereof to the County or Commonwealth for public street purposes.

Section 2. Delegation of Use. Any Member may delegate its right of enjoyment to the Common Area and facilities to the members of its immediate household, its tenants or contract purchasers who reside on the Member's Lot. However, by accepting a deed to such Lot, every Owner covenants that should the Owner desire to rent its Lot, the rental agreement shall contain specific conditions which require the tenant to abide by all Association covenants, rules and regulations, and any Owner desiring to rent a Lot further covenants that the tenant will be provided a complete set of all Association covenants, rules and regulations.

### Section 3. Maintenance.

(a) Association's Responsibility. The Association shall maintain and keep in good working order and good repair the Common Area and such other areas for which the Association has or assumes responsibility for maintenance pursuant to the

terms of this Declaration, any Supplemental Declaration or other covenant, contract, easement or agreement, such maintenance to include, but need not be limited to:

- (1) all Common Area;
- (2) all stormwater management facilities, ornamental grass screening plantings, trails, footpaths, and boardwalks within the Common Area;
- (3) Perimeter Fences, in a good, safe and attractive manner, pursuant to the easements granted in **Article VIII** hereof, such maintenance to include the Perimeter Fence structure and painting of the interior and exterior of the Perimeter Fence. The Association shall include adequate reserve funds in its annual budget for the replacement of the Perimeter Fence;
- (4) Entrance Features, in a good, safe, plant-healthy and attractive manner, pursuant to the easements granted in **Article VIII** hereof, such maintenance to include the removal of dead and dying landscaping. The Association shall be responsible for the costs of the lighting for the Entrance Features. The Association shall include adequate reserve funds in its annual budget for the replacement of the Entrance Features;
- (5) Gas Line Easement Plantings in a healthy and attractive manner, pursuant to the easements granted in **Article VIII** hereof; and
- (6) easement areas of which the Association is a beneficiary and for which it has the maintenance responsibility.

(b) Owner's Responsibility. Each Owner shall maintain its Lot and all improvements on and to its Lot in a good and workmanlike manner, consistent with the community guidelines established by the Association and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to the terms of this Declaration, any Supplemental Declaration or other covenant, contract, easement or agreement, such maintenance to include, but need not be limited to:

- (1) the Dwelling Unit;
- (2) the septic system located on and in each Lot, including the sewer lines, septic tank, pump chamber, filters, and absorption areas, subject to the restrictions contained in **Article VI, Section 18** and the Association's right of inspection contained in **Article VIII, Section 1(b)** and **Article X, Section 2(f)**;

(3) for each of **Lots 1 and 18**, the Garden Wall and Gate located thereon in a good, workmanlike, safe and attractive condition, subject to the restrictions contained in **Article VI, Section 19**;

(4) for **Lots 1, 14, 16, 17 and 18**, the interior of the Perimeter Fence, subject to the restrictions contained in **Article VI, Section 23**.

In addition to any other enforcement rights, if an Owner fails to perform properly its maintenance responsibility, the members of the Board of Directors and the Association's officers, employees and agents shall have the right to come upon such Owner's Lot, but not within its Dwelling Unit, and perform such maintenance responsibilities and assess all costs incurred as a Service Assessment in accordance with **Article V**. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

#### ARTICLE V ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant covenants, for each Lot owned, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other instrument of conveyance, is deemed to covenant and agree to pay to the Association: (a) General Assessments (as hereinafter defined) or charges, (b) Service Assessments (as hereinafter defined), and (c) Special Assessments (as hereinafter defined) for capital improvements or other specified items. Such assessments are to be established and collected as hereinafter provided. The Association's General, Service and Special Assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, late fees, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due and shall not be the personal obligation of a successor in interest unless expressly assumed by such successor. The General and Service Assessments, when assessed for each year, shall become a lien on the Lot in the amount of the entire General or Special Assessment, but shall be payable in accordance with a resolution of the Board of Directors, in equal installments collected on a monthly, bi-monthly, quarterly, semi-annual or annual basis.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents and Owners of the Property, for the improvement and maintenance of the Entrance Features and Common Area, including but not limited to the payment of taxes, construction of improvements and maintenance of services and facilities devoted to these purposes or related to the use and enjoyment of the Common Area or other property which the

Association has the obligation to maintain, and for such other purposes as the Board of Directors may determine to be appropriate.

Section 3. General Assessment and Service Assessment.

(a) The Association must levy in each of its fiscal years an annual general assessment (the "**General Assessment**"), against each Lot. The amount of such General Assessment shall be established by the Board of Directors and written notice of such General Assessment shall be sent to every Owner at least thirty (30) days in advance of the commencement of each General Assessment period. The General Assessment shall become applicable as to all Lots within a Section of the Property (as such Section is shown on a recorded subdivision plat) on the first day of the month following the first conveyance of a Lot within that Section to an Owner who is not the Declarant or a Participating Builder. The first annual General Assessment shall be adjusted according to the number of months remaining in the calendar year.

(b) The amount of the General Assessment shall be determined by the Board of Directors according to its estimate of the cost of providing services or rights of use which are common to all of the Lots or which the Board of Directors determines shall be shared equally by all the Lots.

(c) The Association may also, but shall not be required to, levy in each of its fiscal years or portion thereof, a separate assessment (the "**Service Assessment**") against specified Lots within the Property. The amount of the Service Assessment shall be determined by the Board of Directors according to its estimated cost of providing services, reserves or rights of use to the benefited Lots, which services or rights are not enjoyed by all of the Members and are primarily for the benefit of the Members owning the benefited Lots, or according to the costs required to bring a Lot into compliance with this Declaration or the Rules and Regulations of the Association.

Section 4. Special Assessment. In addition to the other assessments authorized herein, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Area, including the fixtures and personal property related thereto, or for any other specified purpose (the "**Special Assessment**"). The Special Assessment shall be levied against all of the benefited Lots. To be effective, any such assessment shall have the assent of more than two-thirds (2/3) of the votes of those Members whose Lots are to be made subject to the Special Assessment and of the Class B Member(s), who are entitled to vote and who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present, written notice of which setting forth the purpose of the meeting shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.



Section 5. Quorum for any Action Authorized Under Section 4. At the first calling of a meeting under Section 4 of this Article, the presence at the meeting of Members or proxies entitled to cast sixty percent (60%) of all the votes of each class of Members shall constitute a quorum. If the required quorum does not exist at any such meeting, another meeting may be called subject to the notice requirements set forth in Section 4 and to applicable law, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Working Capital Assessment. In addition to the other assessments authorized herein, the Association shall establish and maintain a working capital fund. At each settlement on the initial sale by a Declarant or a Participating Builder of a Lot for which a use permit has been issued, the purchaser of such Lot shall pay to the Association a one-time working capital assessment of Seven Hundred Fifty Dollars (\$750.00). Such working capital assessment shall not be considered an advance payment of a General, Service or Special Assessment.

Section 7. Rate of Assessment. The General Assessment shall be fixed at a uniform rate for all Lots, except for unoccupied Lots owned by the Declarant or a Participating Builder, and the Service Assessments and Special Assessments shall be fixed at a uniform rate for all Lots benefited by the particular assessment, except for unoccupied Lots owned by the Declarant or a Participating Builder. Any unoccupied Lots owned by the Declarant or a Participating Builder shall be exempt from assessment.

Section 8. Notice of Assessment and Certificate. Written notice of the General Assessment shall be sent to every Member, and written notice of Service Assessments and Special Assessments shall be sent to every Member assessed therefor. The due dates for payment of the Assessments shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer or authorized agent of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Failure to Assess. Failure of the Board of Directors to fix assessment amounts or rates or to post, deliver or mail each Owner an assessment notice shall not be deemed to be a waiver, modification, or release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

Section 10. Remedies of the Association in the Event of Default. Subject to the limitations and requirements of Virginia Code Section 55-513, if any assessment pursuant to this Declaration is not paid within thirty (30) days after its due date, the assessment shall bear interest from the date of delinquency at the judgment rate provided for in the Code of Virginia. In addition, in its discretion, the Association may:

- (a) impose a penalty or late charge as previously established by rule;
- (b) bring an action at law against the Owner personally obligated to pay the same and/or perfect and enforce the lien against the Lot in accordance with Virginia Code Section 55-516, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. A suit to recover a money judgment for nonpayment of any assessment levied pursuant to this Declaration, or any installment thereof, may be maintained without perfecting, foreclosing or waiving the lien provided for herein to secure the same;
- (c) suspend a Member's voting rights, right to hold an office within the Association, and right to use recreational facilities or nonessential services offered by the Association to the extent that access to the Member's Lot through the Common Area is not precluded. No assessment shall be refunded in the event of suspension; and
- (d) accelerate the due date of the unpaid assessment so that the entire balance shall become due, payable and collectible.

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or facilities, abandonment of its Lot, or the failure of the Association or the Board of Directors to perform their duties.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any properly recorded first trust or mortgage if such first trust or mortgage was recorded before the delinquent assessment was due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a foreclosure of a first trust or mortgage, or any conveyance in lieu thereof, shall extinguish the lien of such assessments as to payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for or the lien of any assessments which thereafter become due or from the lien thereof, nor relieve the defaulting Member from personal liability for the assessments accrued prior to such sale or transfer.

Section 12. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all property dedicated to and accepted by a local public authority; and (b) unoccupied Lots owned by the Declarant or a Participating Builder and (c) the Common Area; however, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 13. Reserves for Replacements. The Association shall establish and maintain a reserve fund for the maintenance, repair and replacement of the Entrance Features and for those parts of the Common Area and improvements located thereon which may be replaced or require maintenance on a periodic basis by the allocation and payment to such reserve fund of an amount to be designated from time to time by the Board of Directors, which reserve fund shall be sufficient, in the sole opinion of the Board of Directors, to accommodate such future maintenance, repair and replacement and which shall be a component of the General Assessment. Such reserves shall be payable in regular installments rather than by Special Assessment. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited with any banking institution, the accounts of which are insured by any state or by any agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacement of the Common Area may be expended only for the purpose of effecting the replacement of the Common Area, major repairs to, replacement and maintenance of any improvements within the Common Area, including but not limited to sidewalks, parking areas, streets or roadways developed as a part of the Property, equipment replacement, and for start-up expenses and operating contingencies of a nonrecurring nature relating to the Common Area. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any Member in any such reserves shall be considered an appurtenance of the Member's Lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.

## ARTICLE VI RESTRICTIVE COVENANTS

Section 1. Use. The Property shall be used exclusively for residential purposes except as provided in Section 19 hereof. The Declarant reserves the right, for itself and any Participating Builder, pursuant to a recorded subdivision or resubdivision plat, to alter, amend, and change any lot line or subdivision plan or plat. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Dwelling Unit and appurtenant structures, approved by the Association and appropriate County authorities, for use solely by the occupant of the Dwelling Unit.

Section 2. Modifications. No structure or addition to a structure shall be erected, placed, altered or externally improved on any Lot until the plans and specifications, including design, elevation, material, shape, height, color and texture, and a site plan showing the location of all improvements with grading modifications, shall be filed with and approved in writing by the Architectural Review Board (hereinafter defined), and, if required, by appropriate County authorities and, where required, appropriate construction permits obtained. "Structure" shall be anything not originally constructed on

a Lot by the Declarant or a Participating Builder, and shall include, but not be limited to, any temporary or permanent building or portion thereof, storage shed, storage container, wall, deck, garden or yard decoration, play equipment, sign, greenhouse, skylight, solar panel, mailbox, fence, pool, pavement, driveway or appurtenances to any of the aforementioned. If the structure is to be temporary, the amount of time desired shall be included in the application.

Section 3. Laundry. No clothing, laundry or wash shall be aired or dried on any portion of the Property within public view.

Section 4. Sight Lines. No fence, wall, tree, hedge or shrub shall be maintained in such a manner as to obstruct sight lines for vehicular traffic.

Section 5. Vegetation. An Owner shall, at all times, maintain its property and all appurtenances thereto in good repair and in a state of neat appearance. All grassy areas of a lawn shall be kept mowed and shall not be permitted to grow beyond six inches (6") in height. Except as required for proper sight lines, no tree of a diameter of more than four (4) inches measured two (2) feet above ground level shall be removed without the approval of the Architectural Review Board. Any County-required approvals must also be obtained before the removal of a tree.

Section 6. Noxious Activity. No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done or placed thereon which is or may become an annoyance or nuisance to the neighborhood. No exterior lighting on a Lot shall be directed outside the boundaries of the Lot nor installed without the approval of the Architectural Review Board.

Section 7. Signs. The only signs permitted on the Property shall be customary home and address signs installed by the Declarant or Participating Builder, security system signs, and real estate sale or lease signs which have received the prior written approval of the Architectural Review Board ("**Permitted Signs**"). No more than one (1) Permitted Sign shall be displayed to public view on any Lot and must be less than or equal to two (2) square feet in total surface area and may not be illuminated. All Permitted Signs advertising the property for sale or rent shall be removed within three (3) days from the date of the conveyance of the Lot or of the execution of the lease agreement, as applicable. The only signs permitted on the Common Area shall be entrance feature signs which may be illuminated and address signs. No more than two (2) entrance feature signs may be located on any Common Area Parcel.

Section 8. Animals. No domesticated or wild animal shall be kept or maintained on any Lot, except for common household pets such as dogs and cats which may be kept or maintained, provided that they are not kept, bred or maintained for commercial purposes and do not create a nuisance or annoyance to surrounding Lots or the neighborhood and are kept in compliance with applicable governmental ordinances. Law

enforcement and animal control personnel shall have the right to enter the Property to enforce local animal control ordinances.

Section 9. Trash. Trash shall be collected and stored in trash receptacles only and not solely in plastic bags. Trash and garbage receptacles shall not be permitted to remain in public view except on days of trash collection, except those receptacles designed for trash accumulation located in the Common Area. No accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted on the exterior of any Dwelling Unit.

Section 10. Antennae. To the extent not inconsistent with federal law, exterior television and other antennae, including satellite dishes, are prohibited, unless approved in writing by the Architectural Review Board. The Architectural Review Board shall adopt rules for the installation of such antennae, which rules shall require that antennae and satellite dishes be placed as inconspicuously as possible and screened from view; provided, however, that all such rules relating to antennae and satellite dishes shall not unreasonably delay installation, interfere with reception or increase the cost. It is the intent of this provision that the Architectural Review Board shall be able to strictly regulate exterior antennae and satellite dishes to the fullest extent of the law and should any regulations adopted herein or by the Architectural Review Board conflict with federal law, such rules as do not conflict with federal law shall remain in full force and effect.

Section 11. Paint, Stain and Siding. No person shall paint, stain or re-side the exterior of any structure or portion thereof with a color or material different than the original color and material of said structure or portion thereof without the proposed color and material having been first approved in writing by the Architectural Review Board.

Section 12. Exteriors of Structures. The exteriors of all structures, including, without limitation, walls, doors, windows and roofs, shall be kept in good maintenance and repair. No structure shall be permitted to stand with its exterior in an unfinished condition for longer than six (6) months after the commencement of construction. In the event of fire, windstorm or other damage, the exterior of a structure shall not be permitted to remain in a damaged condition for longer than three (3) months, unless expressly excepted by the Board of Directors in writing.

Section 13. Fences. Each fence or enclosure proposed to be built on a Lot must first be approved in writing by the Architectural Review Board as to location, height, material, color and design. In general, no fence or enclosure shall be erected or built on any Lot forward of the rear plane of the house unless there are special circumstances that persuade the Architectural Review Board to forego the enforcement of that prohibition. Any fence or wall built on any Lot shall be maintained in a proper manner so as not to detract from the value and desirability of surrounding property.

Section 14. Vehicles. No inoperable, junk, unregistered, unlicensed or uninspected vehicle shall be kept on the Property other than within a garage, nor on public streets within the development. No portion of the Property shall be used for the repair of a vehicle.

Section 15. Commercial Vehicles. No commercial or industrial vehicle, such as but not limited to moving vans, trucks, tractors, trailers, vans, wreckers, tow trucks, hearses and buses, shall be regularly or habitually parked or parked overnight on the Property, other than within a garage, except upon the prior written approval of the Architectural Review Board. Commercial vehicles shall be deemed to include cars and vans in styles normally used for private purposes but painted with or carrying commercial advertising, logos, or business names or containing visible commercial materials.

Section 16. Recreational Vehicles. No recreational vehicles or equipment, such as but not limited to boats, boating equipment, boat trailers, travel trailers or trailers of any kind, camping vehicles or camping equipment shall be parked on the Property, other than within a garage, without the prior, written approval of the Architectural Review Board, as to location, size, screening and other relevant criteria. The Association shall not be required to provide a storage area for these vehicles.

Section 17. Towing. The Board of Directors shall have the right to tow any vehicle, trailer or equipment parked or kept in violation of the covenants contained within this Article, upon twenty-four (24) hours' notice and at the vehicle owner's sole expense.

Section 18. Sewage Disposal Sites. In addition to the approval of the Architectural Review Board, in accordance with County requirements, no building or construction shall be allowed, nor shall any structure be constructed or installed, within the area of any sewage disposal sites, including the reserve sewage disposal sites, without the prior written approval of the County. This prohibition shall be in effect until the Dwelling Unit is connected to public sewer or an on-site sewage treatment system that operates under a permit issued by the State Water Control Board.

Section 19. Garden Walls and Gates on Lots 1 and 18. A Garden Wall and Gate shall not be removed or altered, other than as required for normal and proper maintenance and repair. This restriction on alteration shall include, but not be limited to, the material, design, color, location and size of the Garden Wall and Gate. The owner of the Lot containing a Garden Wall and Gate shall be responsible for maintaining the Garden Wall and Gate in a good, workmanlike, safe and attractive condition.

Section 20. Entrance Features on Lots 1 and 18. The Entrance Features are the property of the Association and the owners of **Lots 1 and 18** shall not remove or alter them or obstruct the view of them from the streets.

Section 21. Entrance Feature Utility Charges. Separate electric meters for the Entrance Features may be installed and billed directly to the Association, which shall be responsible for the costs thereof. If however, the electric costs cannot be billed separately to the Association and are billed to the Owner of the Lot on which the Entrance Feature is located, then it shall be the responsibility of such Owner to maintain the account(s) with the appropriate utility company. No electric lines or meters shall be removed by the Owner. The Association shall reimburse the individual Owner's Entrance Feature electric service costs upon receipt of a copy of the Owner's paid statement. The Association shall not be responsible for any late fees or charges incurred by the Owner.

Section 22. Gas Line Easement Plantings on Lots 11 and 16. The Gas Line Easement Plantings are the property of the Association and the owners of **Lots 11 and 16** shall not remove, alter or damage them.

Section 23. Perimeter Fence. The Perimeter Fences are the property of the Association and an owner of a Lot with a Perimeter Fence (**Lots 1, 14, 16, 17, and 18**) shall not remove, alter or damage it. The Perimeter Fences shall be painted in a dark color. Nothing shall be planted within the Perimeter Fence maintenance easement as provided in **Article VIII, Section 1 (e)**.

Section 24. Leases. Any rental agreement for a Dwelling Unit or portion thereof must be for an initial period of at least six (6) months, must be in writing and must be subject to the rules and regulations set forth in this Declaration and in the other Association documents. Every such rental agreement must include a provision stating that any failure by the tenant, its household members or guests, to comply with the terms of such documents shall be a default under the rental agreement, and the Owner shall be responsible for enforcing this provision.

Section 25. Declarant's Activities. The provisions of this Article shall not apply to the development of or construction of improvements on or sale of the Property by the Declarant or a Participating Builder or their assigns. The Declarant or its assigns may, during its construction and/or sales period, erect, maintain and operate real estate sales and construction offices, model homes, displays, signs and special lighting on any part of the Property and on or in any building or structure now or hereafter erected thereon.

Section 26. Rules and Regulations. The Association shall have the authority to adopt such rules and regulations regarding this Article as it may from time to time consider necessary or appropriate.

## ARTICLE VII ARCHITECTURAL REVIEW BOARD

Section 1. Composition. The Architectural Review Board shall be comprised of three (3) or more members. Members shall serve staggered three (3) year terms as

determined by the Board of Directors. As long as the Declarant or a Participating Builder owns a Lot within the Property, the Architectural Review Board shall consist of two (2) committees: the New Construction Committee and the Modification and Change Committee. When neither the Declarant nor a Participating Builder owns a Lot within the Property, the New Construction Committee shall be terminated.

Section 2. Method of Selection. The Developer shall appoint the persons to serve on the New Construction Committee. The Board of Directors shall appoint the persons to serve on the Modification and Change Committee. After the termination of the Class B membership, no member of the Modification and Change Committee may be a Director. The Developer may assign its rights under this Article to a Declarant or non-Declarant by a written assignment.

Section 3. Removal and Vacancies. Members of the Modification and Change Committee of the Architectural Review Board may be removed by the Board of Directors at any time with or without cause. Appointments to fill vacancies in unexpired terms shall be made in the same manner as the original appointment.

Section 4. Officers. At the first meeting of the Modification and Change Committee of the Architectural Review Board following each annual meeting of Members, the Modification and Change Committee shall elect from among themselves a chairperson, a vice-chairperson and a secretary who shall perform the usual duties of their respective offices.

Section 5. Duties. The Committees of the Architectural Review Board shall regulate the external design and appearance of the Property and the external design, appearance and location of the improvements thereon in such a manner so as to preserve and enhance property values and to maintain harmonious relationships among structures and the natural vegetation and topography. During the period the Architectural Review Board is comprised of the two (2) committees described above, the New Construction Committee shall regulate all initial construction, development or improvements on the Property. The Modification and Change Committee shall regulate all modifications and changes to existing improvements on the Property. In furtherance thereof, the Architectural Review Board shall:

- (a) review and approve or disapprove written applications of Owners for proposed alterations or additions to Lots;
- (b) periodically inspect the Property for compliance with adopted, written architectural standards and approved plans for alteration;
- (c) adopt and publish architectural standards subject to the confirmation of the Board of Directors;



(d) adopt procedures for the exercise of its duties; and

(e) maintain complete and accurate records of all actions taken by the Architectural Review Board.

Approval by the Architectural Review Board of a correctly filed application shall not be deemed to be an approval by applicable governmental authorities nor a waiver of the applicant's obligation to obtain any required governmental approvals or to comply with applicable local ordinances.

Section 6. Failure to Act. In the event the Architectural Review Board fails to approve or disapprove a correctly filed application within forty-five (45) days of the actual receipt of the application by the Architectural Review Board, approval by the Architectural Review Board shall be deemed granted, except for those applications for additions or alterations prohibited by this Declaration or the architectural standards adopted by the Association, in which case no disapproval is necessary to uphold the prohibition. Failure of the Architectural Review Board or the Board of Directors to enforce the architectural standards or to notify an Owner of noncompliance with architectural standards or approved plans for any period of time shall not constitute a waiver by the Architectural Review Board or the Board of Directors of the enforcement of this Declaration at any later date.

Section 7. Enforcement. Any exterior addition, change or alteration made without application to, and approval of, the Architectural Review Board shall be deemed to be in violation of these covenants and may be required by the Board of Directors (or by the Declarant during such time as there is a Class B Member) to be restored to its original condition at the offending Owner's sole cost and expense.

Section 8. Appeal. Any aggrieved party may appeal a decision of the Architectural Review Board to the Board of Directors by giving written notice of such appeal to the Association or any director within twenty (20) days of the adverse ruling.

## ARTICLE VIII EASEMENTS

### Section 1. Association Easements.

(a) Blanket Easements. The Declarant grants and the Association reserves a blanket easement to the Association, its directors, officers, agents, employees, and contractors hired for these purposes, to any manager employed by or on behalf of the Association, and to all police, fire, ambulance personnel and all similar persons, to enter upon the Property in the exercise of the functions provided for by this Declaration, Articles of Incorporation, By-Laws and rules of the Association, and in the event of emergencies and in the performance of governmental functions.

(b) Septic System Inspection. The Declarant grants an access and inspection easement to the Association, its directors, officers, agents, employees and contractors hired for this purpose, and to any manager employed by or on behalf of the Association, over all of the Lots, for the purpose of inspecting the individual septic systems located thereon and therein. Such inspection shall be conducted annually and shall include, but not be limited to, the sewer lines, septic tank, pump chamber, any filters, and the absorption areas. If the inspection reveals any problems or areas of deficiencies or concerns, the Association shall give the Owner written notice of the deficiency or problem and the Owner shall have sixty (60) days to correct the problem. If the Owner has not corrected the item to the Association's satisfaction within such sixty (60) day period, the Association shall have the right, to be exercised in the Association's discretion, to correct the problem and assess the Owner the costs thereof as a Service Assessment. The Owner shall be responsible for all necessary County or State inspections. If the Owner fails to obtain a necessary County or State inspection, the Association shall have the right, to be exercised in the Association's discretion, to obtain the inspection and assess the Owner the cost thereof as a Service Assessment.

(c) Entrance Feature Easements. The Declarant grants a maintenance and replacement easement to the Association over **Lots 1 and 18** for constructing, installing, maintaining, operating, adding to or altering the Entrance Features. The Entrance Feature Easements shall be (a) ten feet (10') from the interior edge of the public ten foot (10') sidewalk easement running parallel to Georgetown Pike; (b) fifteen feet (15') from the common property line of the Lot and Autumn Mist Lane, running along such common property line from the intersection of Autumn Mist Lane and Georgetown Pike to fifteen feet (15') beyond the Lot's driveway; and (c) the tree and tree bed on each of **Lots 1 and 18** approximately fifteen feet by fifteen feet (15' x 15') in the corner formed by the Garden Wall and the stone wall portion of the Entrance Feature. The Association shall maintain the Entrance Features in a good, safe and attractive manner. The Association shall be responsible for the costs of the lighting for the Entrance Features. The Association shall include adequate reserve funds in its annual budget for the replacement of the Entrance Features.

(d) Gas Line Easement Plantings Easements. The Declarant grants a maintenance and replacement easement to the Association over **Lots 11 and 16** for installing, planting, maintaining, replacing, adding to or altering the Gas Line Easement Plantings. The Gas Line Easement Plantings Easements shall be to the extent of the Gas Line Easement Plantings as described in Article I of this Declaration and for direct access thereto. The Association shall maintain the Gas Line Easement Plantings in a healthy and attractive manner.

(e) Perimeter Fence Easements. The Declarant grants a maintenance and replacement easement to the Association over **Lots 1, 14, 16, 17 and 18** for constructing, installing, maintaining, operating, adding to or altering the Perimeter Fence.

The Perimeter Fence Easements shall be ten feet (10') from the interior edge of the public ten foot (10') sidewalk easement running parallel to Georgetown Pike (Rt. 193). The Association shall maintain the Perimeter Fence in a good, safe and attractive manner, such maintenance to include the structure and painting the interior and exterior of the Perimeter Fence. Nothing shall be planted within the Perimeter Fence Easement. The Association shall include adequate reserve funds in its annual budget for the replacement of the Perimeter Fence.

Section 2. Exercise of Easement Rights. When not an emergency situation or a governmental function, the rights accompanying the easements provided for in Section 1 of this Article shall be exercised only during reasonable daylight hours and then, whenever practicable, only after advance notice to, and with the permission of, any Owner or tenant directly affected.

Section 3. Encroachments. If any improvement on the Property now or hereafter encroaches on any other portion of the Property by reason of (a) the original construction thereof by the Declarant or its assigns, which shall include, but not be limited to, any driveway which encroaches over a Lot's boundary line and draining of rainwater from roofs, (b) deviations within normal construction tolerances in the maintenance, repair, replacement or reconstruction of any improvement, or (c) the settling or shifting of any land or improvement, an easement is hereby granted to the extent of any such encroachment for both the encroachment and its maintenance for the period of time the encroachment exists. The owner of the encroaching improvement shall also have an easement for the limited purpose of maintenance of the encroaching improvement. This easement does not relieve any Owner or any other person from liability for such Owner's or other person's negligence or willful misconduct.

Section 4. Development. The Declarant and Participating Builders and their agents and employees shall have a right of ingress and egress over the Common Area as required for construction on and development of the Property.

Section 5. Utilities. Until all bonds posted by either the Declarant or a Participating Builder are released, there is reserved to the Declarant a right to grant non-exclusive easements over any Lot or Common Area for the purposes of installing, repairing and/or maintaining utility lines of any sort, including but not limited to storm drains and drainage swales, sanitary sewers, gas lines, electric lines and cables, water lines, telephone lines, telecommunication lines and cables, and the like, and for any purpose necessary for the Declarant or a Participating Builder or their assigns to obtain the release of any bonds posted with a municipality, governmental agency or regulatory agency, and non-exclusive easements over the Common Area to any municipal agency or private entity for any other purpose consistent with the "open space" designation thereof.

Section 6. Release of Public Improvement Bonds. There is reserved to the Declarant an easement and the right to grant and reserve easements or to vacate or terminate easements across all Lots and Common Area as may be required by any governmental agency or authority or utility in connection with the release of improvement bonds or the acceptance of public streets for state maintenance with respect to the Property.

Section 7. Declarant-Retained Easement Rights. Until all bonds posted by either the Declarant or a Participating Builder are released, there is reserved to the Declarant a right to grant non-exclusive easements over all Lots and the Common Area for the purposes of correcting drainage, re-grading, maintenance, landscaping, mowing, erecting street intersection signs, directional signs, temporary promotional signs, entrance features, lights and wall features, and any other purposes the Declarant deems necessary or desirable for the development of the Property, and for the purpose of executing any of the powers, rights, or duties granted to or imposed on the Association herein.

## ARTICLE IX PARTY WALLS AND FENCES

Section 1. General Rules of Law to Apply. Each wall and fence which is built as a part of the original construction of the homes upon the Property and placed on the dividing line between Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty. If any such party wall is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, its agents, family, household or guests (including ordinary wear and tear and deterioration from lapse of time), then in such event both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good a condition as formerly, in proportion to their respective uses of the party wall.

Section 3. Repairs for Damage Caused by One Owner. If any such party wall is damaged or destroyed through the act of one adjoining Owner, its agents, family, household or guest, whether or not such act is negligent or otherwise culpable, so as to deprive another adjoining Owner of the full use and enjoyment of the wall, then the former shall forthwith proceed to rebuild and repair the same to as good a condition as formerly, without cost to the adjoining Owner.

Section 4. Other Changes. In addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild its Dwelling Unit in any

manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner, whose consent shall not be unreasonably withheld. If the adjoining Owner has not responded in writing to the requesting Owner within twenty-one (21) days of its receipt of the request, such consent of the adjoining Owner shall be deemed received.

Section 5. Fences and other Barriers. The provisions of this Article pertaining to party walls shall also govern any fence, other barrier or shared improvement originally installed by the Declarant or Participating Builder (except for fences or barriers installed in connection with construction activities) and to any replacement thereof authorized by the Board of Directors or the Architectural Review Board; otherwise the maintenance of any fence, other barrier or improvement shall be the responsibility of the Owner installing such fence, barrier or improvement unless different arrangements are agreed to by the adjoining Owner.

Section 6. Right to Contribution Runs with the Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 7. Dispute. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board of Directors, who shall decide the dispute.

## ARTICLE X POWERS AND DUTIES OF THE ASSOCIATION

Section 1. Discretionary Powers and Duties. The Board of Directors, on behalf of the Association, shall have all powers for the conduct of the affairs of the Association which are enabled by law and not specifically reserved to Members or the Declarant, including but not limited to the following powers and duties, which may be exercised in its discretion:

(a) to enforce any covenants or restrictions which are imposed by the terms of this Declaration or which may be imposed on any part of the Property, or that are contained within any architectural/design guidelines and standards that are adopted in accordance with this Declaration. Nothing contained herein shall be deemed to prevent the Owner of any Lot from enforcing any building restriction in its own name. The right of enforcement shall not serve to prevent such changes, releases or modifications of the restriction or reservations placed upon any part of the Property by any party having the right to make such changes, releases or modifications in the deeds, contracts, declarations or plats in which such restrictions and reservations are set forth; and the right of enforcement shall not have the effect of preventing the assignment of those rights by the proper parties wherever and whenever such right of assignment exists. Neither the

Association nor the Board of Directors shall have a duty to enforce the covenants by an action at law or in equity if, in its or their opinion, such an enforcement is not in the Association's best interest. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as herein provided for; provided, however, that the foregoing authorization to use the general fund for such enforcement proceedings shall not preclude the Association from collecting such costs from the offending Owner;

(b) to provide such light as the Association may deem advisable on streets and the Common Area and to maintain any and all improvements, structures or facilities which may exist or be erected from time to time on the Common Area;

(c) to build facilities upon the Common Area;

(d) to use the Common Area and any improvements, structures or facilities erected thereon, subject to the general rules and regulations established and prescribed by the Association and subject to the establishment of charges for their use;

(e) to mow and re-sow the grass and to care for, spray, trim, protect, plant and replant trees, shrubs and other landscaping on the Common Area and to pick up and remove from the Common Area all loose material, rubbish, filth and accumulation of debris; and to do any other thing necessary or desirable in the judgment of the Association to keep the Common Area in neat appearance and in good order;

(f) to exercise all rights, responsibilities and control over any easements which the Association may from time to time acquire, including but not limited to those easements specifically reserved to the Association in the Article entitled "Easements" herein;

(g) to create, grant and convey easements and licenses upon, across, over and under all Common Area, including but not limited to easements for the installation, replacement, repair and maintenance of utility lines serving the Property;

(h) to create subsidiary corporations in accordance with Virginia law;

(i) to employ counsel and institute and prosecute such suits as the Association may deem necessary or advisable, and to defend suits brought against the Association;

(j) to retain as an independent contractor or employee a manager of the Association and such other employees or independent contractors as the Board deems necessary, and to prescribe the duties of employees and scope of services of independent contractors;

(k) to enter (or have the Association's agents or employees enter) on any Lot to perform emergency repairs or to do other work reasonably necessary for the proper maintenance or protection of the Property, and to assess the Owner of the Lot the costs thereof, such assessment to be a lien upon the Lot equal in priority to the lien provided for in the Article entitled "Assessments" herein;

(l) to enter (or have the Association's agents or employees enter) on any Lot to repair, maintain or restore the Lot, all improvements thereon, and the exterior of the Dwelling Unit and any other improvements located thereon if such is not performed by the Owner of the Lot, and to assess the Owner of the Lot the costs thereof, such assessment to be a lien upon the Lot equal in priority to the lien provided for in the Article entitled "Assessments" herein; provided, however, that the Board of Directors shall only exercise this right after giving the Owner written notice of its intent at least fourteen (14) days prior to such entry;

(m) to resubdivide and/or adjust the boundary lines of the Common Area but only to the extent such resubdivision or adjustment does not contravene the requirements of zoning and other ordinances applicable to the Property;

(n) to adopt, publish and enforce rules and regulations governing the use of the Common Area and facilities and with respect to such other areas of responsibility assigned to it by this Declaration, except where expressly reserved herein to the Members. To the extent permitted by the Virginia Property Owners Association Act, such rules and regulations may grant to the Board of Directors the power to (i) suspend the voting rights and/or the right to run for office within the Association for any period during which any assessment against such Member's Lot remains unpaid, (ii) suspend a Member's right to use facilities or services, including utility services, provided directly through the Association for nonpayment of assessments, to the extent that access to the Lot through the Common Areas is not precluded and provided that such suspension shall not endanger the health, safety, or property of any owner, tenant, or occupant, and (iii) assess charges against any Member for any violation of the Declaration or rules and regulations for which the Member or its family members, tenants, guests or other invitees are responsible; and

(o) to declare the office of a member of the Board of Directors vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

Section 2. Mandatory Powers and Duties. The Association shall exercise the following powers, rights and duties:

(a) to accept title to the Common Area and to hold and administer the Common Area for the benefit and enjoyment of the Owners and occupiers of Lots, and to

cause the Common Area and facilities to be maintained in accordance with the standards adopted by the Board of Directors;

(b) to transfer part of the Common Area to the Declarant, a Participating Builder or to another entity at the direction of the Declarant, for the purpose of adjusting boundary lines, dedicating the Common Area for public purposes, or otherwise in connection with the orderly subdivision or development of the Property, but only to the extent such resubdivision, adjustment, dedication or conveyance does not contravene the requirements of zoning and other ordinances applicable to the Property;

(c) to obtain and maintain without interruption liability coverage for any claim against a director or officer for the exercise of its duties and fidelity coverage against dishonest acts on the part of directors, officers, trustees, managers, employees or agents responsible for handling funds collected and held for the benefit of the Association. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in place;

(d) to obtain and maintain without interruption a comprehensive coverage of public liability and hazard insurance covering the Common Area and easements of which the Association is a beneficiary, if available at reasonable cost. Such insurance policy shall contain a severability of interest clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. The scope of coverage shall include all coverage in kinds and amounts commonly obtained with regard to projects similar in construction, location and use. Further, the public liability insurance must provide coverage of at least \$1,000,000.00 for bodily injury and property damage for any single occurrence;

(e) to provide for the maintenance of any and all (i) improvements, structures or facilities which may exist or be erected from time to time on the Common Area, including but not limited to street lights (including the payment of utility costs therefor), trails, footpaths, boardwalks, entrance ways and entrance areas, (ii) easement areas of which the Association is the beneficiary and for which it has the maintenance responsibility, (iii) facilities, including but not limited to the Entrance Features, Gas Line Easement Plantings, Perimeter Fences, fences and signs authorized by the Association and erected on any easements granted to the Association, and (iv) street lights, sidewalks and landscaping that may be constructed within the rights-of-way of any public streets within or adjacent to the Property and which the Commonwealth of Virginia or the County requires the Association to maintain (including the payment of utility costs therefor);

(f) to annually inspect the septic system serving each Lot, such inspection to include but not be limited to, the sewer lines, septic tank, pump chamber, any filters, and the absorption area;



(g) in accordance with Article VI, Section 20 hereof, to reimburse each Owner whose Lot has an Entrance Feature on it if electricity for the Entrance Feature is billed to the Owner, upon receipt of a copy of the Owner's paid utility company statement;

(h) to pay all proper bills, taxes, charges and fees on a timely basis; and

(i) to maintain its corporate status.

Section 3. Board Authority to Act. Unless otherwise specifically provided in the Association's documents, all rights, powers, easements, obligations and duties of the Association may be performed by the Board of Directors. Notwithstanding anything to the contrary contained herein, any rules or regulations which are promulgated by the Board may be repealed or amended by a majority vote of the Members who are entitled to vote and who are voting, in person or by proxy, at a meeting convened for such purpose in accordance with the By-Laws.

## ARTICLE XI RIGHTS OF MORTGAGEES

All Mortgagees shall have the following rights:

Section 1. Notice. A Mortgagee shall be given written notice from the Association of the following:

(a) any condemnation or casualty loss that affects either a material portion of the Common Area or the Lot that is the security for the indebtedness due the Mortgagee;

(b) any default in the performance of any obligation under this Declaration or related Association documents by the Owner of a Lot that is the security for the indebtedness due the Mortgagee which is not cured within sixty (60) days after the Owner's receipt of notice of the default;

(c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action that would require the consent of a specified percentage of Mortgagees.

Section 2. Unpaid Assessments. Any Mortgagee, who obtains title to a Lot pursuant to the remedies provided in its mortgage or deed of trust or foreclosure of the mortgage or deed of trust or deed in lieu of foreclosure, will not be liable for such Lot's unpaid dues or charges which accrue prior to the acquisition of title to the Lot by the Mortgagee.

Section 3. Books and Records. A Mortgagee shall have the right to examine and copy at its expense the books and records of the Association during normal business hours and upon reasonable notice to the Association.

## ARTICLE XII GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration or other Association documents unless such right is specifically limited. Failure by the Association or by any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration shall not constitute a waiver of the right of the Association or an Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association or any Owner pursuant to any term, provision, covenant or condition of this 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 privileges as may be granted to such party by this Declaration or at law or in equity.

Section 2. Severability; Headings; Conflict. If any term or provision of this Declaration or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Declaration and the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Declaration shall be valid and be enforceable to the fullest extent permitted by law. Titles of paragraphs are for convenience only and are not intended to limit or expand the covenants, rights or obligations expressed therein. In the case of any conflict between the Articles of Incorporation or the By-Laws and this Declaration, this Declaration shall control.

Section 3. Duration; Amendment. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, unless such right is specifically limited, for a term of twenty (20) years from the date this Declaration is recorded, after which time the covenants and restrictions of this Declaration shall be automatically extended for successive periods of twenty (20) years each. The covenants and restrictions of this Declaration may be amended in whole or in part with the assent of more than two-thirds (2/3) of the votes of the Members. Any amendment must be properly executed and acknowledged by the Association (in the manner required by law

for the execution and acknowledgment of deeds) and recorded among the appropriate land records.

Section 4. Special Amendment. Notwithstanding anything herein to the contrary, the Declarant may unilaterally amend this Declaration to make any amendment (a) as it deems necessary to make a non-material, clarifying or corrective change, or (b) required by any of the federal mortgage agencies, such as the Veterans Administration, Federal Housing Administration, Fannie Mae or Freddie Mac, or by a local governmental agency, as a condition of the approval of this Declaration or any subdivision documents, plats or plans, or (c) it deems necessary or desirable for the development of the Property or the administration of the Association, by the execution and recordation of such amendment, and shall give written notice to the Members of any amendments made pursuant to clauses (b) or (c). This right of the Declarant to amend this Declaration as aforesaid shall continue notwithstanding the lapse of the Declarant's Class B membership, and shall survive for a period ending five (5) years following the lapse of the Class B membership.

Section 5. Waiver. The Declarant, as the present most interested party in maintaining the high quality of development which by these covenants is sought to be assured for the Property, hereby expressly reserves unto itself, so long as these restrictions are in effect, the unqualified right to waive or alter from time to time such of the herein contained restrictions as it may deem best, as to any one or more of the Lots.

Section 6. Annexation of Additional Land. So long as there is a Class B Member, the Declarant may annex and submit additional areas to this Declaration and provide for maintenance, preservation and architectural control of Lots and Common Area within such areas. After the termination of the Class B membership, the Association may annex additional areas and provide for maintenance, preservation and architectural control of Lots and Common Area within such areas, and so may add to its membership under the provisions of the Article entitled "Membership" herein, with the written consent of at least sixty-seven percent (67%) of the Class A Members.

Section 7. Withdrawable Real Estate.

(a) The Declarant shall have the unilateral right, without the consent of the Class A Members, the Association, any Mortgagee, or any other entity, to execute and record an amendment to this Declaration withdrawing any portion of the Property; provided, however, that not more than five (5) years have lapsed since the date such property was subjected to this Declaration.

(b) Upon the dedication or the conveyance to any public entity or authority of any portion of the Property for public purposes, this Declaration shall no longer be applicable to the land so dedicated or conveyed.

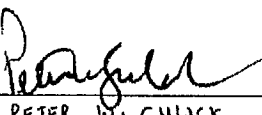
Section 8. Management Contracts. So long as there is a Class B Member, and subject to approval by a majority vote of all Class B Members, the Declarant shall have the right to enter into professional management contracts on behalf of the Association for the management of the Property for terms not to exceed one (1) year; provided, however, that the Association shall have the right to terminate such contracts, with or without cause, upon thirty (30) days' written notice to the other party and without payment of a termination fee.

Section 9. Dissolution. The Association may be dissolved with the approval of more than two-thirds (2/3) of all the votes cast at a meeting at which a quorum exists in accordance with Title 13.1, Chapter 10, Article 13 of the Code of Virginia.

[SIGNATURE PAGES FOLLOW]


WITNESS the following signatures and seals:

GULICK GROUP, INC.  
a Virginia corporation

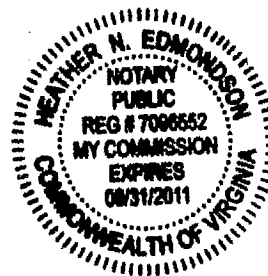
By:  (SEAL)  
Name: PETER W. GULICK,  
Title: PRESIDENT

COMMONWEALTH OF VIRGINIA,  
COUNTY OF FAIRFAX, to-wit:

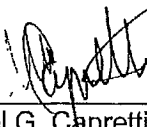
The foregoing instrument was acknowledged and sworn to before me this 16<sup>th</sup> day  
of November, 2009 by Peter W. Gulick as  
President of Gulick Group, Inc.

  
Notary Public

My commission expires: 8/31/2011  
Notary Registration No.: 7096552



AUTUMN WOOD HOMEOWNERS ASSOCIATION  
a Virginia non-stock corporation

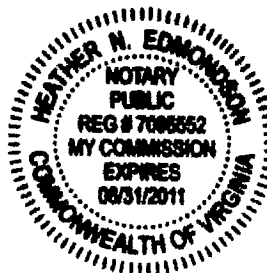
By:  (SEAL)  
Name: Michael G. Capretti  
Title: President

COMMONWEALTH OF VIRGINIA,  
COUNTY OF FAIRFAX, to-wit:

The foregoing instrument was acknowledged and sworn to before me this 16<sup>th</sup> day  
of November, 2009 by Michael G. Capretti as President of Autumn  
Wood Homeowners Association.

  
Notary Public

My commission expires: 8/31/2011  
Notary Registration No.: 7096552



Mary Goepfert, Trustee (SEAL)  
MARY GOEPFERT, TRUSTEE, MINNESOTA  
MEDICAL FOUNDATION 2004 CHARITABLE  
REMAINDER UNITRUST

STATE/Commonwealth of South Dakota,  
CITY/COUNTY OF Sedgewick, to-wit:

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of  
November, 2009 by Mary Goepfert, Trustee, Minnesota Medical  
Foundation 2004 Charitable Remainder Unitrust.

  
\_\_\_\_\_  
Notary Public

My commission expires: 2-11-11  
Notary Registration No.: \_\_\_\_\_

Sto\Gulick\Autumn Wood\Declaration X (11/13/09)