

## DECLARATION OF COVENANTS AND RESTRICTIONS FOR CABIN BRANCH FOREST

THIS DECLARATION is made on June 25, 1986, by Cabin Branch Forest Associates, a Virginia limited partnership ("Declarant").

WITNESSETH THAT:

WHEREAS, Declarant owns in fee simple the real estate described in the metes and bounds description attached as Exhibit A hereto and shown on the plat attached as Exhibit C hereto, and has decided to subject that real estate to certain covenants, restrictions, reservations, easements, servitudes, liens and charges, all of which are more particularly hereinafter set forth; and

WHEREAS, to provide a means for meeting the purposes and intents set forth herein, the Declarant has caused Cabin Branch Forest Association, Inc. to be incorporated under the laws of the Commonwealth of Virginia

NOW, THEREFORE, the Declarant covenants and declares, on behalf of itself and its successors and assigns, that the real estate described in Exhibit A hereto shall, from the date this Declaration is recorded, be held, conveyed, acquired and encumbered subject to the terms and provisions hereof, all of which shall run with the land and bind and inure to the benefit of all Persons who may now or hereafter own or acquire any right, title, estate or interest in or to any of such real estate, or who may now or hereafter occupy or reside on any portion thereof.

AND FURTHER, the Declarant hereby delegates and assigns to the Association the powers of owning, maintaining and administering the Common Area, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges created pursuant to the Bylaws and promoting the health, safety and welfare of the Owners.

### ARTICLE 1

#### INTERPRETIVE PROVISIONS

##### Section 1.1. Definitions

Terms used herein without definition shall have the meanings specified for such terms in Section 13.1-803 of the Virginia Nonstock Corporation Act. Capitalized terms used herein without definition shall have the meanings specified for such terms below.

- (a) "Act" means the Virginia Nonstock Corporation Act, Chapter 10 of Title 13.1 of the Code of Virginia (1950), as the same may be amended, supplemented or replaced from time to time.
- (b) "Association" means Cabin Branch Forest Association, Inc., and for the purposes of defining the Association's rights and obligations under the Declaration, its successors and assigns.
- (c) "Association Documents" means collectively, the Articles of Incorporation, this Declaration, the Bylaws and the Rules and Regulations, as the same may be amended from time to time in accordance with the provisions therein. Any exhibit, schedule, certification or amendment to an Association Document shall be an integral part of that document.
- (d) "Board of Directors" or "Board" means the executive and administrative entity established by Article 5 of the Articles of Incorporation as the governing body of the Association.
- (e) "Bylaws" means the Bylaws of the Association, as amended, attached as Exhibit B hereto and as recorded from time to time among the Land Records.
- (f) "Common Area" means, at any given time, all of the Property, other than Lots, then owned or leased by the Association or otherwise available to the Association for the benefit, use and enjoyment of the Owners.
- (g) "Common Expenses" means all expenditures lawfully made and incurred on behalf of the Association, together with all funds lawfully assessed for the creation and maintenance of reserves pursuant to the provisions of the Association Documents. Except when the context

clearly requires otherwise, any reference to Common Expenses includes Limited Common Expenses.

- (h) "Covenants Committee" means the committee that may be established by the Board of Directors pursuant to Article 5 of the Bylaws to assure that the Property shall be maintained in a manner consistent with the purposes and intents of this Declaration.
- (i) "Declarant" means Cabin Branch Forest Associates, a Virginia limited partnership. Following recordation of a document assigning to another Person all of the rights reserved to the Declarant under the Association Documents, the term "Declarant" shall mean that assignee.
- (j) "Declarant Control Period" means the period ending on the earliest of:
  - (i) the third anniversary of the date of the first conveyance of a Lot to an Owner other than the Declarant (provided, however, that if the Declarant is delayed in the improvements and development of the Property due to a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's control, then the aforesaid period shall be extended by a period of time equal to the length of the delay or three years, whichever is less);
  - (ii) the date the number of votes of the Class A members exceeds the number of votes of the Class B member; or
  - (iii) the date specified by the Declarant in a written notice to the Association that the Declarant Control Period is to terminate on that date.
- (k) "Declaration" means this Declaration for Cabin Branch Forest made by the Declarant and recorded among the Land Records. The term Declaration shall include all amendments thereto.
- (l) "Land Records" means the land records of Loudoun County, Virginia, the jurisdiction in which the Property is located.
- (m) "Limited Common Expenses" means expenses separately assessed against one or more but less than all of the Lots.
- (n) "Lot" means a portion of the Property designated as a separate lot (but not including the real estate designated as Common Area) on a plat of subdivision of the Property recorded among the Land Records and includes any improvements now or hereafter appurtenant to that real estate.
- (o) "Majority Vote" means a simple majority (more than fifty percent) of the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any vote of a specified percentage of Owners means that percentage with respect to the total number of votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any vote by a specified percentage of the Board of Directors (or Covenants Committee) means that percentage with respect to votes actually cast at a duly held meeting of the Board (or Committee) at which a quorum is present. Any approval by a specified percentage of the Mortgagees means approval by the Mortgagees of Lots calculated according to the number of Lots on which each has a Mortgage.
- (p) "Mortgagee" means an institutional lender (one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts, including but not limited to real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities) holding a first mortgage or first deed of trust ("Mortgage") encumbering a Lot which has notified the Association of its status and has requested all rights under the Association Documents. Only for purposes of Article 5 and 6 of the Declaration and Article 12 of the Bylaws, the term "Mortgagee" shall also include the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmer's Home Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guarantying Mortgages if the Board has notice of such participation.
- (q) "Officer" means any Person holding office pursuant to Article 4 of the Bylaws or any committee member appointed pursuant to Article 5 of the Bylaws.
- (r) "Owner" means one or more Persons who own a Lot in fee simple, but does not mean any Person having an interest in a Lot solely by virtue of a contract or as security for an obligation.
- (s) "Person" means one or more natural persons, corporations, partnerships, associations, trusts or other entities capable of holding title to real estate, or any combination thereof.

- (t) "Property" means, at any given time, the real estate then subject to the Declaration (both Common Area and Lots) and includes all improvements and appurtenances thereto now or hereafter existing.
- (u) "Rules and Regulations" means the rules and regulations governing the use, occupancy, operation and physical appearance of the Property adopted from time to time by the Board of Directors.
- (v) "Upkeep" means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

#### Section 1.2. Construction of Association Documents

- (a) Captions. The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the document in which used or any provision thereof.
- (b) Pronouns. The use of the masculine gender 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.
- (c) Severability. Each provision of an Association Document is severable from every other provision, and the invalidity of anyone or more provisions shall not change the meaning of or otherwise affect any other provision.
- (d) Incorporation and Interpretation. Any provision of any Association Document referenced in any other Association Document with the intent to incorporate the provisions of one Association Document into the other Association Document, shall be deemed incorporated therein, as if set forth in full. To the extent that any requirement as to the content of one Association Document may be cured by reference to any other Association Document, then such requirement shall be deemed satisfied. If there is any conflict between the Association Documents, the Declaration shall control, except as to matters of compliance with the Act, then the Articles of Incorporation shall control. Particular provisions shall control general provisions, except that a construction consistent with the Act shall in all cases control over any construction inconsistent therewith. Tree provisions of the Bylaws shall control over the provisions of any rule, regulation or other resolution adopted pursuant to any of the Association Documents.

#### Section 1.3. Binding Effect

This Declaration should run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Declarant, the Association or any Owner, and their respective legal representatives, heirs, successors and assigns.

## ARTICLE 2

### COMMON AREA

#### Section 2.1. Title

The Declarant, on behalf of itself and its successors and assigns, covenants that the Common Area will be conveyed to the Association in fee simple, subject to all easements and other encumbrances then of record (including those created by this Declaration), but free and clear of any encumbrance securing payment of monetary obligations undertaken by the Declarant, prior to the conveyance of any Lot. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real estate. The Association shall accept and hold title to any real estate or personal property, leasehold or other ownership interests within the Property conveyed by the Declarant, subject to the rights of the Owners set forth herein.

#### Section 2.2. No Dedication

Nothing contained herein or in the other Association Documents shall be construed as a dedication to public use or as an assumption of responsibility for Upkeep of any Common Area by any public or municipal agency, authority, or utility.

## ARTICLE 3

### EASEMENTS

#### Section 3.1. Easements Reserved to the Declarant

- (a) Easement to Facilitate Development. The Declarant hereby reserves to itself and its designees a nonexclusive easement and right-of-way over and through all or any portion of the Property for the purposes of:
- i. temporary easements for the storage of building materials and equipment;
  - ii. temporary (not more than twenty-four months after completion of construction) slope and construction easements, and temporary or permanent drainage, erosion control, and storm and sanitary sewer easements (including the right to cut or remove trees, bushes or shrubbery, to regrade the soil and to take any similar actions reasonably necessary, provided, however, that the Declarant thereafter restores the affected area as near as practicable to its original condition);
  - iii. temporary or permanent easements for the installation, construction, maintenance, reconstruction and repair of improvements on or serving the Property; and
  - iv. for all other purposes reasonably related to the completion of construction and development of the Property; provided, however, that the Declarant shall not unreasonably interfere with any Owner's use and enjoyment of the Common Area or any Owner's Lot.
- (b) Easement to Facilitate Sales. The Declarant hereby reserves the right to:
- i. use any Lots owned or leased by the Declarant or any portion of the Common Area for temporary models, management offices, construction offices, sales offices, customer service offices;
  - ii. place and maintain in any location on the Common Area, street and directional signs, temporary promotional signs, plantings, street lights, entrance features, "theme area" signs, lighting, stone, wood or masonry walls and other related signs and landscaping features (provided, however, that all signs shall comply with applicable governmental regulations); and
  - iii. relocate or remove the same from time to time at the Declarant's sole discretion. The Declarant also reserves the right to restrict the use of any parking spaces located on the Common Area or Lots owned or leased by the Declarant for sales purposes. This easement shall continue until the Declarant has conveyed all Lots to Owners other than the Declarant.
- (c) Further Assurances. Any and all grants made by the Declarant to the Association with respect to any of the Common Area shall be conclusively deemed to incorporate these reservations, whether or not set forth in such grants. At the request in writing of the Declarant, the Association shall from time to time execute, acknowledge and deliver to the Declarant such further assurances of these reservations as may be requested.

#### Section 3.2. Easement for Access

The Declarant hereby grants the right of access over and through any Lot to the Association, the managing agent and any other Person authorized by the Board of Directors, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities, including without limitation making inspections, correcting any condition originating in the Lot or in a Common Area to which access is obtained through the Lot and threatening another Lot or the Common Area, performing installations, alterations or repairs to the utilities or other improvements located in the Lot or elsewhere on the Property or correcting any condition which violates the Association Documents or any Mortgage; provided, however, that if entry to a dwelling is required, requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Owner. In case of an emergency, such right of entry to any improvement shall be immediate whether or not the Owner is present. Further, until the expiration of any applicable warranty period, the Declarant reserves the right to enter a Lot to perform the warranty-related work (for the benefit of the Lot being entered); provided, however, that if entry to a dwelling is required, requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner. By acceptance of the deed of conveyance to a Lot, each Owner thereby ratifies such easement for access.

### Section 3.3. Easement for Utilities

A non-exclusive blanket easement is hereby granted over and through the Property for ingress, egress, installation and Upkeep of the equipment for providing to any portion of the Property any utilities, including without limitation water, sewer, drainage, gas, electricity, telephone and television service, whether public or private. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed, maintained or relocated where initially installed with the permission of the Declarant or where contemplated on any site plan approved by the Declarant.

The Declarant hereby reserves during the Declarant Control Period, and also grants to the Association the right to grant and reserve, easements, rights-of-way and licenses over and through all or any portion of the Property for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, television reception and other utilities and related services and facilities, whether public or private (regardless of the ownership thereof at the time such easements, rights-of-way or licenses are granted, but excluding any improvements thereon not under the care, custody and control of the Association); provided, however, that such easements, rights-of-way or licenses shall not unreasonably interfere with any Owner's use and enjoyment of the Common Area or any Owner's Lot; and provided, further, that no such easement, right-of-way or license granted for common utility lines shall pass over, under or through any dwelling on any Lot other than the dwelling being served by such utility lines.

### Section 3.4. Encroachments and Support

- (a) Encroachments. If any improvement on the Property now or hereafter encroaches on any other portion of the Property by reason of
- i. the original construction thereof,
  - ii. deviations within normal construction tolerances in the Upkeep of any improvement, or
  - iii. the settling or shifting of any land or improvement, an easement is hereby granted to the extent of any such encroachment for the period of time the encroachment exists; provided, however, that such easement shall not exceed two feet in width adjoining Lots or four feet in width over the Common Area. The Owner of the encroaching improvement shall also have an easement for the limited purpose of Upkeep of the encroaching improvement. This easement does not relieve an Owner from liability for such Owner's negligence or willful misconduct nor relieve one Declarant or any other Person from liability for negligence or willful misconduct.
- (b) Support. To the extent that any portion of the Property now or hereafter supports or contributes to the support of any other portion of the Property, the former is hereby burdened with an easement for the lateral and subjacent support of the latter.

### Section 3.5. Easement for Use of Common Area

- (a) Grant of Easement. Each Owner and each Person lawfully residing on a Lot is granted a nonexclusive right and easement of use and enjoyment in common with others of the Common Area.
- (b) Extent of Easement. The rights and easements of enjoyment created hereby shall be subject to (in addition to any easements granted or reserved in this Declaration or pursuant to the other Association Documents) the following rights and powers of the Association, when exercised in accordance with the applicable provisions of the Association Documents:
- 1) in accordance with subsections 3.1(q) and 12.5(a) of the Bylaws, to borrow money on behalf of the Association and mortgage any of the Common Area when required in connection with any one instance relating to the Upkeep of the Common Area;
  - 2) in accordance with Section 9.2 of the Bylaws, to adopt and amend any reasonable Rules and Regulations respecting use of the Property;
  - 3) to charge reasonable fees for the use of the Common Area and for services;
  - 4) in accordance with subsections 3.1(p) and 13.1(h) of the Bylaws, to suspend an Owner's right to use the Common Area for any reasonable period not to exceed sixty days for any violation by such Owner of any provision of the Association Documents or for any period during which any assessment against such Owner's Lot remains unpaid;

- 5) in accordance with subsections 3.1(r) and 12.5(a) of the Bylaws, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for purposes consistent with the purposes of the Association and subject to such conditions as may be agreed to by the Owners; and
- 6) in accordance with subsection 3.1(i) of the Bylaws, to enforce by legal means the provisions of the Association Documents and to act as the Owners' representative with respect to all matters arising out of any eminent domain proceeding affecting the Common Area.
- (c) Delegation of Use. Any Person having the right to use and enjoy the Common Area may delegate such rights to the members of such Person's family or tenants, and to such other Persons as may be permitted by the Association.
- (d) Rights to Use. Each Person having the right to use the Common Area and each Person to whom such right has been delegated shall comply with the Rules and Regulations regarding such use, as such Rules and Regulations may be established and amended from time to time by the Board of Directors. Such rights to use may be suspended upon failure of an Owner to pay Assessments or upon failure of a tenant to pay rent to the Owner of the dwelling in which such tenant resides.
- (e) Assessments. The Owner in fee simple of each Lot shall pay to the Association an annual assessment levied for a proportionate share of the costs of the management and Upkeep of the Property, for services and facilities related thereto and for reserves. The assessment levied upon each such Owner shall be determined in accordance with Article 7 of the Bylaws.

### Section 3.6. Emergency Access

The Declarant grants an easement:

- (1) over and through all or any portion of the Property for the lawful performance of their functions in the event of emergencies by all police, fire, ambulance and other rescue personnel, and
- (2) to the Association over and through all Lots in the event emergency measures are required in any Lot to reduce a hazard thereto or to any other Lot or to the Common Area; provided, however, that the Association is authorized but not obligated to take any such measures.

### Section 3.7. Easements Required by Governmental Authority

The Declarant reserves to itself during the Declarant Control Period, and also grants to the Association, the right to grant any easements, rights-of-way and licenses required by any government or governmental agency over and through all or any portion of the Property (excluding any improvements located thereon not under the care, custody and control of the Association), regardless of the ownership thereof at the time such easements are granted.

### Section 3.8. Amenities Easement

- (a) Bus Shelter Easement. The Declarant hereby reserves to itself during the Declarant Control Period, and also grants to the Association, a non-exclusive easement over and through Lots 1 and Lot 77 for a distance of twenty-five feet from the Lot line parallel to the public road now known as Cabin Branch Drive and forty-five feet from the Lot line parallel to the public road now known as Sterling Road (Route 637), as shown on the plat prepared by Charles J. Huntley, C.L.S. and dated April 8, 1986, entitled "Plat Showing Amenities Easement at Cabin Branch Forest" and attached as Exhibit D hereto, for the purpose of constructing, maintaining, relocating or removing a bus shelter and landscaping features appurtenant thereto on each such Lot. All persons lawfully using the bus shelters are also granted an easement over and through the bus shelter easement area for the use thereof.
- (b) Fencing and Landscaping Easement The Declarant hereby reserves to itself during the Declarant Control Period, and also grants to the Association, a non-exclusive easement over and through the Common Area and Lot 1 and Lots 72 through 77, inclusive, for a distance of ten feet behind the Lot lines of such Lots which parallel the public road now known as Sterling Road (Route 637), as shown on Exhibit D hereto, for the purpose of placing, maintaining, relocating or removing street, directional and other informational signs, temporary promotional signs, plantings, street or other lighting, entrance features, stone, wood or masonry walls or fences and other related landscaping features.
- (c) Maintenance. The Association shall be solely responsible for the maintenance of any bus shelters, signs, fences or landscaping located within the easements granted by this section and

the Owners of the Lots affected by the easements granted in this section shall not remove or otherwise alter the bus shelters, signs, fences or landscaping placed by the Declarant or the Association within the easement areas, without the prior written consent of the Association.

## ARTICLE 4

### SHARED FENCES

#### Section 4.1. Applicability

As of the date of recordation of this Declaration it is not intended that the Declarant or the Association will install fences on the boundary line between the Lots to be shared by the Owners of such Lots. If in the future, however, such fences are installed or if two Owners agree between themselves to install fencing on the boundary line between such Owners' Lots and further agree to the provisions of this Article, then the following provisions shall govern such fences (hereafter referred to as "Shared Fences").

#### Section 4.2. Laws of Virginia to Apply; Easement

All matters arising in connection with any Shared Fence shall, to the extent consistent with the provisions of this Article, be subject to the common law of Virginia with respect to party walls, as modified by statute from time to time. If the center-line of a Shared Fence fails to coincide with the boundary between the Lots it serves, an easement for any resulting encroachment is granted in accordance with subsection 3.4(a) hereof.

#### Section 4.3. Upkeep

All Owners of Lots served by a Shared Fence shall provide for the Upkeep of such fence and such Owners shall share equally the cost of its Upkeep. No Owner shall use any Shared Fence for any purpose which creates a hazard or nuisance for any other Owner or for the Association.

#### Section 4.4. Destruction by Fire or Other Casualty

If a Shared Fence is destroyed or damaged by fire or other casualty, the following procedures shall be followed in order to restore such Shared Fence.

- (1) Any Owner served by such Shared Fence may notify other Owners served by such Shared Fence of any proposal to repair. If within ten days after such notice no other Owner has responded to the notice, then such Owner may proceed with the repairs; provided, however, that such repairs shall be substantially similar to the original construction and installation and of first class quality, but may be made with contemporary materials.
- (2) If the other Owners served by the Shared Fence respond to the notice, then such Owners and the Owner who sent the notice shall act together to repair the Shared Fence or act as the majority decides.
- (3) If such Owners are unable to agree to the action to be taken then such Owners shall submit the issue to arbitration in accordance with Section 4.5 hereof.
- (4) If any Owner restores a Shared Fence in accordance with this section, then the other Owners shall contribute to the costs thereof. Any such Owner may, however, request a larger contribution from the other Owners under any rule of law regarding liability for negligent or willful acts or omissions.

#### Section 4.5. Liability

Any Owner who by a negligent or willful act or omission causes or permits a Shared Fence to be damaged shall pay the cost of restoring such Shared Fence to its condition prior to such damage.

#### Section 4.6. Arbitration

In the event of any dispute between Owners concerning a Shared Fence, the Owners on each side shall select one arbitrator and, if an even number, the arbitrators thus selected shall select one additional arbitrator. The arbitrators shall be requested to reach a decision within twenty days after their appointment. The decision of a majority of the arbitrators shall bind the Owners and their successors in

interest. The cost of arbitration shall be paid by the losing party unless the arbitrators determine that the cost should be shared by the parties and allocate the cost among the parties.

Section 4.7. Right to Contribution Runs With Land

Rights and duties of contribution set forth in this Article and any such rights and duties arising under the laws of Virginia shall run with the land and bind successors in interest. This Article shall not prejudice any right of a successor in interest to recover any amount from a predecessor in title for which such predecessor was liable.

ARTICLE 5

AMENDMENT TO DECLARATION; REQUIRED CONSENT

Section 5.1. Amendment by the Declarant

During the Declarant Control Period, the Declarant may unilaterally amend any provision of this Declaration to: (i) make non-substantial changes; (ii) relocate boundary lines between the Common Area and any Lots by exchange and conveyance of real estate; provided, however, that such relocation shall not materially adversely affect an Owner and that such relocation is reflected in an approved re-subdivision of all or any part of the Property; and (iii) satisfy the requirements of any government, governmental agency, secondary mortgage market agency which purchases, participates in, insures or guarantees Mortgages (including without limitation the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmer's Home Administration or the Government National Mortgage Association) or any Mortgagee.

Section 5.2. Amendment by the Owners

Subject to the provisions of Article 12 of the Bylaws, the Owners may amend this Declaration by at least a Seventy-five Percent Vote of the Owners, as certified by the President or with the written approval of Owners entitled to cast at least sixty-seven percent of the total number of votes.

Section 5.3. Limitations on Amendments

No amendment to this Declaration shall be effective until recorded among the Land Records. No amendment to the Declaration shall diminish or impair the rights of the Mortgagees under the Declaration without the prior written consent of all Mortgagees nor diminish or impair the rights of the Declarant under the Declaration without the prior written consent of the Declarant. No amendment may modify this Article or the rights of any Person hereunder. Except as specifically provided in the Declaration, no provision of the Declaration shall be construed to grant to any Owner or to any other Person any priority over any rights of Mortgagees.

ARTICLE 6

TERMINATION

Section 6.1. Termination by the Declarant

The Declarant may dissolve the Association and abrogate this Declaration for two years after recordation if the Association's maintenance and regulatory responsibilities have been assumed by other public or private entities.

Section 6.2. Termination by the Owners

Subject to the provisions of Article 12 of the Bylaws, the Owners may terminate this Declaration by a termination agreement signed by Owners entitled to cast at least eighty percent of the total number of votes.

### Section 6.3. Prerequisites

No termination shall be effective until recorded among the Land Records and unless written notice of the proposed termination is sent to every Owner at least sixty days before any action is taken. Such termination shall not affect any permanent easements or other permanent rights or interests relating to the Common Area herein created and the termination agreement shall provide for the transfer of the Association's responsibility for Upkeep of the storm water management facilities and other Common Area, pursuant to Article 8 of the Bylaws, to another public or private entity.

## ARTICLE 7

### CONDEMNATION

#### Section 7.1. Definition of Taking

For the purposes of this Article, "Taking" means a taking of all or any part of the Property or of any interest therein or right accruing thereto as a result or in lieu or in anticipation of the exercise of the right of condemnation or eminent domain, or a change of grade affecting the Property or any part thereof.

#### Section 7.2. Taking of Lots

If there is a Taking of a Lot the award must compensate the Owner for the Lot and the value of such Owner's rights of use and enjoyment of the Common Area.

#### Section 7.3. Taking of Common Area

If there is a Taking of all or any part of the Common Area, then the Association shall notify the Owners, but the Board of Directors shall act on behalf of the Association in connection therewith and no other Owner shall have any right to participate in the proceedings incident thereto. The award made for such Taking shall be payable to the Association, to be disbursed as follows. If the Taking involves a portion of the Common Area on which improvements have been constructed, then the Association shall restore or replace such improvements so taken on another portion of the Common Area, to the extent land is available therefor, in accordance with plans approved by the Board of Directors, unless within sixty days after such Taking the Declarant (during the Declarant Control Period) or the Owners by at least a Seventy-Five Percent Vote (after the Declarant Control Period) shall otherwise agree. If such improvements are to be restored or replaced, the provisions of Section 11.3 of the Bylaws regarding the disbursement of funds following damage or destruction shall apply. If the Taking does not involve any improvements on the Common Area, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be used for such purposes as the Board of Directors of the Association shall determine.

## ARTICLE 8

### PERPETUITIES

If any of the covenants, conditions, restrictions, or other provisions of this Declaration (or the other Association Documents) shall be unlawful, void, or voidable for violation of the Rule against Perpetuities, then such provisions shall continue only until twenty-one years after the death of the last survivor of the now living descendants of Ronald W. Reagan, President of the United States.

## ARTICLE 9

### RIGHT TO LEASE OR SELL LOTS

The Declarant shall own in fee simple each Lot to which legal title is not conveyed or otherwise transferred to another Person. The Declarant retains the right to enter into leases with any Persons for the occupancy of any of the Lots owned by the Declarant.

## ARTICLE 10

### NO OBLIGATIONS

Nothing contained in the Association Documents shall be deemed to impose upon the Declarant or its successors or assigns any obligation of any nature to build, construct, renovate or provide any improvements.

## ARTICLE 11

### MISCELLANEOUS COVENANTS

#### Section 11.1. Limits of Development Clearing

The Declarant hereby covenants to leave the stands of trees (to the extent practicable in keeping with house locations) as shown on the preliminary plat of subdivision approved by Loudoun County. The Common Area shall not be denuded, defaced or otherwise disturbed in any manner at any time without the approval of the appropriate departments of the Loudoun County Government, except for minimal clearing necessary to allow for construction and use of recreational facilities and trails and construction and maintenance of public utility lines as noted on any plats approved by Loudoun County.

#### Section 11.2. National Wildlife Preserve

No Owner shall trespass on nor cut or remove wood from the adjacent real estate belonging to the National Wildlife Preserve. If the National Wildlife Federation provides informational brochures about the National Wildlife Preserve free of charge to the Association, the Association will use its best efforts to distribute such brochures to all Owners and to enforce the prohibition against trespassing on and cutting and removing wood from the National Wildlife Preserve.

## ARTICLE 12

### BYLAW COVENANTS

Inasmuch as the Bylaws are an integral part of this Declaration, the covenants and restrictions contained therein shall be covenants running with the land and shall be enforced as if set forth in full as part of this Declaration and shall include without limitation the covenants listed in this Article. Each Owner by acquisition of title to a Lot, whether or not it shall be so expressed in the deed thereto, is deemed to covenant the following.

#### Section 12.1. Covenant for Assessment

Each Owner shall pay to the Association such annual, additional and special assessments and charges as are established pursuant to the Bylaws. All such assessments and charges, together with interest thereon and costs of collection, shall be a charge on the Lot and a continuing lien thereon as provided in Section 13.2 of the Bylaws, subordinate only to Mortgages as provided in Section 13.4 of the Bylaws. In addition, such assessments and charges, together with interest and costs of collection, shall also be the personal obligation of the Owner of the Lot subject to the lien. No Owner may waive or otherwise scape liability for assessments by non-use of the Common Area or abandonment of such Owner's Lot.

#### Section 12.2. Protective Covenants

No Owner shall make any addition, alteration or improvement in or to any Lot (other than for Upkeep or natural landscaping) which is visible from the exterior of the Lot unless made in compliance with the guidelines and procedures set forth in Section 8.6 of the Bylaws.

#### Section 12.3. Restrictions on Use

Each Owner shall abide by the restrictions set forth in Article 9 of the Bylaws and the Rules and Regulations promulgated by the Board of Directors pursuant to Section 9.2 of the Bylaws.

**Exhibit A to the Declaration**

**DESCRIPTION OF CABIN BRANCH FOREST**

BEGINNING at a point in the southeasterly line of STERLING ROAD (ROUTE #637), said point being the northwesterly corner of the land of STERLING PLAZA LIMITED PARTNERSHIP;

THENCE running with the southeasterly line of STERLING ROAD the following courses and distances: N 26° 37' 33" E 591.68 feet to a point, with the arc of a curve to the right, whose radius is 714.24 feet, a distance of 179.82 feet to a point and N 41° 03' 02" E 391.15 feet to a point, said point being the southwestly corner of the land of NOW OR FORMERLY NATIONAL WILDLIFE FEDERATION;

THENCE departing the southeasterly line of STERLING ROAD and running with the southwestly line of NOW OR FORMERLY NATIONAL WILDLIFE FEDERATION S 49° 21' 32" E 1,247.92 feet to a point, said point being the northwesterly corner of the land of NOW OR FORMERLY THOMPSON;

THENCE departing the southwestly line of NOW OR FORMERLY NATIONAL WILDLIFE FEDERATION and running with the westerly line of NOW OR FORMERLY THOMPSON and continuing with the westerly line of the land of NOW OR FORMERLY RAMSBURG S 15° 32' 36" W 371.65 feet to a point, said point being the northeasterly corner of the land of TOLSON;

THENCE departing the westerly line of NOW OR FORMERLY RAMSBURG and running with the northerly and westerly lines of TOLSON N 87° 06' 01" W 210.21 feet to a point and S 15° 33' 34" W 399.88 feet to a point, said point being the northeasterly corner of the land of STERLING PLAZA LIMITED PARTNERSHIP;

THENCE departing the westerly line of TOLSON and running with the northerly line of STERLING PLAZA LIMITED PARTNERSHIP N 63° 34' 23" W 1,286.49 feet to the point of BEGINNING CONTAINING 29.6697 ACRES.