

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION made on the date hereinafter set forth by Schwartz & Company, Inc., hereinafter refer to as "Declarant".

WITNESSETH

WHEREAS, Declarant is the owner of certain property in Montgomery County, State of Maryland, which is more particularly described in Schedule "A" and Schedule "B" attached hereto and incorporated by reference herein.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to TIMBERWOOD ON THE PARK, INC., and its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property herein before described, and such additions thereto as may hereafter be brought within the Jurisdiction of the Association.

Section 4. "Lots" shall mean those lots on which townhouses shall be erected and which are described on Schedule A attached hereto and made part hereof by reference.

Section 5. "Common Area A" shall mean and refer to all that land and improvements if any, owned by the Association and described in Schedule B attached hereto and made part hereto by reference. The said Common Area A being also designated on the plats of subdivision as Parcel "A". Common Area A shall be held for the common use and enjoyment of all of the owners and shall be operated and maintained by the Association for the use and benefit of its members, their invitees and as required on the plat of subdivision.

Section 6. "Declarant" shall mean and refer to Schwartz & Company, Inc., its successors and assigns, if such successor or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development. It shall also mean and refer to Developer.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area A which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provision.

a) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

b) the right of the Association to dedicate or transfer all or any part of the Common Area A to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded, and until such transfer or dedication has been approved in writing by the Maryland National Capital Park and Planning Commission. The request for dedication or transfer shall be submitted in writing to the said Maryland National Capital Park and Planning Commission and the said Commission shall render in writing its approval or disapproval within ninety (90) days after the submission of such request to said Commission. Failure on the part of the Commission to reply within the said ninety (90) days period shall be deemed to be approved by said Commission.

Section 2. Townhouse Owners Easement of Enjoyment. Every owner of a Lot shall have a right and easement of enjoyment in and to Common Area A which shall be appurtenant to and shall pass with the title to every Lot subject to the herein before mentioned provisions of Article II, Section 1, a, b.

Section 3. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 4. The Declarant hereby covenants, for itself, its successors or assigns that it will convey fee simple title to the Common Area A, as described in Schedule B attached hereto, to the Association, free and clear of all encumbrances, and liens, but subject to easements, covenants and conditions contained herein or recorded prior hereto.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Classes. The Association shall have two classes of voting membership.

Class A. Class A members shall be Owners, with the exception of the Declarant, and said owners shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall no more than one vote be cast with respect to any Lot. Members entitled to vote may by written proxy file with the Association designate any other person to cast their vote.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier;

a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

b) on December 31 1983.

ARTICLE IV

COVENANTS FOR MAINTENANCE OF ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessment or charges, and (2) special assessments for capital improvements, such assessments, to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be charged on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area A, and for the maintenance of storm water management and for the maintenance and improvements as required on the plats of subdivision.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment for any Lot owned by the Developer, or any Lot owned by the Developer on which a dwelling has been erected, shall be \$12.00, provided, however, that should the dwelling be occupied, the maximum annual assessment shall be the same as that of a Lot on which a dwelling has been erected which is not owned by the Developer. The maximum annual assessment for any Lot occupied by a Townhouse which is not owned by the Developer shall be \$120.00. Of the \$120.00 assessed against the Townhouse Lots, \$60.00 of the same shall be allocated solely and exclusively for the preservation and maintenance of the Common Area A as described in Schedule B hereof.

a) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum assessment may be increased each year not more than 20% above the maximum assessment for the previous year without a vote of the membership.

b) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum assessment may be increased above the 20% by a vote of two-thirds (2/3) of each class of members who are voting in person or proxy, at a meeting duly called for this purpose.

c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, and shall fix the annual assessment at an amount sufficient to provide adequately for the purpose set forth in Section 2 of this Article.

Section 4. Special Assessment. The Association may levy, subject to the provisions hereinafter stated, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon Common Area A, including fixtures and personal property related thereto, provided that:

a) Special assessments related to capital improvements in Common Area A will be borne by all Lots, and

b) Any such assessment, including the due date of payments on account of such assessments, shall have the assent of two-thirds (2/3) of the vote of each class of members who are voting in person or by proxy at a meeting duly called for such purpose.

Section 5. Notice of Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting. At the first such meeting called the presence of members or of proxies entitled to cast sixty (60) percent of all the votes of

each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the 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. Uniform Rate of Assessment. Except as otherwise provided with respect to annual assessment in Section 3 and 4, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessment: Due Dates. The Annual on the first day of the month following the conveyance of the Common Area A. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specific Lot has been paid. In the event of the failure of the Board of Directors to fix the annual assessment for the next ensuing assessment period, the said annual assessment shall be the same as that for the previous annual assessment period.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty 30 days after the due date shall bear interest from the due date at the rate of ten (10) percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may avoid liability for the assessment provided for herein by nonuse of the Common Area A or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the Association provided herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the mortgage foreclosure or a proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a public authority shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure, or exterior painting shall be commenced, erected or maintained, upon the Properties, nor shall any exterior addition to

or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same above have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing lines between the 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. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the Owners under any rule of law regarding liability for negligent or willful acts or omission.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the parties thereto shall submit the dispute to arbitration, and each party shall choose one arbitrator, and such arbitrator shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VII

EXTERIOR MAINTENANCE

In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote by the Board of Directors, shall have the right through its agents and employees, to enter upon said parcel and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which said Lot is subject.

ARTICLE VIII

PROTECTIVE COVENANTS AND RESTRICTIONS

Section 1. All Lots shall be used only for residential purpose, except for a builder's construction or sales office during the construction and sales period.

Section 2. No fence, wall, tree, hedge, or shrub planting shall be maintained in such a manner as to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no tree of a diameter of more than four inches measured two feet above ground level, lying without the approved building driveway and parking areas, shall be removed without the approval of the Architectural Control Committee.

Section 3. No noxious or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. No exterior lighting shall be directed outside the boundaries of a Lot or other parcel of the Properties.

Section 4. The Declarant shall have the right to grant easements for utility purposes over the common areas until such time as a common area is conveyed into the Association, after which said conveyance the right to grant easements for utility purposes over the common area shall be reserved unto the Association. Easements for utility purposes within the boundaries of residential lots shall be established by the recorded plat on which the same are shown. If a residential lot has been conveyed to an individual owner, only that owner, his heirs or assigns, shall have the right to grant utility easements within the boundary of said lot.

Section 5. No fence or wall of any kind shall be erected, begun or permitted to remain upon any portion of the Properties unless shown on plats of subdivision or unless approved by the Architectural Control Committee.

Section 6. No exterior clothesline, or clothes hanging device, except that of an umbrella-type nature with a diameter not exceeding seven (7) feet, shall be allowed upon any Lot.

Section 7. No sign of any kind larger than one foot square shall be displayed to the public view of any Lot, except temporary signs of not more than four feet square advertising the said Lot for sale or rent and except for temporary signs erected by the Declarant in connection with the construction, lease or sale of buildings and lots or other parcels of the Properties.

Section 8. No animals, livestock, or poultry of any kind shall be raised bred or kept on any Lot, except that dogs, cats and other household pets may be kept, provided that they are not raised, bred or kept for any commercial purpose.

Section 9. The Association shall have the right (if after 20 days notice to the Owner of the Lot or Lots involved, setting forth the action intended to be taken, such action has not been taken by the Owner) to trim or prune, at the expense of the Owner, any hedge, or other planting that in the opinion of the Architectural Control Committee, by reason of its location or the height to which or the manner in which it is permitted to grow, is detrimental to adjoining property, or is unattractive in appearance. The Association shall have the right, upon like notice and conditions, to care for any vacant or unimproved Lot, and to remove grass, weeds and rubbish therefrom and do any and all things necessary or desirable in the opinion of the Architectural Control Committee to keep such Lot in neat and good order, and at the cost and expense of the Owner.

Section 10. No exterior antenna for the transmission or reception of radio or television signals shall be erected or permitted on any building or Lot or other parcel of Properties.

Section 11. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition. No material or refuse or any container for the same shall be placed or stored in the front of any house, or on the patio or stoop at any time, except in the rear yard, unless required by the collection agency. All trash and garbage shall be placed in covered trash cans. The Association shall have the right to impound any trash can or garbage receptacle which is placed in violation of this paragraph and to enter onto any Lot for this purpose.

Section 12. No commercial truck, commercial bus, or other commercial vehicle of any kind, or any boat, boat trailer or recreational vehicle of any kind shall be permitted to be kept upon any portion of the Properties.

Section 13. No portion of the Properties shall be used for the repair of automobiles, nor shall any vehicle other than a private automobile be parked in any of the parking spaces maintained by the Association. After ten (10) days written notice to the

Owner of any vehicle parked in violation of this covenant, the Association may remove such vehicle at the expense of the Owner thereof.

Section 14. No baby carriages, velocipede, bicycles, or other articles of personal property shall be deposited, allowed or permitted to remain on any Townhouse Lot, except in the rear area. The Association may impound all such vehicles and make a charge for their return.

The Declarant hereby grants to members of the Association in good standing and their agents and employees an easement upon and across any Lot adjacent to a Lot owner by said member for the purpose of temporary support of ladders during cleaning, painting and maintenance operations on said members Lot, and an easement over and across all walkways and sidewalks not dedicated to public use.

ARTICLE IX

Section 1. Notice to Board of Directors. An Owner who mortgages his Lot shall, in writing, notify the Board of Directors of the name and address of the mortgagee, and in the event that his mortgage is transferred to another holder, the said Lot Owner shall notify, in writing, the Board of Directors of the name and address of the new holder of his mortgage. This information shall be maintained by the Board of Directors in a book entitled "Mortgages of Lots".

Section 2. Notice of Unpaid Common Charges or Other Default. The Board of Directors, whenever so requested in writing by a first mortgagee of a Lot, shall promptly report any then unpaid common expenses due from, or any other default by, the Owner of the mortgaged Lot, which is not cured within sixty (60) days.

Section 3. Notice of Default. The Board of Directors, when giving notice to a Lot Owner of a default in paying common expenses or other default, shall send a copy of such notice to each first mortgagee with respect to such Lot.

Section 4. Examination of Records. Each Lot Owner and each first mortgagee of a Lot shall have the right to examine the books and records of the Association, during normal business hours.

Section 5. Consents of Mortgagees. Notwithstanding any provision of the within document, the By-Laws or the Articles of Incorporation, or any other instrument or document to the contrary, neither the Owners, nor the Board of Directors shall, without first obtaining the consent in writing of at least seventy-five (75%) percent of the first mortgagees, commence the following:

a) abandonment of the Planned Unit Development by a dissolution of the Association and a revocation of the within document and the By-Laws of the Corporation;

b) partition, abandonment or subdivision of any common area which is owned directly or indirectly by the Association;

c) sale, transfer, conveyance or encumbrance of any portion of any common area (it being understood that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas by Lot Owners shall not be deemed a transfer);

d) modification of the method of determining the assessments, obligations, dues or other charges which may be levied against an Owner;

e) waive, change or abandon any portion of the aforesaid Declaration, By-Laws or the Articles of Incorporation pertaining to the architectural control, maintenance of party walls, common fences and driveways, for upkeep of lawns and plantings in the property covered by said documents;

f) use the proceeds of hazard insurance for losses to Common Area property for other than the repair, replacement or reconstruction of such improvements;

g) abandonment of and failure to maintain fire and extended coverage on insurable Common Areas on a current replacement cost basis in an amount not less than 100% of the insurable value (based on current replacement costs).

ARTICLE X

RIGHTS OF MORTGAGEES

Section 1. Payment of Taxes and Insurance Premiums. There is hereby reserved unto all first mortgagees of any Lots, whether acting jointly or singly the right to pay real estate taxes or other charges which are in default and which may or have become a lien against any of the Common Area owned by the Association and to pay any premiums in areas on hazard insurance policies or to secure new hazard insurance coverage in the event of a lapse of a policy covering such Common Area and it is covenanted and agreed that the said mortgagees making the payments as foresaid shall be entitled to reimbursement for monies spent, said reimbursement to be made by the said Association.

Section 2. Payment of Assessments. Any first mortgagee or beneficiary under a deed of trust who comes into possession of a Lot pursuant to the remedies provided for in the first mortgage or first deed of trust, foreclosure of the said mortgage or deed of trust, or deed, or assignment in lieu of foreclosure, shall take title to the Lot free of any claims for unpaid assessments or charges against the Lot in which said first mortgage or first deed of trust was secured which accrue prior to the time that the holder of the first mortgagor or beneficiary under the said first deed of trust comes into possession of the Lot, (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Lots including the mortgaged Lot).

Section 3. Attendance of Meetings. Any institutional mortgagee of any Lot who desires notice of the annual and special meeting of the Association and the Board of Directors shall notify the secretary to that effect by Certified Mail-Return Receipt

Requested. Any such notice shall contain the name and post office address of such institutional mortgagee and the name of the person to whom notice of the annual and special meetings should be addressed. The secretary of the Association shall maintain a roster of all institutional mortgagees from whom such notices are received and it shall be the duty of the secretary to mail or otherwise cause the delivery of a notice of each annual or special meeting, as foresaid to each such institutional mortgagee, in the same manner and subject to the same requirements and limitations as are provided for with respect to notice of such meetings to the Lot Owners or the Board of Directors, as the case may be. Any such institutional mortgagee shall be entitled to designate a representative to attend any such annual or special meeting and such representative may participate in the discussion at the meeting and may, upon his request made to the chairman of the meeting in advance to the meeting, address the Lot Owners or the Board of Directors, as the case may be, present at any such meeting. Such representative shall be entitled to a copy of the minutes of all meetings of the Association and the Board of Directors upon request made in writing to the secretary. Such representative shall have no voting rights at any such meeting.

ARTICLE XI

Section 1. Enforcement. The Association, or any Owner, or the Maryland National Capital Park and Planning Commission (or its successors), or Montgomery County, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than ninety (90) percent of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) percent of the Lot Owners. No amendment shall be made until the Maryland National Capital Park and Planning Commission (or its successor) or Montgomery County has approve the amendment. Any such instrument shall become effective upon recordation.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the properties with the consent of two-thirds (2/3) of each class of members.

WITNESS their hands and seals on the 23rd day of January 1981.

Signed, sealed and delivered
in the presence of:
Attest:

Schwartz & Company, Inc.

Thomas J. Tracy Secretary

BY: _____
James I Schwartz President

STATE OF MARYLAND, COUNTY OF MONTGOMERY, to wit:

I HEREBY CERTIFY that on this 23rd day of January, 1981, before the subscriber, a Notary Public of the State and County aforesaid, personally appeared James I. Schwartz, who acknowledged himself to be President of Schwartz & Company, Inc., and that he as such President, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of Schwartz & Company, Inc., by himself President.

IN TESTIMONY WHEREOF, I have affixed my official seal the date above written.

Notary Public

My Commission Expires: July 1, 1982