

Tax Map Parcel No.: 1-34-13.00-83.00 and p/o 82  
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Ret: P.O. Box 690  
Georgetown DE 19947

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
BETHANY WOODS**

This Declaration is made and executed this 29<sup>th</sup> of August, 2008, by Bethany Woods, LLC,  
a Delaware limited liability company, (hereinafter referred to as the "Developer").

WITNESSETH:

WHEREAS, the Developer is the fee simple owner of certain real property located in Indian  
River Hundred, Sussex County, Delaware as set forth in Exhibit "A" attached hereto and made a  
part hereof (hereinafter referred to as the "Property"), and desires to develop therein a residential  
community; and

WHEREAS, the Developer desires to provide for the preservation of the values and  
amenities in said community and for the maintenance of said common lands and facilities and to  
this end desires to subject the Property to the covenants, restrictions, easements, charges and liens  
(hereinafter referred to collectively as the "Restrictions"), as hereinafter set forth, for the benefit of  
the Property and each owner thereof, and

WHEREAS, the Developer deems it desirable for the efficient preservation of values and  
amenities in said community to create an entity to which will be delegated and assigned the powers  
of maintaining and administering the community facilities, common lands and recreational

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amenities, and administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer will cause a nonprofit corporation, known as the Bethany Woods Property Owners Association, Inc., to be incorporated under the laws of the State of Delaware for the purpose of exercising the functions aforesaid.

NOW THEREFORE, the Developer hereby declares that the following Restrictions shall run with, burden and bind the Property, and the Developer hereby declares the Property, as described in Exhibit "A," is and shall be held, transferred, sold, conveyed, occupied and used subject to the restrictions hereinafter set forth and during the period of time hereinafter set forth; and subject to all easements, rights of way and restrictions previously placed upon the Property as recorded in the Office of the Recorder of Deeds in and for Sussex County by the Developer, or its predecessors in title.

## ARTICLE I

### DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

A. "Association" shall mean and refer to the Bethany Woods Property Owners Association, Inc., or such other nonprofit corporation as the Developer shall form, its successors and assigns.

B. "Common Areas" shall mean and refer to those areas of land designated on the Record Plot and incorporated herein by reference. The Common Areas shall be designated as Common Areas (including but not limited to, all private streets and entrance, the right of way over McCoy's Way, whether within or adjacent to the Property, all areas for forested buffers, storm

water management, erosion and sediment control, water supply facilities, sanitary sewer facilities, and all community recreation facilities). All Common Areas are intended to be devoted to the common use and enjoyment of the members of the Association, as herein defined, and are not dedicated for use by the general public. All Common Areas shall be subject to the restrictions created herein, and shall be subject to all restrictions, easements and rights-of-way previously granted by the Developer or its predecessors in title.

C. "Developer" shall mean and refer to Bethany Woods LLC and its successors and assigns.

D. "Lot" shall mean and refer to any unimproved or improved plot of land intended and subdivided for a detached single unit residence, shown upon the Record Plot as a numbered parcel, but shall not include the "Common Areas" as hereinabove defined.

E. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article 11, Section 1 of this Declaration.

F. "Mortgage" shall mean and refer to any mortgage, deed of trust, or similar instrument granted as security for the performance of any obligation.

G. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, holding a fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder or a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

H. "Record Plot" shall mean the plot of record in the Office of the Recorder of Deeds, in and for Sussex County, recorded in Plot Book 122, at Page 44 and any amendment thereto approved by the Planning and Zoning Commission of Sussex County, and endorsed as an amendment by the Developer.

I. "Swale" shall mean a depression in the soil adjacent to roadways and streets or between lots or centered upon lot lines used for the conveyance of stormwater to disposal areas.

## ARTICLE II

### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot, which is subject to assessment or shall be eligible for a later assessment shall be a Member of the Association provided, however, that any such person or entity who holds such interest merely as security for performance of an obligation shall not be a Member, unless and until such person or entity has succeeded to such Owner's interest by enforcement of such security interest. Membership shall be appurtenant to and may not be separated from the ownership of any Lot, which is subject to assessment. Provided, however, that the Developer shall be considered an Owner of each Lot held by it whether such Lot or Lots are or are not subject to assessment.

Section 2. The Association shall have one class of voting membership. A member shall be entitled to one (1) vote for each Lot. When more than one person holds an interest in any Lot all such persons shall be members. The vote of such Lot shall be exercised as the Owners themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 3. The Developer shall establish the Association by the filing of a Certificate of Incorporation of the Association when the Developer, in its sole discretion, deems the creation of such Association appropriate.

### ARTICLE III

#### PROPERTY SUBJECT TO DECLARATION

Section 1. Property. The real property subject to this Declaration is all that property located in Indian River Hundred, Sussex County, Delaware as shown on the Record Plot, and as described in Exhibit "A," and this Declaration and the lands subject to this Declaration shall also be subject to restrictions, easements or rights of way previously granted by the Developer, or its predecessors in title as recorded in the Office of the Recorder of Deeds, in and for Sussex County, or as such land has been duly dedicated to any public authority.

### ARTICLE IV

#### PROPERTY RIGHTS IN THE GENERAL COMMON AREAS

Section 1. Title to Common Areas. The Developer shall convey legal title in the Common Areas to the Association, but it may retain legal title to the Common Areas until such time as the Developer has completed improvements thereon, and until such a time as, in the opinion of the Developer, the Association shall be able to maintain the same, but, notwithstanding any other provision herein, the Developer hereby covenants for itself, its successors and assigns, that it shall convey all its right, title and interest in the Common Areas to the Association, free and clear of all liens, but subject to all previous restrictions of record and this Declaration.

Section 2. Extent of Member's Easements. The rights and easements of enjoyment created hereby in the Common Areas shall be subject to the following:

(a) The right of the Association, in accordance with its Certificate of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage the properties, except the roads as shown on the Record Plot, and the rights of such mortgagee in the property shall be subordinate to the rights of the

Owners hereunder, provided, however, that no such borrowing or mortgaging shall be made unless approved by the vote of two-thirds (2/3) of the eligible votes at a meeting duly called for such purpose.

(b) The right of the Association to take such steps as is reasonably necessary to protect the above described properties against foreclosure.

(c) The right of the Association to dedicate or transfer all or any part of its interest in the Common Areas (subject to easements created hereunder, or previously created of record) to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer or determination as to purpose or as to the conditions thereof, shall be effective unless an instrument of consent signed by the Members entitled to case two-thirds (2/3) of the votes has been recorded.; provided further, that such dedication or transfer shall not result in the public use of the Common Area so transferred; and provided further, such dedication or transfer may not include the dedication, transfer or sale of any items of personal property, landscaping, fixtures or other appurtenances unless or until they are functionally obsolete or damaged or destroyed beyond repair.

(d) The right of the Developer prior to the conveyance of the Common Areas to the Association, and of the Association, to grant and reserve easements and rights-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public water, sewer, drainage, gas, electricity, telephone, cable television and other utilities.

(e) The right of the Association to adopt rules and regulations governing the use by the Owners of the Common Areas.

(f) The right of the Association, by and through its Board of Directors, to levy a reasonable liquidated damage assessment in an amount to be determined by the Association's Board of Directors after a hearing, against an Owner for violation of this Declaration of Covenants, Conditions and Restrictions, duly adopted By-Laws, Architectural Requirements, or any duly adopted rules and regulations by the Owner, members of the Owner's household, or the guests, invitees, tenants, agents or employees of the Owner. The liquidated damage assessment will be imposed at a hearing held no sooner than ten (10) days after the Association provides written notice of the violation to the Owner and informs the Owner of a date, time and place for the Owner to appear for a hearing before the Board of Directors, or its designated committee, to determine the reasonable liquidated damage assessment or a method of cure, at which hearing the notice Owner shall have an opportunity to appear and fully participate, together with counsel. After the hearing and if a liquidated damage assessment is imposed, the liquidated damage assessment so imposed shall be an assessment pursuant to Article V of this Declaration and collection may be enforced in any manner permissible for collection of any assessment.

Section 3. Delegation of Use. Any Owner may delegate his rights of enjoyment to the Common Areas and facilities to the members of his family, tenants, guests, or contract purchasers (and members of the family of any tenant or contract purchaser) who resides on the lot or to such other persons as may be permitted by the Association.

Section 4. Obligations of the Association. The Association shall:

- (a) Take title to, own, manage and maintain the Common Areas, particularly the roads, forested buffers, recreational areas, and areas for stormwater management, erosion and sedimentation control.
- (b) Operate and maintain, for the use and benefit of all Members of the Association, all Common Areas and facilities and improvements developed thereon.
- (c) Operate and maintain all facilities and/or landscaping on all Common Areas.
- (d) Maintain and restrict the use or uses to be made on or to the Common Areas.
- (e) Provide for solid waste, trash, and garbage removal by a single licensed provider.

## ARTICLE V

### COVENANT FOR MAINTENANCE AND TO ACCEPT AND DISCHARGE

#### ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Developer, for itself and its successors and assigns, and for each Lot within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed or other transfer document therefor, whether or not it shall be expressly established in such Deed or other transfer document, hereby covenants and agrees to pay the Association: (1) annual assessments or charges; (2) special assessments for capital improvements and operating repair and replacement, reserve funds; (3) liquidated damage assessments, if imposed, pursuant to the provisions of Article IV, Section 2(g); and (4) an initial assessment in the amount of Five Hundred Dollars (\$500.00) due upon the conveyance of any Lot from the Developer to a third

party purchaser for value, such assessments to be fixed, established and collected as hereinafter provided. The annual, special assessment, liquidated damage assessment and initial assessment, together with interest and costs and reasonable attorney's fees, shall be a charge on the Lot, and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, for the collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment was due. A personal obligation for delinquent assessment shall not pass to the Owner's successor in title (other than as a lien on the land), unless expressly assumed by them. No assessment shall be due from any Lots owned by the Developer until such Lot is sold and conveyed to a third party purchaser for value.

Section 2. Purpose of Assessments. Assessments levied by the Association shall be for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property, or for the improvement and maintenance of the Common Areas of the Property, and for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, repair and replacement of the roads, the payment of taxes and insurance thereon, repair, replacement and additions thereto, for the cost of labor, equipment, materials, management and supervision thereof, or for operating reserve funds and reserve funds for repair and replacement of the Common Areas and the facilities thereon, or for a purpose of discharging a duty or obligation of the Association.

Section 3. Basis and Maximum Annual Assessment. Each respective Lot to be sold by the Developer to any Owner shall thereafter be subject to an annual assessment to be paid to the Association. The amount of such annual assessment shall be established by the Association and shall be charged or assessed in equal proportions against each Lot within the Property. The

first assessment year shall be January 1, 2008, and thereafter each assessment shall be made for each subsequent calendar year commencing as of January 1 of each year. Each annual assessment shall be due and payable on or before thirty (30) days after it has been fixed and levied. It shall be the duty of the Association to notify all Owners, whose addresses are listed with the said Association, within thirty (30) days after said annual assessment has been fixed or levied, giving the amount of the charge of the assessment for said year, when due, and the amount due on each Lot or parcel of land owned by each such Owner. Failure of the Association to levy the assessment for any one year shall not affect the right of the Association to do so for any subsequent year.

Section 4.     Establishment of Annual Assessment Rate. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, set the annual assessment in an amount deemed appropriate and may provide for the payment in monthly or quarterly installments; provided however, that if any periodic payment obligation is not paid on its due date, the full annual amount of the assessment shall be due.

Section 5.     Initial Assessment. In addition to the annual assessment or other assessments, the Developer hereby establishes an initial assessment to be paid by the purchaser upon the conveyance of each Lot from the Developer to a third party purchaser for value; and the amount of such initial assessment is set at Five Hundred Dollars (\$500.00). The Developer may use that fund to pay the cost of any obligation to maintain the Common Areas pending transfer of the fund and the Common Areas to the Association.

Section 6.     Special Assessment for Capital Improvements and Operating Reserve.  
In addition to the Annual Assessment authorized by Section 3 hereof, the Association may levy

in any assessment year a special assessment (which must be fixed at one uniform rate for each Lot) 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 a capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, repair and replacement of the roads, and for operating the Common Areas, for which a reserve fund does not exist or is not adequate. No assessment shall be due from any Lots owned by the Developer until such Lot is sold and conveyed to a third party purchaser for value.

Section 7.     Liquidated Damage Assessments. The Board of Directors has the power and duty to impose liquidated damage assessments for violations of these Restrictions and/or By-Laws or Rules of the Association. Such assessment shall be imposed at a hearing conducted in the manner set forth in Article IV, Section 2(g).

Section 8.     Date of Commencement Assessment; Due Date. The annual assessments as to any Lot shall commence on the conveyance of such Lot, prorated for the remaining portion of said year, providing such conveyance is after January 1, 2008. In the event a Lot is conveyed prior to January 1, 2008, the annual assessment will commence January 1, 2008. The due date of any special assessment under Section 6 thereof shall be fixed in any resolution authorizing such assessment. The due date of any liquidated damage assessment shall be established at the hearing by the Board of Directors or its designated committee in establishing the liquidated damage assessment.

Section 9.     Effect of Nonpayment of Assessment. The Personal Obligation of the Owner; the Lien; Remedies of the Association. If any Assessment is not paid on the date when stated to be due in the notice of assessment, then the Assessment shall be deemed delinquent, and if the delinquent payment is a periodic payment (i.e. monthly, quarterly, etc.), the entire

assessment shall be delinquent, and shall, together with such interest thereon and cost of collection thereof, including reasonable attorney's fees, as hereinafter provided, continue as a lien on the Lot and any structure built thereon which shall bind such Lot in the hands of the Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien rights, the obligation of the assessment shall be a personal obligation of the then Owner to pay such Assessment, however, the personal obligation shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them. If the Assessment is not paid within thirty (30) days after the delinquency, the Assessment shall bear interest from the date of delinquency at the rate of the legal interest rate authorized by 6 Del. C. §2301 as amended and the Association may bring legal action against the Owner personally obligated to pay the same or may enforce or foreclose the lien against the Lot; and in the event a judgment is obtained, such judgment shall include interest on the Assessment from its due date and reasonable attorney's fees to be fixed by the Court, together with the costs of collection. No Owner of a Lot may waive or otherwise escape liability for an Assessment of his or its Lot. The Association reserves the right to suspend the enjoyment rights of any Member in any easement or Common Area for the period during which any assessment against such Member remains unpaid.

Section 10. Subordination of the Lien to the First Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on the Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, sale or transfer of any Lot by foreclosure of any first mortgage or any proceedings 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 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

- (a) All properties dedicated to and accepted by a government body, agency or authority and devoted to public use;
- (b) All Common Areas; and
- (c) All Lots owned by the Developer and not sold or leased by the Developer to third persons.

## ARTICLE VI

### RESTRICTIVE AND PROTECTIVE COVENANTS

#### Section 1.

A) Utility Easements. The Developer, its successors and assigns, and the Association hereby reserve the right to grant easements over, under, on and through the Common Areas, all roads, and the designated areas of the Lots as shown on the Record Plot for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation, inspection of sewer, water drainage, electric, gas, television, telephone, and cable telephone and television facilities and wires, lines, conduits and other necessary and proper attachments in connection therewith, for the benefit of the property, the Developer, any federal, state or local authority, commission or agency having jurisdiction thereover or any corporation, either public, quasi-public or private, supplying or serving such facilities.

B) The Developer reserves unto itself, its successors and assigns, a ten foot (10') drainage and/or utility easement from the right-of-way in the front yard and/or rear yard of all Lots and centered on all side and rear Lot lines. Developer further reserves a ten foot (10') drainage and/or utility easement along the interior side of all perimeter boundary lines.

Section 2. Utility Easements. Prior Restrictions. The Property is subject to all those prior easements, rights of way and restrictions placed upon the Property by the Developer's predecessors in title as such be recorded among the land records in the Office of the Recorder of Deeds in and for Sussex County.

Section 3. Residential Use. All Lots in the Property shall be used for residential purposes exclusively. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain upon any such Lot other than one (1) detached single unit dwelling, with attached garage building (hereinafter sometimes referred to as the main dwelling). The use of any such main dwelling or attached accessory building shall not include any activity normally conducted as a business or commercial activity. No such attached accessory building may be constructed prior to the construction of a main dwelling. All such attached accessory buildings may be used only in connection with the main dwelling. All improvements shall be in conformity with BETHANY WOODS ARCHITECTURAL REQUIREMENTS attached hereto as Exhibit B. Satellite antennas are allowed provided that they are no larger than 24 inches in diameter and are located behind the apex line of the roof of the main dwelling.

Owners may not more frequently than weekly lease the improvements on their Lots for residential family purposes, subject to the following:

- A. No improvement shall be leased or subleased for a boarding house, tourist home, bed and breakfast or for any other form of transient housing;
- B. All leases shall be expressly subject to these Restrictions, including but not limited to the use of the Property for residential purposes only and shall be used as a single-family dwelling as set out above;
- C. "Family" as defined by the Sussex County Zoning Code and as amended allows a single person, or two or more persons related by blood or marriage or adoption occupying a dwelling unit, or not more than four (4) unrelated persons to be considered a family. Domestic employees shall be considered "family".

Section 4. Restrictions as to Trailers, Modulares and Manufactured Housing. No trailer, mobile home, modular home, manufactured home, sectional home, pre-fabricated home, double wide or similar type structure, which moves to a building site on wheels attached to its own undercarriage or by trailer, tent, shack, garage, barn or other type outbuildings, shall at any time be used as a residence, temporary or permanently, and no trailer, mobile home, modular home, manufactured home, sectional home, pre-fabricated home, double wide, tent, shack, garage, or barn shall be utilized as a main or single dwelling unit on any Lot in the Property. Additionally, no structure manufactured off site in modules or sections to be connected on site shall be allowed. This restriction shall not prohibit the manufacture off site of structural frames and roof membranes. Notwithstanding the above restrictions, boats and boat trailers for boats less than 22 feet long shall be permitted, provided that they are not visible from the common roadways of Bethany Woods.

Section 5. Restrictions Against Business Use and Use Before Completion. No numbered Lot within the Property shall be used at any time to conduct business, or for the conduct on said Lot of any trade or business of any description, including home occupations, nor shall said premises be used for any purpose whatsoever except for the purpose of private dwelling or residence. No building shall be used or occupied as a residence until the exterior is fully completed, according to the plans and specifications approved therefore, as such approval is hereinafter provided and a certificate of occupancy is issued by Sussex County. No one shall reside on any Lot, casually, temporarily or permanently except in a dwelling house completed according to the plans and specifications approved as hereinafter provided.

Section 6. Architectural Review Committee, Approval of Building Plans.

A) In order to insure the development and maintenance of Bethany Woods as a residential development of high standards, there shall be a three (3) member Bethany Woods Architectural Review Committee (BWARC). The initial members shall be appointed by the Developer and shall serve until such time as their successors are designated by the Association. The BWARC is vested with the power to control all buildings, structures, improvements and landscaping to be placed upon any lot within Bethany Woods. The Architectural Review Committee may retain an architect to assist the Committee in its responsibilities.

B) No building, structure, fence, wall or other erection shall be commenced, erected, maintained or used, nor shall any addition to or change or alterations therein, or in the use thereof, be made upon any of the Lots which are the subject matter of the Restrictive Covenants, no matter for what purpose or use, until complete and comprehensive plans and specifications showing the nature, kind, shape, height, materials, floor plans, exterior color architectural scheme, location and frontage on the Lot, approximate cost of such building,

structure or other erection, the grading and landscaping of the Lot to be built upon or improved, the location of the driveway and the type of driveway material, which shall be either hot-mix asphalt, brick or concrete, and such other required information shall be submitted to and approved in writing by BWARC or its successors. The plans shall be submitted to BWARC for approval along with a check in the amount of Four Hundred Dollars (\$400.00) for original construction and One Hundred Dollars (\$100.00) for alterations or additions payable to the said Association as a review fee. A copy of all such plans and specifications, finally approved as aforesaid, shall be lodged permanently with the said Committee, or its successors; PROVIDED, HOWEVER, that nothing herein shall require the aforesaid approval as to interior decorations, alterations or changes.

C) BWARC, or its successors shall have the right to refuse to approve any such plans or specifications, grading or landscaping plans or changes, which are not suitable or desirable in the sole discretion of the BWARC, or its successors, for purely aesthetic or other reasons; and in passing on such plans, BWARC shall take into consideration the suitability of the proposed building or other improvements or erections and/or the materials of which the building or other improvements or erections are to be built, and the site upon which it is proposed to be built, the harmony thereof with the surrounding, and the effect of such improvements, additions, alterations or changes used, as planned, on the adjacent or neighboring property, and any and all factors which in its opinion, would affect the desirability or suitability of such proposed improvements, erections, alterations or changes.

D) In addition to the powers stated above, BWARC shall administer and enforce BETHANY WOODS ARCHITECTURAL REQUIREMENTS which is a document containing information regarding the review procedures and design requirements. A copy of the Bethany

Woods Architectural Requirements is attached hereto as Exhibit B and incorporated herein by reference. Each Lot purchaser shall receive a copy of the Bethany Woods Architectural Requirements at the time of purchase and agrees to be bound by said standards and any changes thereto. Developer may amend or modify the Bethany Woods Architectural Requirements in its sole discretion, at any time, up until it establishes the Association pursuant to Article II, Section 3 of this Declaration. After the Developer establishes the Association, the Bethany Woods Architectural Requirements may be amended or modified by a vote of two-thirds (2/3) of the eligible votes of the membership. Any amendments or modifications of the Standards shall be sent to each Lot Owner within thirty (30) days of its approval.

E) Bethany Woods, the Association, and the Developer shall have the right to enforce the provisions of this section and the requirements of the Bethany Woods Architectural Requirements against any person or persons violating or attempting to violate said requirements by appropriate legal action.

Section 7. Resubdivision or combination.

A) No Lot shall be resubdivided, sold or otherwise alienated in a lesser or smaller parcel.

B) Whenever two or more adjoining lots are acquired in single ownership and the same are devoted to use as a single building site, the interior side-yard and/or the interior rear yard setback line or lines thereof, as the case may be, shall be applicable thereto only as to the common rear line or side boundary line or lines between such lots or land area and the adjoining lots or land area in other ownership. Provided, however, two or more adjoining lots may not be merged to form a single lot where the common boundary of the lots is subject to the approved storm water management plan applicable to Bethany Woods. If two or more lots

are subject to such use as a single building site, subsequent sale of an individual lot must meet, without exception all setback requirements, easements, and storm water management plans set out herein.

Section 8. Signs and Advertising Regulated. No signs, notice or advertising matter of any nature and description shall be erected, used or permitted upon any of the Lots, except after securing the written permission of the Developer and/or the Association or its successors or assigns, except for signs of the Developer or its agents regarding sale of Lots. Real estate agency and general contractor signs shall be permitted upon the following conditions: a. signs are to be of maroon, white and grey colors; b. signs are to be of a design approved by the Developer; c. signs are not to exceed four (4) square feet per side in size; and d. signs shall be removed within 72 hours of the completion of construction or settlement on the sale of a lot.

Section 9. Setback Restrictions - Height Limitation.

A) No building or improvement, of any kind, shall be erected on any Lot, nearer than fifteen feet (15') to the front Lot line. Provided, however, that on a street or road with existing buildings or improvements having a front yard that is greater than that required herein, any new building or improvement shall have a front yard set back that is equal to the average setback of those existing buildings or improvements located on the same side of the street or road and being within 300 feet of the new building or improvement. Any vacant lot shall be calculated as having the required minimum setback.

B) Each side yard setback line of any Lot shall be fifteen feet (15') from the respective side lines of such Lot.

C) In the case of a single ownership of more than one Lot in combination, as set out in Section 7 above, which are contiguous, the foregoing side set back lines shall apply to

the parcel owned as a whole, if the Owner or occupier thereof makes use of the same thereof as a whole.

D) No main building shall be erected on any Lot nearer than twenty feet (20') to the rear line.

E) The height of any building shall be as determined pursuant to the Sussex County Comprehensive Zoning Ordinance.

Section 10. Garbage Receptacles. Each Lot shall provide receptacles for garbage in a screened area to the rear of the house and not generally visible from any interior road.

Section 11. Storage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view; but some may be installed within the main dwelling, or in the rear yard within an attached accessory building or buried underground or properly screened from view, in accordance with the Bethany Woods Architectural Standards.

Section 12. Construction and Demolition. Once construction or demolition of any building has been commenced on any Lot, such construction or demolition shall proceed without delay until the same is completed, including the driveway, except where such completion is impossible or results in great hardship to the Owner or builder due to strikes, fires, national emergencies or national calamities. Cessation of work upon the construction or demolition of any building once started and before completed thereof for a continuous period of sixty (60) days shall be prima facie evidence of an attempt to abandon the same in its partially completed or demolished state and shall be deemed to be a public nuisance. In the event construction plans have been approved pursuant to Section 6, construction must commence pursuant to said approved plans within one (1) year of the date of approval and shall be completed within eighteen (18) months thereafter. Failure to commence construction

within one (1) year of the date of approval of plans or to complete construction within eighteen (18) months thereafter will void the approval. The Developer, its successor or assigns, BWARC, or the Association, shall have the authority to enforce this requirement, including seeking injunctive relief in the Court of Chancery compelling completion or demolition of such construction.

Section 13. Fences and Mail Boxes. No fence whatsoever shall be erected or allowed to remain on any Lot, except as provided in the Bethany Woods Architectural Standards. All mail boxes shall be approved by the BWARC.

Section 14. Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds upon a Lot which shall tend to substantially decrease the beauty of the Property as a whole, or the beauty of the specific area.

- No noxious or offensive activity shall be permitted upon any Lot nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance of the Property.
- No clothing shall be exposed for airing or drying.
- Yard sales are prohibited.
- There shall not be maintained upon any Lot any plant, animal, device or thing of any sort, the normal activities of which is in any way noxious, dangerous, unsightly, unpleasant or of such a nature as may diminish or destroy the enjoyment of the Property. Specifically included under this section is the prohibition against any livestock being kept on any Lots.

- The keeping of any non-domestic animals shall be deemed a nuisance *per se* under this section; but the keeping of no more than three domestic cats and/or dogs, or other traditional household pets, unless the activity of such pets is in any way noxious, dangerous, unsightly or unpleasant, shall not be prohibited under this section. The keeping of pit bulls or Staffordshire terriers is prohibited. Household pets shall be kept inside and shall not be permitted to frequently or for long periods of time bark or otherwise make noise that disturbs any person in the vicinity.
- No disabled vehicle shall be allowed to remain in view as a nuisance, nor shall any unlicensed vehicle be allowed to remain more than a reasonable period of time, not to exceed 15 days.
- No trucks, campers, motor homes, dump trucks or vehicles in excess of 8000 pounds gross volume weight shall be permitted on any Lot, roadway or Common Area, except in connection with the construction, maintenance and repair of residences and Common Areas within the Property.
- Boats less than 22 feet long or trailers for boats less than 22 feet long shall be permitted on any lot, provided that they are not visible from the street.

Section 15.        Landscaping. No landscaping, shrubs or trees to be placed on any Lot in conjunction with the erection of any main dwelling shall be planted, until complete and comprehensive landscaping plans shall be submitted to and approved in writing by the BWARC. No tree outside the footprint of the proposed house or driveway may be cut or removed that is 8" in diameter at chest height. The land area not occupied by structures, hard surfacing, vehicular driveways or pedestrian paths shall be kept planted with grass, trees or

shrubs or other ground covering or landscaping in conformance with the requirements set by the Bethany Woods Architectural Requirements.

Section 16. Weeds. No noxious weeds, or accumulated trash of any kind shall be permitted to grow or be maintained upon any Lot by the Owner or occupier thereof. The Association or its successors and assigns may first notify the Owner or occupier to cut and/or remove any such offending growth or trash within thirty (30) days from the giving of such notice. Any such notice must be in writing. If the Owner or occupier shall fail or neglect to comply with any such notice, then and in such an event, the Association or its successors shall be empowered to enter upon any such Lot, together with such assistance and equipment as may be required and thereupon to cut and/or remove the same, all without being deemed a trespass and all at the expense of the Owner of the Lot. This covenant shall not be construed as an obligation on the part of the Association or its successors to provide garbage or trash removal services.

Section 17. Square Footage. The square footage of all improvements on any Lot shall be in accordance with the Bethany Woods Architectural Requirements, but in no case shall the under roof heated interior space, exclusive of porches and decks, garage or similar non-year-round heated space be less than two thousand five hundred (2,500) square feet. For a two-story home, the first story shall contain not less than one thousand two hundred fifty (1,250) square feet.

Section 18. Driveways and Parking Spaces. Each Lot shall provide for outside parking for two (2) automobiles on site and off all roadways and a driveway, which shall be made of either concrete, brick, or "hot-mix" asphalt.

Section 19. Sales and Marketing office. Notwithstanding anything herein to the contrary, the Developer, its successors and assigns shall be permitted to place and maintain a sales and marketing office on any Lot. The above use shall terminate when the Developer, in its sole discretion, so determines, but in any event said use shall terminate on December, 2010.

## ARTICLE VII

### General Provisions

Section 1. Duration and Amendment. The Restrictions of this Declaration run with and bind the Property 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, as the case may be, in perpetuity. Subject, however, to the provision that the Association or its successors, by and with the vote or written consent of seventy percent (70%) of the eligible votes of the membership, shall have the power to waive, abandon, terminate, modify, alter, change, amend, eliminate or add to these Restrictions and this Declaration at any time hereafter. Any such waiver, abandonment, terminated, modification, alteration, change, amendment, elimination or addition shall take effect when a copy thereof, executed and acknowledged by the Association or its successors in accord with the usual form of execution and acknowledgment of deeds, together with written consents of the requisite number of Owners, has been filed for record in the Office of the Recorder of Deeds, in and for Sussex County, and the same shall thereafter remain in effect in perpetuity unless otherwise provided.

Section 2. Remedies. The Developer, the Association, or any Owner, shall have the right to enforce this Declaration and the Restrictions contained herein by any proceeding at law or in equity, against any person or persons violating or attempting to violate any provision of

this Declaration or any Restrictions contained herein, to restrain violation, to require specific performance, and/or to recover damages; and to proceed against any Lot to enforce any lien created by these Restrictions. The expense and cost in enforcement by the Developer or the Association shall be chargeable to the Owner of the Lot, including the costs of reasonable attorney's fees. In the event any legal action is taken by the Association, such fees, approved by a court of competent jurisdiction, shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

Section 3. Assignability. The Developer, his successors and assigns, shall at all times have the right to fully transfer and assign any or all of its rights and powers under this Declaration, subject to the Developer's obligations hereunder.

Section 4. Nonwaiver. Failure of the Developer or any Owner, or their respective legal representatives, heirs, successors and assigns, to enforce any Restrictions contained in the this Declaration shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior to subsequent thereto.

Section 5. Construction and Interpretation. The Association to the extent provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and the enforcement of the provisions of this Declaration and the Bethany Woods Architectural Requirements incorporated herein by reference. In so adopting and promulgating such rules and regulations and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the

best interest of the Owners to the end that the Property shall be preserved and maintained as a viable community.

Section 6. Severability. All the covenants, conditions, restrictions, and reservations contained in this Declaration are hereby declared to be severable, and a finding by any court of competent jurisdiction that any of them or any clause or phrase thereof is void, unlawful or unenforceable, shall not affect the validity or enforceability of any other covenants, conditions, restrictions, reservations or clause or phase thereof.

Section 7. Non-liability. Nothing contained in this Declaration shall be construed in any manner as to impose upon the Association or the Developer, or their successors or assigns, any liability whatsoever for property damage and/or personal injury occurring to any person or persons whomsoever, or by reason of any use of any Common Areas, or roads, or adjacent waters, depicted on Exhibit "A" hereto. Any and all persons using any such roads, Common Areas, or any of them, shall do so at their own risk and without any liability whatsoever on the part of the Association, the Developer or their respective successors or assigns, as the case may be.

Section 8. Wetlands Notice. This site contains regulated wetlands. Activities within these wetlands may require a permit from the U.S. Army Corps of Engineers and/or the State of Delaware.

Section 9. Stormwater Control Notice. This site contains stormwater control devices, including swales located along property lines and between the front lot lines and the paved portions of streets and roads. The devices are engineered to convey stormwater away from the site and the engineering integrity must be maintained and subject to State or Federal permitting requirements.. These areas shall not be disturbed or excavated; there shall be no

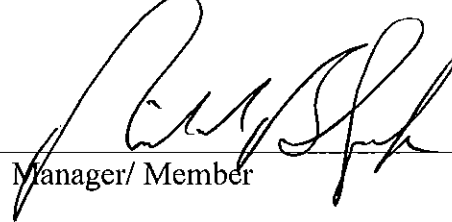
parking of any vehicles in these areas; and the areas shall be kept perpetually free and clear of all construction including landscaping, trees, shrubbery, structures, fences, etc., that would obstruct or in any way impair or impede the flow of water through these areas or devices. During construction, contractors shall enter upon a lot only by an approved driveway and construction entrance.

IN WITNESS WHEREOF, the said Bethany Woods, LLC, has executed this Declaration of Covenants, Conditions and Restrictions, the day and year first above written.

BETHANY WOODS, LLC

By: \_\_\_\_\_

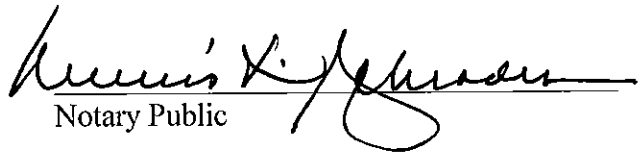
Manager/ Member



STATE OF DELAWARE :  
: ss.  
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 29<sup>th</sup> day of August, A.D. 2008, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, RICHARD B. JUDGE Manager/Member of Bethany Woods LLC, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed and the act and deed of said limited liability company and that his act of signing, sealing, acknowledging and delivering said Indenture was first duly authorized by a resolution of the Members of said limited liability company.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

  
Notary Public

My Commission expires

DENNIS L. SCHRADER  
NOTARIAL OFFICER PURSUANT TO  
20 DEL. CODE SECT. 4323  
ATTORNEY AT LAW  
DELAWARE

000036825  
BK03620 PG00064

BETHANY WOODS

Description

Exhibit "A"

**ALL THOSE CERTAIN** tracts, pieces and parcels of land lying and being in Baltimore Hundred, Sussex County, on the northerly right of way line of Fred Hudson Road at or near its intersection with McCoy's Way containing 12.2 acres, more or less, known as "Bethany Woods" and as more particularly shown on the Final Site Plan thereof prepared by Engineering Consultants International, LLC, dated July 2008, of record in the Office of the Recorder of Deeds, in and for Sussex County, recorded in Plot Book 122, at Page 44.

**BETHANY WOODS**

Architectural

Requirements

Exhibit "B"

000036825  
BK03620 PG00066  
BETHANY WOODS  
ARCHITECTURAL REQUIREMENTS

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## INTRODUCTION

### ARTICLE I.

The Requirements and project philosophy as set forth in this booklet are meant to establish a level of aesthetics which will benefit the value of the individual homes and properties, and therefore the entire community. These standards will be the basis of the architectural review process.

## PHILOSOPHY OF DEVELOPMENT

### ARTICLE II.

Bethany Woods is a community surrounded by lands devoted to forests and woodlands, and natural wetlands.

It is the stated goal of this community to maintain this natural condition, to prevent trespassing on the surrounding lands and to build on the lots in a way that results in a cohesive character with a strong sense of community identity.

Each new house design while maintaining its individuality, should recognize its important role of reinforcing the established character of the community. The intent of these Requirements is to establish architectural Requirements that enhance and compliment the natural setting and create a community that will increase in value over time and that promotes an unmatched style of living.

It is recommended that persons interested in building should obtain the services of an architect, landscape architect or other recognized professional design consultant.

## LEGAL RESTRICTIONS

### ARTICLE III.

All construction shall comply with all applicable statutes, laws, ordinances, codes, rules or regulations of the United States, State of Delaware, Sussex County or their agencies with jurisdiction.

This document, which shall be made a part of the Declaration of Covenants, Conditions and Restrictions ("the Covenants"), is a legal agreement among all property owners in Bethany Woods. It provides for a community association and gives that Association certain powers.

The Architectural Requirements, by agreement, establish directives on the use and development of all property in Bethany Woods to protect the character and environmental quality of the community for the benefit of the members.

One essential component of this agreement is the establishment of the Architectural Review Committee. This provision is made and described in the General Covenants.

The Bethany Woods Architectural Review Committee is charged with the responsibility of interpreting the intent of the Architectural Requirements to promote, preserve, and protect the design and environmental qualities of Bethany Woods. For this purpose, these Requirements have been established.

## THE BETHANY WOODS ARCHITECTURAL REQUIREMENTS DEFINED

These Requirements are a written composite summary of Bethany Woods Architectural Review Committee's policies that relate to architecture, materials and finishes, and landscaping and site improvements for all residential properties.

Architectural Requirements differ from the Covenants in that they establish more specific requirements as determined to be appropriate by Bethany Woods Architectural Review Committee. Changes may be recommended by the Architectural Review Committee and adopted by the Board of Directors in the manner prescribed in the Covenants.

Architectural Requirements are authorized by the Covenants and, as such, are legally enforceable restrictions.

## THE BETHANY WOODS ARCHITECTURAL REVIEW COMMITTEE (BWARC")

### ARTICLE IV.

#### Review Basis

BWARC bases its review of each application on its interpretation of the Covenants and these Requirements only.

Due to time constraints, BWARC's review of all applications occurs without personal presentations by the applicants. Therefore, it is incumbent upon the applicant to provide sufficient and accurate information to BWARC for proper consideration. An application shall contain: a. a site plan showing the setbacks and the floor plan of the proposed dwelling; b. 2 sets of house plans; c. color scheme for exterior siding, roof, etc.; and d. elevation views of all sides of the proposed structure.

If, in the applicant's opinion, extenuating circumstances exist which would require a variance from stated Requirements, this information should be presented with the application. The BWARC may grant variances from these Requirements if it determines that a strict application of these Requirements would result in exceptional hardship to the applicant.

#### Preparation and Approval of Drawings

For consideration by the BWARC, drawings must be neat, accurate, drawn to 1/4" scale, and with sufficient detail to adequately explain the entire design. Insufficient explanation of a design, including all visible details, is cause for rejection of an application.

New home and home improvement applications require the completed application form, two (2) sets of the following: site plans (showing the location, of the structure or addition with dimensions to property lines and to include landscape plans), floor plans, elevations, and one (1) set of samples for materials and colors. For additions, the plans and elevations should show both the existing structure and the new construction. The drawings shall address as many of the Requirements as possible.

All plans shall be submitted on 24"x36" plain paper and shall be to scale.

The BWARC, at its discretion, may require the addition of trim details or other architectural enhancements to the design.

No site preparation, site disturbance, excavation, or other similar construction activity shall be commenced until the BWARC has reviewed and approved the site plans for new building or improvements and the site has been staked out in accordance with the approved plans.

ARTICLE V.

DESIGN REQUIREMENTS

A. Site Development

1. All driveways shall be concrete, brick, or "hot mix" asphalt paved. All elevations related to the driveway will be set and/or approved by BWARC. It is important that the driveway apron not impede adjacent storm water swales and should be appropriately contoured as required.

2. All houses shall be provided with a driveway. Acceptable paving materials are:

- a. concrete
- b. brick, or
- c. hot-mix asphalt

- 3. All other paved areas shall be subject to individual approval by BWARC
- 4. All refuse containers shall be concealed in an approved enclosure.
- 5. All electric and telephone service shall be underground.
- 6. All flood lights shall not be more than 125 watts and shall be directed towards the ground. Lighting shall not illuminate beyond the lot line or in anyway interfere with motor vehicle traffic on streets and roads.
- 7. All exterior lights not attached to a building shall not be greater than 6' in height.
- 8. Each lot is required to have a landscaping plan that must be approved by the BWARC and completed within six (6) months of the completion of any house constructed on the lot. All landscaping shall be installed and the

surface area stabilized during the period of construction. No construction or landscaping shall interfere with the approved drainage plan and its intended purposes.

9. No exterior appendages or apparatus such as the following shall be allowed (by way of illustration and not limitation): antennas, towers, clothes lines, flag poles, or yard decorations.

10. Street numbers shall be limited to four inches (4") in height.

11. All propane, gas and oil tanks shall be concealed.

B. Minimum House Size

1. There shall be no more than one dwelling per lot as delineated on the Record Plan. No dwelling shall be erected or used in any way which is less than two thousand five hundred (2,500) square feet of enclosed floor area exclusive of deck, stairs, porches, breezeways, carports, garages, terraces, and the like. For a two story home, the first story shall contain not less than one thousand two hundred and fifty (1,250) square feet.

2. No more than one attached accessory building, not exceeding one story and in no event exceeding 15' in height as measured by Sussex County, shall be permitted. Said attached accessory building shall be placed on a permanent concrete slab with the sills anchored by bolts to the slab.

C. Architectural Features

1. All exposed portions of the piling or foundation shall be covered and shall comply with all applicable flood plain regulations.

2. All materials except for decking shall be stained or painted. No exposed-to-view materials will remain unfinished

3. All roofs shall be sloping. No flat roofs shall be allowed, unless approved as a roof deck
4. All roofing shall be architectural asphalt or cedar. Roof accents of standing seam metal roofing may be permitted by BWARC during the plan review process.
5. Sidings and trim shall be wood stucco, brick, stone, or hardiplank.
6. All windows and doors shall be trimmed. Window trim shall be not less than three inches (3") in width.
7. No primary wall, being front or side on the first or second floor visible from the street, may be windowless.
8. All chimneys shall exit the roof near or at the ridge of the roof and shall be enclosed by masonry or by other approved materials. Metal flue caps shall be located only within metal chimney cap.
9. Fences are allowed provided that they:
  - a. are made of wood;
  - b. have no less than two (2) railings and no more than four railings, except where picket fences are installed;
  - c. are located in the backyard behind the rear line of the house; and
  - d. cover an area no more than three times the heated square footage of the first floor of the house.
10. Dog kennels are allowed provided that they are attached to the rear of a building, which may be either the house or attached accessory building.
11. No accessory buildings shall be permitted.

D. Builder's Requirements.

1. Prior to the commencement of construction of any new building or improvement, the Builder shall submit copies of a building permit issued by Sussex County for the construction.

2. Prior to the commencement of construction of any new building or improvement, the Builder shall post with BWARC, a cash bond in the amount of \$5,000 to secure any damage that the Builder, his agents, servants, employees, subcontractors, suppliers, or materialmen, cause to any road, street, bridge, swale or drain, or any gate, light or other appurtenance during the construction or to remove any trash or rubbish remaining after the completion of construction. The Builder, his agents, servants, employees, subcontractors, suppliers, or materialmen, shall not enter or exit from Bethany Woods except thru the construction entrance provided by the Developer and shall not cross, pass over or otherwise disturb any drainage swale during construction. During construction, Builders shall enter upon a lot only by an approved driveway and construction entrance.

3. During the construction of any new building or other improvements, no material shall be stored on a lot other than upon which construction is taking place. A temporary storage building not to exceed 8' x 10' is permitted during construction and shall be removed immediately upon the completion or cessation of construction.

4. All garbage, trash, or food, shall be placed in a garbage can and all other solid waste shall be placed in the appropriate solid waste disposal containers at the end of each work day. Any waste containers or garbage cans more than 2/3's full shall be promptly emptied and the contents removed from the site. Only building debris may be placed in dumpsters. Said dumpsters shall be covered by a tie down tarpaulin cover when not in use.

5. No building, site preparation, site disturbance, excavation or other similar construction activity, shall take place on Sundays nor on any other day between 7:00 P.M. and 7:00 A.M. prevailing time from March through and including October or between 5:00 P.M. and 7:00 A.M. from November through and including February. All workmen shall exit the premises within one (1) hour of the completion of a day's work and may return not earlier than one (1) hour before the commencement of a day's work.

6. No spoil from the excavation of a lot shall be stored except on the lot upon which construction is taking place, shall be surrounded by a silt fence and shall be removed from the site within 120 days of excavation.

**RECEIVED**

SEP 29 2008

**ASSESSMENT DIVISION  
OF SUSSEX COUNTY**

RECORDER OF DEEDS  
JOHN F. BRADY  
09/29/2008 12:19P  
SUSSEX COUNTY  
DOC. SURCHARGE PAID