

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made this 9th day of September, 1987, by Middleton Estates Development Corporation, Inc., hereinafter called Developer of Middleton Estates Development, hereinafter called Middleton Estates located in North Middleton Township, Cumberland County, Pennsylvania;

W I T N E S S E T H:

WHEREAS, Developer is the owner of the real property described in Article II of this declaration and desires to create thereon a residential community with permanent parks, playgrounds, open spaces, and other common facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated under the laws of the Commonwealth of Pennsylvania, as a non-profit corporation, the MIDDLETON ESTATES COMMUNITY ASSOCIATION, INC., for the purpose of exercising the functions aforesaid:

*filed 4/25/87  
Doc # 98 5538*

NOW THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article I hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements charges and liens (sometimes referred to as "covenant and restrictions") hereinafter set forth.

## ARTICLE I

### DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, within or upon a lot, the maintenance, repair, or replacement of which is the responsibility of the Association.

(b) "Association" shall mean and refer to the Middleton Estates Community Association, Inc.

(c) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II, hereof.

(d) "Common Area" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties and intended to be devoted to the common use and enjoyment of the owners of The Properties, and may include, the land and improvements for streets, easements, parks, playground, pedestrianways, and any buildings, structures or appurtenances incident thereof.

(e) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of Common Properties as heretofore defined.

(f) "Residential Unit:" shall mean a portion of The Properties intended for any type of independent ownership for use and occupancy as a residence by a single family.

For the purposes of this Declaration, a Residential Unit shall come into existence when substantially complete or upon the issuance of a certificate of occupancy by the appropriate agency of North Middleton Township or other local governmental entity.

(g) "Single Family Attached Dwelling (Townhouse):" shall mean a building used by one family and having one dwelling unit and one or two party walls in common with other living unit(s) (such as townhouses).

(h) "Owner" shall mean and refer to one or more persons or entities who hold the record title to any Residential Unit which is part of The Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Residential Unit is sold under a recorded contract of sale, the purchaser (rather than the fee Owner) will be considered the Owner.

(i) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, hereof.

(j) "Developer" shall mean and refer to Middleton Estates Development Corporation, Inc.

(k) "Parcel" shall mean and refer to separately designated, developed residential townhouse buildings. In the absence of specific designation of separate Parcel status, all Properties made subject to this Declaration shall be considered a part of the same Parcel.

(l) "Parcel Assessments" shall mean assessments for common expenses provided for herein or by any Subsequent Amendment which shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Residential Units against which the specific Parcel

Assessment is levied and of maintaining the Properties within a given Parcel, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized below.

The Parcel Assessment shall be levied equitably against the Owners of Residential Units/land in a Parcel benefited by the assessment for such purposes that are authorized by this Declaration or by the Board of Directors from time to time, provided that in the event of assessments for exterior maintenance of dwellings, or insurance on dwellings, or replacement reserves which pertain to particular dwellings such assessments (that are for the use and benefit of particular lots/units) shall be levied upon a pro rata basis among benefited Owners.

(m) "Board of Directors" shall mean Board of Directors of Middleton Estates Community Association, Inc.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is set forth in Exhibit "A" attached hereto and made a part hereof by reference. Said property is herein designated Parcel I and shall be hereinafter sometimes referred to as "existing property".

Section 2. Restrictions for Use and Development. The lots outlined in Parcel I shall be subject to the following restrictions:

(a) No townhouse shall be used for any purpose other than a private dwelling for the owner or owners and his, her or their immediate family or by a person's or persons' immediate family to whom the owner has leased the townhouse.

(b) No professional business or home occupation of any nature shall be permitted, even if accessory to the main residential use of the townhouse.

(c) No owner nor an occupant of any unit shall permit or suffer anything to be done or kept upon the Lot which will interfere with the rights of the other owners, annoy them with unreasonable noises or otherwise, nor will any owner or occupant of any townhouse commit or permit any nuisance or commit or suffer any immoral or illegal act to be committed in or on the Lot or townhouse, or both.

(d) Each owner shall maintain his, her or their townhouse in good condition, order and repair at the owner's expense.

(e) No owner shall paint any exterior portion of the townhouse, including, but not limited to, windows, shutters, doors, fences, lightposts, light fixtures, mailboxes, eaves, soffit, trim and siding, except in the original color, without the prior written approval of the Board of Directors of the Association.

(f) No owner or any occupant of any townhouse shall display, hang, store or use any sign or articles whatsoever outside the townhouse.

(g) Drapes, curtains or shades shall be permitted in accordance with Rules and Regulations established by the Board of Directors of the Association.

(h) No owner may paint, decorate or otherwise alter or modify in any way the exterior of the townhouse, or install outside his, her or their townhouse any canopy, awning, cover, radio or television antenna, or other structure or addition of any kind whatsoever without the prior written approval of the Board of Directors of the Association.

(i) Trash, garbage or other waste, pending removal, shall be stored at the rear of each townhouse (or trash compactor) and shall be placed at the curb line for removal in accordance with the municipal schedule.

(j) No article or personal property belonging to any owner or otherwise

shall be stored in the common property, except automobiles or vehicles may be parked in the designated parking spaces.

(k) The yards and Common Area shall be used only for the furnishing of services and facilities for which they are reasonably suited and which are incident to the use and occupancy of the townhouses. Owners or occupants of townhouses shall not place or cause to be placed in the yards public walkways, parking lots or common areas, any furniture, packages, structures or objects of any kind.

(l) No trailers, mobile homes, boats, recreational vehicles, vehicles that are unlicensed or inoperable shall be parked by the owners or occupants of any of the townhouses or their guests.

(m) Animals, livestock or poultry, excepting household pets, shall not be raised, bred or kept in any townhouse. Household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose and shall at all times be on a leash or have some other appropriate means of control and be accompanied by the unit owner when out of doors or when in any common area. In such cases, the pet custodian shall be equipped with a suitable container and pooper scooper to remove all droppings or litter deposited on the common or limited common facilities or in the yard in case of lots that have yard areas that are separately deeded to unit owners. Should there be a question as to what constitutes a household pet, the Developer or its successor shall make the determination.

(n) No signs, other than "For Sale" or "For Lease" signs having an area of less than three (3) square feet, shall be erected or maintained on any Lot.

(o) No owner or occupant shall erect, install, paint, or maintain any fence in the front or rear yards of a Lot or along the boundary lines of a Lot, except as originally installed by Developer, unless approved by the Board of Directors of the Association. Further, no hedges or shrubs shall be planted along the Lot boundary of the front, side or rear yards of any townhouse without the approval of the Board of Directors of the Association. Hedges, shrubs or other plants may be planted within eight (8) feet of the front or rear of any townhouse with the approval of the Executive Board.

(p) The Board of Directors may from time to time promulgate rules and regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the common property, subject to the right of the Members to change such Executive Board rules and regulations.

(q) By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all the other owners and the Association that in the event that the Association does not carry blanket all risk casualty insurance on the Lots and the structures thereon as provided for in this instrument that each individual Owner shall carry such insurance. In case the Association does not carry such insurance, each Owner shall furnish evidence of insurance to the Association, and in the absence of such evidence, the Association may purchase the required insurance and assess the cost of the same to the owner. Each individual owner further covenants that and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual unit owner shall proceed promptly to repair or reconstruct the damaged structure in a manner consistent with the original construction.

Section 3. Addition to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) ADDITIONS IN ACCORDANCE WITH TENTATIVE DEVELOPMENT AND STAGING PLAN. The Developer, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future Stages of the Development.

The additions authorized under this and the succeeding subsection, shall be made by filing of record a Final Subdivision and Land Development Plan for each Stage and a Supplementary Declaration of Covenants and Restrictions with respect to the additional property.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee, interest in any lot (or Residential Unit) which is subject by the covenants of record to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those owners as defined in Section 1 with the exception of the Developer. Class A members shall be entitled to one vote for each Lot (or Residential Unit) in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot (or Residential Unit) all such persons shall be members, and the vote for such Lot (or Residential Unit) shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot (or Residential Unit).

Class B. Class B members shall be the Developer, and any successors and assigns of the Developer who takes title for the purpose of development and sale and who is designated as such in a recorded instrument. The Class B member shall originally be entitled to two hundred fifty-eight (258) votes; this number shall be decreased by one (1) vote for each Class A member existing at any one time. The Class B membership shall terminate and be converted to Class "A" membership upon the happening of the earlier of the following:

- (a) When the total Class A votes equal or exceed the total number of Class B votes.
- (b) Five (5) years from the date hereof.



(c) The Developer, or any successor named by the Developer and specifically given the right by it so to do in a written instrument decides to terminate the Class B membership.

From and after the happening of these events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member entitled to one vote for each Lot (or Residential Unit) in which it holds the interests required for membership under Section 1.

(For the purposes of determining the votes allowed under this Section, when Residential Units are counted, the Lot or Lots upon which such Residential Units are situated shall not be counted.)

#### ARTICLE IV

##### PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title or lease to every lot (or Residential Unit).

Section 2. Title to Common and Limited Common Properties. The Developer may retain the legal title to the Common Areas until such time as improvements are completed thereon. Notwithstanding any provision herein, the Developer hereby covenants, for itself, its successors and assigns, that it shall convey the Common Properties as follows:

(a) Rights-of-way and easements for streets, water and sanitary sewers with completed improvements in place, shall be dedicated to North Middleton Township.

(b) The title to common open space for parks, recreation, storm

drainageways and storm water management facilities and other common facilities with improvements in place shall be transferred to the Association. The Association shall have or hire adequate staff to administer common facilities and maintain the common open space.

(c) Easements for electric, telephone, television and other utility services, shall be provided to the respective operating companies.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Developer and of the Association to borrow money for the purpose of improving the Common Areas. The Association shall not have the right to give any Lender a lien on the Common Areas, but the Association shall have the right to pledge its right to collect the proceeds of assessments from unit owners and land owners to Lenders.

(b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and

(c) the right of the Association, as provided in its Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(d) the right of the Association to charge reasonable admission and other fees for the use of the Common Areas; and

(e) the right of the Association to dedicate or transfer all or any part of the Common Areas 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, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication,

transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken. It is herein understood that no such public agency or authority is obligated to accept any such dedication or transfer; and

(f) In the event that the Association or the Developer shall, at any time, fail to maintain the Common Areas under its jurisdiction in reasonable order and condition in accordance with the development plan, North Middleton Township may serve written notice on the Association or the owners setting forth the manner in which the Association has failed to maintain the common open space in reasonable condition; and said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing, the Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or the modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the Township, in order to preserve the taxable values of the properties within Middleton Estates and prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the Township shall, upon its initiative or upon the request of the Association call a public hearing upon notice to the Association and owners to be held by the Township, at which hearing such Association and owners shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall determine that the Association is ready and able to maintain said common open space in a reasonable condition, the township shall cease to maintain said common open space at the end of said year. If the Township shall determine the Association is not ready and able to maintain said common open space in a reasonable condition, the Township may, at its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter. The decision of the Township in any such case shall constitute a final administrative decision subject to judicial review.

The cost of such maintenance by the Township shall be assessed ratably against the properties within Middleton Estates that have a right of enjoyment of the common open space and shall become a tax lien on said properties. Said assessments or charges shall be subordinate in lien to the lien of any first mortgage on the property which is subject to such assessments or charges regardless of when said mortgage was created or when such assessments or charges accrued, provided such subordination shall apply only to assessments or charges that have become payable prior to the passing of title under foreclosure of such mortgage and the transferee shall not be liable for payment of any assessments or charges accruing prior to said foreclosure; but nothing herein shall be held to affect the rights herein given to enforce the collection of such assessments or charges accruing after sale under foreclosure of such mortgage; and provided, further, that such charges accruing after sale shall also be subordinate in lien to the lien of any further first mortgage which is placed on property subject to such assessments or charges, with the intent that no such charges shall at any time be prior in lien of any first mortgage on such property. The Township, at the time of entering on said common open space for the purpose of maintenance, shall file a notice of such lien in the office of the Prothonotary of the County on the properties affected by such lien within the planned residential development.

#### ARTICLE V

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any completed Residential Unit (other than Developer) by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection

thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. In addition to the assessments called for above, the Board shall have the power to impose an entrance fee not to exceed the sum of Two Hundred (\$200.00) dollars whenever any owner other than the Developer acquires a completed residential unit either from the Developer or a subsequent owner. Such entrance fee shall not apply to owners who acquire a completed residential unit from a spouse, parent, grandparent, child, grandchild, brother or sister.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in The Properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the homes situated upon The Properties including, but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, managements and supervisions thereof.

Section 3. Basis of Annual Assessments. The Association, through its Board of Directors, shall fix the annual assessment per residential unit based upon the estimated cost of carrying out the responsibilities of the Association. There shall be two types of annual assessment as follows:

(a) General assessments applicable to all record owners of lots upon which are constructed single-family townhouses. Said properties shall be assessable for the following purposes only:

(1) The lawns and planting as outlined on the Final Subdivision Plans under the title of Common Open Space.

(2) The sidewalks and pedestrianways in the public rights-of-way easements and in common open space as outlined on the Final Subdivision Plans.

(3) Outdoor lighting in public rights-of-way and on common properties.

(4) Essential improvements such as drives, sanitary sewers, water lines fire hydrants, storm sewers, drainageways, and storm water management facilities, fences signs and other facilities essential for the use and maintenance of Common Areas.

(5) Recreation facilities such as playground equipment, picnic facilities and any structures or appurtenances related thereto.

(6) Liability and Property Damage Insurance relating to the aforementioned Common Areas.

(7) Capital Reserves as deemed necessary for replacement of the aforementioned Common Areas.

(8) Trash Collection Service.

(9) Management Services.

(10) Maintenance of all parking areas and private driveways whether said parking area or driveways are within the lot lines of residential unit owner or within the Common Areas.

(b) Parcel assessments applicable only to record owners of residential units in designated parcels. Such Parcel assessments shall be assessable for the following purposes and shall be an additional assessment over and above that provided under Section 3(a) above:

(1) Parking lots and related improvements.

(2) Lawns and Planting.

(3) Exterior maintenance of Townhouse buildings.

(4) Insurance on Townhouse buildings.

In the event of assessments for exterior maintenance of the townhouse and apartment buildings, insurance on dwellings, or replacement reserves which pertain to a particular townhouse building, such assessments that are for the use and benefit of a particular lot and unit shall be levied on a pro-rata basis among benefited owners.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of fifty-one percent of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Quorum for Any Action Authorized Under Section 4. The quorum required for any action authorized by Section 4 hereof shall be as follows:

At the first meeting called, as provided in Section 4 hereof, the presence at the meeting of Members, or of proxies, entitled to cast fifty (50) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Section 4 and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of March of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The Board of Directors may provide that the annual assessment may be paid quarterly or in monthly installments.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 7. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Residential Unit for each assessment period of at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.



Section 8. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of ten (10) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court together with the costs of the action.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Areas as defined in Article I,

Section 1, hereof; (c) all properties exempted from taxation by the laws of the Commonwealth of Pennsylvania, upon the terms and to the extent of such legal exemption. Notwithstanding any provision herein, no completed living unit devoted to dwelling use shall be exempt from said assessment, charges or liens.

Section 11. Maintenance for Common Areas and the areas of common responsibility that benefit both the owner of completed residential units and the owner of undeveloped land within the Middleton Estates Development shall be borne equitably by the owners of the completed residential units and the owners of the undeveloped land who benefit from the maintenance of the Common Areas and the areas of common responsibility.

## ARTICLE VI

### PARTY WALLS AND EASEMENTS OF ENCROACHMENTS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the homes upon The Properties and placed on the division line 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 of liability for property damage due to negligent 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 Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts omission.

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

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

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decisions of a majority of all the arbitrators shall be final and conclusive of the question involved. If the arbitrators selected are unable to select a third arbitrator within thirty (30) days, either party to the dispute may request a Judge or Court of Common Pleas of Cumberland County, Pennsylvania to appoint same.

Section 7. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Residential Unit and such portion or portions of the Common Area adjacent thereto or as between adjacent Residential Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Residential Unit and the adjacent portion of the Common Area or as between said adjacent Residential Units, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an owner, tenant, or the Association.

Section 8. Easements for Use of Driveways. There is hereby reserved to the Developer, and to each Owner and his guests and invitees, the right to use a paved twenty-five (25) foot wide strip of land running across the rear of each lot in the area labelled parking area on the recorded subdivision plan of the Hemlocks for the purpose of ingress and egress to each owner's designated parking spaces.

## ARTICLE VII

### ARCHITECTURAL CONTROL COMMITTEE

Section 1. Review by Committee. No building, fence, wall or other structure 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, and location of the same shall 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, or in any event, if no suit to enforce the provisions of this section have been commenced within 60 days of the completion of any addition, alteration or change prior to, the approval will not be required and this Article will be deemed to have been fully complied with. The Architectural Control committee shall have no authority or jurisdiction over the initial development work of the Developer or Developer's designee in this or any subsequent Stage.

## ARTICLE VIII

### EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. In addition to maintenance upon the Common and Limited Common Areas, the Association may provide additional exterior maintenance upon each Lot and Residential Unit as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, driveways and other exterior improvements.

Section 2. Assessment of Cost. The cost of such exterior maintenance shall be assessed against the Lot or Residential Unit upon which such maintenance is done and shall be added to and become part of the annual maintenance assessment or charge to which such Lot or Residential Unit is subject under Article V hereof and, as part of such annual assessment or charge, it shall be a lien and obligation of the Owner and shall become due and payable in all respects as provided in Article V hereof. Provided that the Board of Directors of the Association, when establishing the annual assessment against each Lot or Residential Unit for any assessment year as required under Article V hereof, may add thereto the estimated cost of the exterior maintenance for that year but shall, thereafter, make such adjustment with the Owner as is necessary to reflect the actual cost thereof.

Section 3. Access at Reasonable Hours. For the purpose solely of performing the exterior maintenance required by this Article, the Association, through its duly authorized agents or employees shall have the right, after reasonable notice to the owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours on any day except Saturday or Sunday.

## ARTICLE IX

### GENERAL PROVISIONS

Section 1. Duration. The covenants and Restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by The Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of ten (10) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then-Owners of two-thirds of the Lots (or Residential Units) has been recorded, agreeing to change said covenants and restrictions in whole or in part. (For purposes of meeting the two-thirds requirements, when Residential Units are counted, the Lot or Lots upon which such

Residential Units are situated shall not be counted.) Provided, however, that no such agreement to change shall be effective unless made and recorded six (6) months in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner of the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or 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 4. Coordination of Finish Grading and Landscaping Operations. To permit the coordination of finish grading and landscaping operations and the provisions of permanent and/or temporary storm drainage facilities as development work progresses from lot to lot, the Developer, at his expense, shall have the right to change, alter, modify and/or revise the finish grade and to complete landscape work of the yard within ten (10) feet of any lot line or as necessary for proper grade and in drainage swales beyond said ten (10) feet after title to a lot and the dwelling thereon has been transferred to another owner.

Section 5. Severability. Invalidity of any one of these covenants or restrictions by judgment or Court Order shall in no wise affect any other provisions which shall remain in full force and effect.



MIDDLETON ESTATES DEVELOPMENT  
CORPORATION, INC.

Secretary

By

President

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

:

: ss:

COUNTY OF CUMBERLAND

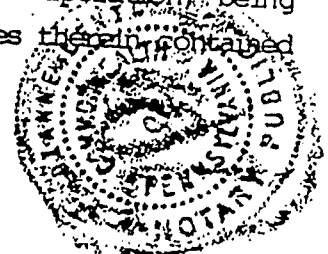
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On this, the 8<sup>th</sup> day of September, 1987, before me the undersigned officer, personally appeared E. R. Dwyer, who acknowledged himself to be the President of Middleton Estates Development Corporation, Inc., a Pennsylvania corporation, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Notary Public

DIANNE LENG, NOTARY PUBLIC  
My Commission Expires Decemb: 21, 1990  
Lemoyne, PA Cumberland County



ALL THAT CERTAIN tract of land situate in the Township of North Middleton, County of Cumberland, Commonwealth of Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the eastern right-of way line of Pa. Route #34 (L.R. #40); said point being located and referenced from the north end of the existing Route #34 Bridge (at centerline) that crosses over the Conodoguinet Creek; thence from said referenced point along the centerline of Route #34 the following courses and distances: North 18 degrees 08 minutes 38 seconds East, a distance of 537.19 feet to a point; thence along a curve curving to the right and having a radius of 1,432.40 feet, an arc length of 427.71 feet to a point; thence North 35 degrees 14 minutes 08 seconds East, a distance of 582.23 feet to a point; thence crossing Pa. Route #34 South 54 degrees 45 minutes 52 seconds East, a distance of 100.00 feet to the point of BEGINNING; thence from said point of beginning along lands now owned in part by (1) Ray T. Hicks and (2) George R. Shatto and Susan M. Burger, South 66 degrees 51 minutes 58 seconds East, a distance of 769.70 feet to a point; thence along lands now owned in part by George R. Shatto and Susan M. Burger South 18 degrees 12 minutes 10 seconds East, a distance of 758.35 feet to a point; thence along the same South 66 degrees 51 minutes 51 seconds East, a distance of 127.10 feet to a point; thence along the same South 66 degrees 51 minutes 45 seconds East, a distance of 133.26 feet to a point; thence along the same North 58 degrees 19 minutes 31 seconds East, a distance of 55.23 feet to a point on Wertz Run; thence along Wertz Run South 15 degrees 42 minutes 16 seconds East, a distance of 100.55 feet to a point at the confluence of Wertz Run and the Conodoguinet Creek; thence along the Conodoguinet Creek the following bearings and distances: North 80 degrees 31 minutes 18 seconds West, a distance of 97.21 feet to a point; thence South 62 degrees 56 minutes 35 seconds West, a distance of 179.52 feet to a point; thence South 47 degrees 38 minutes 23 seconds West, a distance of 229.03 feet to a point; thence South 57 degrees 09 minutes 32 seconds West, a distance of 193.57 feet to a point; thence South 63 degrees 56 minutes 51 seconds West, a distance of 177.95 feet to a point; thence South 53 degrees 06 minutes 27 seconds West, a distance of 46.90 feet to a point; thence South 74 degrees 44 minutes 35 seconds West, a distance of 94.13 feet to a point; thence North 84 degrees 37 minutes 21 seconds West, a distance of 139.85 feet to a point; thence North 61 degrees 47 minutes 18 seconds West, a distance of 80.78 feet to a point; thence North 68 degrees 31 minutes 08 seconds West, a distance of 106.93 feet to a point; thence North 57 degrees 20 minutes 37 seconds West, a distance of 52.96 feet to a point; thence North 76 degrees 30 minutes 27 seconds West, a distance of 76.62 feet to a point; thence North 65 degrees 02 minutes 21 seconds West, a distance of 177.32 feet to a point; thence North 45 degrees 33 minutes 46 seconds West, a distance of 35.61 feet to a point, said point being on the eastern right-of-way line of Pa. Route #34 (L.R. #40); thence from last said point along the eastern right-of-way line of Pa. Route #34 North 18 degrees 08 minutes 38 seconds East, a distance of 562.93 feet to a point; thence along the same on an arc of a curve curving to the right and having a radius of 1,392.40 feet, an arc length of 415.36 feet to a point; thence along the same North 35 degrees 14 minutes 08 seconds East, a distance of 582.23 feet to the point of BEGINNING. Said tract contains 33.2839 acres.

BEING the same premises which Robert C. Magee by his deed dated \_\_\_\_\_, 1987 and about to be recorded herewith, granted and conveyed into Middleton Estates Development Corporation, Inc.

EXHIBIT "A"

Recorded

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