

as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners.

(c) There is hereby reserved unto the Declarant [and to such other party(ies) as the Declarant may specifically, and in writing, assign such rights], for the benefit of the real property shown on the Development Plan (the "Benefitted Property"), a blanket easement upon, across and under the Property (provided such easement does not encroach upon any building within the Property or unreasonably interfere with the use and enjoyment of the Property), for vehicular and pedestrian ingress and egress, curb cuts, slope, or grading easements, as well as for the installation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, drainage, storm water detention and/or siltation, gas, cable television, telephones and electricity, and further including the right to connect to and use any such utilities which may exist or be located upon the Property from time to time. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary poles, pipes, lines and other equipment on the Property, to affix and maintain electrical or telephone wires and conduits, sewer and water drainage lines, on, above, or below any portion of the Property, including any improvements constructed thereon, and to have construction vehicles, equipment and the like exercise the aforesaid right of ingress and egress over the Property. Further, without limiting the generality of the foregoing, the Declarant reserves the right to unilaterally execute and record such additional easements and agreements as may be necessary in order to give effect to the foregoing easements and other rights, which additional easements and other agreements need not be consented to or joined in by any party having an interest in the Property; provided, however, that if requested by the Declarant, any party having an interest in the Property shall promptly join in and execute such confirmatory easements and other agreements. Declarant also reserves the right to enter any part of the Property for the purpose of carrying out any obligations it may have, or assume, with respect to the curing of any defects in workmanship or materials in the Property or the improvements thereon.

(d) An easement is hereby reserved to Declarant to enter the Common Area during the period of construction and sale on the Property, and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of residences, including, without limitation, a business office, sales office, storage area, construction yards, signs, displays and model units.

(e) Declarant also reserves the right to enter into the Common Area for the purpose of carrying out any obligations it may have, or assume, with respect to the curing of any defects in workmanship or materials in the Property or the improvements thereon. There is further reserved unto the Declarant and its agent(s) a non-exclusive easement over, across and through all of the Common Areas for the purpose of access, the storage of building supplies and materials and equipment and, without any limitation, for any and all purposes reasonably related to the completion of the development, construction or rehabilitation and repair of the Property.

(f) For a period of ten (10) years from the date of conveyance of the first Lot, the Declarant reserves a blanket easement and right on, over and under the Property to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easement created by this subsection (f).

(g) The rights and duties with respect to sanitary sewer and water, storm drains, downspouts, yard drains, cable television, electricity, gas and telephone lines and facilities shall be governed by the following:

(i) Whenever water, sanitary sewer and water, storm drains, downspouts, yard drains, electricity, gas, cable television or telephone connections, lines, cables or any portion thereof, are or have been installed within the Property, the Owner of any Lot, or the Association shall have the right, and are hereby granted an easement to the extent necessary therefor, to enter upon or have a utility company enter upon any portion of the Property in which said installations lie, to repair, replace and generally maintain said installations.

(ii) The right granted in subparagraph (i) above shall be only to the extent necessary to entitle the property of the Owner or Association serviced by said installation to its full and reasonable use and enjoyment, and provided further that anyone exercising said right shall be responsible for restoring the surface of the easement area so used to its condition prior to such use.

(iii) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, who shall decide the dispute, and the decision of the Board shall be final and conclusive as to the parties.

(iv) Each Lot upon which there is constructed, or is intended to be constructed, a townhouse dwelling unit is hereby subject to an easement upon and across such Lot for the drainage and discharge of water from any storm drain or downspout situated on another Lot and the Owner of such Lot may not alter or obstruct such drainage or flow of water to the detriment of any Lot or the Common Area.

(h) The Association shall have an easement to enter any portion of the Property for the performance of its duties hereunder; provided that such easement shall not entitle the entry within the interior portion of any dwelling located on the Property, but (by way of illustration only and not in limitation of the rights granted herein) shall permit the entry into fenced, or other similar areas of the Property.

(i) A mutual right and easement for utility services is hereby established for the benefit of all Owners, such that no Owner shall take any action which would in any way interfere with utility services being provided to other Owners within the Project. If a Lot contains any utility pipes, ducts, conduits, wires or the like which are for the benefit, in whole or in part, of other Owners within the Project, then the Owner of such Lot shall promptly, at his/her expense, repair any damage to such utilities caused by the Owner, his/her guests or invitees.

(j) The Association, its agents and employees, shall have an irrevocable right and an easement to enter the Lots for the purposes of exercising the rights and fulfilling the obligations established by this Declaration and any Supplementary Declarations recorded hereafter.

(k) The Declarant is hereby reserved easements over, through, across, under and upon the Property for the installation, construction and erection of any and all utilities including, but not limited to, water, sewer, gas, electric, telephone and cable television as may be necessary or convenient in order to service any condominium regime established by the Declarant or its successors and assigns within or adjacent to the Property, including the right to establish cross-easements with respect to such condominium regime and the Association. Notwithstanding anything contained herein to the contrary, this paragraph may not be amended or modified without the consent or approval of the Declarant.

(l) The Declarant hereby reserves to itself and its successors and assigns, an easement and the right to grant and reserve easements over and through the Property. These easements shall be for the purpose of construction, installation, irrigation and maintenance of landscaping features, including without limitation plants, trees and earth berms and other earth contouring and signs and shall include access as necessary to perform such tasks. The Owner of a Lot burdened by the easement shall not construct any improvements within the easement without the permission of the Declarant, during the period the Class B memberships exist, or the Association, thereafter. The Declarant or the Association, as appropriate, may require the Owner of the Lot to maintain the easement area located on such Owner's Lot. Maintenance of these easement areas by the Association shall be a Common Expense and, at the election of the Board of Directors, shall be assessed against the Lot burdened by the easement.

(m) Each Lot upon which is constructed a detached dwelling located on or within four feet (4') of the adjoining property shall have an easement, to go upon the adjoining Lot for the benefit of the Owner of such Lot upon which is located the aforesaid dwelling for the purpose of performing reasonable maintenance of such dwelling. In the event any damage is caused to the Lot subject to this easement related to the exercise thereof, the Owner of the benefitted Lot shall restore the damaged Lot to as near its original condition prior to the damages as reasonably possible.

(n) Any portion of the Property subject to any conservation or preservation easement as designated on the subdivision plats of the Property recorded among the Land Records of Montgomery County, Maryland, may not be disturbed contrary to the terms of such conservation or preservation easement by the Association or any Owner.

(o) The Declarant reserves the right to modify or alter the size, number and location of the Common Area and Lots, as well as the improvements thereon, as it deems necessary or desirable in conjunction with the development of the Project. Without limiting the generality of the foregoing, the Declarant reserves the right to resubdivide all or a portion of the Project, to convey Common Area, to modify the site plans, to construct improvements on the Common Area, and to take whatever other action with respect to the Common Area and the Lots as the Declarant may deem necessary or desirable.

(p) The Board of Directors of the Association shall have the right to grant easements, rights-of-way, licenses and similar interests over any part of the Common Area for any lawful purpose which it determines, in its own discretion, to be in the best interests of the Association.

(q) Each Lot upon which there is constructed, or is intended to be constructed, a townhouse dwelling unit is subject to an easement to the extent reasonably necessary to provide access and ingress and egress to and from any other Lot upon which there is constructed, or is intended to be constructed, a townhouse dwelling unit. Such easement shall be over and across any sidewalk, driveway or other walkway situated upon such burdened Lot and shall only benefit the Owner(s), occupants and invitees of any benefitted Lot which is otherwise not readily accessible without such easement right and the Owner(s) or occupants of the burdened Lot may not limit, obstruct or otherwise interfere with such easement.

(r) The Board of Directors of the Association shall have the right, in its sole discretion, to enforce the provisions of any declaration of condominium, bylaws or other recorded document or instrument establishing or expanding a condominium regime within the Property.

ARTICLE VIII EXTERIOR MAINTENANCE

Section 8.01. Owners' Rights and Responsibilities. Except as otherwise specifically provided in this Declaration, each Owner shall keep each Lot owned by him, and all improvements therein or thereon, in good order and repair and free of debris in a manner and with such frequency as is consistent with good property management and the Community-Wide Standard. Each Owner is also responsible for the full maintenance responsibility of maintaining any driveway apron, pipe and headwalls related thereto which serve the Owner's Lot. In the event an Owner of any Lot in the Property shall fail to maintain the foregoing areas and the improvements situated thereon, the Board of Directors or its agent shall have the right to enter upon said Lot to correct drainage and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. Whenever entry is not required in an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry. All costs related to such correction, repair or restoration shall be collectible from the Owner of such Lot in the same manner as assessments as provided in Article V herein.

Section 8.02. Association Maintenance. The Association shall maintain and keep in good order the Common Areas, such maintenance to be funded as provided herein. In addition, except as provided in Section 8.01, the Association shall maintain and keep in good repair rights-of-way and entry strips, whether owned as part of a Lot, an outlot parcel or dedicated for public use, so long as the rights-of-way or entry strips are within or appurtenant to or directly serve the Project. This obligation shall include, but not be limited to, maintenance, repair and replacement, subject

to any insurance then in effect, of all landscaping and other flora, structures and improvements situated upon such areas. The Association shall maintain any property, equipment, machinery, apparatus or other real or personal property (or fixtures) which is the responsibility of the Association pursuant to any easement or lease agreement. The expenses of such maintenance shall be a Common Expense of the Association, including, but not limited to, reserves for the maintenance, repair or replacement of any such property or improvements. The Association shall also maintain, repair and replace any storm drainage facilities, including, but not limited to, storm drainage pipes, inlets and oil grit separators whether located within the Property or not, if such equipment, apparatus or facilities serve or benefit the Property and is not maintained by Montgomery County or the State of Maryland.

The Association may elect, pursuant to a resolution of the Board of Directors, to maintain and keep in good order the Lawn and Garden Areas located within any Lot, group of Lots or all of the Lots, such maintenance to be funded as herein provided. Without limiting the generality of the foregoing, in the event the Board of Directors elects to maintain the Lawn and Garden Areas, the Association may be responsible for mowing, fertilizing, trimming and otherwise caring for the lawns, as well as planting, pruning, fertilizing and otherwise maintaining the trees, shrubs and other plant materials which are located within the Lawn and Garden Areas. All such maintenance and care of the Lawn and Garden Areas shall be in conformity with the standards established by the Board of Directors from time to time.

Any Owner may request that the Association refrain from performing all or a part of the Lawn and Garden Area maintenance described above. Such a request must be made to the Association at least thirty (30) days prior to the date the Owner desires the Association to refrain from such maintenance. The Association shall not unreasonably withhold approval of such request, provided the Owner has demonstrated to the satisfaction of the Association his or her intention to maintain the Lawn and Garden Area, as applicable, in a manner acceptable to the Association. In the event an Owner elects to maintain the Lawn and Garden area situated on his Lot pursuant to the terms hereof such Owner shall not be entitled to any reimbursement from the Association or reduction in rate of assessments levied against such Lot.

The Association may, in the discretion of the Board of Directors, assume additional maintenance responsibilities upon all or any portion of the Property. For example, and for purposes of illustration only, such additional maintenance responsibilities could include responsibility for the maintenance and repair of the exteriors of all or any portion of the dwelling units constructed within Attached Dwelling Lots. In such event, all costs of such maintenance shall be assessed only against those Owners residing

within the portion of the Property receiving the additional services. This assumption of responsibility may take place either by contract (including, but not limited to a contract between the Association and any Lot Owner or group of Lot Owners or the Council of Unit Owners of any condominium regime established within the Property) or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Project. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association shall also have the right to enter any Lot, including the dwelling unit located on such Lot, without the consent of the Owner and/or occupant thereof, to conduct any emergency repairs as are deemed necessary by the Board of Directors. The costs of such repairs shall be collectible from the Owner of such Lot in the same manner as assessments as provided in Article V herein.

The Association shall also maintain any portion of the Common Area encumbered by any stormwater management easements and covenants in accordance with the terms thereof, as amended from time to time. The Association shall maintain such easement area(s) situated within the Common Area and will not interfere with the easements and rights of way as set forth in the stormwater management easements and covenants (if any), as amended from time to time. With respect to any stormwater management facilities serving or benefiting the Property constructed by or at the request of Montgomery County, Maryland, the Association shall accept full maintenance responsibility therefor if required by any governmental agency or authority, including, but not limited to, maintaining reserves for periodic repair and replacement, (including, but not limited to, storm water pipes, inlets and oil/grit separators) and shall execute whatever further assurances the County may require regarding such stormwater management facilities.

ARTICLE IX INSURANCE

Section 9.01. Individual Coverage. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all risk casualty insurance on the dwelling and all structures located upon the Lot, at a minimum, such coverage shall provide coverage against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any insured hazard; provided, however, the Owner of any condominium unit is not required to obtain such insurance if comparable insurance coverage for such condominium unit is maintained by the Council of Unit Owners for the condominium regime.

The Board of Directors of the Association, or its duly authorized agent, shall have the authority to obtain insurance for all or any of the dwellings located on the Property, unless the Owners thereof or the Council of Units Owners of any condominium regime within the Property with respect to the condominium units within its jurisdiction have supplied proof of adequate coverage to the Board of Directors' satisfaction. Neither the Board of Directors or the Association shall incur any liability to any Owner or Mortgagee in the event that the Board of Directors or the Association shall elect not to exercise their authority to obtain such insurance for all or any of the dwellings located on the Property. In the event the Board of Directors obtains insurance for any Lot or dwelling unit pursuant to this Section 9.01, the cost thereof shall be assessed against the Lot benefiting from such insurance and shall be collectible in the same manner as any other assessment under Article V of this Declaration. Each Owner and the Council of Unit Owners of any condominium regime within the Property further covenant and agree that in the event of a partial loss or damage and destruction resulting in less than total destruction to the dwelling and other structures constructed on the Lot, the Owner or Council of Unit Owners shall proceed promptly to repair or to reconstruct the dwelling and other damaged structures in a manner consistent with the original construction. Each Owner of a Lot upon which a dwelling unit and/or other structure constructed by the Declarant is situated covenants and agrees that in the event that such dwelling and/or structure is totally destroyed, the Owner shall proceed promptly to repair or to reconstruct the dwelling in a manner consistent with the original construction, unless approval to do otherwise is obtained from the Board of Directors or the Covenant Committee. The Board of Directors may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lot and the standard for returning the Lot to its natural state in the event the Owner receives permission from the Board of Directors or the Covenant Committee not to rebuild or reconstruct.

Section 9.02. Required Coverage. The Board of Directors of the Association, or its duly authorized agent, shall be required to obtain, maintain and pay the premiums, as a Common Expense, upon a policy of property insurance covering all the Common Areas and any property required to be insured by the Association pursuant to any easement or lease agreement (except land, foundation, excavation and other items normally excluded from coverage) including fixtures and building service equipment, to the extent that they are a part of the Common Areas of the Association or such other property which the Association may insure, as well as common personal property and supplies.

The insurance policy shall afford, as a minimum, protection against loss or damage by fire and other perils normally covered by the standard extended coverage endorsement, as well as all other perils which are customarily covered with respect to

projects similar in construction, location and use, including all perils normally covered by the standard "All Risk" endorsement, where such is available. The policy shall be in an amount equal to one hundred percent (100%) of the current replacement cost of the Common Areas (less a deductible deemed reasonable by the Board of Directors) and shall name the Association as the named insured.

Each hazard insurance policy must be written by a hazard insurance carrier which has a current rating by Best's Insurance Reports of B/VI or better (or its equivalent). Hazard insurance policies are also acceptable from any insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided it has a general policyholder's rating of at least "A". Each insurer must be specifically licensed or authorized by law to transact business within the State of Maryland. The policy contract shall provide that no assessment may be made against the mortgagees, and that any assessment made against others may not become a lien on the mortgaged premises superior to the first mortgage. The deductible on any hazard policy should be no greater than one percent (1%) of the face value of the policy, unless the State of Maryland permits a higher amount.

All policies of hazard insurance must contain or have attached the standard mortgagee clause commonly acceded by private institutions as mortgage investors in the area in which the mortgaged premises are located. The mortgagee clause must provide that all property insurance policies must provide an Agreed Amount and Inflation Guard Endorsement, if available, and a Construction Code Endorsement if the Common Areas in the Association are subject to a construction code provision which would become operative and require changes to undamaged portions of the building(s), thereby imposing significant costs in the event of partial destruction of the project by an insured peril.

If any portion of the Common Areas are in a special flood hazard area, as defined by the Federal Emergency Management Agency, the Board of Directors of the Association, or its duly authorized agent, shall be required to obtain, maintain and pay, as a common expense, the premiums upon a "master" or "blanket" policy of flood insurance on Common Area buildings and any other Common Area property. The policy shall be in an amount deemed appropriate, but not less than the maximum coverage available under the NFIP for all buildings and other insurable property within any portion of the Common Areas located within a designated flood hazard area or one hundred percent (100%) of current replacement cost of all such buildings and other insurable property. Unless a higher maximum amount is permitted under the laws of Maryland, the maximum deductible for flood insurance shall be the lesser of Five Thousand Dollars (\$5,000.00) or one percent (1%) of the policy face amount.

The Association shall maintain comprehensive general liability insurance coverage covering all of the Common Areas,

public ways of the project, and other areas that are under its supervision. Coverage limits shall be in amounts generally required by private institutional mortgage investors for projects similar in construction, location and use. However, such coverage shall be for at least One Million Dollars (\$1,000,000.00) for bodily injury and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation and maintenance or use of the Common Areas, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party. Such insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. Such policies must provide that they may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association.

Blanket fidelity bonds shall be required to be maintained by the Association for all officers, directors, managers, trustees, employees and volunteers of the Association and all other persons handling or responsible for funds held or administered by the Association, whether or not they receive compensation for their services. Where the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such management agent shall be covered by its own fidelity bond. All fidelity bonds, including those entered into by, and/or on behalf of or for the benefit of a management agent and its personnel, should name the Association as an obligee (for bonds entered into by or on behalf of, or for the benefit of a management agent and its personnel, the Association should be named as an additional obligee). Fidelity bonds entered into by the Association shall have their premiums paid as a common expense of the Association. The total amount of fidelity coverage required shall be sufficient to cover the maximum funds that will be in the custody of the Association or management agent at any time, but must at least equal the sum of three (3) months' assessments on all Lots within the Property, plus the Association's reserve funds. The bonds shall provide that they cannot be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association and to all Eligible Mortgage Holders.

Section 9.03. Repair and Reconstruction of Common Areas After Fire or Other Casualty. In the event of damage to or destruction of any portion of the Common Area covered by insurance payable to the Association as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration thereof, and shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration, as appropriate. Promptly after a casualty causing

damage or destruction of any portion of the Common Area for which the Association has the responsibility of maintenance, repair, and/or replacement, the Board of Directors shall obtain reliable and detailed estimates of the cost to place the damaged portions of the Common Area in as good a condition as existed prior to the casualty. Such costs may include, without limitation, professional fees and premiums for such bonds as the Board of Directors may desire.

ARTICLE X
PARTY WALLS, FENCES AND PARTY DRIVEWAYS

The rights and duties of the Owners of Lots with respect to party walls, party fences and party driveways shall be governed by the following:

Section 10.01. General Rules of Law to Apply. Each wall, fence or driveway which is constructed as a part of the original construction on the Property and any part of which is placed on the dividing line between separate Lots, shall constitute a party wall, party fence or party driveway, as applicable, and with respect to such wall, fence or driveway, each of the adjoining Owners shall assume the burdens, and be subject to an easement for that portion of the wall, fence or driveway on his or her Lot, and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls, fences and driveways and of liability for property damage due to negligence or willful acts or omissions, shall apply thereto.

Section 10.02. Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty. If any such party wall, fence or driveway is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, his/her agents, or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly, in proportion to their respective use of the party wall, fence or driveway.

Section 10.03. Repairs of Damage Caused by One Owner. If any such party wall, fence or driveway is damaged or destroyed through the act of one adjoining Owner or any of his/her agents or guests or members of his/her family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, fence or driveway, then the Owner responsible for such damage shall forthwith proceed to rebuild and repair the same to as good condition as formerly, without cost to the adjoining Owner.

Section 10.04. Damage by Exposure. If any party wall is damaged by reason of exposure to the elements caused by the negligence or intentional acts of the Owner or occupant(s) of a Lot sharing the use of such party wall, the Owner of such Lot shall be responsible to promptly repair such party wall at such Owner's sole expense.

Section 10.05. Encroachments. If any portion of a party wall, fence or driveway shall encroach upon any adjoining Lot, or upon the Common Area by reason of reconstruction, settlement or shifting of any building, or otherwise, a valid easement for the encroachment and for the maintenance of the same as long as the wall, fence or driveway shall exist.

Section 10.06. 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 10.07. Dispute. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall, fence or driveway or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors who shall decide the dispute, and the decision of such Board of Directors shall be final and conclusive upon the parties.

ARTICLE XI MANAGEMENT

Section 11.01. Management Agent. The Board of Directors may employ for the Association a management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing, including, but not limited to, the following:

(a) to establish (with the approval of the Board of Directors of the Association) and provide for the collection of the annual maintenance assessments and any other assessments provided for in this Declaration and to provide for the enforcement of liens therefor in a manner consistent with the law and the provisions of this Declaration; and

(b) to provide for the care, upkeep, maintenance and surveillance of the Common Area and community facilities; and

(c) to designate, hire and dismiss such personnel as may be required for the good working order, maintenance and efficient operation of the Common Area and community facilities; and

(d) to promulgate (with the approval of the Board of Directors of the Association) and enforce such rules and regulations and such restrictions or requirements, "house rules" or the like as may be deemed proper respecting the use of the Common Area and community facilities; and

(e) to provide such other services (including legal and accounting services) for the Association as may be consistent with law and the provisions of this Declaration.

When professional management has been previously required by any Eligible Mortgage Holder, any decision to establish self-management by the Association shall require the consent of sixty-seven percent (67%) of the Owners and the approval of fifty-one percent (51%) of the votes of the Eligible Mortgage Holders (based upon one (1) vote per mortgage or deed of trust held by such Eligible Mortgage Holder).

Section 11.02. Duration of Management Agreement. Any management agreement entered into by the Association shall provide, inter alia, that such agreement may be terminated for cause by either party upon thirty (30) days' written notice thereof to the other party. The term of any such management agreement shall not exceed one (1) year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one (1)-year periods.

Any Management Agreement entered into by the Declarant, his/her nominee or nominees, assigns, successor(s) or agent thereof, prior to transfer of control of the Association must be terminable, without cause, any time after transfer of control, on not less than thirty (30) nor more than ninety (90) days' notice, and no charge or penalty may be associated with such termination.

ARTICLE XII GENERAL PROVISIONS

Section 12.01. Common Area Responsibility. The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and any property, real or personal, which the Association is delegated the responsibility for pursuant to any easement or lease agreement, and all improvements thereon (including, without limitation, furnishings and equipment related thereto, private drainage facilities and common landscaped areas), and shall keep the Common Areas and such other property in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof. The Association shall accept title to any real estate or personal property offered to the Association by the Declarant.

Section 12.02. Personal Property and Real Property for Common Use. The Association may acquire, lease, hold, and dispose of tangible and intangible personal property and real property, subject to the requirements of this Declaration. The Board of Directors, acting on behalf of the Association, will accept any real or personal property, leasehold, or other property interests within the Property conveyed to it by the Declarant.

Section 12.03. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws or any lease, easement or other agreement or document affecting the Association, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 12.04. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the common expense funds, or for injury or damage to persons or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Areas or community facilities or other property within the control or supervision of the Association, or from any wire, pipe, drain, conduit or the like. The Association shall not be liable to any member for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Areas or other property within the control or supervision of the Association. No diminution or abatement of assessments, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or other property within the control or supervision of the Association, or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

Section 12.05. Enforcement. The Association, or any Owner, or any Mortgagee of any Lot shall have the right to enforce, by any proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, easements, liens, charges or other obligations or terms now or hereafter imposed by the provisions of this Declaration, or the Articles of Incorporation or Bylaws of the Association or any rule or regulation promulgated by the Association pursuant to its authority as provided in the Declaration, Articles of Incorporation or Bylaws. Failure by the Association or by any Owner or by any mortgagee of any Lot to enforce any covenant or restrictions herein contained or any provision of the Bylaws, Articles of Incorporation or rules and regulations of the Association shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within