

AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

Windsong Heights

Town of Christiansburg,
Montgomery County, Virginia

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
WINDSONG HEIGHTS
TOWN OF CHRISTIANSBURG
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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS
Windsong Heights
Town of Christiansburg, Montgomery County, Virginia

This Amended and Restated Declaration dated, _____, 2020, as voted on and approved by the Owners of the Lots in Windsong Heights is hereinafter set forth as follows:

RECITALS

The community of Windsong Heights is located in Christiansburg, Virginia, and is more particular described on a plat prepared by Roderick F. Pierson, CLS dated November 22, 2002 showing Section 1 Windsong Heights, a copy of which is recorded in Circuit Court Clerk's Office for Montgomery County, Virginia in Plat Book 23 at pages 384, 385.

In an effort to better reflect the needs and desires of the current owners of lots in Windsong Heights, and in light of the fact that the Developer of Windsong Heights no longer owns any property in Windsong Heights, at a duly called meeting of the Windsong Heights Homeowners Association the owners have voted to amend the Declaration dated December 10, 2002 which Declaration is hereby Amended, Superseded and Replaced for all the lots in Windsong Heights, which newly amended Restrictive Covenants are intended to be appurtenant to and burden all the lots in Windsong Heights:

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DECLARATION

NOW, THEREFORE, the lot owners hereby declare the Property is and shall be held, transferred, sold, conveyed, occupied and used subject to the provisions of the Restrictions hereinafter set forth, for and during the period of time hereinafter specified.

ARTICLE I DEFINITIONS

The following words when used in this Declaration or any supplement hereto (unless the context shall prohibit) shall have the following meanings:

- 1.1 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association.
- 1.2 "Assessment" shall mean and refer to a Member's share of the Common Expenses from time to time assessed against a Member by the Association in the manner herein provided.
- 1.3 "Association" shall mean and refer to Windsong Heights Homeowners Association, Inc., its successors and assigns.
- 1.4 "Association Property" shall mean and refer to the real property owned by or acquired in the future by the Association.
- 1.5 "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- 1.6 "Common Areas" shall mean all portions of the Property designed for the use, enjoyment, and access of all Members.
- 1.7 "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of the Declaration.
- 1.8 "Common Maintenance Areas" shall mean the areas to be maintained by the Association which shall include all Association property, the exterior of all Lots, as well as all storm water management lots, easements and facilities constructed now and 30 foot wide "bench easement" shown on Windsong Heights plat "community playground" in the future and any related drainage easements, whether on-site or off-site. The exterior of each Lot to be maintained shall include all shrubbery, grass, and wooded areas.
- 1.9 "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions of Windsong Heights, as the same now exists or may be hereafter amended.
- 1.10 "Lot" or "Lots" shall mean any or all of the subdivided real property parcels for residential dwelling purposes created from the Property, including the dwellings and other

improvements located thereon. In the event a single residence is constructed on two lots, the two lots shall be considered to be one Lot for all purposes herein, regardless of whether the two lots remain as is or one lot is created by the vacation of the common lot line, except for the purposes of assessments. If two lots are combined into one, the assessment shall be doubled.

1.11 "Member" shall mean and refer to all those Members who are members of the of the Association as provided in Paragraph 2.1 of this Declaration.

1.12 "Mortgage" shall mean and refer to any mortgage, deed of trust or similar instrument encumbering a Lot as security for the performance of any obligation.

1.13 "Occupant" shall mean and refer to any person, including, without limitation, any guest, invitee, tenant, lessee or family member of a Member, occupying or otherwise using or visiting a Lot.

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

1.15 "Property" shall mean and refer to the real property shown on the plat of Windsong Heights, Section 1, prepared by Roderick F. Pierson dated November 22, 2002, recorded in the Circuit Court Clerk's Office for Montgomery County, Virginia, in Plat Book 23, pages 384 and 385, and all subsequent additions thereto brought under the regime of this Declaration.

ARTICLE 2 MEMBERSHIP AND VOTING RIGHTS

2.1 Every Lot Owner shall be a Member of the Association, provided, however, that any such person or entity who holds such interest merely as security for the 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 ownership of any Lot.

ARTICLE 3 PROPERTY SUBJECT TO THIS DECLARATION

3.1 Description. The real property subject to this Declaration is all that property located in the Town of Christiansburg, Montgomery County, Virginia, as described in Exhibit "A" attached hereto and made a part hereof.

ARTICLE 4 PROPERTY RIGHTS IN THE COMMON AREAS

4.1 Owner's Easements of Enjoyment. Subject to the provisions of Paragraph 4.4, every Member

shall have a right and easement of enjoyment in and to the Association Property and such easement shall be appurtenant to and shall pass with the title to every Lot.

4.2 Extent of Member's Easements. The right and easements of enjoyment created hereby shall be subject to the right of the Association to adopt rules and regulations governing the use by the Members of the Association Property.

4.3 Delegation of Use. Any Member may delegate his rights of enjoyment of the Association Property and facilities to the members of his family, tenants or contract purchaser (and members of the family of any tenants or contract purchaser) who reside on the Property or to such other persons as may be permitted by the Association.

4.4 Obligations of the Association. The Association shall:

4.4.1 Operate and maintain, for the use and benefit of all Members of the Association, all Association Property, easements and facilities and all Common Maintenance Areas, including all storm water detention facilities, retaining walls and landscape berms, constructed now or in the future and the drainage easements conveyed, where these easements and facilities are on-site or off-site and serving this community.

4.4.2 Maintain, reseed, and mow the grass and replace dead or destroyed landscaping in the Association Property and Common Maintenance Areas.

4.4.3 Maintain and operate the Association Property and Common Maintenance Areas.

4.4.4 May hire a professional manager to perform all functions of operation and management of the Association Property and Common Maintenance Areas on behalf of the Association.

4.4.5 Shall require any destroyed improvements on Association Property and Common Maintenance Areas, and any landscaping and decorative items to be reconstructed.

4.4.6 May prohibit additional improvements or alterations in Association Property or Common Maintenance Areas.

4.4.7 Review any proposed construction, painting or landscaping (which term shall be defined in its broadest sense as including grass, fences, hedges, vines, trees and the like).

4.4.8 The Homeowners' Association, its successors, transferees or assigns, shall maintain in full force and effect, at its cost, comprehensive general liability and property damage insurance in the minimum amount of One Million Dollars, combined single limited with no annual aggregate. The Town of Christiansburg, its officers, agents and employees, shall be named as additional insured on the policy, A certificate of insurance reflecting such coverage shall be provided to the Town upon recordation of the Declaration of Covenants, Conditions and Restrictions and from year to year thereafter.

4.4.9 The policy shall provide that the coverage shall not be canceled or materially altered except after sixty (60) days' written notice to the Town; in the event of cancellation, material alteration, or termination of said policy for any reason, the Home Owner's Association, its successors, transferees, or assigns, shall provide a comparable policy acceptable to the Town, or shall forthwith comply with all federal, state and local laws or regulations as may be in effect at such time for fencing of detention pond(s) stormwater management areas or other "common areas." Every five (5) years from the date hereof, the policy limits set forth herein shall increase by the total annual increase reflected by the Consumer Price Index Detailed Report for all urban consumers published by the United States Department of Labor, Bureau of Labor Statistics, in January of the anniversary year.

4.5 Obligations of the members for exterior maintenance.

4.5.1 Each member shall be responsible for maintaining their driveway, garage doors, siding, decks, railings, roofs, walkways, door lights and fences.

ARTICLE 5 COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of Assessments. Each Member, hereby covenants, and each Lot by acceptance of a deed or other transfer document therefor, whether or not it shall be so expressed in such deed or other transfer document, as deemed to covenant and agree to pay to the Association:

5.1.1 Annual assessments or charges; and

5.1.2 Special assessments for capital improvements and operating, repair and replacement reserve funds, such assessments to be fixed, established and collected as hereinafter provided.

5.1.3 An initial assessment of \$350.00 upon purchase of a Lot as a contribution to the reserve account. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land 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, shall also be the personal obligation of the person who was the Owner at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Member's Successors in title (other than as a lien on the land) unless expressly assumed by them.

5.1.4 Purpose of Assessments. The assessments shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Members and in particular for the maintenance of the Association Property and Common Maintenance Areas and for services and facilities devoted to this purpose and related to the use and enjoyment of the Association Property and Common Maintenance Areas, including, but not limited to, the payment of taxes and insurance thereon and repair and replacement, for the cost of labor, equipment, materials, management and supervision thereof, and for operating reserve

funds, and reserve funds for repair and replacement of the Association Property and Common Maintenance Areas and facilities thereon, whether on-site or off-site serving the community.

Basis and Maximum of Annual Assessment.

5.2 The initial payment of \$350.00, in addition to all assessments, shall be payable by the initial Owner at the closing of the sale of each Lot. Commencing with the conveyance of the first Lot to an Owner and until changed by the Board of Directors as herein provided, the annual assessment imposed upon each Member of the Association shall be at a rate determined by the initial Board of Directors of the Association. The annual assessment may be collected monthly or quarterly as the Association may determine and may be increased as hereinafter provided in Paragraph 5.4

5.2.1 The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment for any year in an amount below the maximum annual assessment set forth in Paragraph 5.3, as the same may be increased pursuant to Paragraph 5.4, provided that it shall be an affirmative obligation of the Association and its Board of Directors to fix such assessments at an amount sufficient to maintain and operate the Association Property and facilities and to provide reserves for the operating, repair and replacement of the Association Property and facilities.

5.3 Change in Maximum of Annual Assessments. The Board of Directors of the Association may, without a vote of the Members of the Association, prospectively increase the maximum of the annual assessments (fixed by Paragraph 5.2.1) to an amount which is the greater of (i) twenty-five per cent (25%) above the annual assessments for the previous year, or (ii) the annual assessment fees stated in Paragraph 5.2.1. The Association may prospectively increase the maximum of the assessments above the amount permitted pursuant to the preceding sentence, provided that such change shall have the assent of two-thirds (2/3) of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

5.4 Determination of Annual Assessments.

5.4.1 Fiscal Year. The fiscal year of the Association shall consist of the twelve-month period commencing on January 1 of each year and terminating on December 31 of that year.

5.4.2 Preparation and Approval of Budget Each year on or before October 15, the Board of Directors shall adopt a budget containing an estimate of the total amount which it considers necessary to pay the cost of maintenance, management, operation, repair and replacement of the improvements, and the cost of wages, materials, insurance premiums, services, supplies and other expenses and the rendering to the members of all related services. Such budget shall also include such reasonable amounts, as the Board of Directors considers necessary to provide working capital, a general operating reserve, and reserves for contingencies and replacements. The Board of Directors shall send to each Member a

copy of the budget which sets forth the amount of the common expenses payable by each Member, on or before December 15 preceding the fiscal year to which the budget applies. The said budget shall constitute the basis for determining each Member's assessment as hereinbefore provided.

5.4.3 Reserves. The Board of Directors shall build up and maintain an adequate reserve for working capital and contingencies, and an adequate reserve for replacement of all facilities on the Association Property and Common Maintenance Areas which shall be collected as part of the annual assessment as hereinbefore provided. All funds accumulated for reserves shall be kept in a separate bank account, segregated from the general operating funds, and, if the Board of Directors deems it advisable, funds accumulated for each type of reserve shall be kept in a separate bank account, identified by reference to the specific category of reserve. Extraordinary expenditures not originally included in the annual budget, which may become necessary during the year, shall be charged first against such reserves. Except where an emergency required an expenditure to prevent or minimize loss from damage to, or deterioration of, the Association Property and Common Maintenance Areas. If the reserves are inadequate for any reason, including non-payment of any Owner's assessment, the Board of Directors may at any time levy a further assessment in accordance with the provisions hereof, and which may be payable in a lump sum or in installments as the Board of Directors may determine as required by the Common Interest Community Regulations, The Board shall conduct a Reserve Study at least every five (5) years to determine that capital maintenance needs will be available when needed.

5.4.4 Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt the annual budget or adjusted budget for any fiscal year, shall not constitute a waiver or release in any manner of a Member's obligation to pay his assessment as herein provided, whenever the same shall be determined, and in the absence of any annual budget or adjusted budget, each Member shall continue to pay the assessment at the then existing rate established for the previous fiscal period in the manner such payment was previously due until notified otherwise.

5.4.5. Accounts. Except as otherwise provided, all sums collected by the Board of Directors with respect to assessments against the Members may be commingled into a single fund but shall be held for each Member in accordance with his votes in the Association.

5.5 Special Assessments for Capital Improvements and Operating Reserves. In addition to the annual assessments authorized by Paragraph 5.3, 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 reconstruction, repair or replacement or a capital improvement upon the Association property and Common Maintenance Areas, including the necessary fixtures and personal property related thereto, and for operating the Association Property and Common Maintenance Areas, for which a reserve fund does not exist or is not adequate, provided that any such assessment shall have the assent of two-thirds (2/3) of Members who are voting in person or by proxy at a meeting duly called for this purpose.

5.6 Date of Commencement of Annual Assessments: Due Dates. The annual assessments as to any Lot shall commence on the conveyance of such Lot from an Owner and shall be due and payable thereafter on the first day of each calendar month thereafter. The due date of a special assessment under Paragraph 5.6 hereof shall be fixed in the resolution authorizing such assessment.

5.7 Duties of the Board of Directors. In the event of any change in the annual assessment as set forth herein, the Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be open to inspection by any Member. Written notice of the assessment shall thereupon be sent to every Member subject thereto. The Association shall, upon demand at any time, furnish to any Member liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid, or the amount of any unpaid assessment a reasonable charge may be made by the Association for the issuance of such certificate. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

5.8 Non-payment of Assessments: Remedies of Association. Any assessment, or portion thereof, not paid when due shall be delinquent. If the same is not paid within five (5) days after the due date, then a late charge, not in excess of the greater of Twenty-five Dollars (\$25.00) or ten percent (10%) of the amount of each assessment or installment thereof not paid when due, shall also be due and payable to the Association. If an assessment or portion thereof is delinquent for a period of more than five (5) days, then if not paid within ten (10) days after written notice is given to the Member to make such payment, the entire unpaid balance of the assessment for that year may be accelerated at the option of the Board of Directors and be declared due and payable in full, and foreclosure proceedings may be instituted to enforce such lien. Such notice shall be sent by regular first class mail, to the Member both at the address of the Lot or at any other address or addresses the Member may have designated to the Association in writing, specifying the amount of the assessments then due and payable, together with authorized late charges and interest accrued thereon. In addition, the Association may cause to be forced among the land records of Montgomery County, Virginia, a memorandum of lien against the Lot and Owner thereof for all charges specified herein. Any assessment or portion thereof together with authorized late charges not paid when due can, at the option of the Board of Directors, bear interest from the date of delinquency until paid at twelve percent (12%) per annum, or the maximum rate allowed by law, whichever is greater. The Board of Directors may suspend the voting rights of the Member or the rights of the Member and his Occupants to use the recreational facilities, if any, of the Property during the period in which any assessment or portion thereof remains unpaid and after at least ten (10) days written notice is given to the Member as aforesaid, and the Association may bring an action at law against the Member personally obligated to pay the same or foreclose its lien against such Member's Lot, in which events late charges, interest and costs of collection shall be included in such lien, with such costs of collection to include court costs, the expenses of sale, any expenses required for the protection and preservation of the Lot, and reasonable attorney's fees in the amount of 25% of the total claimed. All payments on account shall be applied first to the aforesaid costs of collection, then to late charges, then to interest, and then to the assessment lien first due. All late charges and interest collected shall be credited to the Common Expense fund. Each Member vests in the Board of Directors the right and power to bring all actions against him personally for

the collection of such assessments as a debt and to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all Members. The Board of Directors acting on behalf of the Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, encumber and convey the same. No member may waive or otherwise escape liability for the assessment provided for herein by non-use of the Lot, Common Maintenance Areas or Association Property. The lien for assessments shall lapse and be of no further effect as to assessments or installments thereof, together with late charges and interest applicable thereto, first becoming due and payable more than three (3) years prior to the date upon which the notice contemplated in this Paragraph is given or more than three (3) years prior to the institution of suit therefor if suit is not instituted within ninety (90) days after the giving of such notice.

5.9 Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on a Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot by foreclosure of any first mortgage on the Lot, or any proceeding in lieu thereof, shall extinguish the lien of such assessments (but not the personal obligation to pay) as to payments which became 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.

5.10 No Alienation of Lots. No member shall be permitted to convey, mortgage, hypothecate, sell, lease, give, or devise his lot unless and until he (or his personal representative) shall have paid in full to the Association all unpaid assessments against his Lot, except as otherwise specifically provided herein. The Association shall promptly furnish to any member (or his devisee or personal representative) requesting the same in writing pursuant to this Section, a recordable statement certifying whether or not such Member is then obligated for any outstanding assessments previously levied against such Lot and the amount, if any, then outstanding. In the event that the Lot is subject to outstanding expenses previously levied against such Lot, the statement shall certify any waiver of, or failure or refusal to exercise, the right of the Association to prevent the disposition of such Lot, in all cases where the Association allows such disposition. Failure or refusal to furnish promptly such a statement in such circumstances shall make the above-mentioned prohibition inapplicable to any such disposition of the Lot. Any such statement shall be binding on the Association and every Member.

5.11 Exempt Property. Property titled in the Association and is subject to this Declaration shall be exempt from the assessments, charges and liens created herein.

ARTICLE 6 PROTECTIVE COVENANTS

6.1 Utility Easements. Each Lot Owner shall have an easement in common with the Owners of all other Lots to use all pipes, wires, ducts, cables, conduits, public utility lines and other elements located on any of the other Lots and serving his Lot Each Lot shall be subject to an easement in favor of the Owners of all other Lots to use the pipes, ducts, cables, wires, conduits and public utility lines of any nature.

6.2 Easement of Access - Common Maintenance Areas. Every of the Association, the managing agent and its employees and contractors, shall have an easement of access over and across all Common Maintenance Areas. This easement, in addition for the purpose of access, shall also be for ingress and egress and for performing any and all tasks, obligations, and duties of the Association, and managing agent, including, but not limited to, maintenance, repairs, rebuilding, relocation of utility lines, grounds care, and replacement of components.

6.3 Private Drives. Each individual homeowner shall have the responsibility to maintain all private drives located on their respective lot. All homeowners shall own and maintain their driveways.

6.4 Easement of Access - Common Maintenance Areas. Personnel of the Association, the managing agent and its employees and contractors, shall have an easement of access over and across all Common Maintenance Areas. This easement, in addition for the purpose of access, shall also be for ingress and egress and for performing any and all tasks, obligations, and duties of the Association, and managing agent, including, but not limited to, maintenance, repairs, rebuilding, relocation of utility lines, grounds care, and replacement of components.

6.5 Residence Maintenance/Repair/Replacement Easement. There is hereby reserved a 5-foot wide easement for each Lot Owner over the adjoining Lot, which easement shall run parallel to the "zero lot line" for each Lot, as more particularly shown on the recorded plat of Windsong Heights (Plat Book 24, Pages 384-385) This easement is intended to include such additional area of the adjoining Lot as required for maintenance, repair or replacement of the residence, walks, patios, decks or other improvements located on the Lot. Any such maintenance, repair or replacement must be with materials of quality and design, comparable to the original construction, so as to appear identical to the original construction. "Adjoining Lot" as used in this paragraph shall mean the lot immediately adjacent to the zero lot line.

6.6 Encroachment. To the extent that an improvement located on any Lot encroaches on any other Lot or Association Property, either by reason of deviation from the subdivision plat of the Property or by reason of settling or shifting of any land or improvement, an easement for such encroachment shall exist. This easement shall include any retaining walls, which cross division lines between Lots. Each Lot and the Association Property shall be subject to an easement for encroachments created by construction and overhangs. A valid easement for said encroachments, and for the maintenance of same so long as they stand, shall and does exist. In the event that any building is partially or totally destroyed and then rebuilt, the owners of the Lot so affected agree that encroachments on parts of the adjoining Lots or Association Property due to construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist. This easement shall not apply to cases of willful and intentional misconduct for the parties responsible for said encroachment. A perpetual easement is hereby created on all Lots upon which common driveways and common parking areas are located, for the benefit of Lot owners and occupants using said driveways and parking areas.

ARTICLE 7
INSURANCE

7.1 Authority to Purchase.

7.1.1 All insurance policies relating to the Association Property shall be purchased by the Board of Directors. Neither the Board of Directors nor the Managing Agent shall be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from an insurance company having the qualifications set forth in Paragraph 7.4 or if, in the opinion of the Board of Directors, such coverage is prohibitively expensive.

7.1.2 Each such policy shall provide that:

7.1.2.1 The insurer waives any right to claim by way of subrogation against the Association, the Board of Directors, the Managing Agent or the Members, and their respective agents, employees, guests and, in the case of the Members, the members of their households;

7.1.2.2 Such policy shall not be canceled, invalidated or suspended due to conduct of any member (including his invitees, agents and employees) or of any member, officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board of Directors or the Managing Agent cure the defect and without sixty (60) days having elapsed after such a demand without a cure of the defect

7.1.2.3 Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least sixty (60) days prior written notice to the Board of Directors and the Managing Agent and, in the case of physical damage insurance, to all Mortgagees of the Lots.

7.1.2.4 All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia and holding a rating of "AAA", or better, by Best's Insurance Reports and a policyholder's rating of "A" or better. Physical damage policies shall be in form and substance acceptable to the Mortgagees of the Lots.

7.2 Fire and Extended Coverage.

7.2.1 All Lot Owners shall be responsible for securing policies for fire and extended coverage, vandalism, malicious mischief, windstorm, debris removal, and water damage endorsements, for

the structure on each individual Lot, in an amount equal to 100% of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation. All such policies shall be approved by the Board of Directors of this Association and the Board of Directors shall be a named party as their interests may appear.

7.2.2 Copies of all policies and any renewals shall be filed with the Board of Directors of this Association.

7.3 Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability in the amount of \$1,000,000.00 (including libel, slander, false arrest and invasion of privacy coverage for Officers) and property damage insurance in such limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the Officers, the Managing Agent, the Town of Christiansburg, and each Member against any liability to the public or to the Members (and their invitees, agents and employees) arising out of, or incident to, the ownership and/or use of the Association Property and Common Maintenance Areas including any storm water detention areas. Such insurance shall be issued on a comprehensive liability basis and shall contain: (a) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (b) hired and non-owned vehicle coverage; (c) host liquor liability coverage with respect to events sponsored by the Association; (d) deletion of the normal products exclusion with respect to events sponsored by the Association; and (e) a "severability of interests" endorsement which shall preclude the insurer from denying liability to a Member because of negligent acts of the Association or of another Member. The Board of Directors shall review such limits once a year, but in no event shall such insurance be less than One Million Dollars covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits may also be obtained.

7.4 Other Insurance. The Board of Directors shall obtain and maintain:

7.4.1 Workmen's compensation insurance if and to the extent necessary to meet the requirements of law;

7.4.2 Such other insurance as the Board of Directors may determine or as may be requested from time to time by a majority of the Members.

7.5 Board of Directors as Agent. The Board of Directors is hereby irrevocably appointed the agent for each Member, each Mortgagee, other named insured and their beneficiaries and any other holder of a lien or other interest in the Association to adjust and settle all claims arising under insurance policies purchased by the Board of Directors and to execute and deliver released upon the payment of claims.

ARTICLE 8
REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER
CASUALTY

In the event of damage to, or destruction of, all or any of the improvements on any Lot or the Association Property or Common Maintenance Areas as a result of fire or other casualty, the Board of Directors of the Association and/or Lot Owners shall cause and supervise the prompt repair and restoration of such improvements including landscaping in accordance with the plans and specifications under which the improvements were originally constructed. The Board of Directors and/or Lot Owners shall proceed towards reconstruction of such improvements as quickly as practicable under the circumstances and shall obtain funds for such reconstruction from their insurance proceeds and any special assessments that may be necessary after exhaustion of reserves for the repair and replacement of such improvements.

ARTICLE 9
MORTGAGES

9.1 Notice to Board of Directors. A Member who mortgages his Lot shall notify the Association of the name and address of his mortgagee.

9.2 Notice of Unpaid Assessments for Common Expenses. The Association, whenever so requested in writing by a mortgagee of a Lot, shall promptly report any then unpaid assessments for Common Expenses due from, or any other default by, the Member of the mortgaged Lot.

9.3 Notice of Default. The Association, when giving notice to a Member of a default in paying an assessment for common expenses or any other default, shall send a copy of such notice to each holder of a Mortgage covering such Member's Lot when the name and address has been furnished to the Association. Further the Association shall send such mortgagees written notice of any default by such member which has not been cured within thirty (30) days after the delivery to such Owner of the first notice relating to such default.

ARTICLE 10
COMPLIANCE AND DEFAULT

Each member shall be governed by, and shall comply with, all of the terms of the Declaration, and the rules and regulations promulgated by the Association and any amendments of the same. A default by a Member shall entitle the Association, acting through its Board of Directors or through its agent, to the following relief:

10.1 Legal Proceeding. Failure to comply with any of the terms of the Declaration, and the rules and regulations shall be grounds for relief which may include, without limiting the same, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for herein including reasonable attorney's fees, or any combination thereof, and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, its agents, or if appropriate, by an aggrieved Member.

10.2 Additional Liability. Each member shall be liable for the expense of all maintenance, repair or replacement to Association Property and Common Maintenance Areas rendered necessary by his act, neglect or carelessness, or the act, neglect or carelessness of any member of his family or his employees, agents or licensee, but only to the extent that such expense is not covered by the proceeds of any insurance carried by the Association. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its right of subrogation.

10.3 Costs and Attorney's Fees. In any proceeding arising out of any alleged default by a Member, the Association shall be entitled to recover the costs of the proceeding, and such reasonable attorney's fees as may be determined by the court.

In the event any owner or purchaser of a Lot files a suit against the Association, pursuant to any terms and conditions of this Agreement, the party filing such legal action shall be responsible for all court costs and attorney's fees incurred by the Association, if such legal action is dismissed or decided in favor of Association.

In the event any owner or purchaser of a Lot files a suit against the Association, pursuant to any terms and conditions of this Agreement, the Lot owner filing such legal action shall also be responsible for all court costs and attorney's fees incurred by the Association, if said legal action is decided in favor of said Lot owner but the decision is consistent with a previous settlement offer made by the Association.

10.4 No Waiver of Rights. The failure of the Association, the Board of Directors, or of a Member to enforce any right, provision, covenant, or condition which may be granted by the Declaration, or the rules and regulations shall not constitute a waiver of the right of the Association, the Board of Directors or the member to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Member pursuant to any term, provision, covenant or condition of the Declaration, or the rules and regulations shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by the Declaration or the rules and regulations, or at law or in equity.

10.5 Abatement and Enjoinment of Violations by Owners. The violation of any rule or regulation adopted by the Association, or the breach of any provision of the Declaration, shall give the Association or Agent, the right, in addition to any other rights set forth herein or at law to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

ARTICLE 11 RULES REGULATIONS AND RESTRICTIONS

In order to preserve the architectural appearance of the property, provide for a safe, peaceful and quiet living environment, and set restrictions on the usage of the property, the following shall apply:

11.1.1 Land Use. No Lot shall be used except for single family residential purposes.

11.1.2 No Owner shall use the lot for any unlawful purpose, permit or suffer any action or keep any material which will (a) increase the rate or cause cancellation of insurance on the Lot, (b) obstruct or interfere with the rights of other occupants of the Property, (c) be a nuisance to those occupants, or (d) interfere with the peaceful or proper use of any portion of the Property.

11.2 Parking. The following motor vehicles shall not be allowed to park on the Property, except inside garages: motor homes, campers, boats, trailers, commercial vehicles or commercial type vehicles used for other purposes. The following vehicles shall be allowed to park on the Property, but only on the paved portion of driveways or inside garages: cars, pick-ups, motorcycles, passenger vans (up to ten (10) passengers) and mini-vans. No inoperable, unlicensed or covered vehicles shall be parked on Property except inside garages. This does not preclude the parking of service vehicles while working on the Property.

11.3 Exterior Building/Lot Appearance. No construction, painting or other changes of any nature whatsoever shall be commenced or maintained by any owner or the Association with respect to the exterior of any structure or any other portion of the Lot whether appurtenant thereto or not. No awnings, shades, solar panels, or other items shall be attached to, hung or used on the exterior of any window or door of a structure or on the exterior of any building without prior written approval of the architectural review committee or the board. This review process shall include drawings or other examples of how these additions will change the appearance of the building, including specifications for said additions. No foil, window tinting or other reflecting materials or devices shall be permitted. In the event an Owner violates this Section, the Board of Directors shall have the right without notice to remove any alteration and restore the original alteration or landscaping at the Owner's expense. Said expenses shall be a lien, as is herein defined, on Owner's Lot.

11.4 Interior Changes. An Owner may make improvements and alterations within his structure, provided, however, that no owner shall make any structural alterations or remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety, soundness or structural integrity of that structure or any other structure.

11.5 Landscaping. No alteration or removal of original landscaping (which term shall be defined in its broadest sense as including grass, fences, hedges, vines, trees, bushes and the like) shall be allowed. However, the Association may approve additional plantings, on a case by case upon Owner's request.

11.6 Trash/Rubbish/Debris. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of any Lot. The Association reserves the right to approve the refuse containers used by Lot Owners and occupants, and such containers shall be purchased at Lot Owner's expense. Trash, garbage and their containers shall be kept in garages or on the side of the residence, except on trash collection days.

11.7 Exterior Decorations/Displays. Exterior decorative lighting must be approved by the Board. Colored bulbs in outdoor fixtures are prohibited. Furniture, pottery, grills and similar items

may be placed on rear patio. One flag not to exceed ten (10) square feet in size may be displayed on an appropriate holder attached to the front facade of house.

11.8 Animals. No animals shall be kept, housed or maintained outside the building structure. No more than two (2) common household pets shall be kept inside the building structure. Pets while outside must be on a leash, carried, or otherwise restrained. Owners are responsible for cleaning up all messes created by their pets (i.e. pooper-scoopers) immediately. Loud or excessive noise (i.e. barking) created by pets is prohibited and shall be grounds for removal of said pet from property.

11.9 Signs. No signs permanent or temporary other than one (1) "Home for Sale" sign not to exceed five (5) square feet shall be permitted.

11.10 Wires/Lines. No lines or wires of any type including electric, clothes, telephone, etc. shall be installed above ground or on building facades or roofs.

11.11 Antennas. No antennas of any type shall be installed except that one (1) dish type antenna not to exceed 18 inches in diameter may be installed on the rear of the building in a manner as approved by the Association.

11.12 Storage of Hazardous Material. No flammable, combustible or explosive fluid or chemical substance shall be kept in any structure except as such as are required for normal household use, and except for a portable gas barbecue grill. No Owner shall permit or suffer anything to be done or kept in its dwelling which will increase the rate of insurance as to other Lot Owners or as to their Lots or to the Association as to the Common Areas.

11.13 Nuisance. Loud noises and other activities, which disrupt the peace of the neighborhood or interfere with the rights, comforts or conveniences of other Owners, are prohibited.

11.14 Mail/Paper Boxes. Boxes as originally provided shall not be altered or replaced by Owner, without approval of the Board.

11.15 Storage Buildings and Other Structures. No storage buildings, sheds, gazebos or other similar structures shall be permitted unless approved by the Board.

11.16 Swimming Pools. No in ground or aboveground pools shall be constructed or placed on Property. Notwithstanding the above restrictions, wading pools, which are emptied of water on a daily basis, may be used on patios. Hot tubs may be allowed so long as they are located in the rear of the lot and are screened or fenced.

11.17 Personal Property. To maintain an uncluttered appearance and facilitate yard maintenance (mowing etc.), personal property shall be stored inside. The moving, storing or relocating such items required to perform yard maintenance shall be billed to the Owner.

11.18 Lease/Rent. Any Lot Owner who rents his Lot to a lessee(s) shall deliver to the Association a written statement designating the name or names of those persons entitled to use the Lot, together

with a written covenant from that party or those parties in favor of the Association stating that there will be full compliance with all the terms and provisions of this Declaration, the Articles and Bylaws and all rules and regulations adopted thereunder. In the event that such covenants are violated, the aforesaid Owner shall cause such person(s) to vacate the Lot and in the event such person(s) do not vacate the Lot, the Association shall take whatever measures are necessary to have the party or parties removed from the Lot and shall assess the Owner for any costs or attorney's fees caused by such measures. No lease term on any Lot shall be for the period less than twelve (12) months.

11.19 Lawn Maintenance. Once the lawn is established on the homeowner's lot, Lot Owner shall be responsible for continuing to provide water in sufficient quantities to maintain the lawn. In the event that a Lot Owner does not provide the necessary water in order to establish or maintain a lawn, the Homeowner's Association may enter the property after writing notice of intent to do so and make use of the water on that Lot for purposes of repairing or re-establishing the lawn and any costs associated with re-establishing the Lot shall be born solely by the homeowner and may be collected by the Homeowner's Association as a repair assessment.

11.20 Fences. No fences of any type shall be installed other than those originally installed or after written approval by the Board after approving the design for the proposed fence.

ARTICLE 12 MISCELLANEOUS PROVISIONS

12.1 Duration and Amendment. The provisions of this Declaration run with and bind all the Property including the Lots therein, and shall inure to the benefit of and be enforceable by the Association or the Member of any Lot subject to this Declaration, their respective legal representative, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time the Restrictions shall be automatically extended for successive periods often (10) years each unless an instrument signed by Members holding more than three-fourths (3/4) of the votes of the membership has been recorded, agreeing to terminate or change said Restrictions in whole or in part; provided however, that no such agreement to terminate or change shall be effective unless written notice of the proposed agreement is sent to every Member at least ninety (90) days in advance of any action taken. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by Owners holding two-thirds of the votes of membership at any time until the end of the initial fifty (50) year term. Any amendment or alteration to the Declaration must be recorded among the Montgomery County land records.

12.2 Consent of First Mortgagees. This Declaration contains provisions concerning various rights, priorities, remedies and interests of the mortgagees of Lots. Such provisions are to be construed as covenants for the protection of the mortgagees on which they may rely in making loans secured by mortgages on Lots. Accordingly, no amendment or modification of this Declaration impairing such rights, priorities, remedies or interests or a mortgagee shall be adopted without the prior written notice. If there is more than one mortgagee holding mortgages on the Lots, it shall be sufficient to obtain the written consent of the mortgagee or mortgagees holding first liens on seventy-five percent (75%) of the Lots encumbered by Mortgages.

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

12.4 Power of Attorney. All Lot Owners hereby appoint the Board as attorney-in-fact for each Lot Owner to change and alter any Lot lines set forth on the Plat of the Property recorded in the Circuit Court for the County of Montgomery, Virginia

12.5 Non-Waiver. The failure of the Association or any Member, or their respective legal representatives, heirs, successors and assigns, to enforce any restriction contained in 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 or subsequent thereto.

12.6 Construction and Interpretation. The Board may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. 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 Board shall take into consideration the best interests of the Members to the end that the Property shall be preserved and maintained in a high quality manner.

12.7 Severability. All of the covenants, conditions, restrictions, and regulations 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 phrase thereof.

12.8 Future Roads. No street or road connecting the Property to adjoining lands may be constructed on any Lot or portion of the Property to place a road to develop adjoining land over any recorded Lot.