

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ANNANDALE

THIS DECLARATION is made and executed on this the 18th day of October, 1985, by ANNANDALE DEVELOPMENT COMPANY, a Delaware corporation, hereinafter referred to as the "Declarant".

WHEREAS, the Declarant is the owner of the real property described in Exhibit "A" hereto; and

WHEREAS, the Declarant wishes to create and develop an extraordinary residential community of refined affluence and uncompromised elegance with common areas and community facilities for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the designation and maintenance of said common areas and community facilities; and to this end, the Declarant desires to subject all of said real property described in Exhibit "A" hereto to the covenants, conditions, restrictions, uses, limitations, obligations, easements, servitudes, charges, assessments, and liens, hereinafter set forth, each and all of which is and are for the benefit of said real property and the current and subsequent owners thereof; and

WHEREAS, the Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an association to which can and shall be delegated and assigned the powers and duties of maintaining and administering said common areas and community facilities, administering and enforcing the within covenants and restrictions, and collecting and disbursing the charges and assessments hereinafter specified; and

WHEREAS, the Declarant has caused to be formed (or shortly will cause to be formed), under the laws of the State of Mississippi, a non-profit and non-share corporation named The Annandale Property Owners' Association, Inc., which corporation shall have as its purpose the carrying out of the powers and duties mentioned herein and shall constitute the maintenance organization for common open space required by the provisions of the Madison County Zoning Ordinance for Planned Unit Developments; and

WHEREAS, certain shareholders, directors, officers, employees, and agents of the Declarant and their associates have caused to be designed, constructed, financed, operated and maintained a premier private golf club

and golf course of distinctive quality and impression on the real property described in Exhibit "B" hereto; and

WHEREAS, the Declarant desires to provide for the preservation of the grandeur of said golf club and golf course; and

WHEREAS, the Declarant, either alone or jointly with others, is the owner of the real property described in Exhibit "C" hereto; and

WHEREAS, the Declarant intends to develop said residential community, in parts, on the real property described in Exhibit "C" hereto, (the real property described in Exhibit "C" includes the real property described in Exhibits "A" and "B") and in the process of so doing the Declarant intends to annex all or part of the real property described in Exhibit "C" hereto to the real property described in Exhibit "A" hereto and thereby subject all or part of said real property described in Exhibit "C" to the covenants and restrictions of this Declaration;

NOW, THEREFORE, the Declarant hereby declares that all of said real property described in Exhibit "A" hereto is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, restrictions, conditions, uses, limitations, obligations, easements, servitudes, charges, assessments, and liens, hereinafter set forth, all of which are agreed and declared to be in aid of a plan for the development of said residential community and the improvement of said real property, all of which shall be deemed to run with and bind said real property, and all of which shall inure to the benefit of and be enforceable by the Declarant, or its successors or assigns, or any person acquiring or owning any interest in said real property or the improvements thereon, including, without limitation, any person who holds such interest solely as security for the performance of an obligation or payment of a debt.

## ARTICLE I

### DEFINITIONS AND DECLARATION

Section 1. Definitions. The words and phrases set out below, when used in this Declaration, shall have the following meanings, respectively, to wit:

(a) The word "Association" shall mean and refer to The Annandale Property Owners' Association, Inc., and its successors and assigns.

(b) The word "Property" shall mean and refer to all the real property described as Lot A on the plat attached hereto as Exhibit "A",

and all additions thereto which by annexation in accordance with the terms and provisions of this Declaration may become subject to the covenants and restrictions of this Declaration and brought within the jurisdiction of the Association.

(c) The word "Declaration" shall mean and include this instrument and all amendments hereto, and all Supplementary Declarations and amendments thereto executed in accordance with the provisions hereof.

(d) The expression "covenants and restrictions" shall mean and include all the covenants, restrictions, conditions, uses, limitations, obligations, easements, servitudes, charges, assessments, and liens, set forth in the Declaration.

(e) The word "Lot" shall mean and refer to each of the subdivided parcels or units of property constituting a part of the Property, and shall be deemed to include, without limitation (i) condominium units or condominium apartments, as such term is defined in Sections 89-9-1 through 89-9-37 of the Mississippi Code of 1972, and any amendments or additions thereto adopted subsequent to the date hereof (which statute and amendments and additions are referred to in the Declaration as the "Condominium Act"); and (ii) each separate dwelling located in a multi-family structure, whether or not such dwelling shall be in the same or different ownership; provided that the word "Lot" shall not mean or include any portions of the Property designated as common areas.

(f) The word "person" shall mean and include individuals, corporations, trusts, partnerships and all other legal entities, and any combination or group of any of same.

(g) The expression "common areas" shall mean all those portions of the Property designated of record as common areas. The expression "community facilities" shall mean all real property, including common areas, owned or leased by the Association or otherwise available to the Association for the use, benefit and enjoyment of its Members. The designation of any portion of the Property as a common area or community facility shall not mean that the public at large acquires any easement of use or enjoyment therein.

(h) The word "dwelling" shall mean and refer to any building or portion of a building situated upon the Property and designed and intended for use and occupancy as a residence by a single individual or family.

(i) The word "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Lot comprising part of the Property, including contract sellers, but excluding those holding such interest solely as security for the performance of an obligation or payment of a debt.

(j) The word "Developers" shall mean and include the Declarant and every other person who is a successor in title to the Declarant as to any real property now or hereafter constituting all or a portion of the Property, and who, with the Declarant's written permission, is engaged or hereafter engages in the business of developing and selling all or any portion of the Property, provided that the word "Developers" shall not mean or include the Association. The word "Developers" shall also mean and include any successors and assigns of the entire interest of the Declarant who, as the mortgagee in or the holder of any recorded mortgage executed by the Declarant or as the secured party or beneficiary of any recorded deed of trust executed by the Declarant, comes into possession of all or any portion of the Property pursuant to foreclosure or execution of a deed, assignment or other proceeding or arrangement in lieu of foreclosure.

(k) The expression "multi-family structure" shall mean and refer to any building or group of buildings situated upon the Property and containing two or more dwellings; provided, however, that for purposes of this Declaration, the definition of "multi-family structure" shall not include either (i) a building containing condominium units as such term is defined in the Condominium Act; or (ii) a building which contains two or more dwellings in cases where each such dwelling is situated on a separate subdivided lot and is separated from other dwellings in the building by a party wall as defined in this Declaration. By way of explanation and not by way of limitation, the expression "multi-family structure" as used herein is intended to include apartment buildings in a single ownership where the dwellings located in such apartment buildings are available for rent.

(l) The word "mortgagee," as used herein, means and includes the mortgagee in or the holder of any recorded mortgage, and the party secured or beneficiary in any recorded deed of trust, encumbering one or more lots. The word "mortgage," as used herein, means and includes mortgage, deed of trust, and any similar encumbrance. The expression "first mortgage," as used herein, means a mortgage with priority over all other mortgages encumbering the same lot. The word "holder," as used herein, means the person entitled to the security afforded by a mortgage. The word "first mortgagee," as used herein, means the holder of a first mortgage. The word "institutional," when used to describe a mortgagee or holder, shall mean and include mortgagees or holders who are banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, all corporations, and any agency or department of the United States Government or of any state or municipal government.

(m) The word "Member" shall mean and include every person holding any class of membership in the Association.

(n) The word "Community," as used in this Declaration, shall mean that certain residential development known generally as "Annandale," which is being constructed, and which hereafter will be constructed, by the Declarant and others on the real property described in Exhibit "C" hereto.

(o) The expression "Board of Directors" shall mean and include the Board of Directors of the Association.

(p) The word "By-Laws" shall mean and include the By-Laws of the Association and all amendments thereto.

(q) The word "herein" shall mean in this Declaration.

(r) The word "Neighborhood" shall mean and refer to each areal portion or subdivision of the Property which, in accordance with the provisions of this Declaration, the Declarant may designate as a separate part by executing a written instrument setting forth such designation and filing the written instrument for record in the land records in the office of the Chancery Clerk of Madison County. It is intended that the expression "Lot," as defined in this Declaration shall not be interpreted as meaning or including an area constituting a Neighborhood; instead, it is intended that a Neighborhood shall be an area in which there are at least several Lots.

(s) The words "Neighborhood Meeting" shall mean and refer to a meeting of the Owners of Lots in a Neighborhood called and held in accordance with the provisions in Article VI of this Declaration.

(t) The expression "Golf Course" shall mean and refer to the golf course, club house, and other amenities and facilities, owned and operated as a private club by Annandale, Inc., or its successors and assigns, on the real property described in Exhibit "B" hereto and any additional contiguous real property which Annandale, Inc., may acquire. The expression "Golf Course" shall not mean and refer to any real property which the Declarant acquires from Annandale, Inc., although such real property may be within the parcel of land described in Exhibit "B" on the date of this Declaration. It is anticipated that the Golf Club and the Declarant will from time to time exchange small parcels of real property in order to improve the Community and the Golf Course.

Section 2. Property Subject to Declaration. The real property which is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied, and improved subject to this Declaration is located in Section 34, Township 8 North, Range 1 East, Madison County, Mississippi, and is more particularly described as Lot A on the plat

attached as Exhibit "A" hereto, which Exhibit "A" by this reference is made a part hereof for all purposes.

Section 3. Declaration of Initial Common Area. All of the real property described as Lot A on the plat attached hereto as Exhibit "A" hereby is set aside as, and hereby declared to constitute, a common area, and as such said property henceforth shall be held and owned for the common use, benefit, and enjoyment of the Members of the Association.

## ARTICLE II

### ANNEXATION OF ADDITIONAL PROPERTY AND DESIGNATION OF NEIGHBORHOODS

Section 1. Annexation of Additional Real Property. At any one or more times on or prior to October 15, 2005, and without the assent of the Class A Members, the Declarant, or any other person with the written assent of the Declarant, shall have the right, privilege, and option to annex to the Property any additional contiguous or non-contiguous real property situated in Madison County, Mississippi, which is situated within the perimeter of the tract of land described in Exhibit "C" hereto, which Exhibit "C" by this reference is made a part hereof for all purposes, and which tract of land is hereinafter referred to as the "land subject to annexation." Any such annexation shall have the effect of making the annexed property part of the Property and of extending the scheme of the within covenants and restrictions to such annexed property. However, no such annexation shall occur until same has been accomplished in the manner herein prescribed.

At any one or more times on or prior to October 15, 2005, and without the assent of the Class A Members, the Declarant shall have the right, privilege, and option to amend the real property described in Exhibit "C" hereto, the land subject to annexation, to include such other real property as the Declarant may hereinafter acquire, with the intent to develop in conformance with the General Plan of Development for Annandale approved by the Board of Supervisors of Madison County. Such amendment shall be made by executing a written instrument setting forth such amendment, describing therein the parcels of land theretofore constituting the land subject to annexation and the additional parcel(s) of land being included, and filing the written instrument for record in the office of the Chancery Clerk of Madison County.

Any annexations of additional real property to the Property shall be made by recording a Supplementary Declaration of Covenants and Restrictions in the land records in the office of the Chancery Clerk of Madison County, which Supplementary Declaration shall, by declaration therein, extend the scheme of the within covenants and restrictions to the

annexed additional property therein described. Such Supplementary Declaration shall be executed by the person who owns the fee simple title to the additional property being annexed, and if such person is other than the Declarant, shall be executed also by the Declarant. Such Supplementary Declaration may contain, with respect to the additional property annexed thereby, whatever complementary additions and modifications to the covenants and restrictions set forth herein as may be appropriate to reflect the different character or use, if any, of the annexed additional property, provided, however, that in no event shall any such addition or modification be substantially inconsistent with the provisions of this Declaration, except as may be provided in Section 6 of Article V of this Declaration.

Section 2. Neighborhoods. At any one or more times on or prior to October 15, 2005, and without the assent of the Class A Members, the Declarant shall have the right to designate any distinct areal portion or subdivision of the Property as a separate Neighborhood. After having designated any particular portion or subdivision of the Property as a Neighborhood, the Declarant shall have the further right, at any one or more times prior to October 15, 2005, and without the assent of the Class A Members, to add an additional portion or portions of the Property to a particular Neighborhood and thereby constitute and designate the initial and added areas to be and constitute one and the same Neighborhood; provided that the Declarant shall not have the right to add to any particular Neighborhood any additional area unless the characteristics of the additional area, once it shall have been fully developed, will be substantially the same as the characteristics of the particular Neighborhood. The Declarant may designate a particular area as a Neighborhood, or as an addition to a Neighborhood, by declaring such designation in the Supplementary Declaration annexing the real property on which the Neighborhood is situated to the Property or by executing a written instrument setting forth such designation and filing the written instrument for record in the land records in the office of the Chancery Clerk of Madison County.

### ARTICLE III

#### ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. The Members of the Association shall be and consist of every person who is, or who hereafter becomes, an Owner of a Lot comprising part of the Property:

Section 2. Action by Members of the Association. The Association shall have two classes of voting membership. Whenever in this Declaration any action is required to be taken by a specified percentage of "each class of the then Members" of the Association, then such action shall be

required to be taken separately by the specified percentage of the then outstanding Class A Members and by the specified percentage of the then outstanding Class B Members. Whenever in this Declaration any action is required to be taken by a specified percentage of the "then Members" of the Association, then such action shall be required to be taken by the specified percentage of the then outstanding total membership of the Association.

Section 3. Voting Rights. Each Member shall have one vote in the election of each officer of the Association. For all other purposes, the voting rights of the Members shall be by class of membership, and shall be as follows, to wit:

(a) Class A Members. Each person, other than persons herein defined as "Developers," who is or who hereafter becomes the Owner of a Lot shall be a Class A Member of the Association. Class A Members shall be entitled to one vote for each Lot owned.

(b) Class B Members. Each of the persons herein defined as "Developers," and the nominee or nominees, if any, of each such person, shall be Class B Members of the Association. Class B Members shall be entitled to one vote for each Lot owned.

Section 4. Memberships Appurtenant to Real Property. In every case, the membership of a Class A Member and the membership of a Class B Member shall be appurtenant to the ownership of a Lot. A membership shall not be held, assigned, transferred, pledged, hypothecated, encumbered, conveyed or alienated in any manner except in conjunction with and as an appurtenance to the ownership, assignment, transfer, pledge, hypothecation, encumbrance, conveyance or alienation of the Lot to which the membership is appurtenant.

Section 5. Termination of Class B Memberships. The Class B Memberships shall terminate and automatically shall be converted into Class A Memberships upon the first to occur of the following dates, to wit:

(a) The 15th day of October of any year on which the total number of Lots owned of record by Class A Members is equal to or greater than five times the total number of Lots owned of record by Class B Members; or

(b) The date of October 15, 2005; or

(c) The date on which all remaining Class B Members shall voluntarily relinquish all Class B Memberships by a written



document or documents delivered to the Association.

Upon the termination of the Class B Memberships, as provided above, all persons herein defined as "Developers" thereafter shall be and remain Class A Members, as to each and every Lot concerning which they own the fee title otherwise required for Class A membership.

Section 6. Reinstatement of Class B Memberships. If on any one or more occasions prior to October 15, 2005, all Class B Memberships should terminate, and if after any such termination any one or more of the Developers, in accordance with the provisions of Article II, should annex additional real property to the Property, and if any such annexation results in the Developers' owning one-sixth or more of the total number of Lots upon the whole of the Property, then on each such occasion the status of the Developers as Class B Members shall be fully reinstated, and following each such occasion the status of the Developers, and the nominee or nominees, if any, of each of the Developers, shall continue to be Class B Members until the first thereafter to occur of the alternative dates specified in Subparagraphs (a), (b), and (c) above in Section 5 of this Article. Following each such reinstatement of the Class B Memberships, and for so long thereafter as the Class B Memberships shall continue to exist, the Developers, and the nominee or nominees, if any, of each of the Developers, shall have all the rights and powers of Class B Membership, as herein prescribed.

Section 7. Other Voting Provisions. As to all matters except the election of officers, only one vote may be cast with respect to any one Lot. Any person qualifying as a Member of more than one voting class of membership may exercise the votes to which he is entitled for each such class of membership. If the fee title to a particular Lot is owned of record by more than one person, the vote appurtenant to such Lot may be exercised by any one of the fee owners thereof, unless the other owner or owners of such fee title shall object prior to the completion of voting upon the particular matter under consideration. In the case of any such objection, the vote appurtenant to said Lot shall not be counted.

Section 8. Board of Directors. The affairs of the Association shall be managed and controlled by a Board of Directors consisting of the number of individuals from time to time prescribed by the By-Laws, which number, however, shall not be less than three nor more than nine. Directors need not be Members of the Association. From and after the first annual Members' meeting, and for so long as there is a Class B Member, the Board of Directors shall consist of Appointed Directors and Elected Directors. During all times when there is no Class B Member, all Directors shall be Elected Directors.

Appointed Directors shall be selected and appointed by the concurrence of a majority of the Class B Members, and shall serve at the pleasure of a majority of the Class B Members. The initial Board of Directors shall consist of three individuals, all of whom shall be Appointed Directors, and unless earlier replaced, said initial Directors shall serve until the first annual meeting of Members. From and after the first annual Members' meeting, and for so long as there is a Class B Member, the number of Appointed Directors at all times shall be equal to two-thirds of the total number of Directors prescribed from time to time by the By-Laws, or if at any time the total number of Directors prescribed by the By-Laws is not evenly divisible by three, then the number of Appointed Directors shall be equal to the whole number next larger than two-thirds of the total number of Directors prescribed by the By-Laws.

Elected Directors shall be elected by the Class A Members at annual Members' meetings, and shall serve until their successors shall be elected and qualified in accordance with the By-Laws.

#### ARTICLE IV

##### MEMBERS' RIGHT OF ENJOYMENT

Section 1. Members' Right of Enjoyment. Except as is provided in Section 2 of this Article, every Member shall have a right and easement of enjoyment in and to the common areas and community facilities, which easement shall be appurtenant to and shall pass with the fee title to the Lot owned by such Member, subject, in every case, however, to the following, to wit:

(a) the right of the Association, in accordance with its Charter of Incorporation and By-Laws, to borrow money for the purpose of improving the common areas and community facilities or any portion thereof, in a manner designed to promote the enjoyment and welfare of the Members, and in aid thereof to mortgage any of the common areas and community facilities, provided, however, that no such borrowing shall be done and no such mortgage shall be executed unless and until same has been approved by the vote of at least two-thirds of each Class of the then Class A Members and the then Class B Members of the Association, voting separately; and

(b) the right of the Association, acting by and through its Board of Directors, to levy reasonable admission and other fees for the use of any community facilities (excluding streets, roads and parking areas) situated upon the Property by the Members and their families, tenants and guests; provided, however, that any such fees shall be charged on a uniform basis for each Member, and, provided further, that in no event

shall the Association levy any fee for the use of any streets, roadways or parking areas which are situated upon the Property; and

(c) the right of the Association, acting by and through its Board of Directors, to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosure; provided, however, that any such steps are in conformity with the other provisions of this Declaration; and

(d) the right of the Association, acting by and through its Board of Directors, to adopt reasonable house rules respecting use of the common areas and community facilities and to limit the number of guests of members who may use any facilities on the Property; and

(e) the right of the Association, acting by and through its Board of Directors, to suspend any Member's voting rights and any Member's rights to use the common areas and community facilities (except rights to use streets, roadways and parking areas, which latter rights shall not be subject to suspension for any reason) for any period during which any assessment remains unpaid and for any period not exceeding sixty (60) days for any infraction of any of the published rules and regulations of the Association; and

(f) the right of the Association to dedicate or transfer all or any part of the common areas or community facilities to any public or municipal agency, authority or utility for any purpose consistent with the purposes of the Declaration, and subject to such conditions as may be agreed to by the Members; provided, however, that no such dedication or transfer or determination as to purpose or as to conditions, shall be effective unless a majority of each Class of the then Members of the Association consent to such dedication, transfer, purpose and conditions, at a special meeting of the Members duly called for such purpose; and

(g) the right of the Association, acting by and through its Board of Directors, to grant licenses, rights-of-way and easements for access or for the construction, reconstruction, maintenance and repair of any utility lines or appurtenances, whether public or private, to any government agency, public utility, the Declarant or any other person, provided, however, that no such licenses, rights-of-way or easements shall be unreasonable and permanently inconsistent with the rights of the Members to the use and enjoyment of the common areas and community facilities; and

(h) the right of the Association, acting by and through its Board of Directors, to open the common areas and community facilities, or any portions thereof, to a wider group of persons, all for such purposes and

on such terms and conditions as the Board of Directors may from time to time consider appropriate; and

(i) the right of the Association, acting by and through its Board of Directors, to restrict the use and enjoyment of certain parts of the common areas and community facilities is in accordance with a prior reservation scheduled by the Management Agent; and

(j) the right of the Association, acting by and through its Board of Directors, to maintain guarded or electronically monitored gates monitoring vehicular access to and from the Community on private streets situated on the common areas owned by the Association; and

(k) the rights of the Owners of Lots to perpetual easements over and upon any of the common areas and community facilities for such portions of their dwellings that may overhang or otherwise encroach upon any of the common areas or community facilities, for support, for the purpose of necessary repairs and maintenance, for maintenance of reasonable appurtenances to the dwellings, and for reasonable ingress and egress to and from any dwelling through and over the common areas and community facilities; and

(l) the right of each Member to use the streets, roadways, and vehicular parking areas situated upon the common areas and community facilities; provided, however, that each Member shall comply in all respects with all supplementary rules and regulations which are not inconsistent with the provisions of this Declaration and which the Board of Directors of the Association may from time to time adopt and promulgate with respect to parking and traffic control upon the common areas and community facilities.

Section 2. Right of Enjoyment in Neighborhood Common Areas and Community Facilities. Whenever a particular additional area shall be annexed to the Property theretofore subject to this Declaration, by the execution of a Supplementary Declaration in accordance with Article II hereof, and the Supplementary Declaration or any amendment or supplement thereto shall provide that specified common areas and/or community facilities situated within the particular additional area (any such specified common areas and/or community facilities being referred to herein for convenience as "Neighborhood common areas and community facilities") shall be and are set aside for the use, benefit and enjoyment of only the Owners of Lots in the Neighborhood consisting in whole or in part of the particular additional area, then those Members of the Association who do not own Lots in that Neighborhood shall have no right in or to the use, benefit and enjoyment of such Neighborhood common areas and community facilities; however, every Member who owns a Lot in the

particular Neighborhood shall have the same right and easement of enjoyment in and to the Neighborhood common areas and community facilities in that Neighborhood as is set forth above in Section 1 of this Article with respect to common areas and community facilities in general, which said right and easement of enjoyment, in each case, shall be subject to the same conditions and provisions as are set out in subparagraphs (a) through (l), both inclusive, of Section 1 of this Article, provided that insofar as said subparagraphs (a) through (l) thus are made applicable to Neighborhood common areas and community facilities, all references in said subparagraphs (a) through (l) to Members, of whatever class, shall be interpreted as references to the Members who own Lots in the particular Neighborhood.

Section 3. Rights Not Subject to Suspension. Notwithstanding anything in this Declaration to the contrary, the Association shall have no authority to suspend, either temporarily or permanently, any of the rights specified in Subparagraphs (k) and (l) of Section 1 of this Article for any reason whatsoever.

Section 4. Delegation of Right to Use. Any Member of the Association may delegate his rights to the use and enjoyment of the common areas and community facilities to the members of his family who reside permanently with him and to his tenants, contract-purchasers and guests, all subject to such reasonable rules and regulations as the Board of Directors of the Association may adopt and uniformly apply and enforce.

#### ARTICLE V

##### DETERMINATION OF ASSESSMENTS

Section 1. Annual Maintenance Assessments. Each person who becomes a fee simple Owner of a Lot comprising part of the Property, by acceptance of a deed therefor, whether or not the deed shall so state, shall be deemed to covenant and agree to pay the Association each month, in advance, a sum equal to one-twelfth (1/12) of such person's annual maintenance assessment, which expression, "annual maintenance assessment," as used herein, shall mean such person's proportionate share of the amount required by the Association, as estimated by the Board of Directors, to meet its annual expenses, including but in no way limited to the following, to wit:

(a) the amount of all operating expenses for operating the common areas and community facilities and furnishing the services furnished to or in connection with the common areas and community facilities, including charges by the Association for any services furnished by it; and

(b) the costs of necessary management and administration of the common areas and community facilities, including fees paid to any Management Agent; and

(c) the amount of all taxes and assessments levied against the common areas and community facilities, and

(d) the costs of fire and extended coverage and liability insurance on the common areas and community facilities and the costs of such other insurance as the Association may place in force with respect to the common areas and community facilities; and

(e) the costs of garbage and trash collection to the extent provided by the Association, and of utilities and other services which may be provided by the Association, whether for the common areas and community facilities or for the Lots, or both; and

(f) the costs of maintaining, replacing, repairing and landscaping the common areas and community facilities (including, without limitation, the costs of maintaining, replacing and repairing the sidewalks, streets, roadways and open areas within the Property), and the costs of such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith; and

(g) the costs of funding all reserves established by the Association, including, when appropriate, a general operating reserve and a reserve for replacements.

The Board of Directors from time to time may fix and change the beginning and ending dates of the annual period (herein called the "assessment year") to be used in calculating and dealing with annual maintenance assessments, but unless and until the Board of Directors shall prescribe a fiscal year, the calendar year shall be used as the assessment year.

The Board of Directors shall determine the amount of the maintenance assessment for each Member annually, but may do so at more frequent intervals should circumstances make such appropriate. Upon resolution of the Board of Directors, installments of maintenance assessments payable by the Class A Members may be levied and collected on a quarterly, semi-annual or annual basis, rather than on the monthly basis as specified above. Any Class A Member may prepay one or more installments of any maintenance assessment, without premium or penalty.

The Board of Directors shall prepare, or cause to be prepared, an annual operating budget for the common areas and community facilities. The

Board of Directors shall make reasonable efforts to fix the amount of the annual maintenance assessment against each Lot for each assessment period at least thirty (30) days in advance of the beginning of the period, and shall, at the same time, prepare a roster of the Lots and the annual maintenance assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Member at any reasonable time during normal business hours. At the same time, written notice that the annual maintenance assessments have been made and are available for inspection shall be sent to the Members. The omission by the Board of Directors, before the expiration of any assessment period, to fix the amount of the annual maintenance assessment for that or the next period, shall not constitute a waiver or modification in any respect of the provisions of this Article, and shall not constitute a release of any Member from the obligation to pay his proportionate share of the annual maintenance assessment, or any installment thereof, for that or any subsequent assessment period, but the annual maintenance assessment fixed for the preceding period shall continue to be the maintenance assessment payable by the Members until a new maintenance assessment is fixed. No Class A Member may exempt himself from liability for maintenance assessments by the abandonment of any Lot or by the abandonment of his right to use and enjoy the common areas and community facilities.

Except as may be specifically provided herein, this Declaration does not contemplate that the Association shall have any responsibility for the maintenance or repair of any dwelling or its appurtenances or for the maintenance and care of lawn and garden areas, and the responsibilities and duties of the Association for such maintenance, repairs, and care shall be limited to the common areas and community facilities, provided, however, the Board of Directors, in Neighborhoods, and treating each Neighborhood separately, pursuant to the provisions of the Supplementary Declaration of Covenants and Restrictions annexing the real property designated as a Neighborhood to the Property or pursuant to the recommendation of the Owners of Lots within a Neighborhood, may provide for the exterior maintenance of dwellings and/or for the maintenance and care of lawn and garden areas and the cost thereof shall be deemed to be part of the annual assessment, provided, however, the Association shall not undertake to maintain and care for the lawn and garden area on any portion of any Lot which is enclosed and intended for use only by the occupants of the dwelling unit on such Lot.

Section 2: Special Maintenance Assessments. In addition to the regular maintenance assessments authorized by this Article, the Association may levy during any assessment year one or more special maintenance assessments, applicable to that year only, for the purpose of paying in whole or in part the costs of any construction and reconstruction, inordinate repair or replacement of any improvement,

fixtures or personal property constituting part of the community facilities or for such other purpose or purposes as the Board of Directors may deem appropriate; provided that prior to being levied any such assessment shall be approved by at least two-thirds (2/3) of the then Class A Members and at least two-thirds (2/3) of the then Class B Members, voting separately. A meeting of the Members shall be duly called for the purpose of approving any special maintenance assessment.

Section 3. Reserves for Replacements. The Association shall establish and maintain a reserve fund for replacements of the common areas and community facilities, and shall allocate and pay monthly to such reserve fund whatever amount may be designated from time to time by the Board of Directors. Amounts paid into such fund shall be conclusively deemed to be a common expense of the Association, and all such amounts may be deposited in any banking institution, the accounts of which are insured by any agency of the United States, or, in the discretion of the Board of Directors, may be invested in obligations of, or obligations fully guaranteed as to principal by, the United States of America. The reserve for replacements of the common areas and community facilities may be expended only for the purpose of affecting the replacement of the common areas and community facilities, for major repairs to any sidewalks, parking areas, streets or roadways on the Property, for equipment replacement, and for start-up expenses and operating contingencies of a non-recurring nature relating to the common areas and community facilities. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of each Class A Member in any such reserves shall be considered an appurtenance to his Lot, and shall not be withdrawn, assigned or transferred separately from or otherwise than as an appurtenance to the Lot to which it appertains, and shall be deemed to be transferred with such Lot.

Section 4. Maximum Annual Maintenance Assessments. Anything herein to the contrary notwithstanding, the initial maximum annual maintenance assessment for each of the Lots to which Class A membership is appurtenant shall not exceed the sum of Five Hundred Twenty Eight Dollars (\$528.00) per annum, plus, whatever additional amounts as properly may be assessed with respect to Lots in any particular Neighborhood because of a greater level of services provided for the Owners of Lots in the Neighborhood, provided that the maximum amount thus prescribed may be increased from time to time from and after October 18, 1985, in accordance with the provisions in other Sections of this Declaration. Except to the extent that maintenance assessments for particular Class A Members may be increased or decreased in accordance with Section 6 of this Article or Section 10 of Article VII of this Declaration, all annual maintenance



assessments shall be levied at a uniform rate for each Lot to which Class A membership is appurtenant.

Section 5. Increase In Maximum Annual Maintenance Assessment.

(a) For each assessment year beginning on or after January 1, 1989, the maximum annual maintenance assessment for Class A Members, as hereinabove provided for, may be increased by the Board of Directors, without a vote of the Class A Members, by an amount equal to ten percent (10%) of the maximum annual maintenance assessment for the preceding year plus each member's proportionate share of the amounts by which any ad valorem property taxes and any casualty and other insurance premiums payable by the Association have increased over the amounts payable for the same or similar items in the preceding year.

(b) For each assessment year beginning on or after January 1, 1989, the maximum annual maintenance assessment for the Class A Members may be increased above that permitted by the next preceding paragraph if, and only if, any such increase shall first be approved by the affirmative vote of at least two-thirds (2/3) of the then Class A Members and at least two-thirds (2/3) of the then Class B Members, voting separately. A meeting of the Members shall be duly called for this purpose. Any increase properly approved pursuant to this Subparagraph (b) shall be effective for the next succeeding assessment year and for each succeeding assessment year thereafter, unless the then Class A Members and the then Class B Members, by the affirmative vote of at least two-thirds (2/3) of each of said Classes, shall otherwise specify.

Section 6. Equitable Adjustments - Supplementary Declarations. In the event any Supplementary Declaration made pursuant to the provisions and requirements of Article II hereof specifies that a greater or lesser level of services shall be provided by the Association with respect to any real property annexed by such Supplementary Declaration, then such Supplementary Declaration may provide for a different basis for the establishment of annual maintenance assessments with respect to the property annexed thereby, and the Association, acting by and through the Board of Directors, shall have full authority, and it shall be its duty, to make equitable adjustments in the procedures herein set forth for the establishment of annual maintenance assessments to reflect any such different level of services.

Section 7. Assessments Are Not Dues. The assessments and charges herein mentioned are not intended to be, and shall not be construed as being, in whole or in part, dues for membership in the Association.

Section 8. Damage to Common Properties. In the event the Board of Directors of the Association determines that any Owner has failed or refused to discharge properly his obligations with respect to the maintenance, repair or replacement of any items for which the Owner is responsible or finds that any Owner is responsible for damage to the area of common responsibility that is not covered by insurance, the Association shall give the Owner written notice of the Association's intent to provide the necessary maintenance, repair or replacement at the Owner's sole cost and expense, which notice shall set forth with particularity the maintenance, repairs and replacement deemed necessary. The Owner shall have fifteen (15) days from the date of mailing the notice by Certified United States Mail to complete the maintenance, repair or replacement or appear before the Board of Directors to contest its determination. If the Owner fails in this obligation the Association may provide such maintenance, repair and replacement at the Owner's sole cost and expense and the cost, plus all costs of collection including a reasonable attorney fee, shall be added to and become part of the assessment for which the Owner is responsible and shall become a lien against the Lot of the Owner enforceable by the Association.

#### ARTICLE VI

#### ENFORCEMENT OF ASSESSMENTS

Section 1. Non-Payment of Assessment. Any assessment levied against a Class A or a Class B Member pursuant to this Declaration, or any installment of any such assessment, which is not paid on the date when due, shall be delinquent and, together with interest thereon and the cost of collection thereof, as hereinafter provided, shall thereupon become a continuing lien upon the Lot or Lots belonging to the Member or Members against whom such assessment is levied, and shall bind such Lot or Lots in the hands of the then Owners, their heirs, devisees, personal representatives and assigns. In addition, the personal obligation of every Member to pay all assessments levied against him pursuant to this Declaration shall remain his personal obligation for the full statutory period permitted by law, and a suit to recover a money judgement for non-payment of any such assessment, or any installment thereof, may be maintained without foreclosing or waiving any lien herein created to secure same.

Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid within ten (10) days after it is due, shall bear interest from the date due until paid at the maximum rate permitted by the law of the State of Mississippi, and, in addition, there shall be added to any such delinquent assessment whatever late charges the Board of Directors may from time to time prescribe. The Association may bring an action at law against the Member or Members personally obligated

to pay any assessment, or may foreclose the lien against any Lot or Lots then belonging to said Member or Members in the manner now or hereafter provided for foreclosure of mortgages and other liens on real property in the State of Mississippi containing a power of sale, or the Association may do both. Any such foreclosure by the Association shall be subject to the same requirements, both substantive and procedural, as are prescribed from time to time by the laws of the State of Mississippi applicable to foreclosure of mortgages and other liens on real property containing a power of sale. In any event, reasonable attorney's fees and reasonable costs of collection shall be added to the amount of each delinquent assessment.

In the event any proceeding to foreclose the lien for any assessment due the Association pursuant to this Declaration is commenced with respect to any Lot or Lots, then the Owner of such Lot or Lots, upon resolution of the Board of Directors, may be required to pay reasonable rental for such Lot or Lots, and the Association shall be entitled to the appointment of a receiver to collect same.

The Board of Directors may post a list of Members who are delinquent in the payment of any assessments or other fees which may be due the Association, including any installment thereof, in any prominent location upon the Property.

Section 2. Assessment Certificates. The Association shall upon demand at any time furnish to any Member liable for any assessment levied pursuant to this Declaration (or any other person legitimately interested in the same) a certificate in writing signed by an officer of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A charge not to exceed Thirty Dollars (\$30.00) may be levied in advance by the Association for each certificate so delivered.

Section 3. Acceleration of Installments. Upon default in the payment of any one or more installments of any assessment levied pursuant to this Declaration, the entire balance of said assessment thereupon shall be and become due and payable in full, unless the Board of Directors, in its discretion, shall otherwise direct.

Section 4. Priority of Lien. As to each Lot subject thereto, the lien to secure payment of an assessment, as established by this Declaration, shall have preference over any other liens, assessments, judgements or charges of whatever nature, except the following:

- (a) general and special assessments for ad valorem property

taxes on such Lot; and

(b) the lien of any first mortgage on such Lot duly recorded prior to the assessment of the lien specified in this Declaration, or duly recorded after receipt of a written statement from the Board of Directors stating that payments on the assessment giving rise to the lien established pursuant to this Declaration were current as of the date of recordation of the mortgage.

Section 5. Subordination to Mortgages. Notwithstanding any other provision of this Declaration to the contrary, the lien upon any Lot to secure any assessment levied pursuant to this Declaration shall be subordinate to the lien of any duly recorded first mortgage on such Lot made in good faith and for value received, and the lien hereunder shall in no way affect the rights of the holder of any such first mortgage; provided, however, that such subordination shall apply only to assessments, and installments thereof, which have become due and payable prior to the sale or transfer of such Lot pursuant to the sale or transfer of such Lot pursuant to a foreclosure of any such first mortgage, or prior to the execution of any deed, assignment or other proceeding or arrangement in lieu of foreclosure. Any holder of any such duly recorded first mortgage made in good faith and for value received who comes into possession of such Lot pursuant to a foreclosure of the mortgage, or pursuant to the execution of any deed, assignment or other proceeding or arrangement in lieu of foreclosure, and any purchaser at a foreclosure sale, as well as any transferee under any deed, assignment or other proceeding or arrangement in lieu of foreclosure, shall take the Lot free of any claims for unpaid maintenance assessments levied against the Lot which accrued prior to the time such holder comes into possession of the Lot, or prior to the foreclosure sale or prior to the execution of any deed, assignment or other proceeding or arrangement in lieu of foreclosure, as the case may be, except for claims for a proportionate share of such unpaid maintenance assessments resulting from a reallocation of such unpaid maintenance assessments among the various Lots upon the Property. However, such foreclosure, deed, assignment or other proceeding or arrangement in lieu of foreclosure shall not relieve the mortgagee in possession or the purchaser at foreclosure or the transferee under any deed, assignment, or other proceeding or arrangement in lieu of foreclosure from any liability for any maintenance assessments thereafter becoming due, or from the lien herein created to secure the payment of any such maintenance assessments, which lien, if it be asserted as to any such maintenance assessments thereafter becoming due, shall have the same effect and be enforced in the same manner as is provided herein.

No amendment to this Section shall affect the rights of the holder of any first mortgage on any Lot (or the holder of any indebtedness

secured thereby) recorded prior to the recordation of any such amendment, unless said holder shall join in the execution of any such amendment.

The Board of Directors, in its sole and absolute discretion, may extend the provisions of this Section to the holders of mortgages (or the holders of the indebtednesses secured thereby) not otherwise entitled to the benefits hereof.

Section 6. Additional Default. Any recorded first mortgage encumbering a Lot or Lots on the Property shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, likewise shall be a default under such mortgage, but failure to include such a provision in any such mortgage shall not affect the validity or priority thereof, and the protection extended to the holder of any such mortgage (or the indebtedness secured thereby) by Section 5 of this Article shall not be altered, modified or diminished by reason of any such failure.

Section 7. Commencement of Liability for Annual Assessments. Each Class A Member's liability to pay monthly installments of annual maintenance assessments shall commence on the date a deed conveying the Lot to which such membership is appurtenant shall be delivered to the Member named as grantee in the deed. The first such monthly installment for each Class A Member shall be paid for the balance of the month during which a deed to the Lot is delivered to the Member, and shall be due and payable on the date such a deed to the Lot is delivered to the Member. Except as is herein elsewhere provided, all monthly installments of annual maintenance assessments shall be due and payable on the first day of each successive month.

Section 8. Assessment of Developers. Anything in this Declaration to the contrary notwithstanding, any Lot owned by any one or more of the Developers shall not be subject to assessment by the Association until sixty (60) days after the completion of construction of any dwelling or dwellings constructed upon such Lot. Anything herein to the contrary notwithstanding, any regular or special assessment upon any Lot owned by any one or more of the Developers shall be in an amount equal to twenty-five percent (25%) of the assessment against each similar Lot not owned by Developers.

Section 9. Exempt Property. No portion of the common areas or community facilities shall be subject to assessment of any kind by the Association.

ARTICLE VII

NEIGHBORHOODS

Section 1. Provisions Interpreted Separately. The provisions in this Article shall be construed and interpreted as though they applied separately to each Neighborhood comprising part of the Property, but the interpretation and construction of the provisions in this Article shall be uniform as among the separate Neighborhoods.

Section 2. Level of Services Within A Neighborhood. The Owners of Lots within a Neighborhood, as a group, shall have the right and authority to make from time to time recommendations to the Board of Directors concerning the nature and extent of all services to be furnished by the Association with respect to:

- (a) any Neighborhood common areas and community facilities situated within the Neighborhood;
- (b) any public streets, sidewalks, medians and other public areas situated within or adjoining the Neighborhood;
- (c) any other lands or improvements situated within the Neighborhood.
- (d) the maintenance and repair of any dwelling or their appurtenances within the Neighborhood.
- (e) the maintenance and care of any lawn or garden area within the Neighborhood.

Any recommendation made pursuant to this Section shall promptly be adopted and implemented by the Board of Directors unless the Board of Directors formally shall determine, by order entered on its minutes, that there exists a reason or reasons why the recommendation should not be adopted and implemented, and shall set forth in such order what the reason or reasons are. Any recommendation made pursuant to this Section shall not be adopted or implemented by the Board of Directors if it shall:

- (a) be inconsistent with the general scheme and purpose of this Declaration;
- (b) be such as would result in an unattractive or unkept appearance for any portion of the Property or any improvement thereon;

- (c) be such as would result in a nuisance; or
- (d) be such as would result in any type of unsafe or hazardous condition.
- (e) be in violation of the Charter of Incorporation of the Association.

Section 3. Making Recommendation. The procedure for making any recommendation permitted by Section 2 of this Article shall be to adopt same at a Neighborhood meeting convened and held for the purpose of considering the recommendation. At any such Neighborhood meeting, the favorable vote of at least two-thirds (2/3) of the Owners of Lots in the Neighborhood shall be required to adopt and make such a recommendation.

Section 4. Convening Neighborhood Meetings. If the Owners of Lots in a Neighborhood wish to convene a Neighborhood meeting for the purpose of considering one or more recommendations pursuant to Section 3 of this Article, at least thirty percent (30%) of said Owners shall sign a written petition to the Board of Directors, and thereby shall request the Board of Directors to convene a Neighborhood meeting. The written petition shall set forth the recommendation or recommendations to be considered at the Neighborhood meeting. Upon receipt of such a written petition, the Board of Directors, by order entered upon its minutes, shall fix the time and place for the Neighborhood meeting. The time fixed for the Neighborhood meeting shall be not more than sixty (60) days following delivery of the written petition to the Board of Directors. Each Neighborhood meeting shall be held at some convenient place on the Property, and shall be held at a time, and on a date which the Board of Directors feels will be of greatest convenience to the majority of the Owners of Lots in the Neighborhood.

Section 5. Notice of Neighborhood Meetings. When the Board of Directors has fixed the time and place for a Neighborhood meeting, it shall be the duty of the Secretary of the Association to mail written notice of the Neighborhood meeting to each Owner of record of a Lot in the Neighborhood. The notice shall state the time and place of the meeting, and shall set forth in full the recommendation or recommendations to be considered at the meeting. The notice shall be mailed to each Owner at his address as it appears on the membership roster of the Association, or, if no such address appears, at his last known address, and shall be mailed at least ten (10) days but not more than forty-five (45) days prior to the date of the meeting. Any action taken at any Neighborhood meeting with respect to any recommendation shall be invalid unless notice of the meeting shall have been given in accordance with this Section.

Section 6. Voting at Neighborhood Meetings. At any Neighborhood meeting, each Owner of a Lot in the Neighborhood shall be entitled to one vote for each Lot owned by him in the Neighborhood insofar as concerns any matter as to which the Owners of Lots in the Neighborhood are entitled to vote. If the fee title to a particular Lot is owned of record by more than one person, the vote appurtenant to such Lot may be exercised by any one of the fee owners thereof, unless the other owner or owners of such fee title shall object prior to the completion of voting upon the particular matter under consideration. In case of any such objection, the vote appurtenant to said Lot shall not be counted. All provisions of the By-Laws of the Association relating to Members voting by proxy and to inspectors of election shall be applicable at any Neighborhood meeting.

Section 7. Minutes of Neighborhood Meetings. The Secretary of the Association, or some responsible person designated by him, shall act as recording secretary at each Neighborhood meeting, and shall take down and prepare minutes of each such meeting, which minutes shall be preserved as part of the permanent records of the Association.

Section 8. Recommendation Without Neighborhood Meeting. If any written petition submitted to the Board of Directors pursuant to Section 4 of this Article shall have been executed by the Owners of at least eighty-five percent (85%) of the Lots in a Neighborhood, no Neighborhood meeting shall be necessary to approve and make the recommendations set forth in the written petition, but instead the written petition itself shall constitute the approval and making of the recommendations therein set forth.

Section 9. Precedence of Recommendations. Any recommendation properly made pursuant to this Article and properly adopted for implementation by the Board of Directors, shall take precedence over:

(a) any prior inconsistent recommendation or recommendations relating to the same subject matter and the same Neighborhood;

(b) any greater or lesser level of services set forth in a Supplementary Declaration of Covenants and Restrictions covering the area constituting in whole or in part the Neighborhood in question.

Section 10. Adjustments in Assessments. If any recommendation properly made pursuant to this Article, and properly adopted and implemented by the Board of Directors, shall call for a greater or lesser level of services for a particular Neighborhood, then the Board of Directors shall increase or decrease (as may be the case) the amount of



the annual maintenance assessments assessed against the Owners of Lots in that Neighborhood in such manner that the amounts of such assessments shall be commensurate with the greater or lesser level of services.

## ARTICLE VIII

### REQUIREMENTS AND PROHIBITIONS

Section 1. Architectural Review Committee. Except for purposes of proper maintenance and repair, no building, fence, wall or other improvement or structure shall be commenced, constructed, placed, moved, altered or maintained upon the Property, nor shall any exterior addition to or change (including any change of color) or other alteration thereupon be made until the complete plans and specifications showing the location, nature, shape, height, material, color, type of construction and any other characteristic therefor (including, without limitation, any other information specified by the Architectural Review Committee) shall have been submitted to and approved in writing as to safety, harmony of external design, color and location in relation to surrounding structures and topography and conformity with the design concept for the Community by an Architectural Review Committee designated by the Board of Directors.

Subject to the same limitations as hereinabove provided for, it shall be prohibited to install, erect, attach, apply, paste, hinge, screw, nail, guild, alter, remove or construct any lighting, shade, screen awning, patio cover, decoration, fence, wall, aerial, antenna, radio or television broadcasting or receiving device, slab, sidewalk, curb, gutter, patio, balcony, porch, or driveway, or to make any change or otherwise alter (including any alteration of color) in any manner whatsoever the exterior of any improvement constructed upon any Lot or upon any of the common areas, or to combine or otherwise join two or more dwellings, or to partition the same after combination, or to remove or alter any window or exterior door of any dwelling, or to make any change or alteration within any dwelling which will alter the structural integrity of the building or otherwise affect the property, interest or welfare of any other Lot Owner, materially increase the cost of operating or insuring any of the common areas or impair any easement, until the complete plans and specifications showing the location, nature, shape, height, material, color, type of construction and any other characteristic therefor (including, without limitation, any other information specified by the Architectural Review Committee) shall have been submitted to and approved in writing as to safety, harmony of external design, color and location in relation to surrounding structures and topography and conformity with the design concept for the community by the Architectural Review Committee designated by the Board of Directors.

Section 2. Architectural Review Committee - Operation. The Board of Directors shall appoint an Architectural Review Committee. The Architectural Review Committee shall be composed of three (3) or more individuals designated from time to time by the Board of Directors, and such individuals shall serve at the pleasure of the Board of Directors. The affirmative vote of a majority of the members of the Architectural Review Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any finding, determination, ruling or order, or to issue any permit, consent, authorization, approval or the like pursuant to the authority contained in this Article.

Section 3. Approvals, etc. Upon approval by the Architectural Review Committee of any plans and specifications submitted pursuant to the provisions of this Article, a copy of such plans and specifications, as approved, shall be deposited among the permanent records of such Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. In the event the Committee fails to approve or disapprove any plans and specifications which may be submitted to it pursuant to the provisions of this Article within thirty (30) days after such plans and specifications (and all other materials and information required by the Architectural Review Committee) have been submitted to it in writing, then approval will not be required and this Article will be deemed to have been complied with fully provided.

Section 4. Limitations. Construction or alterations in accordance with plans and specifications approved by the Architectural Review Committee pursuant to the provisions of this Article shall be commenced within six (6) months following the date upon which the same are approved by the Committee (whether by affirmative action or by forbearance from action) and shall be substantially completed within twelve (12) months following the date of commencement, or within such other period as the Committee shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviation from the plans and specifications approved by the Committee without the prior consent in writing of the Committee. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

Section 5. Rules and Regulations, etc. The Architectural Review Committee may from time to time adopt and promulgate such rules and

regulations regarding the construction or alteration of any structure or improvement and the form and content of plans and specifications to be submitted to it for approval, and may publish and record such statements of policy, standards, guidelines, and may establish such criteria relative to architectural styles or details, colors, size, set-backs, materials or other matters relative to architectural control, protection of the environment, and preservation of values and amenities as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The Architectural Review Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted to it for approval pursuant to the provisions of this Article. The decisions of the Architectural Review Committee shall be final except that any Member who is aggrieved by any action or forbearance from action by the Committee (or by any policy, standard of guideline established by the Committee) may appeal the decision of the Architectural Review Committee to the Board of Directors, and upon written request, such Member shall be entitled to a hearing before the Board of Directors.

Section 6. Prohibited Uses and Nuisances. Except for the activities of the Developers during the construction and development of the Community, except for activities and uses expressly permitted (and not substantially inconsistent with the provisions of this Declaration) in a particular Neighborhood by the provisions of the Supplementary Declaration annexing the real property described therein to the Property, and except for things done pursuant to the prior written approval of the Architectural Review Committee, and except as may be necessary in connection with reasonable and necessary repairs or maintenance to any dwelling or to the common areas or community facilities:

(a) No noxious or offensive trade or activity shall be carried on upon any Lot or within any dwelling, nor shall anything be done thereon or therein, which may be or become an annoyance or nuisance to the Community or other Members. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell or other sound device, except such devices as may be used exclusively for security or safety purposes, shall be located, installed or maintained upon the exterior of any dwelling or upon the exterior of any other improvements.

(b) The maintenance, keeping, boarding or raising of animals, livestock, or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot or within any dwelling, except that this shall not prohibit the keeping of dogs, cats or caged birds as domestic pets provided they are not kept, bred or maintained for commercial purposes, and provided further, that such domestic pets are not a source

of annoyance or nuisance to the Community or other Members. The Board of Directors, or upon resolution of the Board of Directors, the Architectural Review Committee, shall have the authority, after hearing, to determine whether a particular pet is a nuisance or a source of annoyance to other Members, and such determination shall be conclusive. Pets shall be attended at all times and shall be registered, licensed and inoculated as may from time to time be required by law. Pets shall not be permitted upon the common areas unless accompanied by an adult individual and unless the pets be carried or leashed. The Board of Directors shall have the right to adopt such additional rules and regulations regarding pets as it may from time to time consider necessary or appropriate.

↙ (c) No burning of any trash and no accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash of any other kind shall be permitted on any Lot.

*No composting*

(d) Except as is herein elsewhere provided, no wrecked or junk vehicle, commercial vehicle, large trailer, large truck, house trailer, mobile home, bus, boat, or machinery or equipment of any kind or character (except such equipment and machinery as may be reasonable, customary and usual in connection with the use and maintenance of any dwelling, and except such equipment and machinery as the Association may require in connection with the maintenance and operation of the common areas and community facilities) shall be kept upon the Property, unless such is completely enclosed in a garage, nor (except during bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of the Architectural Review Committee, provide and maintain a suitable area designated for the parking of such vehicles or the like.

→ (e) Trash and garbage containers shall not be permitted to remain in public view except on days of trash collection. No incinerator shall be kept or maintained upon any Lot. Garbage, trash, and other refuse shall be placed in covered containers.

(f) Except with the written approval of the Association, acting by and through its Board of Directors, which approval must be so indicated within the written instrument effecting the transfer or conveyance, no Lot shall be divided or subdivided, no portion of any Lot (other than the entire Lot) shall be transferred or conveyed for any purpose, and no easement or right-of-way which would permit uncontrolled access to the Property or which would alter for a long time the appearance or character of the Lot shall be transferred or conveyed for any purpose to any public utility, public body, or person. Notwithstanding the foregoing, nothing in this subsection shall prohibit the change or realignment of boundaries

between adjacent Lots, the change or realignment of boundaries between a Lot and a Common Area provided such does not materially decrease the acreage and accessibility of the common area, the combination of two or more Lots into a larger Lot, and the conveyance to a public utility company of an easement or right-of-way for underground sewers, pipes, wires, cables or conduits which are to be installed and operated for the benefit of the Community. The provisions of this Subsection shall not apply to Lots owned by the Declarant at the time of such transfer or conveyance of any easement or right-of-way to any municipality, political subdivision, public utility or other public body or authority, or to the Association, one or more of the Developers, or any other person for any purpose.

(g) Each Member shall maintain the appearance of his Lot in a high-quality condition, and shall provide and maintain in an orderly fashion grass or other landscaping on his Lot. Except for hoses and the like which are reasonably necessary in connection with normal lawn maintenance, no water pipe, sewer pipe, gas pipe, drainage pipe, telephone cable, electric wire, television cable, or similar line shall be installed or maintained on any Lot above the surface of the ground.

(h) No Lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.

(i) No sound hardwood trees measuring in excess of six (6) inches in diameter four (4) feet above the ground shall be removed from any Lot without written approval of the Association acting through the Architectural Review Committee or a duly appointed subcommittee. Within one (1) year after completion of the initial dwelling constructed on a Lot, the Owner of such Lot shall plant thereon whatever number of trees is necessary to make the total number of living and healthy trees on the Lot equal to at least eight (8). The Architectural Review Committee may from time to time adopt and promulgate such additional rules and regulations regarding the preservation of trees and other natural resources and wildlife as it may consider appropriate.

(j) No structure of a temporary character, and no trailer, tent, shack, barn, kennel, outdoor clothes line or dryer, playhouse, shed or other building shall be erected, used or maintained on any Lot at any time.

(k) Except for entrance signs, directional signs, signs for traffic control or safety, Neighborhood identification signs, and such promotional sign or signs as may be maintained by the Declarant or the Association, no signs or advertising devices of any character shall be

erected, posted or displayed upon, in or about any Lot or dwelling, provided, however, that one sign not exceeding two (2) square feet in area and not illuminated may be attached to a dwelling where a professional office (as defined in this Declaration) is maintained, and provided further, that one temporary real estate sign not exceeding six (6) square feet in area, may be erected upon any Lot or attached to any dwelling placed upon the market for sale or rent. Any such temporary real estate sign shall be removed promptly following the sale or rental of such Lot or dwelling.

(l) No structure, planting or other material shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, diminish, obstruct, or retard the direction or flow of surface water runoff in any drainage easement, swale or channel.

(m) No television or radio aerial or antenna, and no other type of aerial or antenna or similar device such as a satellite antenna, used either for reception or for transmission, shall be maintained upon any Lot or the exterior of any dwelling, unless such aerial, antenna, or device be screened from public view in a manner approved by the Architectural Review Committee.

(n) No Member shall engage or direct any employee of the Association on any private business of the Member during the time when such employee is on duty as an employee of the Association, nor shall any Member who is not an officer or Director of the Association direct, supervise, or in any manner attempt to assert control over any employee of the Association during such time.

(o) No Member shall dedicate, convey or permit an easement, license, or right-of-way for any purpose in, through, over or across all or any part of his Lot, unless such easement, license, or right-of-way was dedicated, conveyed or permitted by the Declarant or its predecessors in title, without joinder therein by the Association acting by and through its Board of Directors, which may impose on the Grantee or beneficiary thereof such requirements and restrictions as the Board of Directors may deem necessary to preserve the health, safety, convenience, and welfare of the Members of the Association.

(p) All garage doors shall be kept closed except during periods of the actual use thereof.

Section 7. House Rules, etc. No Member or other person shall violate any rules for the use of the common areas and community facilities or

house rules or other Community rules and regulations not inconsistent with the provisions of this Declaration which may be adopted from time to time by the Board of Directors and promulgated in writing among the membership, and the Board of Directors, as is herein elsewhere prescribed, is fully authorized to adopt all such rules and regulations.

Section 8. Residential Use. All Lots and dwellings thereon shall be used exclusively for private residential purposes, however

(a) A professional office may be maintained in a dwelling, but may be so maintained and used only by a person actually residing in the dwelling, and may be so maintained and used only if such maintenance and use is in strict conformity with all applicable zoning laws, ordinances and regulations. As used in this Declaration, the expression "professional office" shall mean a room or rooms used for office purposes by a member of any recognized lawful profession, including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics.

(b) The Declarant or a Member having the approval of the Board of Directors of the Association may maintain and use a Lot or dwelling for promotional or display purposes, such as a "model home" or sales office, for a limited duration.

Section 9. Corporate Villa. If expressly permitted in a particular Neighborhood by the provisions of the Supplementary Declaration annexing the real property described therein to the Property, a dwelling may be used and maintained as a corporate villa or place of lodging for a transient, bona fide business associate or guest of the Member, provided that such guest be subject and subordinate in all respects to the provisions of this Declaration, to the By-Laws of the Association, and to such reasonable house rules as the Board of Directors from time to time may promulgate in writing among the membership relating to the use of the common areas and community facilities.

Section 10. Leasing. A part or portion of a Lot or dwelling (as distinguished from the entire Lot or dwelling) shall not be leased for any period. Any Owner of any Lot or dwelling who shall lease such Lot or dwelling, promptly following execution of any such lease and upon the request in writing of the Board of Directors, shall forward a conformed copy of such lease to the Board of Directors. All such leases shall be in writing. Any such lease shall contain a provision to the effect that the rights of the tenant to use and occupy the premises which are the subject matter of the lease shall be subject and subordinate in all respects to the provisions of this Declaration, to the By-Laws of the Association, and to such reasonable house rules as the Board of Directors from time to time

may promulgate among the membership relating to the use of the common areas and community facilities, and any such lease shall further provide that any failure by the tenant to comply with any of same shall be a default under the lease.

Section 11. Party Walls. Each wall which is built as part of the original construction of the dwellings upon the Property and placed on dividing line between Lots or dwelling or partly on one Lot and partly on another shall constitute a party wall and to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and regarding liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(a) Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. Nothing shall be done by any Owner which impairs the structural integrity of any party wall or which diminishes the fire protection afforded by any party wall. No Owner shall use any party wall for any purpose which creates a hazard or nuisance for any other Owner who uses or is entitled to use the party wall.

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

(c) Weatherproofing. Notwithstanding any other provision of this Section, any Owner who by his negligent or willful act or omission causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

(e) Encroachments. If any portion of a party wall shall encroach upon any adjoining Lot, or upon the common areas or community facilities, by reason of the repair, reconstruction, settlement or shifting of the wall or of any improvement comprised in part of the wall,



or for any other analogous reason, a valid easement shall exist for the encroachment and for the maintenance of same as long as the wall or improvement stands.

(f) Applicability. The provisions of this Section shall not be applicable to condominium units as defined in the Condominium Act, or to walls which are part of the common elements of any condominium, or to walls which divide dwellings in a multi-family structure.

Section 12. Reconstruction after Fire or Other Casualty Loss. In the event any dwelling is partially or completely destroyed by fire or other casualty, and in the absence of a resolution to the contrary by the Board of Directors, the Owner of such dwelling shall promptly clear the Lot or restore or reconstruct such dwelling, at his own expense, in accordance with the original plans and specifications or with such amended plans and specifications as may be approved in writing by the Architectural Review Committee the request of such Owner. The provisions of this Section shall not apply to condominium units, as defined in the Condominium Act, or to dwellings in a multi-family structure, or when in conflict with any law, ordinance, county, or governmental regulation or the like.

Section 13. Enforcement - Right to Remove or Correct Violations. In the event any violation or attempted violation of any of the covenants or restrictions contained in this Article shall occur or be maintained upon any Lot, or in the event there shall occur any other conduct in violation of any of the provisions and requirements of this Article, then the same shall be considered to have been undertaken in violation of this Article and without the approval of the above-mentioned Architectural Review Committee, and, upon written notice from the Committee, such violation shall be promptly removed or abated. In the event the violation is not removed, or is not otherwise terminated or abated, within fifteen (15) days (or within such shorter period as may be reasonably required in such notice) after notice of the violation is delivered to the Owner of the Lot upon which such violation exists, or to the Member responsible for such violation if the same shall be committed or attempted on premises other than a Lot owned by such Member, then the Association shall have the right, through its agents and employees (but only after the Architectural Review Committee by resolution has so directed) to enter upon such Lot or premises and to take such steps as may be necessary to remove or otherwise terminate or abate such violation, and the cost thereof may be assessed against the Lot upon which such violation occurred, or against any Lot owned by the Member responsible for such violation, and, when so assessed, a statement for the amount thereof shall be rendered to the Owner of such

Lot, at which time the assessment shall become due and payable and shall be secured by a continuing lien upon such Lot, and shall be a binding personal obligation of the Owner of such Lot, in the same manner (and subject to the same limitations) as is provided in Articles V and VI of this Declaration. The Association shall have the further right, through its agents, employees or committees, to enter upon and inspect any Lot at any reasonable time for the purpose of ascertaining whether any violation of the provisions of this Article, or of any of the other provisions or requirements of this Declaration, exists on such Lot; and neither the Association nor any such agent, employee or committee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

## ARTICLE IX

### MANAGEMENT AGENT

Section 1. Management Agent. The Board of Directors shall employ for the Association a management agent or manager (herein called 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 from time to time may authorize in writing. The Association shall not undertake "self-management" or otherwise fail to employ the Management Agent without prior written approval of the holders of at least fifty percent (50%) of all first mortgages of record encumbering the Lots. The Management Agent shall perform such duties and services as the Board of Directors shall direct and authorize in writing, which duties and services may include, without limitation, the power and authority in the Management Agent.

(a) To establish (subject to the approval and confirmation of the Board of Directors) and to provide for the collection of the annual maintenance assessment and any other assessments specified in this Declaration, and to provide for the enforcement of liens securing same in any manner consistent with law and with the provisions of this Declaration; and

(b) To provide for the care, upkeep, maintenance and surveillance of the common areas and community facilities; and

(c) To select, hire, and dismiss such personnel as may be required for the good working order, maintenance, and efficient operation of the common areas and community facilities; and

(d) To promulgate (with approval and confirmation of the Board of Directors) and to enforce such rules and regulations and such

restrictions, requirements, house rules, and the like as may be deemed proper respecting the use and care of the common areas and community facilities; and

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

(f) The 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 year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods.

Section 2. Limitation of Liability. The Association shall not be liable for any failure of any service to be furnished by the Association or paid for out of the common expense fund, or for injury or damage to person 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 from any wire, pipe, drain, conduit, or the like. The Association shall not be liable to any Member for loss of or damage to any articles, by theft or otherwise, which may be left or stored upon the common areas or community facilities. 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 community facilities, 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 county or other governmental authority.

## ARTICLE X

### GOLF COURSE LOTS

Section 1. Golf Course Relationship to the Association. The real property described in Exhibit "B" is not a common area, and the Golf Course and all related facilities and amenities located thereon are not community facilities. The owner of the Golf Course (the real property described in Exhibit "B" hereto) is a private club separate and apart from the Association and operated under its own rules and regulations. The real property described in Exhibit "B" hereto is not subject to the covenants and restrictions of this declaration. Nothing herein shall be construed to give any person any right or privilege in or to the real property described in Exhibit "B" hereto, including the right to enter

upon or use said property, except under such terms and conditions as may be established by said private club. The Board of Directors of the Association, in its discretion and without reciprocity, may grant for annual renewable terms rights and privileges in or to the common areas and community facilities of the Association to the members of said private club. The Association shall have no obligation to provide maintenance, security, or other services for any portion of the Golf Course, however, the Association and said private club may enter into written agreements with respect to the provision of such services as the Board of Directors of the Association may from time to time determine to be within the purposes of preserving the values and amenities in the Community, maintaining and administering the common areas and community facilities, and administering and enforcing the covenants and restrictions of this Declaration.

Section 2. Special Restrictions Affecting Golf Course Lots. To preserve the grandeur of the Golf Course, there are hereby created special restrictions, rights, and easements hereinafter described and defined upon a portion of each Lot and every common area adjacent to the Golf Course, which restrictions, rights, and easements shall be appurtenant to and shall run with and bind the land adjacent to the Golf Course and shall inure to the benefit of and be enforceable by the Association, or the Owner of any other Lot adjacent to the Golf Course, and by their respective legal representatives, heirs, successors and assigns for as long as the Golf Course is operated as a private club and maintained in a manner which preserves the values and amenities of the Community, or if such is of lesser duration, for a term of thirty (30) years from the date of this Declaration, after which term the said restrictions, rights, and easements shall be automatically extended for successive periods of ten (10) years each, unless terminated at the end of any such period by an instrument executed and acknowledged within sixty (60) days preceding the end of such period by the Association and by the Members who own at least a majority of the Lots adjacent to the Golf Course, which instrument shall be filed for record in the office of the Chancery Clerk of Madison County. The special restrictions, rights, and easements herein created and hereinafter described and defined are collectively referred to as the "Golf Course Easements."

Section 3. Parts of the Property Affected by the Golf Course Easements. Unless the restriction, right, or easement is clearly applicable to all of a Lot or common area adjacent to the Golf Course or unless otherwise clearly and specifically described in a Supplementary Declaration of Covenants and Restrictions annexing Lots adjacent to the Golf Course to the Property, only that part of any Lot or common area

within thirty (30) feet of the Golf Course shall be subject to the Golf Course Easements.

Section 4. Walls and Fences. No solid line of fence, wall, or shrubbery shall be erected or permitted to remain on that portion of any Lot or common area subject to the Golf Course Easements.

Section 5. Distractions Prohibited. An Owner of a Lot subject to the Golf Course Easement shall be obligated to refrain from any actions which would distract from the playing qualities of the Golf Course or the development of an attractive overall landscaping plan for the entire golf course area, including the Owner's Lot. Such prohibited actions shall include, but are not limited to, such activities as an otherwise permitted burning on a lot when the smoke would cross the golf course area and the maintenance of dogs or other pets on a Lot under conditions interfering with play due to their loud barking, running on fairways, picking up balls, or other animalistic activity.

Section 6. Right of Access to Lots and Areas Subject to the Golf Course Easement. Each Lot subject to the Golf Course Easements shall be subject to a right and easement permitting registered Golf Course players and their caddys to enter upon any open part of such Lot except a dwelling or accessory structure to recover a ball without such entering being deemed a trespass. Players or their caddys shall not be entitled to enter upon any such Lot or area subject to the Golf Course Easements with a golf cart or other vehicle, spend unreasonable time on such Lot or area, or in any way commit a nuisance, or damage, or destroy any property, plantings or foliage, while thereon.

Section 7. Easement of Light, Air and View. There is hereby reserved for the benefit of the Declarant, the Association, and their respective successors and assigns, the right and easement of light, air and view over and across the area subject to the Golf Course Easements.

Section 8. Landscaping. The Owner of each Lot adjacent to the Golf Course shall landscape and maintain all that part of his Lot which is visible from the Golf Course in an attractive, well kept manner consistent with the overall landscaping plan for the entire Golf Course area.

Section 9. Right to Maintain Lots. There is hereby reserved for the benefit of the Declarant, the Association, and their respective successors and assigns, upon, over, through and across the area subject to the Golf Course Easements, a right and easement to landscape and maintain said area. Such maintenance and landscaping may include regular removal of

underbrush, trees less than two inches in diameter, trash, or debris; the planting of grass, trees, and shrubbery; watering; application of fertilizer; and mowing.

## ARTICLE XI

### LAKE COMMON AREAS

Section 1. Designation of Lake Common Areas. From time to time and in accordance with the manner prescribed in Section 1 of Article II of this Declaration, the Declarant may annex to the Property one or more parcels of real property, all or part of each of which may be described and designated as a Lake Common Area in the Supplementary Declaration of Covenants and Restrictions effecting such annexation or on the plat incorporated by reference into such Supplementary Declaration. A parcel of real property so described and designated is hereinafter referred to as a "lake common area." Unless otherwise clearly indicated by the provisions of this Article, lake common areas shall in all respects be held and owned for the common use, benefit, and enjoyment of all the Members of the Association as are other common areas within the Property.

Section 2. Special Restrictions Affecting Lots Adjacent to Lake Common Areas. To preserve the grandeur of a lake common area, there are hereby created special restrictions, rights, and easements hereinafter described and defined upon a such parcel of real property described and designated as a lake common area and upon a part of each Lot adjacent to a lake common area, which restrictions, rights, and easements shall be appurtenant to and shall run with and bind the land within such lake common area and the land adjacent to such lake common area and shall inure to the benefit of and be enforceable by the Association or the Owner of any other Lot adjacent to such lake common area, and by their respective legal representatives, heirs, successors and assigns, for as long as a lake is operated and maintained on such lake common area in a manner which preserves the values and amenities of the Community, or if such is of lesser duration, for a term of thirty (30) years from the date of recordation of this Declaration, after which term said restrictions, rights, and easements shall be automatically extended for successive periods of ten (10) years each, unless terminated at the end of any such period by an instrument executed and acknowledged within sixty (60) days preceding the end of such period by the Association, acting by and through its Board of Directors, and by the Members who own at least a majority of the Lots adjacent to all lake common areas, which instrument shall be filed for record in the office of the Chancery Clerk of Madison County. The special restrictions, rights, and easements herein created and hereinafter described and defined are collectively referred to as the "Lake Easements."

Section 3. Parts of a Lot Subject to the Lake Easements. Unless the restriction, right, or easement is clearly applicable to all of a Lot adjacent to a lake common area or unless otherwise clearly and specifically described in a Supplementary Declaration of Covenants and Restrictions annexing Lots adjacent to a lake common area to the Property, that part of any Lot within thirty (30) feet of a lake common area shall be subject to the Lake Easements.

Section 4. Walls and Fences. No solid line of fence, wall, or shrubbery shall be erected or permitted to remain on that portion of any Lot subject to the Lake Easements.

Section 5. Easement of Light, Air and View. There is hereby reserved for the benefit of the Declarant and the Association, and their respective successors and assigns, the right and easement of light, air and view over and across the area subject to the Lake Easements.

Section 6. Landscaping. The Owner of each Lot adjacent to a lake common area shall landscape and maintain all that part of his Lot which is visible from the lake common area in an attractive, well kept manner consistent with the overall landscaping plan for the entire lake common area.

Section 7. Use of Lake Water. For so long as there is a Class B Member, the Declarant reserves unto itself and its successors and assigns the non-exclusive right to withdraw and use water impounded within a lake common area for irrigation of any real property owned by the Declarant, any common area, and/or any Lot, or for any beneficial purpose subject only to the provisions of Sections 51-3-1 through 51-3-55 of the Mississippi Code of 1972. All other water impounded within a lake common area shall be withdrawn and used only by the Association or by an Owner having the approval of the Association, however, with the approval of the Association, the owner of the Golf Course shall have the right to withdraw and use water from lake common areas as make-up water for irrigating the Golf Course whenever the Owner's usual sources of irrigation water are insufficient to preserve the grandeur of the Golf Course.

Section 8. Lake Water Level. Neither the Declarant or the Association shall be required to maintain the water level of any lake at any certain elevation or between any certain maximum and minimum elevations. The Association may lower the water level or drain the lake if such is prudent or necessary for the discharge of its responsibilities herein, for the installation, maintenance and repair of any street, dock, pier, shoreline improvement, sewer, drain, pipe, wire or cable, or any related appurtenance, or for any other purpose.

Section 9. Docks, Piers, and Shoreline Improvements. An Owner of a Lot abutting a lake common area may erect one dock or pier extending into the watercourse after first receiving the approval of plans and specifications therefor by the Architectural Review Committee. Any dock or pier so erected must be maintained in sound condition. A dock or pier must be erected completely within the area over which the erecting Owner has exclusive responsibility. A dock or pier must be gated and kept locked when not in use by the Owner, a member of the Owner's family or the invited guest of the Owner. The Owner of a Lot abutting a lake common area may construct shoreline improvements within his area of exclusive responsibility to improve shoreline appearance, facilitate maintenance, or minimize bank erosion, after first receiving the approval of plans and specifications therefor by the Architectural Review Committee. Any such improvements must be maintained in sound condition. Broken concrete or stone rip rap, shall not be used for shoreline improvements.

Section 10. Exclusive Responsibility For Lake Shore and Proximate Water Surface. The Owner of a Lot abutting a lake common area is hereby delegated the revocable, exclusive, non-assignable right to exercise for the Association the responsibility for the use and maintenance of that part of the lake common area within an area delineated by the Owner's abutting Lot line, extensions of adjacent lot lines into the lake common area, and a line thirty (30) feet from the edge of the lake water surface when the lake water surface is level with the spillway overflow. An Owner of a Lot abutting a lake common area and exercising exclusive responsibility for the use of such delineated area shall not prevent another Owner, a member of such other Owner's family, or the invited guest of such other Owner from periodically swimming, sailing, or fishing through that part of the lake within such delineated area, or, engaging in any quiet activity of limited duration within such delineated area which does not disturb or interrupt the use of the delineated area by the Owner exercising such responsibility. The Owner exercising such responsibility shall determine what is or is not a quiet activity within such delineated area, unless or until the Board of Directors publishes a definitive list of quiet activities within all such delineated areas or unless and until the Board of Directors shall revoke for cause an Owner's right to exercise for the Association such responsibility.

Section 11. Responsibilities of the Association. The Association shall be responsible for the maintenance of the dam and outlet works of a lake, for the maintenance of appropriate water quality in a lake, for the removal of excessive amounts of vegetation, debris, and/or sediment from a lake, for the regulation of the use and activities of the water surface of a lake, for the propagation, control, and management of wildlife of any kind which habitat in or around lakes, and for the acquisition of all permits and approvals, including extensions, renewals, and additions,



required by Section 51-3-1 through 51-3-55 of the Mississippi Code of 1972. The Association shall not be responsible for the safety of any person in or on the surface of a lake or in or on the outlet works of a lake.

Section 12. Use and Protection of Lakes. Lakes shall be used for fishing, swimming, sailing, and boating, except that no person may use a boat over twelve (12) feet in length or a boat which is mechanically powered with a motor capable of developing more than one (1) horsepower. No person may fill a lake or place any solid or harmful liquid in or near a lake. No person may enlarge the surface area of a lake without the approval of the Board of Directors.

Section 13. Right to Maintain Lots. There is hereby reserved for the benefit of the Declarant, the Association, and Members who own a Lot adjacent to a lake common area, and their respective successors and assigns, upon, over, through and across the area subject to Lake Easements, a right and easement to landscape and maintain said area. Such maintenance and landscaping may include regular removal of underbrush, trees less than two inches in diameter, trash, or debris; the planting of grass, trees, and shrubbery; watering; application of fertilizer; and mowing.

## ARTICLE XII

### EASEMENTS

Section 1. Reservation of Easement Rights by the Declarant. The Declarant, for itself and its assigns, hereby reserves a non-exclusive easement and right-of-way in, through, over, and across the common areas and community facilities for the purposes of the storage of building supplies and materials, the installation, construction, maintenance, reconstruction and repair of sewers, water pipes, irrigation pipes, electrical wires or cables, telephone wires or cables, gas lines, storm drains, television cables, underground conduits, and related appurtenances to any of same, and for all other purposes reasonably related to the completion of construction and the provision of utility services, whether public or private, to the Community and to other real property in the vicinity of the Community. Any and all instruments of conveyance made by the Declarant to the Association with respect to any of the common areas and community facilities shall be conclusively deemed to incorporate this reservation, whether or not specifically set forth in such instruments. At the request in writing of the Declarant, the Association shall from time to time execute, acknowledge, and deliver to the Declarant such further assurances of this reservation as may be necessary.

Section 2. Conveyance of Easements for Utilities and Related Purposes. The Association is authorized and empowered to grant (and shall from time to time grant) such other easements, licenses, and rights-of-way over the common areas and community facilities for the installation, operation and maintenance sewers, water pipes, electrical wires or cables, telephone wires or cables, gas lines, storm drains, television cables, underground conduits, and related appurtenances for any and all purposes benefitting the Community and other real property in the vicinity thereof as may be considered necessary or appropriate by the Board of Directors for the orderly maintenance, preservation and enjoyment of the common areas and community facilities and for the preservation of the health, safety, convenience, and welfare of the Owners of the Lots, the owners of such other real property, or the Declarant.

Section 3. Maintenance and Support Easements. In those parts of the Property where dwellings are permitted on or in close proximity to the boundaries of a Lot, the common areas and community facilities and each Lot and dwelling thereon, for the benefit of the Association and the Owners of the adjoining Lots and abutting dwellings, shall be subject to irrevocable easements for drainage; for the maintenance and unobstructed and uninterrupted use of any and all pipes, ducts, flues, chutes, conduits, cables and wire outlets and utility lines of every kind; to easements for maintenance and lateral support of adjoining and abutting buildings and improvements; to easements for such portions of any building or improvement that may overhang a Lot or any portion of the common areas and community facilities; and to easements for the leadwalks and sidewalks serving adjoining and abutting areas.

Section 4. Utility and Drainage Easements. As from time to time may be shown on a map or plat of real property annexed to the Property as provided in Article II, all the areas depicted on said map or plat either as utility easements or as drainage easements, or as both, shall each and all be subject to non-exclusive easements in favor of, severally, the Association, the Declarant, and each certified utility company which heretofore has installed, or caused to be installed, or which may hereafter install, or cause to be installed, within said easement any sewer pipe, water pipe, wire, conduit, cable, valve, transformer, switch, connector, or any other equipment or facility for the purpose of transmitting or providing electricity, water, sanitary sewer service, telephone service, natural gas, radio signals, television signals, or any other service normally considered to constitute a "utility" service. Each such easement shall permit the Association, the Declarant, and each such utility company to perform from time to time anything and everything reasonably necessary or appropriate to repair, maintain, replace, change the size of, and otherwise maintain in proper and adequate operating

Condition all such equipment and facilities heretofore or hereafter installed by or for each such utility company. However, a utility company shall have no right to place any such pipe, wire, conduit or appurtenance above the ground without the express written permission of the Lot Owner and the Association unless such pipe, wire, conduit or appurtenance is routinely placed above ground when the utility company provides underground service or unless such pipe, wire, conduit or appurtenance exists on the Lot above ground prior to the Lot being acquired by the Lot Owner. As used herein, the expression "utility company" shall mean and include the Mississippi Power & Light Company, South Central Bell Telephone Company, Bear Creek Water Association, Annandale Utility Company, ENTEX, Purple Creek Cable, and any other entity which has heretofore installed or facilities mentioned above. All the areas depicted on such plat either as utility easements or as drainage easements, or as both, also shall be subject to nonexclusive easements in favor of the Association and the Declarant, severally, which easements shall permit the Association and the Declarant, or either of them, to perform from time to time anything and everything reasonably necessary or appropriate to maintain proper drainage within the Community, but nothing in this subparagraph shall be interpreted as relieving the Owner of a Lot from the primary responsibility of performing all routine cutting, trimming, pruning and upkeep necessary or appropriate to maintain any and all portions of his Lot across which surface water may drain.

### ARTICLE XIII

#### ADDITIONAL PROVISIONS

Section 1. Amendment. Subject at all times to all other limitations set forth in this Declaration, this Declaration or any Supplementary Declaration may be amended as follows:

(a) At any time when there is one or more Class B Members only by an instrument executed and acknowledged by the Declarant and by the Owners of all Lots subject to this Declaration, or in the case of a Supplementary Declaration, by the Owners of all Lots subject to said Supplementary Declaration, who own at least fifty per cent (50%) of all Lots subject to the Declaration or said Supplementary Declaration.

(b) At any time when there are no Class B Members only by an instrument executed and acknowledged by the Owners of all Lots subject to this Declaration, or in the case of a Supplementary Declaration, by the Owners of all Lots subject to said Supplementary Declaration, who own at least fifty per cent (50%) of all Lots subject to the Declaration or said Supplementary Declaration.

(c) Until October 18, 1990, by an instrument executed and acknowledged only by the Declarant provided that such amending instrument

does not modify or amend any material or substantive provision of this Declaration or the Supplementary Declaration being amended.

Such amending instrument shall be recorded in the land records in the office of the Chancery Clerk of Madison County. Unless a later date shall be specified in any such amending instrument, any amendment hereto shall be effective on the date of recording of the amending instrument.

Section 2. Duration. Unless amended in accordance with the provisions of Section 1 of this Article and the other requirements of this Declaration, and except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land now and hereafter constituting the Property, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot, and by their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date of recordation of this Declaration, after which term the said covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless terminated at the end of any such period by an instrument executed and acknowledged within sixty (60) days preceding the end of such period by Class A Members who own at least a majority of the lots then owned by Class A Members, which instrument shall be filed for record in the office of the Chancery Clerk of Madison County.

Section 3. Construction and Enforcement. The provisions hereof shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Community. Enforcement of these covenants and restrictions may be by any proceeding at law or in equity against any person violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, or both, and against any Lot to enforce any lien created hereby; and the failure or forbearance by the Association or the Owner of any Lot to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

The provisions hereof may be enforced, without limitation, by the Association, or by any Owner or any mortgagee of any Lot which becomes subject to the provisions hereof, or by any other person who has any right to the use of any of the common areas and community facilities, including, again without limitation, any person who has any right to the use of any street or roadway owned by the Association.

There shall be and hereby is created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by an action at law or exclusively by recovery of damages.

Section 4. Successors of Declarant. Any and all rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant

hereunder, or any part of them, may be assigned and transferred (exclusively) by the Declarant, with or without notice to the Association.

Section 5. Incorporation by Reference on Resale. In the event any Owner sells or otherwise transfers any Lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration.

Section 6. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 7. No Dedication to Public Use. Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any common areas or community facilities by any public or county agency, authority, or utility, and nothing herein contained shall be interpreted as imposing upon any public or county agency, authority or utility any responsibility or liability for the maintenance or operation of any of the common areas or community facilities.

Section 8. Severability. Invalidation of any one or more of these covenants or restrictions by judgment, decree or order shall in no way affect any of the other provisions herein, each and all of which shall be severable and shall remain in full force and effect.

Section 9. Consents. Any other provision of this Declaration to the contrary notwithstanding, neither the Members, nor the Board of Directors, nor the Association, by any act or omission, shall do any of the following things without the prior written consent and approval of the holders of at least fifty percent (50%) of all first mortgages of record encumbering the Lots:

(a) Abandon, partition, subdivide, encumber, sell or transfer any of the common areas or community facilities; provided, however, that the realignment of boundaries, the granting of rights-of-way, easements and the like for utilities or for other purposes consistent with the use of the common areas and community facilities by the Members of the Association shall not be considered an encumbrance, sale or transfer within the meaning of this Subsection; or

(b) Abandon or terminate this Declaration; or

(c) Modify or amend any material or substantive provision of this Declaration or the By-Laws of the Association pertaining to the rights of said holders of all first mortgages of record encumbering the Lots; or

(d) Substantially modify the method of determining and collecting maintenance assessments as provided in this Declaration.

Section 10. Additional Rights of Mortgagees - Notice. The Association shall promptly notify the holder of the first mortgage on any Lot as to which any assessment levied pursuant to the Declaration, or any installment thereof, shall become and remain delinquent for a period in excess of sixty (60) days, and the Association shall promptly notify the holder of the first mortgage on any Lot as to which there is default by the Owner with respect to performance of any other obligation under this Declaration which remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any first mortgage on any Lot, and the protection extended in this Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure. Also, any failure to give any such notice shall not affect the validity of the lien for any assessment levied pursuant to this Declaration, nor shall any such failure affect any of the priorities for liens as specified in Article VII hereof.

No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to the Declaration except after ten (10) days' written notice to the holder of the first mortgage encumbering the Lot which is the subject matter of such suit or proceeding.

Any institutional first mortgagee of any Lot upon the Property may pay any taxes, utility charges or other charges levied against the common areas or community facilities which are in default and which may or have become a charge or lien against any of the common areas or community facilities, and any such institutional first mortgagee may pay any overdue premiums on any hazard insurance policy, or secure new hazard insurance coverage on the lapse of any policy, relating to the common areas or community facilities. Any first mortgagee who advances any such payment shall be due reasonable reimbursement of the amount so advanced from the Association.

Section 11. Casualty Losses. In the event of substantial damage or destruction to any of the common areas or community facilities, the Board of Directors shall give prompt written notice of such damage or destruction to the holders of all first mortgages of record on the Lots. No provision of this Declaration or the By-Laws of the Association shall entitle any Member to any priority over the holder of any first mortgage of record encumbering said Member's Lot insofar as concerns the distribution to said Member of any insurance proceeds paid or payable on the account of any damage to or destruction of any of the common areas or community facilities.

Section 13. Condemnation or Eminent Domain. In the event any part of the common areas and community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors shall give prompt written notice of any such proceeding or proposed acquisition to the holders of all first mortgages of record encumbering the Lots. No provision of this Declaration or the By-Laws of the Association shall

entitle any Member to any priority over the holder of any first mortgage of record encumbering said Member's Lot insofar as concerns the distribution to said Member of the proceeds of any condemnation or settlement relating to taking of any part of the common areas and community facilities.

Section 14. Captions and Gender. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

IN WITNESS WHEREOF, the said ANNANDALE DEVELOPMENT COMPANY, a corporation organized and existing under the laws of the State of Delaware, has on the 18th day of October, 1985, caused these presents to be executed in its corporate name by its President, attested by its Assistant Secretary, and caused its corporate seal to be hereunto affixed, and does hereby appoint the said President as its true and lawful attorney-in-fact to acknowledge and deliver these presents as the act and deed of said ANNANDALE DEVELOPMENT COMPANY.

(SEAL)

ATTEST:

Ann L. Scott  
Ann L. Scott  
Assistant Secretary

ANNANDALE DEVELOPMENT COMPANY,  
A Delaware Corporation

By: J. Robert Sierra  
J. Robert Sierra  
President

ACKNOWLEDGEMENT

STATE OF MISSISSIPPI

COUNTY OF MADISON

Personally appeared before me, the undersigned authority in and for the State and County aforesaid, the above and within named J. ROBERT SIERRA and ANN L. SCOTT, who, being by me first duly sworn, stated on their oaths that they are, respectively, the President and Assistant Secretary of Annandale Development Company, a Delaware corporation, who severally acknowledged to me that, they signed and delivered the above and foregoing Declaration of Covenants and Restrictions on the day and year therein indicated as their free and voluntary act and deed and as the free and voluntary act and deed of said corporation, and who further stated on their oaths that they were fully authorized so to do.

Given under my hand and seal of office on this 18th day of October, 1985.

My Commission Expires:

J. Robert Sierra Notary Public



# ANNANDALE PARKWAY

SURVEYED AND MAPPED BY  
LESTER ENGINEERING CO.  
JACKSON, MISSISSIPPI  
SCALE 1"=100'

LOCATED IN THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4),  
THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4)  
THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4)  
AND THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4)  
OF SECTION 34, TOWNSHIP 8 NORTH, RANGE 1 EAST, MADISON COUNTY, MISSISSIPPI

OWNER'S CERTIFICATE STATE OF MISSISSIPPI COUNTY OF MADISON

I, BRUCE S. LEVINE, JR., Registered Land Surveyor, do hereby certify that the above described highway, as shown on the accompanying map, is a public highway, and that the same is located in the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4), the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) and the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section 34, Township 8 North, Range 1 East, Madison County, Mississippi.

Witness my hand and seal this 10th day of February, 1964, at Jackson, Mississippi.

SECTION 34, TOWNSHIP 8 NORTH, RANGE 1 EAST, MADISON COUNTY, MISSISSIPPI

BRUCE S. LEVINE, JR., Registered Land Surveyor

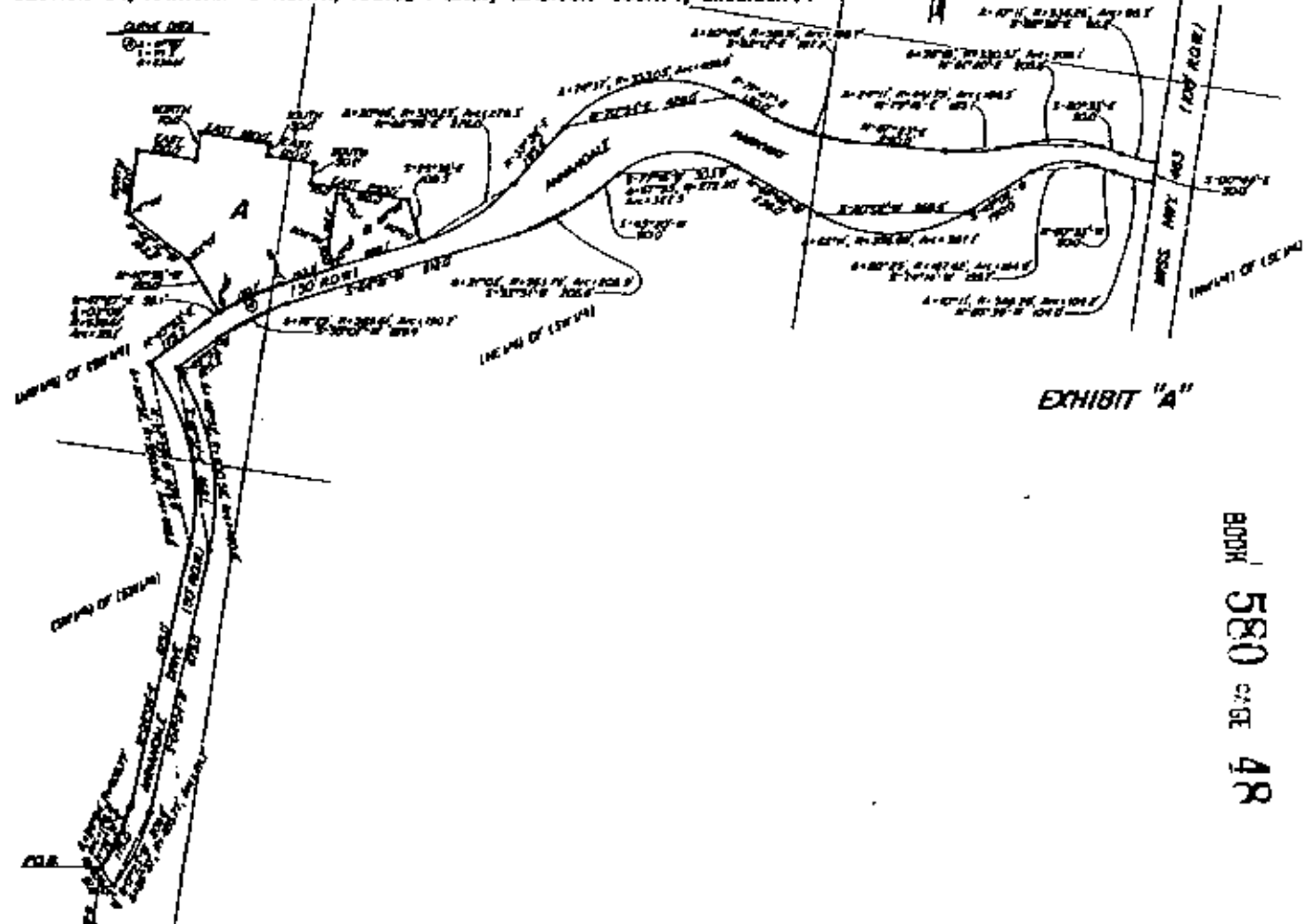


EXHIBIT "A"

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