



THE VILLAS AT FIVE PONDS  
HOMEOWNER ASSOCIATION  
DOCUMENTS



# **PUBLIC OFFERING STATEMENT**

**FOR**

**THE VILLAS AT FIVE PONDS,  
A PLANNED COMMUNITY**

## **Notice to Purchasers**

**Within seven (7) days after receipt of this Public Offering Statement or an amendment to this Public Offering Statement that materially and adversely affects your rights and obligations, you may cancel your agreement of sale for the purchase of a Unit from the Declarant. If you elect to cancel your agreement of sale, you may do so by hand delivering or mailing notice thereof to the Declarant at its address set forth on the next page. The cancellation of the agreement of sale is without penalty and all payments made by you will be refunded. If the Declarant fails to provide this Public Offering Statement and any amendments to you before conveying a Unit, you may recover from the Declarant as damages, under Section 5406(c) of the Pennsylvania Uniform Planned Community Act, 68 Pa. C.S. §§ 5101, et seq. as amended (the "Act"), an amount equal to 5% of the sales price of the Unit up to a maximum of \$2,000 or your actual damages, whichever is greater. A minor omission or error in this Public Offering Statement or any amendment that is not willful shall entitle you to recover only actual damages, if any. If you receive this Public Offering Statement more than seven (7) days before signing your agreement of sale, you cannot cancel your agreement of sale unless there is an amendment to this Public Offering Statement that would have a material and adverse effect on your rights or obligations.**

This Public Offering Statement is subject to change without notice in order to reflect any material changes in the information set forth herein or as otherwise required by the Act. The Declarant will mail copies of all such amendments to any persons who are parties to a valid and binding Agreement of Sale for a Unit in the Community (as defined below).

**ANY INFORMATION OR DATA REGARDING THE PLANNED COMMUNITY NOT INCLUDED IN THIS PUBLIC OFFERING STATEMENT MUST NOT BE RELIED UPON. NO PERSON HAS BEEN AUTHORIZED BY THE DECLARANT TO MAKE ANY STATEMENT, REPRESENTATION OR WARRANTY NOT EXPRESSLY CONTAINED HEREIN. THIS OFFERING STATEMENT MAY NOT BE CHANGED OR MODIFIED EXCEPT BY A WRITTEN DOCUMENT SIGNED BY THE DECLARANT.**

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## INTRODUCTION

This Public Offering Statement is prepared in compliance with the Pennsylvania Uniform Planned Community Act, 68 Pa.C.S. §§ 5101 et seq. (the "Act"); and in connection with the offering of single family attached homes in a planned community to be known as "The Villas at Five Ponds, a planned community" (the "Community") which is located in the Township of Warminster, Bucks County, Pennsylvania. This Public Offering Statement consists of two parts, a narrative portion (the "Narrative") and an exhibit portion (the "Exhibits").

The Narrative describes various aspects of the Community, significant features of the documentation by which the Community was created and under which it will be governed, warranty and insurance coverage information and additional information of importance and interest to prospective purchasers.

The Exhibits include the following: (i) a copy of the Declaration of The Villas at Five Ponds, a planned community (excluding the plats and plans which are available for inspection during normal business hours at the designated sales office for the Community) (the "Declaration"); (ii) a copy of the Bylaws of The Villas at Five Ponds Community Association (the "Bylaws"); (iii) the projected budgets for The Villas at Five Ponds Community Association; (iv) a copy of the form Agreement of Sale for the purchase of a Unit in the Community; (v) a copy of the limited warranty to be provided by the Declarant to Owners upon the purchase of a Unit in the Community; and (vi) a list of Permits/Approvals.

**ALL PORTIONS OF THIS PUBLIC OFFERING STATEMENT SHOULD BE READ AND REVIEWED CAREFULLY BY A PROSPECTIVE PURCHASER PRIOR TO SIGNING AN AGREEMENT OF SALE.**

Capitalized terms used in the Public Offering Statement but not specifically defined herein are intended to have the same meanings as are given to them in the Act, Declaration and Bylaws.

### IDENTIFICATION OF THE DECLARANT AND THE PLANNED COMMUNITY

The Declarant is Five Ponds, L.P., a Pennsylvania limited partnership. The principal address of the Declarant is 1262 Wood Lane, Suite 207, Langhorne, Pennsylvania 19047.

The name of the planned community is "The Villas at Five Ponds, a planned community." The Community is located on Delmont Avenue and Street and Norristown Roads, Warminster Township, Bucks County, Pennsylvania.

### THE COMMUNITY

#### General Description.

The Community is designed and intended for individuals who are fifty-five (55) years of age and older.

The Community is initially planned by the Declarant to include twelve (12) Units. In the event that the Declarant converts Convertible Real Estate or adds Additional Real Estate as described below, the total number of Units included in the Community shall not exceed two hundred eighty (280). Unit Owners will acquire fee simple title to their Units. The Declarant does not intend to rent or market any Units in blocks to investors although the Declarant reserves the right to do so.

Each Dwelling which the Declarant will cause to be constructed within the boundaries of a Unit shall consist of Villa-style home (a "Villa") with an attached two (2) car garage and accompanying improvements. The specific features of each particular Villa will vary depending upon the model and option choices of the purchaser of the Unit on which such Villa is to be constructed. Other improvements planned for the Unit include a paved driveway, utility lines, storm water drainage facilities and certain landscaping.

The Common Elements consist of (i) Common Facilities and (ii) Controlled Facilities. The Common Facilities are portions of the Community which the Declarant intends will be owned by the Association. In the Community, the Common Facilities are planned to consist of streets, sidewalks, curbs, lighting, open space, a storm water management system, an outdoor pool and club house. The Unit Owners and their permitted guests shall have the exclusive right to use the Common Facilities.

Those portions of the Units which are subject to certain requirements imposed by the Declaration or regulations of the Association are called Controlled Facilities. Controlled Facilities also include portions of the Community which, although not owned by the Association, are regulated, maintained, improved, repaired, replaced, managed, insured or controlled by the Association. For example, the Association is obligated to provide snow removal on all driveways and private walks leading to front doors, cutting and edging of all lawns, and trimming and mulching of all plant beds. As a result, even though the Unit Owners own the lawns and plant beds of their Units, the lawns and plant beds are Controlled Facilities because the Association has the obligation to maintain these areas. In addition, the Association has the obligation to maintain, repair and replace the roof shingles of the Villas and to repaint the exterior of the Villas.

The land which the Community exists on is currently zoned AQC, Age Qualified Community. The zoning designation of the land is determined by the Township, and the Declarant makes no representation or warranty as to whether the zoning shall remain as currently zoned.

The land which borders the Community to the south-eastern side is currently zoned Institutional. The land to the north side is currently zoned R-2 and the land consists of single family homes. The land to the west is currently zoned R-2 and SC. The zoning designations of the adjoining land is determined by the Township, and the Declarant makes no representation or warranty as to whether the zoning shall remain as currently zoned.

As indicated on the Wetland Delineation Plan prepared by no wetlands, wetland buffers, steep slopes, hydric soils, flood plains, flood fringes, or flood ways, as well as, encroachment restrictions including protection of woodlands and mature trees exist on any of the lots.

## Convertible Real Estate

Certain portions of the Community have been designated as Convertible Real Estate. The Declarant has the right under the Declaration to create Units and Limited Common Elements in the Convertible Real Estate. However, the maximum number of Units which may be created in the Community is two hundred eighty (280). Until the creation of the Units and Limited Common Elements, the Convertible Real Estate is a part of the Common Facilities of the Community, but real estate taxes and all costs of maintaining the Convertible Real Estate are the responsibility of the Declarant until the conversion occurs or the expiration of the period of time within which it can occur, whichever is earlier.

The Declarant has the option to create Units and Limited Common Elements in the Convertible Real Estate for a period of seven (7) years from the date that the Declaration is Recorded. The Declarant reserves the right not to create any Units or Limited Common Elements in the Convertible Real Estate. The Declaration more fully sets forth certain provisions relating to the Convertible Real Estate.

The Declaration and the Act describe the procedure that the Declarant must follow for the creation of Units or Limited Common Elements in the Convertible Real Estate. Also described is the effect the creation of these Units has on the General Common Expense Percentages and votes associated with Units already included in the Community. The General Common Expense Percentages, being based upon the then current number of Units in the Community, will be adjusted to reflect any additional Units included in the Community. Therefore, as Units are created in the Convertible Real Estate, each Unit's Common Expense Percentage will be reduced. Conversely, each Unit in the Community will have one vote in the Association regardless of how many Units are included in the Community.

The Community does not contain any withdrawable real estate and the Declarant has not reserved any options to withdraw withdrawable real estate under the applicable provisions of the Act.

## Additional Real Estate.

Certain portions of the Community have been designated as Additional Real Estate. In particular, the Declarant has placed an offer to purchase the property now or formerly owned by Mr. George E. Miller, Sr. and which is more particularly described in Exhibit 1.01(a) of the Declaration (the "Miller Tract"). The Miller Tract is Additional Real Estate. The Declarant has the right under the Declaration to create Units and Common Elements in the Additional Real Estate. However, the maximum number of Units which may be created in the Community is two hundred eighty (280). Until the addition of the Additional Real Estate is added to the Community, the real estate taxes and all costs of maintaining the Additional Real Estate are the responsibility of the Declarant.

The Declarant has the option to create Units and Common Elements in the Additional Real Estate for a period of seven (7) years from the date that the Declaration is Recorded. The Declarant reserves the right not to create any Units or Common Elements in the Additional Real

Estate. The Declaration more fully sets forth certain provisions relating to the Additional Real Estate.

The Declaration and the Act describe the procedure that the Declarant must follow for the creation of Units or Common Elements in the Additional Real Estate. Also described is the effect the creation of these Units has on the General Common Expense Percentages and votes associated with Units already included in the Community. The General Common Expense Percentages, being based upon the then current number of Units in the Community, will be adjusted to reflect any additional Units included in the Community. Therefore, as Units are created in the Additional Real Estate, each Unit's General Common Expense Percentage will be reduced. Conversely, each Unit in the Community will have one vote in the Association regardless of how many Units are included in the Community.

The Community does not contain any withdrawable real estate and the Declarant has not reserved any options to withdraw withdrawable real estate under the applicable provisions of the Act.

#### Completion of Units and Common Facilities.

The Declarant estimates that construction within the Community will commence by the Fall 2004 and that the Community will be completed by Summer, 2009. These projected dates of commencement and completion are estimates only and are subject to the qualifications described below. A Unit in the Community purchased from the Declarant will not be conveyed until the Unit and utility installations serving that Unit are substantially complete. However, depending on the time of year during which settlement on the purchase of a Unit takes place, while the Villa will be substantially completed, grading, raking, seeding, landscaping, driveway, patio, concrete surfaces and exterior painting/staining may not be completed, but will be completed after settlement as permitted by weather and other conditions.

The Declarant makes no assurances that the Community, the Units or the Common Facilities will be commenced or completed by the dates or times stated above or as currently planned. Dates for commencement and completion stated here and elsewhere in this Narrative are estimates based on current information and are subject to change due to weather conditions, performance of contractors, market conditions, availability of materials, strikes, shortages of labor, changes in the availability of financing, acts of God and other factors outside the control of the Declarant. Therefore, the Declarant can make no assurances that all of the work contemplated will be completed as scheduled. It is not a condition of completing settlement of the purchase of any Unit in the Community under an Agreement of Sale that any or all of the above described improvements will be completed prior to any such settlement, except for the substantial completion of the Unit itself (as certified in accordance with the Act), including the installation of those facilities necessary for utility services to be provided to the Unit.

The Common Facilities will be conveyed by the Declarant to the Association not later than the date of the conveyance by the Declarant of the last Unit in the Community. The Declarant has reserved the right to convey the Common Facilities at any time prior to the conveyance of the last Unit in the Community, but has covenanted and guaranteed to substantially complete the Common Facilities regardless of when the Common Facilities are

conveyed to the Association. Until such time as the Common Facilities are conveyed to the Association, they shall be owned by the Declarant. The Declarant intends to enter into an agreement with the Township of Warminster and will post security to insure completion of the Common Facilities. The Declarant shall be responsible for the real estate taxes on the Common Facilities, if any, and all other expenses associated with the Common Facilities until conveyed to the Association. The Declarant shall convey to the Association, and the Association shall accept, the Common Facilities by special warranty deed and bill of sale for no consideration. The Declarant shall be responsible for any transfer tax due and the Association shall be responsible for recording fees and title insurance, if any. Acceptance of the Common Facilities shall not constitute a waiver of the Declarant's obligation to complete the Common Facilities. The deed of conveyance shall be executed by the Declarant, presented for Recording and a time-stamped copy of the deed of conveyance or the Recorded copy of the deed shall be provided to the Association.

### THE ASSOCIATION

Upon the creation of the Community by the recordation of the Declaration and not later than the first Unit's conveyance by the Declarant, the Declarant shall create the Association. The Association, whose members shall consist of the Unit Owners and the Declarant, is the governing body for the Community. Except as otherwise provided in this Declaration, the Association is responsible for administration and governance of the Community, the enforcement of the Declaration, and the maintenance, repair, replacement, management, operation and administration of the Common Elements, and the making of any additions or improvements thereto.

The Association will initially be governed by an Executive Board made up of three (3) members who will first be appointed by the Declarant and, as Units in the Community are conveyed by the Declarant, the number of members of the Executive Board will be increased to five (5) and all such members will be elected by the Unit Owners. The Declaration sets forth the procedure and time-frames for the size of the Executive Board to be increased and the Declarant appointed members of the Executive Board to be replaced.

The Association is permitted to delegate any of its duties to a manager or agent or to any other person, firm or corporation, subject to the authority of the Association. The Declarant contemplates that the Executive Board may cause the Association to engage a professional manager to handle certain functions of the Association. Any contract with a manager entered into by the Executive Board on behalf of the Association while under the control of the Declarant shall be subject to the provisions of the Act giving an association the right to terminate such a contract with ninety days' prior notice after the election by Unit Owners of all members of the Executive Board.

Each Unit Owner automatically becomes a member of the Association upon acceptance of a deed to his Unit. Each Unit in the Community is assigned a Common Expense Percentage which represents such Unit's proportionate share of the Common Expenses of the Association. The Common Expense Percentage allocated to each Unit is established by multiplying one hundred (100) and the quotient resulting from dividing one (1) by the total of all Units in the Community.

Each Unit in the Community shall have one (1) vote associated with such Unit. No cumulative voting (that is, giving a Unit owner the same number of votes as the positions open in an election with the right to cast all of the votes for a single candidate) or class voting (that is, votes allocated by classes or types of Units) is permitted. The Declaration provides in Article XI how the vote allocated to a Unit is exercised in the event of multiple or joint owners of the Unit.

There are no circumstances under which the Association will become a master association or part of a master association.

### SUMMARY OF COMMUNITY DOCUMENTS

Attached to this Public Offering Statement are copies of the Declaration, the Bylaws, and the Agreement of Sale for purchase of a Unit in the Community from the Declarant.

(a) **The Declaration**

The Declaration is the document which, once Recorded by the Declarant, subjects Real Estate to the Act and establishes the Community. The Declaration sets forth covenants, rights, obligations and restrictions which each Unit Owner is obligated to follow. The Declaration is attached to this Public Offering Statement as Exhibit "A."

Articles I, II and III, respectively, describe the Real Estate in which Units and Common Elements may be created, describe the Property subjected to the Declaration and the Act and define certain terms used in the Declaration and the Bylaws.

Article IV explains who is bound by the Declaration and how interpretative conflicts between the Declaration and Bylaws should be resolved.

Article V refers to the Plans prepared in accordance with the Act to depict the Community.

Article VI sets forth the initial number of Units in the Community and the maximum number of Units in the Community.

Article VII contains provisions dealing with the Common Facilities; including provisions concerning the conveyance of the Common Facilities by the Declarant to the Association, the completion of the Common Facilities, and the rights of Unit Owners to use the Common Facilities. Article VII also sets forth the obligations of the Unit Owners to pay their share of Common Expenses assessed by the Association for the maintenance, repair, operation and replacement of the Common Facilities and Limited Common Facilities. Article VII also sets forth the votes required to convey, encumber, demolish or replace any Common Facility. The Declarant may contribute funds to the Association, which may be treated as a loan to the Association from the Declarant.

Article VIII provides that the Controlled Facilities include those portions of the Units subject to restrictions imposed by the Declaration.

Article IX sets forth the procedure by which the Declarant may convert the Convertible Real Estate.

Article X sets forth the procedure by which the Declarant may add some or all of the Additional Real Estate and create Units and Common Facilities in the Additional Real Estate.

Article XI describes the duties, powers and functions of the Association. The duties include the responsibility for the maintenance, repair, replacement, cleaning, sanitation, management, operation and administration of the Common Elements, as well as the making of any additions or improvements to the Common Elements.

The affairs of the Association are managed and administered by an Executive Board. The Executive Board initially will consist of three (3) individuals appointed by the Declarant. Section 11.04 of the Declaration provides for the transition from a Declarant appointed Executive Board to an Executive Board selected by Unit Owners other than the Declarant. No later than sixty (60) days after the conveyance of twenty-five (25%) percent of the Units to Owners other than the Declarant, the Owners other than the Declarant shall elect two (2) Unit Owners other than the Declarant. These elected Unit Owners shall be added to the Executive Board which shall then be comprised of a total of five (5) members. No later than one hundred twenty (120) days after the conveyance of seventy five (75%) percent of the Units to Owners other than the Declarant, the Owners other than the Declarant shall elect three (3) Owners other than the Declarant to the Executive Board to replace the Executive Board members appointed by the Declarant. The Declarant reserves the right to retain one observer position on the Executive Board while the Declarant holds legal title to a Unit in the Community. The number of Units upon which the above-mentioned percentages shall apply is the maximum number of Units which the Declarant has reserved the right to include in the Community pursuant to the Declaration.

Article XII contains insurance provisions. The Association, through its Executive Board, is obligated to obtain liability and casualty insurance for the Common Facilities. Article XI sets forth the requirements of these insurance policies, how proceeds of insurance policies will be used and describes other insurance coverage which the Executive Board shall obtain to protect themselves, the Association and the Unit Owners. Additional insurance information concerning insurance coverage is provided in the section of this Narrative entitled "Insurance Coverage." The Association does not provide any insurance coverage with respect to the Units. Unit Owners must obtain their own insurance coverage for the Units.

In connection with the development of the Community, the Community shall be subject to a number of easements. These easements are set forth in Article XIII of the Declaration, including easements in favor of the Township, the Declarant, Association and others for the present and future installation, maintenance repair and replacement of utilities, an easement in favor of the Association permitting access over each Unit for purposes of inspecting, maintaining, repairing and replacing the Common Elements, and easements in favor of the Declarant for the marketing of Units and for the construction of improvements on the Units and Common Facilities. Article XIII also refers to a list attached as an exhibit to the Declaration

listing recording data of any recorded easements and licenses applying to the property in the Community.

Article XIV of the Declaration states that each Unit is to be separately taxed for real estate tax purposes and that each Unit Owner shall be responsible for the payment of all taxes assessed against his Unit.

Article XV sets forth the obligation of each Unit Owner to pay Assessments levied by the Association. At settlement, each purchaser is required to pay \$495 to the Association. This Article contains provisions concerning the establishment, collection and enforcement of assessment obligations.

Article XVI provides that no prior consent is required from the Association before a Unit may be sold. However, all Unit Owners must comply with the requirements established by Section 5407 of the Act by providing a certificate which discloses specific information about the Association and the Community to each purchaser. Each Unit Owner must also provide each purchaser a copy of the Declaration (other than the Plans), the Bylaws and any Rules and Regulations of the Association. Article XV also reserves in the Declarant the right to lease Units which it owns and contains limitations imposed on Unit Owners who lease their Units. Each lease for a Unit must be in writing for a term of not less than one (1) year and the form of lease must be approved by the Association. Each lease must provide that the tenant is subject to the provisions of the Declaration, the Bylaws and any Rules and Regulations of the Association. The leasing of any Unit does not affect the liability of the Unit Owner with respect to his or her obligations under the Declaration, the Bylaws and the Rules and Regulations. If a Unit Owner whose Unit is leased fails to pay any charge or Assessment and the failure continues for ten (10) days, the Association has the right to notify the tenant and require the tenant to pay the amount of Assessments due up to the amount of the tenant's regular monthly rental. This payment will be offset against the tenant's rent due under the lease. Each purchaser of a Unit must pay to the Association at their settlement a non refundable payment in the current amount of \$495, which sum may be increased or decreased by the Executive Board.

Article XVII sets forth the use restrictions applicable to each Unit. These restrictions cover such matters as uses permitted for any Unit and provisions dealing with pets, alterations to the Common Elements, parking and driving of motor vehicles, antennae, for sale and for rent signs, and exterior modifications of Units. Occupancy restrictions are set forth to insure continued qualification of the Community as "housing for older persons" within the meaning of the Fair Housing Act.

Article XVIII prohibits any external additions or alterations to the Unit without first submitting an application to the Executive Board for approval. The provisions of this Article do not apply to the Declarant. The process to obtain permission of the Executive Board is set forth.

Article XIX establishes the obligation of each Unit Owner to comply with the terms of the Act, the Declaration, the Bylaws and the Rules and Regulations and gives the Executive Board the power to establish Rules and Regulations relative to the operation, use and occupancy of the Units and Common Elements. Article XIX also sets forth the remedies available to the Association or Unit Owners in the event a Unit Owner fails to comply with his obligations under

the Act, the Declaration or the Rules and Regulations. Section 19.02 establishes a dispute resolution mechanism to be followed by Unit Owners.

Under Article XX the Association has the obligation to indemnify the Executive Board, committee members and officers of the Association against loss incurred by virtue of holding position on the Executive Board, on a committee or as an officer, except as to actions which the member is finally determined to have been grossly negligent or to have committed willful misconduct.

Articles XXI, XXII and XXIII, respectively, set forth the provisions for amending the Declaration, the procedures for terminating the Association, and the method for giving required notices to Unit Owners.

Article XXIV contains certain provisions benefitting the Township. Section 24.01 provides that the Township shall be a third party beneficiary of the provisions of the Declaration that require the Association to maintain, repair and replace the Common Facilities or that empower the Association to enforce the provisions of this Declaration against the Unit Owners, and further provides that in the event the Association fails to fulfill its obligations hereunder with respect to the maintenance, repair and replacement of the Common Facilities or fails to enforce the provisions of this Declaration against the Unit Owners, the Township may perform such obligations or enforce such provisions and the Township shall be reimbursed by the Association for all expenses (including attorneys' fees and costs) incurred in connection therewith.

Article XXV sets forth certain miscellaneous provisions.

(b) **Bylaws**

The operation and administration of the Association are governed by the Bylaws, which are set forth in their entirety as Exhibit "B" to this Public Offering Statement.

Articles I and II of the Bylaws set forth the name and address of the Association and describe the applicability of the Bylaws.

Article III of the Bylaws sets forth the general purposes of the Association. Article IV incorporates the definitions set forth in the Declaration for terms used in the Bylaws. Article V sets forth various provisions relating to membership in the Association, such as proxy rights and quorum requirements.

Article VI contains the provisions regarding procedures for both annual and special meetings of the Association, including the time and place of meetings and the order of business to be conducted, as well as notice requirements.

Article VII contains provisions concerning the Executive Board, the governing body of the Association. The sections in this Article describe the number and term of members of the Executive Board, the powers and duties of the Executive Board, nominations to the Executive Board, the filling of vacancies on the Executive Board and removal of members, and include provisions dealing with procedures for taking actions and conducting regular and special meetings of the Executive Board.

Article VIII contains provisions governing the election of officers of the Association by the Executive Board and the various duties of these officers. The officers of the Association are to be elected annually by the Executive Board and include a President, Secretary and Treasurer.

Article IX of the Bylaws requires that the Association make available for inspection by Unit Owners during normal business hours the Declaration, the Bylaws, any Rules and Regulations, and the books, records and financial statements of the Association.

Article X provides for the distribution of real and personal property of the Association to the Members upon dissolution of the Association and termination of the Declaration.

Article XI sets forth the procedure for amendment of the Bylaws and contains miscellaneous provisions relating to the Association and Executive Board.

**(c) Agreement of Sale**

Attached to this Public Offering Statement as Exhibit "C" is the form of Agreement of Sale to be executed for the purchase of a Unit being offered by the Declarant. The Agreement of Sale identifies the Unit to be purchased, the price of the Unit, and any options selected by the purchaser. The Agreement of Sale requires that any deposit be paid by cash or check payable to the order of J.N. Associates, Inc., unless otherwise agreed by buyer. \Any deposit paid will be held in escrow in accordance with the Act, unless otherwise agreed by buyer. The Agreement of Sale requires that any option payments be paid to the Declarant. Option payments will neither be held in escrow nor refunded. A Unit purchaser must pay the balance of the purchaser price at settlement by cash or certified check or mortgage company check payable to the order of the title insurance company conducting settlement.

The Agreement of Sale sets forth the procedure for selecting options and the Declarant's rights with respect to the construction of a Unit. The Agreement of Sale provides that the Unit will be deemed substantially completed when a certificate of occupancy from the appropriate governmental authority has been obtained. The period identified in the Agreement of Sale as the estimated settlement date is only an estimate by the Declarant of when a Unit will be completed and ready for settlement. Each purchaser will be advised of the actual date of settlement by written notice from the Declarant.

In addition to referring to the warranties being given under the Act, the Agreement of Sale also sets forth the limited warranty on construction which the Declarant will cause to be delivered at settlement. Finally, the Agreement of Sale sets forth those actions of both the purchaser and the Declarant which would constitute a default under the Agreement of Sale and the remedies available to a party if a party should default.

**(d) Other Contracts and Leases**

The Declarant contemplates that the Association will enter into a contract with Continental Property Management, Inc. (the "Manager") for professional management of the Association and the Community. The management contract may be terminated by the Association under Section 5305 of the Act after the Unit Owners have elected all the members of the Executive Board. The management contract sets forth the obligations and responsibilities of

the Manager with respect to the operation of the Association and the compensation and expense reimbursement to be paid by the Association to the Manager. The compensation and expense reimbursement paid by the Association to the Manager shall be Common Expenses of the Association.

#### BUDGET

The Association budget attached as Exhibit "D" ("Budget") estimates the projected income and expenses for the first fiscal year of the Association and the estimated income and expenses of the Association when all Units are completed. The section of the Budget pertaining to the first fiscal year of the Association depicts those services rendered to each Unit for which a Certificate of Occupancy has been issued. As such, the initial fiscal year Assessment reflects the Limited Common Expense liability of each Unit Owner for services rendered to such Owner. The section of the Budget which estimates income and expenses when all Units are completed assumes the completion of the Common Facilities of the Community as envisioned by the Declarant with the maintenance levels as anticipated by the Declarant.

The Budget is based on current estimates and is subject to change to the extent there are actual or unanticipated changes in the cost of services and materials and weather conditions. The Budget has been prepared based upon current estimates of future costs.

#### ADDITIONAL SERVICES AND PROPERTY

Until the Association commences Assessments for General Common Expenses to Unit Owners, all General Common Expenses shall be paid either from the nonrefundable contributions described in the next section of this Narrative or from the Declarant's own funds.

Limited Common Expense Assessments for lawn care, landscaping and snow removal will be charged to each Unit Owner from the date of acquiring title to a Unit in an amount which is currently estimated to be One Hundred Forty Dollars (\$139.00) per month. Once all the Units are sold such Limited Common Expenses shall become General Common Expenses. Additionally, once all of the Common Facilities have been completed and conveyed to the Association, it is currently estimated that the General Common Expense Assessment for each Unit shall be One Hundred Seventy Five Dollars (\$175.00) per month.

#### INITIAL FEE

At settlement on the purchase of a Unit, the Declarant shall cause to be collected from each purchaser buying a Unit from the Declarant a non-refundable contribution to the Association in the amount of Four Hundred Ninety-five Dollars (\$495.00). This payment will provide the Association with initial revenues for operation, maintenance, repair, replacement and management of the Common Elements as deemed necessary by the Executive Board.

#### DESCRIPTION OF LIENS, DEFECTS OR ENCUMBRANCES ON OR AFFECTING TITLE TO THE PROPERTY

The Community will be subject to the terms of the Declaration and any Rules and Regulations promulgated by the Association, as each of these may be amended.

Article XII of the Declaration provides certain general easements that affect the Community, including (i) easements for the present and future installation and maintenance of electric service, cable television service, telephone and other telecommunication service, water service, storm water management system, and other utility services including the facilities and appurtenances necessary for same; (ii) easements for the Association for the inspection, maintenance, repair or replacement of the Common Elements or the making of any addition or improvements thereto; or to make repairs to the Common Elements if such repairs are reasonably necessary for public safety or to prevent damage to the Common Elements; or to abate any violation of law, orders, rules or regulations of the Association or of any governmental authorities having jurisdiction thereof; (iii) the right of the Declarant to maintain offices, models and signs in connection with its marketing of Units; (iv) easements for utilities, landscape conservation, storm water and signage; and (v) easement rights for the Declarant in connection with the development of the Community.

Article XII of the Declaration also refers to a list attached as an exhibit to the Declaration listing recording data of any recorded easements and licenses applying to the property in the Community.

Any mortgage liens and encumbrances applicable to the Community will be released on a Unit-by-Unit basis as Units are conveyed to purchasers.

#### WARRANTIES

The Declarant will correct "structural defects" in any Unit caused to be built by the Declarant or any Controlled Facility which is part of a Unit for two (2) years from the date the Unit is conveyed to a purchaser. The Declarant will also correct any "structural defects" in any specific Common Facility for a period of two (2) years from the later of the completion of the specific Common Facility or the date the first Unit is conveyed to a purchaser. The Declarant does not warrant against structural defects in facilities which have been dedicated to a municipality, municipal authority, or other governmental entity. The Act defines the term "structural defects" as "defects in any structure which is a component of (1) any Unit or Common Element; or (2) any other portion of a Unit or Common Element constructed, modified, altered or improved by or on behalf of a Declarant; any of which reduce the stability or safety of the structure below accepted standards or restrict the normal intended use of all or a part of the structure and which require repair, renovation, restoration or replacement." Only the Association may bring an action for breach of warranty with respect to Common Facilities. An action for breach of the statutory warranty with respect to one or more Units may be brought either by the Association or by an Owner of an affected Unit.

In addition to the warranties provided by the Act, at settlement the Declarant will provide the Limited Warranty for your Unit which is attached as Exhibit "E." You should review the Limited Warranty to understand what items are covered and the time period during which such items are covered by the Limited Warranty. If you have a warranty complaint, it must be received by the Declarant or by the warranty program administrator within the time period, and in the manner, set forth in the Limited Warranty. A warranty complaint may be brought only by the owner of the Unit to which the complaint relates and not by the Association. Any dispute between you and the Declarant concerning warranty service will be resolved by a neutral third

party chosen by the warranty program administrator and the decision of the neutral third party will be binding.

The Declarant will also provide to you copies of any limited warranty on any new item of equipment or appliance that has been purchased with the Unit if such warranty has been provided by the manufacturer.

**In consideration of the limited warranties described in this section of the Narrative, there shall be no implied warranties including, without limitation, implied warranties of habitability, merchantability and of fitness for a particular purpose, and there shall be no express warranties other than those mentioned herein. In no event shall the Declarant be liable for special or consequential damages or personal injuries arising from any breach of this limited warranty. The Declarant is not responsible for any items of maintenance relating to Units or Common Facilities. The Declarant shall have the sole right to determine whether the defects shall be corrected by repair or replacement. No person has been authorized to modify these terms and the Declarant will not assume any liability or obligation on account of representations made by any other party.**

The Declarant is not responsible for any items of maintenance relating to Units or Common Facilities. With the sole exception of the warranties described in this Section and in the Agreement of Sale, the Declarant is selling the Units, and any personal property in the Units

"as-is and where-is." **The Declarant disclaims all implied warranties applicable to any Unit or Common Elements to which the warranty under Section 5411 of the Act applies.**

#### LITIGATION INVOLVING THE ASSOCIATION

As of the effective date of this Public Offering Statement there are no judgments against the Association, nor is the Association a party to any pending litigation. The Declarant has no actual knowledge of any current pending litigation material to the Community.

#### DEPOSIT ESCROW

Any deposit (other than payments for options, extras, changes or custom work) paid toward the purchase of a Unit will be held by a licensed real estate broker, an attorney admitted to practice law in Pennsylvania, a financial institution or a licensed title insurance company in an escrow account with a financial institution whose accounts are insured by a governmental agency or instrumentality. The deposit shall be so held until (i) delivered to the Declarant at settlement; (ii) delivered to the Declarant because of a default by the purchaser under the Agreement of Sale, or (iii) refunded to the purchaser. Any payments for options, extras, changes or custom work will not be held in escrow and are not refundable. No interest on a deposit shall be payable to a purchaser.

## RESTRAINTS ON ALIENATION

Article XVI of the Declaration contains certain requirements in connection with the leasing of Units. If a Unit Owner intends to lease a Unit, the owner must submit a written lease form to the Association for approval prior to the lease's commencement. The lease must be for term of at least one (1) year must include language which provides that the tenant is subject to the provisions of the Declaration, the Bylaws and any Rules and Regulations of the Association. In addition, as described above in this Narrative, the lease must permit the Association to recover unpaid assessments from the tenant occupying the Unit if the Unit Owner does not pay the assessments for the Unit.

There are restrictions imposed by the Declaration upon the resale and lease of your Unit which are required in order to insure continued compliance of the Community with the provisions of the Fair Housing Act governing "housing for older persons." There are also certain disclosure requirements required by the Act which are discussed earlier in this Public Offering Statement. Each purchaser must pay to the Association the sum of Four Hundred Ninety Five Dollars (\$495.00) which is non-refundable, which payment may increase or decrease in such amounts as determined by the Executive Board.

## INSURANCE

Article XII of the Declaration sets forth the provisions concerning the types and amounts of insurance coverage to be provided by the Association. The Executive Board is required to maintain comprehensive general liability insurance including medical payments covering all occurrences commonly insured against for death, bodily injury and property damage, arising out of or in connection with the use, ownership or maintenance of the Common Facilities. The Executive Board is also required to maintain "all-risk" hazard insurance coverage covering damage to the Common Facilities and the Controlled Facilities (to the extent the Controlled Facilities can be insured separately from the Units) including fixtures and equipment and including all personal property owned by the Association. The amount of the hazard insurance coverage after application of any deductibles will not be less than 80% of the actual cash value of the insured property, exclusive of items normally excluded from property policies.

The Executive Board is also required to carry workmen's compensation insurance and directors' and officers' liability insurance.

In general, the insurance coverage provided by the Association does not insure any portion of a Villa or other physical improvements within a Unit, nor are a purchaser's appliances or personal property insured by the Association. Furthermore, the Association does not insure Unit Owners against liability arising from an accident or injury occurring within a Unit or from the Owner's own negligence.

The Declarant recommends that each purchaser seek the advice of a competent insurance agent or broker of the purchaser's choice and secure, in the purchaser's own name, a homeowners' insurance policy covering a Unit and its contents in an amount sufficient to cover replacement in the event of loss and providing personal liability coverage.

FEES FOR USE OF COMMON ELEMENTS

There are no current or anticipated fees or charges to be paid by Unit Owners for the use of the Common Elements other than a Unit Owner's Common Expense Assessments.

FINANCING

The Declarant is neither providing nor arranging financing for purchasers of Units in the Community. The Declarant may provide names of possible mortgage lenders. All decisions concerning the qualification of purchasers for financing and the availability of such financing are made by the mortgage lenders and not the Declarant.

FINANCING FOR IMPROVEMENTS

The Declarant has the financial obligation to complete the streets within the Community and the storm water management system, and will post with the Township the financial security required to assure proper completion of such improvements.

CONDITION OF STRUCTURAL COMPONENTS AND  
UTILITY INSTALLATIONS

All structural components of the improvements which the Declarant will cause to be constructed on the Units, as well as the utility installations in the Community, will be installed as new. The structural components of a Unit are the structural frame, foundation and roofs. The anticipated useful life of each structural component, together with the estimated cost (in current dollars) of replacement, are estimated in the schedule set forth below. The information provided in the schedule is only a good faith current estimate of the Declarant based on the Declarant's familiarity with the construction of homes, and is not a warranty or representation of any kind. The useful life and estimated replacement cost of the structural components may vary from these estimates depending upon weather conditions, level of maintenance, misuse and other factors outside of the Declarant's control.

The major utility installations of water, sewer, gas and electric will commence with the construction of the site improvements and will be completed for each Unit prior to the issuance of a Certificate of Occupancy for that Unit.

<b>Item</b>	<b>Estimated Useful Life</b>	<b>Estimated Replacement Cost (current dollars)</b>
Foundation	50+ years	\$12,000 (with basement); \$6,000 (with slab)
Structural Frame	50+ years	\$16,000 (with basement); \$13,000 (with slab)

GOVERNMENTAL APPROVALS      PERMITS  
AND \_\_\_\_\_

The following governmental approvals and permits have been obtained or will be obtained and are required for the use and occupancy of the Community. All permits and

approvals required for the use and occupancy of the Community will be obtained by, and at the expense of, the Declarant.

**Permit/Approval**

**Expiration Date; Comments**

Building Permits

To be obtained prior to the construction of each Unit

Certificate of Occupancy

To be obtained for each Unit prior to settlement for such Unit

**NO VIOLATIONS**

The Declarant has no knowledge of any outstanding and uncured notices of violation of governmental requirements.

**HAZARDOUS CONDITIONS**

The Declarant has no knowledge of any hazardous substances, hazardous wastes or the existence of underground storage tanks for petroleum products or other hazardous substances affecting the Community. A Phase I environmental audit was conducted by Environmental Appraisers, Inc. and did not reveal the presence of any hazardous substance affecting the Community.

Section 5402 (a) (27) of the Act requires the Declarant to provide you with the addresses and telephone numbers set forth below where you may obtain information concerning the environmental conditions affecting the Community.

Pennsylvania Department of Environmental Protection  
Southeast Region  
555 North Lane, Suite 6010  
Conshohocken, PA 19428  
(610) 832-6000

United States Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103  
(215) 566-5000

EXHIBITS LIST

- "A" Declaration
- "B" Bylaws
- "C" - Form of Agreement of Sale
- "D" Budget of the Community Association
- "E" Limited Warranty
- "F" - Permits/Approvals

**ANY INFORMATION OR DATA REGARDING THE COMMUNITY NOT INCLUDED IN THIS PUBLIC OFFERING STATEMENT MUST NOT BE RELIED UPON. NO PERSON HAS BEEN AUTHORIZED BY THE DECLARANT TO MAKE ANY STATEMENT, REPRESENTATION OR WARRANTY NOT EXPRESSLY CONTAINED HEREIN. THIS PUBLIC OFFERING STATEMENT MAY NOT BE CHANGED OR MODIFIED EXCEPT BY A WRITTEN DOCUMENT SIGNED BY THE DECLARANT.**

EXHIBIT "A"  
Declaration

**DECLARATION**  
**OF**  
**THE VILLAS AT FIVE PONDS,**  
**a planned community**

Marc D. Brookman, Esquire  
Duane Morns LLP  
One Liberty Place  
Philadelphia, PA 19103  
(215) 979-1000

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DECLARATION  
OF  
**THE VILLAS AT FIVE PONDS,**  
**a planned community**

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**DECLARATION  
OF  
THE VILLAS AT FIVE PONDS,  
a planned community**

This **Declaration** (the "Declaration") made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by FIVE PONDS, L.P., a Pennsylvania limited partnership, its successors, grantees and assigns other than ultimate unit purchasers (herein called the "Declarant").

**Article I  
The Property**

**Section 1.01 The Property.** The Declarant is the owner of the real estate located in the Township of Warminster, County of Bucks, Commonwealth of Pennsylvania and more fully described in Exhibit "1.01". The Declarant is also the equitable owner of the real estate described in Exhibit "1.01(a)". The real estate referred to in Exhibits "1.01" and "1.01(a)" are hereinafter referred to as the "Property", together with the easements, rights and appurtenances belonging thereto.

**Article II  
Submission of Property to  
Uniform Planned Community Act**

**Section 2.01 Submission of Property.** Declarant hereby submits the Property described in Exhibit "1.01," any improvements now or hereafter constructed thereon, and all easements, rights and appurtenances belonging thereto, to the provisions of the Pennsylvania Uniform Planned Community Act, Act No. 1996-180, as amended, (68 Pa. Cons. Stat. 5101 et seq.) (herein called the "Act"), and the Declarant hereby creates a flexible planned community (the "Community").

**Article III Definitions**

**Section 3.01 Definitions.** The following terms when used herein and in the Bylaws (hereinafter defined) are to be defined according to the meanings ascribed to them by this Section 3.01. Any term used herein or in the Bylaws which is not defined in this Section 3.01, but is defined in the Act, shall have the meaning ascribed to it by the Act.

- a. "Additional Real Estate: - that real property more particularly described in Exhibit "1.01(a).
- b. "Assessments" - those levies, assessments or sums payable to the Association by the Owners of Units in the Community from time to time as provided herein or in the Act.
- c. "Association" or "Community Association" - an association of all Unit Owners within the Community organized under Section 5301 of the Act.

d. "Bylaws" - the governing regulations as are adopted pursuant to the Act and this Declaration for the regulation and management of the Association by the Executive Board, including such amendments as may be adopted from time to time.

e. "Common Elements" - the Common Facilities or Controlled Facilities.

f. "Common Expenses" - all expenses incurred by or financial liabilities of the Association, together with any allocation for reserves, including, but not limited to:

1. expenses of administration, management, operation, maintenance, repair, insurance and replacement of the Common Elements;
2. expenses or liabilities agreed upon as common by the Unit Owners; and
3. expenses designated as common by provisions of the Act, this Declaration or the Bylaws.

g. "Common Facilities" - all portions of the Community which are (or shall be) owned by or leased to the Association (other than the Units) including without limitation, streets, curbs, sidewalks and lighting as depicted on the plans; open space (with all trees and landscaping located thereon) as depicted on the plans; storm water management system; storm water drainage basins; clubhouse; one (1) indoor pool and one (1) outdoor pool; one (1) tennis court; health and fitness center; billiard room and lounge; ballroom and library/business center.

h. "Controlled Facilities" - any portion of the Community that is not a Common Facility and is regulated, maintained, improved, repaired, replaced, managed, insured or controlled by the Association. The Controlled Facilities include the Units but only to the extent (i) maintained by the Association as provided in Exhibit 8.02, (ii) regulated by the use restrictions in Article XVI hereof, or (iii) subject to those easements set forth in Article XII hereof.

i. "Convertible Real Estate" - the real property more particularly described in Exhibit "3.01i."

j. "Executive Board" or "Board" - a board of natural individuals of the number stated herein and in the Bylaws, who shall manage the business, operation and affairs of the Community on behalf of the Unit Owners and in compliance with and subject to the provisions of the Act.

k. "General Common Expenses" - all Common Expenses other than Limited Common Expenses.

l. "Limited Common Expense" - any Common Expense benefitting fewer than all of the Units.

m. "Limited Common Facilities" - all those Common Facilities that are reserved for the use of fewer than all of the Unit Owners.

n. "Person" - natural individual, corporation, partnership, association, trust or other legal entity or any combination thereof.

o. "Plans" - those plats and plans prepared in accordance with the requirements of Section 5210 of the Act, as amended from time to time.

p. "Property" - defined in Section 1.01 and consists of the real estate, including all improvements thereon, and all easements, rights and appurtenances belonging thereto, which by this Declaration have been, or by amendment or supplement to this Declaration in the future is, submitted to the provisions of the Act.

q. "Recorded" - that an instrument has been duly entered of record in the Office of the Recorder of Deeds in and for Bucks County, Pennsylvania.

r. "Rules and Regulations" - the policies and procedures established from time to time by the Executive Board.

s. "Special Declarant Rights" - are rights reserved for the benefit of the Declarant which include the following rights:

1. complete the improvements shown on the Plans;
2. maintain offices, signs and models;
3. use and grant easements through the Common Elements for the purpose of making improvements within the Community;
4. appoint or remove an officer of the Community Association or an Executive Board member during the period of Declarant control;
5. modify the size, design and appearance of the Villas construction on the Units;
6. convert the Convertible Real Estate into Units and Limited Common Elements;
7. subdivide and/or convert Units into two or more Units or Common Elements; and
8. add the Additional Real and create Units and Common Elements.

t. "Township" - means Warminster Township, Bucks County, Pennsylvania.

u. "Unit" - a part of the Community designated for separate ownership or occupancy, the boundaries of which are depicted on the Plans.

v. "Unit Owner" or "Owner" - the record owner, whether one or more Persons, of fee simple title to any Unit which is or are part of the Community, but excluding those having such interest merely as security for the performance of an obligation.

w. "Villa" - an attached single family residential dwelling constructed or to be constructed.

In the event that any amendment to this Declaration for the creation of Units or Common Elements in the Additional or Convertible Real Estate, or the subdivision or conversion of a Unit require the foregoing definitions to be amended or supplemented to appropriately reflect the characteristics of the newly created Units or Common Elements in the Additional or Convertible Real Estate, or conversion or subdivision of a Unit, the Declarant shall have the right to so amend and supplement the definitions of this Article. Such amendments shall not require the approval of the Executive Board or the Owners.

#### **Article IV Applicability**

**Section 4.01 Applicability.** The Property against which this Declaration has been Recorded is subject to the provisions of the Act, the Bylaws and Rules and Regulations as may be issued by the Executive Board of the Association from time to time to govern the use and occupancy of the Property. Ownership, rental or occupancy of any of the Units in the Community shall be conclusively deemed to mean that the Unit Owner, tenant or occupant has accepted and ratified this Declaration, the Bylaws and the Rules and Regulations of the Association and will comply with them as they now exist or may be created, amended or supplemented in the future.

**Section 4.02 Interpretation of Declaration and Bylaws.** In the event of a conflict of interpretation between the provisions set forth in the Bylaws and this Declaration, this Declaration shall govern except to the extent this Declaration is inconsistent with the Act, in which case the Act will govern.

#### **Article V Plans**

**Section 5.01 Plans.** The Plans show fully and accurately the Property, the name of the Property, the location of the Units, the location of the Additional and Convertible Real Estate, the location of any Common Facilities and such other information as is required by the Act. The Plans are more fully described on Exhibit "5.01."

#### **Article VI Units**

##### **Section 6.01 Number of Units.**

a. The Community includes those Units listed on Exhibit "6.01a" and depicted on the Plans, as such Exhibit and the Plans may be amended from time to time.

b. The Community shall initially consist of twelve (12) Units. In the event Units are created in the Additional or Convertible Real Estate, two hundred and eighty (280) Units will be the maximum number of Units in the Community.

**Section 6.02 Description of Units.** Each Unit is shown on the Plans, which Plans may be amended from time to time. Each Unit consists of land together with any improvements erected or installed thereon.

## **Article VII Common Facilities and Expenses**

**Section 7.01 Common Facilities.** The Common Facilities are described in Section 3.01 and shown on the Plans. Facilities designated on the Plans to be Common Facilities shall become Common Facilities upon their conveyance to the Association.

### **Section 7.02 Construction and Transfer of Common Facilities.**

a. The Declarant shall construct the Common Facilities and convey same to the Association no later than conveyance of the last Unit in the Property. However, the Declarant reserves the right to convey the Common Facilities, in whole or in part, at any time prior to this event. In the event the Common Facilities are not substantially complete at the time of conveyance, the Declarant covenants that it shall substantially complete the Common Facilities being conveyed and shall provide before such conveyance a third-party guarantee, bond, escrow, letter of credit or other mechanism assuring completion of such Common Facilities to the Township. In addition, the Declarant shall provide its own guarantee (which such guarantee shall remain in effect until the Common Facilities are substantially completed) to the Association. These Declarant obligations shall be a covenant running with the Property and shall be binding on the Declarant and on any successor in interest of the Declarant whether or not the successor succeeds to any Special Declarant Rights. Until such time as the Common Facilities are conveyed to the Association, they shall be owned by the Declarant.

b. The Declarant shall convey to the Association, and the Association shall accept, the Common Facilities by special warranty deed or bill of sale, as applicable, for no consideration. The Declarant shall be responsible for any transfer tax due and recording fees, if any. Transfer of the Common Facilities shall not constitute a waiver of the Declarant's obligation to complete the Common Facilities. The deed of conveyance shall be executed by the Declarant and Recorded. A time-stamped copy of the deed of conveyance or the Recorded copy of the deed shall be provided to the Association.

c. The Declarant shall be responsible for the real estate taxes on property designated to be Common Facilities, if any, and for all other expenses associated with the Common Facilities, until conveyed to the Association.

d. Any portion of the Community, improvement or facility will be deemed to be completed upon the recording of a certificate executed by an independent registered surveyor, architect or professional engineer stating that the portion of the Community, improvement or facility is "substantially completed" in accordance with the descriptions set forth in this

Declaration, the Plans and the public offering statement for the Community and so as to permit the use of such portion of the Community, improvement or facility for its intended use.

**Section 7.03 Use of Common Facilities.** Except as their use may otherwise be limited by this Declaration or the Bylaws or otherwise by the Executive Board pursuant to its powers, each Unit Owner, tenant and occupant of a Unit, and the family members and guests of such Unit Owner, tenant and occupant, may use the Common Facilities in common with all other Unit Owners and tenants or occupants of other Units and their respective family members and guests in accordance with the purposes for which they are intended without hindering or encroaching upon the lawful rights of the other Unit Owners. Unit Owners or occupants shall not obstruct the Common Facilities in any way including, but not limited to, interfering with any storm water drainage. Owners or occupants may not store anything in or on the Common Facilities.

**Section 7.04 Maintenance and Repair of Common Facilities.** The Association shall be responsible, at its expense, for all maintenance, repair and replacement of all Common Facilities. The cost and expense of the foregoing shall be a General Common Expense and the Executive Board shall include in the General Common Expense budget of the Association as part of the Assessments reasonable reserves for periodic maintenance, repair and replacement of Common Facilities. However, with respect to any improvement or facility which is (or may become) a Common Facility but has not yet been completed, the Declarant shall be responsible, at the Declarant's expense, for the repair thereof.

**Section 7.05 Alteration to Common Facilities By Unit Owner.** Without limiting the rights of the Declarant in connection with all construction of Units and improvements to be made in or to the Community by the Declarant, no Unit Owner may make any improvements or alterations or do any work to any of the Common Facilities. No Unit Owner shall impair any easement or hereditament therein without the unanimous consent of the Unit Owners affected thereby.

**Section 7.06 Common Expense Liability.**

a. The Common Expenses incurred or to be incurred for the administration and governance of the Community include the maintenance, repair and replacement of any Controlled Facility; the maintenance, repair, replacement, insurance, administration, management, operation and use of the Common Facilities and the making of any additions or improvements thereto; and the charges for common utility services, if any, shall be assessed by the Association against, and collected from, the Unit Owners; provided, however, that until the Association charges its first Assessment to the Unit Owners with respect to General Common Expenses, the Declarant shall pay all General Common Expenses of the Community. Common Expenses benefitting fewer than all of the Units may be assessed as Limited Common Expenses exclusively against the Units benefitted.

b. Each Unit Owner, by accepting title to a Unit, covenants and agrees to pay the Association his share of the General Common Expenses and all Limited Common Expenses assessed against his Unit. The obligation to pay Assessments is a covenant running with the Property, inseparable from each Unit, and any conveyance, lease, devise or other disposition or

mortgage or other encumbrance of any Unit shall extend to and include the Assessment liability, whether or not expressly referred to in the instrument effecting such transfer.

c. No Unit Owner may exempt himself from liability with respect to the payment of Assessments by waiver of the enjoyment of the right to use any of the Common Elements or by abandonment of his Unit or otherwise. The obligation to pay Assessments is absolute and unconditional and shall not be subject to set-offs or counterclaims.

**Section 7.07 General Common Expense Percentage.** Except with respect to the creation of Units or Common Elements in the Additional Real Estate or Units and Limited Common Elements in the Convertible Real Estate, the subdivision or conversion of a Unit or as otherwise provided in the Act, the allocation of General Common Expenses appurtenant to each Unit shall have a permanent character, shall be inseparable from each Unit and shall not be altered or changed except by the Recording of an amendment to this Declaration, duly executed by all of the Unit Owners affected thereby. If additional Units are created as provided in this Declaration, the General Common Expense Percentage for any Unit shall be equal among all

Units.

**Section 7.08 Conveyance or Encumbrance of Common Facilities.** Subject to the provisions of the Act, the Association may convey or encumber all or a portion of the Common Facilities by a vote of not less than eighty percent (80%) of the Unit Owners entitled to vote.

**Section 7.09 Declarant's Right to Contribute to the Revenues of the Association.** The Declarant shall have the right, in its sole discretion and from time to time, to contribute to the revenues of the Association. At the option of the Declarant, such contribution may be reflected on the books and records of the Association as a loan, in which event it shall be repaid by the Association to the Declarant at the discretion of the Declarant. If treated as a loan, the contribution shall accrue interest, compounded monthly, from the date it is made until the date of its repayment, at the short term Applicable Federal Rate ("AFR"), as published by the Internal Revenue Service, and adjusted annually to reflect the AFR for such month.

## **Article VIII Controlled Facilities**

**Section 8.01 Controlled Facilities.** The Controlled Facilities are subject to regulation by the Association as provided in this Declaration.

**Section 8.02 Maintenance and Repair of Controlled Facilities.** The Association shall have the obligation to maintain, repair and replace only those portions of the Controlled Facilities identified on Exhibit "8.02."

## **Article IX Convertible Real Estate**

**Section 9.01 Right to Create Units and Limited Common Facilities in the Convertible Real Estate.** The Declarant reserves the option, until the expiration of seven (7) years from the date this Declaration is first Recorded, to create Units and Limited Common Facilities, from time to time, in all or any portion of the Convertible Real Estate. This option shall not terminate prior to its expiration except by amendment to this Declaration Recorded by the Declarant. This option may be exercised by the Declarant without the consent or approval of any Owner or the Executive Board.

**Section 9.02 Reallocation of General Common Expense Percentages and Votes in the Association.** Upon the creation of Units within the Convertible Real Estate by the exercise of the option reserved by the Declarant in Section 9.01, the General Common Expense Percentages shall be reallocated among all existing and additional Units in accordance with Section 15.02. Voting rights in the Association shall not be reallocated upon the creation of Units in the Convertible Real Estate; rather, each Unit in the Community shall have such voting rights as are described in Section 11.02.

**Section 9.03 Procedure for Converting Convertible Real Estate.** Upon the Declarant's election to create Units or Limited Common Facilities in all or any portion of the Convertible Real Estate, the Declarant shall, at its own expense, prepare and Record an amendment to this Declaration and the Plans. Declarant retains the right to Record the amendment without the prior approval of the Executive Board or Unit Owners.

### **Section 9.04 Declarant Assurances.**

a. The Declarant makes no assurances that the Convertible Real Estate will be converted in any particular order, or that if any portion of the Convertible Real Estate is converted, that any other Convertible Real Estate will be converted.

b. The Declarant makes no assurances with respect to the exact location or dimensions of any Units or Limited Common Elements that the Declarant may create within the Convertible Real Estate, except that barring amendments to the subdivision and land use approvals for the Property as may be sought and obtained by the Declarant, (i) Units, to the extent they are created, shall be located in the areas shown on the Plans (as the same may be amended), and (ii) except as otherwise stated below, all Units created shall be restricted to residential and incidental uses.

c. The Declarant makes no assurances as to the location, size, architectural style, quality of construction or principal materials employed in the construction of any buildings to be erected within the Convertible Real Estate. All restrictions in this Declaration affecting use, occupancy and alienation of Units will apply to such Units as may be created within the Convertible Real Estate except that differentiations may be made by the Declarant as to such Units to reflect and account for considerations that are particular to such Units. The Declarant reserves the right to maintain models, sales offices and management offices in such Units created in the Convertible Real Estate as the Declarant shall designate.

d. Any amendment to the Declaration prepared in connection with the creation of Units or Limited Common Facilities in the Convertible Real Estate shall include any changes that are required to the provisions of this Declaration to appropriately reflect any Units or Limited Common Facilities, as the case may be, created.

## **Article X Additional Real Estate**

### **Section 10.01 Additional Real Estate.**

a. Declarant reserves the option, in accordance with the provisions of the Act, until the expiration of seven (7) years from the date of recordation of this Declaration, to expand the Community by adding, from time to time, all or any portion of the Additional Real Estate to the Community.

b. The Declarant may exercise this option without the consent of any Owner or any Eligible Mortgagee and shall not terminate prior to its expiration except by amendment to this Declaration Recorded by the Declarant.

c. The Declarant expressly reserves the right to add all or any portions of the Additional Real Estate at any time, at different times, in any order, without limitation; provided, however, that the number of Units created in the Community shall not exceed that stated in Section 6.01 b. above.

d. The Additional Real Estate may be included in the Community as either Convertible Real Estate, Units, Common Elements and Limited Common Elements or any of them.

**Section 10.02 Procedure for Adding the Additional Real Estate.** Upon the Declarant's election to create Units or Common Elements in all or any portion of the Additional Real Estate, the Declarant shall, at its own expense, prepare and Record an amendment to this Declaration and the Plans. Declarant retains the right to Record the amendment without the prior approval of the Executive Board or Unit Owners.

### **Section 10.03 Declarant Assurances.**

a. The Declarant expressly reserves the right to add all, any portions or none of the Additional Real Estate at any time, at different times, in any order, without limitation; provided, however, that the number of Units created in the Condominium shall not exceed that stated in Section 6.01b above.

b. The Declarant makes no assurances with respect to the exact location or dimensions of any Units or Common Elements that the Declarant may create within the Additional Real Estate.

c. The Declarant makes no assurances as to the location, size, architectural style, quality of construction or principal materials employed in the construction of any buildings to be erected within the Additional Real Estate. All restrictions in this Declaration affecting use,

occupancy and alienation of Units will apply to such Units as may be created within the Additional Real Estate except that differentiations may be made by the Declarant as to such Units to reflect and account for considerations that are particular to such Units. The Declarant reserves the right to maintain models, sales offices and management offices in such Units created in the Additional Real Estate as the Declarant shall designate.

d. Any amendment to the Declaration prepared in connection with the creation of Units or Common Elements in the Additional Real Estate shall include any changes that are required to the provisions of this Declaration to appropriately reflect any Units or Common Elements, as the case may be, created.

## **Article XI The Association**

**Section 11.01 The Association.** The Association is the governing body for the Community and, except as otherwise provided in this Declaration, is responsible for administration and governance of the Community and, to the extent otherwise provided in this Declaration, the maintenance, repair, replacement, management, operation and administration of the Common Elements and the making of any additions or improvements thereto. The duties of the Association shall be undertaken as provided herein, in the Act and in the Bylaws, but nothing herein contained shall be construed so as to preclude the Association from delegating any of these duties to a manager or agent or to an other Person, firm or corporation, subject to the authority of the Association.

### **Section 11.02 Membership in Association.**

a. Membership in the Association shall be limited to the Unit Owners of the Community and the Declarant. Unit Owners, upon acceptance of a deed to a Unit, shall become members of the Association. The Declarant shall be a member of the Association with respect to any Unit(s) owned by the Declarant.

b. Every Unit Owner who shall be a member of the Association shall be entitled to all of the rights and shall be bound by all of the obligations accompanying membership, provided that any Unit Owner who is holding the interest in a Unit merely as a security for the performance of an obligation shall not be a member.

c. Each Unit in the Community shall have one (1) vote associated with such Unit. When more than one Person holds an interest or interests in any Unit, all such Persons shall be members, and the vote for such Unit shall be exercised as provided in Section 10.03 hereof and in the Bylaws, but in no event shall more than one (1) vote be cast with respect to any such Unit.

d. Only those Unit Owners in good standing and entitled to vote shall be considered "Unit Owners" for purposes of obtaining a quorum, or determining the percentage of Unit Owners voting on a matter. A Unit Owner shall be deemed to be "in good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all Assessments made or levied against the Owner's Unit by the

Executive Board together with all interest, costs, attorneys' fees, penalties and other expenses, if any, properly chargeable to the Owner's Unit, at least five (5) days prior to the date fixed for such annual or special meeting and has no violation notices outstanding.

e. In the event that an Owner shall lease or permit another to occupy his Unit in accordance with the provisions of this Declaration, the tenant or occupant shall be permitted to use the Common Facilities of the Association (subject however to such limitations on such use as would be applicable to the Owner) but shall not vote in the affairs of the Association, except as the Owner may permit the tenant or occupant to exercise by the proxy vote of the member in accordance with the Bylaws.

f. Every lawful transfer of title to a Unit shall include membership in the Association and, upon making such transfer, the previous Unit Owner's membership shall automatically terminate. Except as otherwise expressly provided, membership in the Association may not be assigned or transferred without the transfer of legal title to a Unit and any attempt at such assignment or transfer thereof shall be void and of no effect.

g. Membership in the Association shall automatically terminate as to any member when such member sells, transfers or otherwise conveys his Unit.

**Section 11.03 Certificate of Voting.** The following shall apply to all Units owned by parties other than the Declarant. If a Unit is owned by one Person, the Owner's right to vote shall be established by the recorded title to the Unit. If a Unit is owned by more than one Person, the Person entitled to cast a vote for the Unit shall be designated in a Certificate signed by all of the record owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by a corporation or partnership, the officer, partner or employee thereof, entitled to cast the votes of the Unit for the corporation or partnership shall be designated in a certificate for this purpose, signed by the president or vice-president, and (as to a corporation) attested by the secretary or assistant secretary of the corporation, and filed with the Secretary of the Association (the "Corporate Certificate"). The Person designated in the Corporate Certificate, who is entitled to cast votes for a Unit shall be known as the "Voting Member." If such a Corporate Certificate is not on file with the Secretary of the Association for a Unit owned by more than one Person, the votes of the Unit concerned shall not be considered in determining the requirement for a quorum, or for any purpose requiring the approval of a Person entitled to cast votes for the Unit except if such Unit is owned by a husband and wife. A Corporate Certificate shall be valid until revoked in writing by any owner of the Unit, or until superseded by a subsequent Corporate Certificate, or until a change in the ownership of the Unit concerned. If a Unit is owned by husband and wife, the following three provisions are applicable to voting by such Unit:

a. The Unit Owners may, but they shall not be required to, designate a Voting Member.

b. If they do not designate a Voting Member, and both husband and wife are present at a meeting and are unable to cast a unified single vote upon any matter requiring a vote, the vote attributable to their Unit shall be counted for purposes of a quorum but shall be deemed an abstention on the matter(s) subject to the vote.

c. Where they do not designate a Voting Member and only one is present at a meeting, the Person present may cast the vote for the Unit, without establishing the concurrence of the absent Person, just as though he or she owned the Unit.

**Section 11.04 Executive Board.**

a. Subject to the provisions of the Act, this Declaration and the Bylaws, the Executive Board shall have the power to act on behalf of the Association. The initial Executive Board shall consist of three (3) Directors. The initial Directors shall be appointed, removed and replaced from time to time by the Declarant without the necessity of obtaining resignations. The Declarant-appointed Directors shall be replaced with Owners (or, if an Owner is a corporation, the officer, director or employee thereof duly authorized by the corporation to serve on the corporation's behalf), other than the Declarant, in accordance with the provisions of this Section 11.04. The Executive Board after replacement with Owners elected in accordance with this Section 11.04, shall be comprised of five (5) Directors.

b. For purposes of this Section, the term "First Election Meeting" shall mean the first meeting of the Association which shall occur no later than sixty (60) days after twenty-five percent (25%) of the Units are conveyed to Owners. The term "Transitional Meeting" shall mean the meeting of the Association which shall be held no later than sixty (60) days after seventy-five percent (75%) of the Units are conveyed to Owners other than the Declarant. Subject to the right of the Declarant to alter the following procedure so as to have all or part of the transition process occur earlier than as hereafter described, the transition from a Board comprised solely of Directors appointed by the Declarant to a Board comprised solely of Directors elected by the Owners shall occur as follows:

i. At the First Election Meeting, the Owners (other than the Declarant) shall elect two (2) Owners to serve on the Executive Board thereby creating a five (5) member Executive Board. Such two (2) elected Owners shall serve until the earlier of (a) a term of one (1) year, or (b) the next annual meeting of the Association, which shall occur at least one hundred and eighty (180) days after the First Election Meeting. At such time, and at each annual meeting thereafter, such members shall be reelected or their successors elected by the Owners other than the Declarant to serve one (1) year term until they are elected following the annual meeting next following the Transitional Meeting.

ii. At the Transitional Meeting, the Owners (other than the Declarant) shall elect three (3) Owners to serve as Directors who shall replace the remaining three (3) Directors appointed by the Declarant. The Directors elected pursuant to this Subsection shall serve until the next annual meeting of the Association next following the annual meeting at which the two (2) Director elected pursuant to subsection i. above are reelected or replaced, at which time all five (5) Directors shall be reelected or their successors elected to serve two (2) year terms or one (1) year term which shall be determined by the three (3) highest vote getters serving a two (2) year term and the next two (2) highest vote getters serving a one (1) year term.

iii. Notwithstanding the foregoing, the Declarant shall have the right to appoint one additional non-voting member to the Board to serve until sixty (60) days after the Declarant conveys to an Owner the last Unit which the Declarant reserves the right to include in

the Community. During the period this non-voting member is on the Executive Board, the Executive Board shall notify the Declarant in advance of all meetings of the Executive Board and the Association. This notice shall be delivered at the same time as notice of these meetings is delivered to the members of the Executive Board or the Owners, as the case may be, pursuant to the Bylaws.

c. For purposes of determining whether the period of Declarant control has terminated or whether Unit Owners other than the Declarant are entitled to elect members of the Executive Board under this Section, the percentage of Units conveyed is presumed to be that percentage if all of the Units the Declarant reserves the right to create or build in the Convertible and Additional Real Estate are included in the Community.

d. After the election held pursuant to Section 11.04 b. above and until the Declarant has conveyed the last Unit in the Community in the ordinary course of business, the Executive Board shall notify the Declarant in advance of all meetings of the Executive Board and the Association at the same time as notices are given to the Executive Board members or the Unit Owners as the case may be. Until the Declarant conveys the last Unit in the Community in the ordinary course of business the Declarant shall be entitled to send a representative to observe all meetings of the Executive Board and Association.

**Section 11.05 Budgets and Capital Expenditures.** By an affirmative vote of the Unit Owners in the Community having at least eighty percent (80%) of votes in the Association, the Unit Owners may reject any budget or capital expenditure approved by the Executive Board within thirty (30) days after the approval.

**Section 11.06 Actions Affecting the Declarant.** No action shall be taken by the Association or the Executive Board that would affect any right, privileges, powers and options of the Declarant under this Declaration, the Bylaws or the Act without the prior written approval of the Declarant.

## **Article XII Insurance**

**Section 12.01 Liability.** The Executive Board shall obtain or cause to be obtained "broad-form" comprehensive general liability insurance and property damage insurance covering liability for loss or damage to Persons or property in such amounts, against such risks and in such insurance companies as the Executive Board shall from time to time determine. Such insurance shall include protection against bodily injury and property damage that results from the operation, maintenance or use of the Common Facilities, any legal liability that results from lawsuits related to employment contracts to which the Association is a party, and such other risks as are customarily covered in similar projects. All liability insurance contracts shall contain severability of interest provisions or endorsements precluding the insurer's denial of a Unit Owner's claim because of negligent acts of the Association or other Unit Owners and cross liability endorsements to cover liabilities of the Association or the Unit Owners as a group to a Unit Owner.

**Section 12.02 Property.**

a. The Executive Board shall obtain or cause to be obtained blanket "all-risk" hazard insurance coverage covering damage to property, insuring all structures and improvements, if any, erected in the Common Facilities including fixtures and equipment therein and thereof, and including all personal property owned by the Association (the "Insurable Property"). The Insurable Property shall be insured in and for the interest of the Association, the Executive Board, all Unit Owners and their mortgagees, as their interests may appear, in a company or companies acceptable to the standards set by the Executive Board in an amount equal to the maximum insurable replacement value, as determined annually by the Executive Board, with an "agreed amount endorsement" or its equivalent and an "Inflation Guard Endorsement" (provided these two endorsements are commonly available and required by prudent institutional mortgage investors in the area of the Community).

b. In the event any portion of the Community is within a flood hazard area and insurance is available under the National Flood Insurance Program (the "NFIP"), or other successor agency, the Association shall maintain a flood insurance policy on any buildings and other improvements covered by the Association's "all risk" hazard insurance described in Section 12.02a. and situated in such flood hazard area. Such flood hazard insurance coverage shall be in an amount not less than the lesser of: (i) the maximum coverage available under the NFIP, or successor agency, for all buildings and other Insurable Property within any portion of the Community located within a designated flood hazard area; or (ii) 100% of current "replacement cost" of all such buildings and other Insurable Property.

### **Section 12.03 General Insurance Provisions.**

a. All policies purchased by the Association shall be for the benefit of the Association, Executive Board, all Unit Owners, and their mortgagees, as their interests may appear; however, the Association and the Unit Owners shall be named insureds and it shall not be necessary to name each Executive Board member or each individual Unit Owner. Mortgagee endorsements may be issued upon request. The Association shall maintain the appropriate insurance coverage as is required under the Act and the guidelines and regulations promulgated by the Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), HUD and the VA or their successors, including, without limitation, such fidelity bond coverage as is described in the Bylaws. The company or companies with whom the Executive Board shall place its insurance coverage, as provided in this Declaration, must be qualified and reputable companies, authorized to do business in the Commonwealth of Pennsylvania and rated A, with a V financial size category by A. M. Best Company, Inc. in its "Key Rating Guide: Property Casualty" or a comparable rating if Best shall no longer be in existence. Premiums for such coverage and other expenses related to insurance shall be paid by the Executive Board and charged as a Common Expense. All policies shall provide that they may not be canceled or substantially modified, by any party, without at least thirty (30) days' prior written notice to the Association and to each first mortgagee listed in the insurance policies. In addition, policies shall provide for the following: recognition of any Insurance Trust Agreement; a waiver of the right of subrogation against Unit Owners individually and against members of their households; that the insurance is not prejudiced by any act or neglect of individual Unit Owners which is not in the control of such Owners collectively; and that the policy is primary in the event the Unit Owner has other insurance covering the same loss (all of which are generally provided by insurers in the form of a "Special Community Endorsement" or its equivalent).

Policies shall be deposited with the Executive Board. Said policies shall provide that all insurance proceeds payable on account of loss or damage shall be payable to the Association. The duty of the Executive Board shall be to receive such proceeds as are paid and hold the same for the purposes elsewhere stated herein, and for the benefit of the Association, the Unit Owners and their respective mortgagees as their interests may appear.

b. The types and amounts of insurance coverage described in this Article XI are minimum amounts current as of the date of this Declaration based upon the requirements of the Act and the standards established by FNMA and FHLMC. The Executive Board shall review, at least annually, all insurance coverage carried pursuant to this Declaration to evaluate such coverage with respect to its compliance with the Declaration and with respect to the then current requirements of the Act and, to the extent the Community is or will be subject to the approval of FNMA, FHLMC, HUD or VA, standards set by FNMA, FHLMC, HUD and VA, as well as with respect to what is reasonably appropriate coverage for projects comparable to the Property. In the event the Executive Board determines after such a review and evaluation that the insurance coverage required hereunder is not consistent with the requirements of the Act, the standards set by FNMA, FHLMC, HUD or VA or otherwise reasonably appropriate coverage when compared to coverage for projects comparable to the Property, the Executive Board shall have the power to deviate from the specific provisions of this Article XI only to the extent of providing such consistent and reasonably appropriate coverage, provided the Executive Board shall provide the Owners and their mortgagees at least thirty (30) days' prior written notice of any such deviation.

**Section 12.04 Proceeds From Property Insurance.** Proceeds from property insurance policies shall be paid to the Association. The Association shall hold any insurance proceeds in trust for the Unit Owners and lien holders as their interests may appear.

**Section 12.05 Disposition of Insurance Proceeds.** Any portion of the Common Facilities which is damaged or destroyed shall be repaired or replaced promptly in accordance with the provisions of Section 5312 of the Act.

**Section 12.06 Association's Power to Compromise Claim.** The Executive Board is hereby irrevocably appointed agent for each Unit Owner and first lien mortgagee for the purpose of compromising and settling claims arising under insurance policies purchased by the Association, and to execute and deliver releases therefore, upon the payment of claims.

**Section 12.07 Other Insurance.** The Executive Board shall also obtain the following insurance, coverages and endorsements as may be applicable to the Community, all premiums for which are to be charged as Common Expenses:

- a. Workmen's Compensation Policy to meet the requirements of law.
- b. Directors' and Officers' Liability.
- c. Blanket fidelity bonds as required in the Bylaws for all members of the Executive Board, officers and employees of the Association and all other Persons who handle or are responsible for funds of or administered by the Association.

d. Such other insurance as the Executive Board shall determine from time to time to be necessary or desirable.

e. If available, and where applicable, the Executive Board shall endeavor to obtain policies which provide that the insurer waives its right of subrogation as to any claims against Unit Owners and members of their households, the Association, the Executive Board and their respective servants, agents and guests.

**Section 12.08 Limitation of Liability.** Notwithstanding the duty of Executive Board to maintain and repair parts of the Common Elements, the Executive Board shall not be liable for injury or damage caused by the failure of the Executive Board to maintain or repair the same, except to the extent of the proceeds of insurance carried by the Executive Board and collected and received therefor.

**Section 12.09 Use of Unit and Insurance Premiums.** No Unit shall be used, occupied or kept in a manner which will in any way increase the insurance premiums payable by the Association, without the prior written permission of the Executive Board, which permission, if given at all, shall be conditioned upon the Owner of such Unit being required to bear the full amount of such increase. To the extent that the use or occupancy of a Unit or the Common Elements (whether permitted or without the permission of the Association) increases any insurance premium payable by the Association, the Association shall have the right to charge the amount of such increase to the Owner of the Unit to which such increase is attributable. No Unit or any part of the Common Elements shall be used, occupied or kept in any manner which would violate any law, statute, ordinance or regulation of any governmental body or which would lead to the cancellation of any insurance policy or policies on the Property.

**Section 12.10 Unit Owner Insurance.** Unit Owners shall have the obligation to maintain insurance of their own on their Units; such insurance to include coverage for damage or destruction by fire and other casualty and liability coverage for injuries to Persons or damage to property occasioned by any use of the Unit.

### **Article XIII Easements and Declarant Rights**

**Section 13.01 Utilities, Pipes and Conduits.** The Property shall be subject to an easement for the present and future installation, maintenance, repair and replacement of improvements and facilities for electric service, cable television service, telephone and other telecommunication service, water service, storm water management system, propane or natural gas distribution system, water conveyance system, sewer conveyance system, and other utility services and the facilities and appurtenances necessary to the same, which easement shall run in favor of the Declarant, the Association, the Township, the entity or entities owning or operating these facilities and providing the aforementioned services and Unit Owners (as to those facilities installed by the Declarant, the Association or an entity providing services to the Unit). The Declarant and the Executive Board shall have the right to grant to third parties additional utility easements which are deemed reasonable by the Declarant or Board in connection with the supply of utility services to the Units or the Common Facilities.

**Section 13.02 Association and Executive Board Access.**

a. The Association and its Executive Board, officers, agents and employees, shall have the irrevocable right and easement to have access to each Unit as may be necessary for the inspection, maintenance, repair or replacement of the Common Elements or the making of any addition or improvements thereto; or to make repairs to the Common Elements if such repairs are reasonably necessary for public safety or to prevent damage to the Common Elements; or to abate any violation of law, orders, rules or regulations of the Association or of any governmental authorities having jurisdiction thereof.

b. The Association and its Executive Board shall have the right to grant permits, licenses and easements over and through the Common Facilities for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance and operation of the Community.

**Section 13.03 Declarant's Offices, Models and Signs.** The Declarant reserves the right with respect to its marketing of Units to use the Common Facilities for the ingress and egress of itself, its officers, employees, agents, contractors and subcontractors and for prospective sale or rental of Units, including the right to park in parking spaces. The Declarant shall also have the right, until the conveyance of the last Unit it owns, to erect signs and fences on the Common Facilities and on its Units. The Declarant shall have the right from time to time to locate and relocate model Units, sales, rental and construction offices in connection with the marketing and construction of Units. In addition, the Declarant shall have the right to locate, relocate and maintain model Units, manager's offices, sales and rental offices and Association offices on such Units created in the Convertible or Additional Real Estate as the Declarant shall designate from time to time in the amendments to this Declaration Recorded by the Declarant pursuant to the Act. The rights reserved for the Declarant by this Section shall remain in effect for as long as the Declarant shall remain a Unit Owner in the Community. This Section shall not be amended without the prior written consent of the Declarant.

**Section 13.04 Declarant's Easement for Construction.** The Declarant reserves the right and privilege without let or hindrance with respect to construction of improvements on the Units and Common Elements of the Community, to go upon any and all of the Units and Common Elements for purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units or Common Elements (including, without limitation, to change the grade of grounds or to install drainage control devices so as to control possible drainage or run off of storm water in connection with the development of the Property or adjacent land). This Section shall not be amended without the prior written consent of the Declarant.

**Section 13.05 Encroachments.** If any portion of the Common Elements hereafter encroaches upon any Unit, or if improvement on any Unit hereafter encroaches upon any other Unit or upon any portion of the Common Elements as a result of settling or shifting of any building or buildings in which they are located or for other reasons as a result of the purposeful or negligent act or omission of the Unit Owner of the encroaching Unit, or of the Association in the case of encroachments by the Common Elements, a valid easement

appurtenant to the encroaching Units or Common Elements for the encroachment and for the maintenance of the same shall exist for so long as the encroachment shall exist.

**Section 13.06 Continuing Easements and Declarant Rights.** Sections 13.01, 13.02, 13.03, 13.04 and 13.05 shall run with the land and inure to the benefit of and be binding upon the Association, each Unit Owner, and each mortgagee, lessee, occupant or other Person having any interest in any Unit or in the Common Elements at the time of reference.

**Section 13.07 Recorded Easements and Licenses.** Attached to and made a part of this Declaration as Exhibit "13.07" is a list of the recording data for Recorded easements and licenses appurtenant to or included in the Community or to which any portion of the Community is or may become subject.

#### **Article XIV Assessment of Taxes**

**Section 14.01 Assessment of Taxes.** Each Unit shall be assessed and taxed as a separate parcel of real estate and each Unit Owner is charged with the payment of all such taxes, municipal claims and liens assessed, liened or filed against his Unit.

#### **Article XV Unit Owner Obligations**

##### **Section 15.01 Assessment Obligation.**

a. Each Unit Owner covenants and agrees to pay to the Association all Assessments including, but not limited to: (i) regular Assessments for General Common Expenses; (ii) special Assessments, such Assessments to be fixed, established and collected from time to time as hereinafter provided; (iii) delinquency assessments, as established from time to time by the Executive Board, against any Unit Owner whose Assessments are delinquent for a period exceeding fifteen (15) days after the due date ("Delinquency Assessments"); (iv) Limited Common Expense Assessments; (v) any fines or interest charges; (vi) Assessments for what may from time to time be determined by the Association to be Common Expenses and (vii) any costs incurred by the Association in achieving compliance by one or more Unit Owners with the obligations of Unit Owners under this Declaration (such costs being assessed specially as limited charges against the Unit Owner(s) who fail to comply).

b. The obligation to pay Assessments is to be deemed to be a covenant running with the land. Each Assessment shall be separate for each Unit and payable by the Owner thereof. The Assessments and costs of collection (including attorneys' fees) shall be a charge on the Unit and shall be a continuing lien upon the Unit from the time each Assessment or costs of collection become due. Each such Assessment and costs of collection as hereinafter provided and pursuant to the Act, shall also be the personal obligation of the Owner of the Unit at the time when the Assessment first became due.

c. The Association shall have the right to assess as Limited Common Expenses charges against any one or more Units to provide services which are exclusively for

such Units including, but not limited to, (i) the improvement and maintenance of any Common Elements used principally by or benefitting the Owners of such Units, and (ii) replacement of roofs of Controlled Facilities used principally by or benefitting the Owners of such Units.

**Section 15.02 General Common Expense Allocation.** Each Unit in the Community shall be assigned a percentage (the "General Common Expense Percentage") which represents such Unit's proportionate share of the General Common Expenses of the Association. The General Common Expense Percentage as allocated to each Unit in the Community on Exhibit 15.02 is established by multiplying one hundred (100) and the quotient resulting from dividing one (1) by the total of all Units in the Community.

**Section 15.03 Amount of Assessment.** After the Association first makes a General Common Expense Assessment, each Owner of a Unit shall be legally obligated to pay monthly a portion of the General Common Expenses equal to an amount calculated on a monthly basis determined by multiplying the General Common Expense Percentage of the Unit by one-twelfth of the total General Common Expenses for the Community based upon the then applicable annual budget prepared by the Executive Board for the Community. Limited Common Expenses shall be assessed in accordance with Section 15.01c. of this Declaration. No Owner may exempt himself from contributing toward such expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit owned by him or by set-off or counterclaim.

**Section 15.04 Nonrefundable Contribution to Association.** At settlement each purchaser shall pay a non-refundable contribution to the Association in the amount of Four Hundred Ninety-Five Dollars (\$495.00), which payment may be increased from time to time by the Executive Board, which payment is to be used by the Association for such purposes deemed appropriate or desirable by the Executive Board.

**Section 15.05 Time of Payment.** Except as otherwise provided in this Declaration, payment by the Unit Owner of his share of the expenses aforesaid shall be made at the discretion of the Executive Board, provided that all regular and special Assessments shall be declared by the Executive Board annually and payable on a monthly basis; provided, however, that the Executive Board shall have the right to bill Unit Owners on a quarterly or annual basis in which event payments by Unit Owners shall be made quarterly or annually, as the case may be. The failure of the Executive Board to formally declare any such annual Assessments shall result in the regular Assessment for the immediately preceding month (or, if applicable, quarter or year) being the payment of the Assessment due and payable for the next month (or, if applicable, quarter or year).

**Section 15.06 Effect of Non-Payment of Assessment.** In the event Assessments are not paid when and as required, the Executive Board may assess fines, Delinquency Assessments and the costs of collection (including attorney's fees) and shall charge interest on any unpaid Assessment at the rate of fifteen percent (15%) per annum or such higher rate set by the Executive Board as permitted by the Act (with interest beginning to accrue thirty (30) days after the due date for the Assessment) and may seek a judgment for (i) that amount plus unpaid Delinquency Assessments and accrued and accruing interest, (ii) the amount of Assessments for

the twelve (12) month period next following the due date of the last unpaid Assessment and (iii) any unpaid amount of any special Assessments which are payable in future installments.

**Section 15.07 Lien of Assessments.** All Assessments and costs of collection thereof (including attorneys' fees), shall constitute a lien against said Unit in favor of the Association provided that Delinquency Assessments, all fines, fees, charges, late charges, interest and costs of collection thereof (including attorneys' fees) shall be subordinate to the lien of any first mortgage on a Unit. Such lien shall be effective from and after the time the Assessment or charge becomes due subject to the limitations of non-divestiture of Section 5315(b)(2) of the Act. Upon full payment of all sums secured by the lien and a preparation fee, the party making payment shall be entitled to a recordable satisfaction of lien to be recorded at his sole expense. Such lien of the Association shall have the priority accorded Association liens by Section 5315 of the Act.

**Section 15.08 Method of Enforcing Collection of Assessments.** Any judgment against a Unit and its Owner shall be enforceable in the same manner as is otherwise provided by law. Reasonable attorneys' fees and court costs incurred by the Executive Board incident to the collection of any Assessments or the enforcement of any lien, together with all sums advanced and paid by the Executive Board for taxes and payments on account of superior liens which may be required to be advanced by the Executive Board in order to protect its lien, shall be payable by the Owner and secured by such lien.

**Section 15.09 Unpaid Assessments at the Time of Execution Sale Against a Unit.** In the event that title to a Unit is transferred by Sheriff's sale pursuant to execution upon any lien against the Unit, the Executive Board may give notice in writing to the Sheriff of any unpaid Assessments which are a charge against the Unit, but have not been reduced to a lien, and the Sheriff shall pay the Assessments of which he has such notice out of the proceeds of the sale which remain in his hands for distribution after payment of all other claims which he is required by law to pay (including any claims of the Association given priority by the Act), but prior to any distribution of the balance to the former Unit Owner against whom the execution issued. The purchaser at such Sheriff's sale and the Unit involved, shall not be liable for unpaid Assessments, which became due prior to the Sheriff's sale of the Unit (except as provided under the Act). Any such unpaid Assessments which cannot be promptly collected from the former Owner may be reassessed by the Executive Board as a Common Expense to be collected from all the Unit Owners, including the purchaser or acquirer of title at the Sheriff's sale, his successors and assigns. To protect its right to collect unpaid Assessments which are a charge against a Unit, the Executive Board may, on behalf of the members of the Association, purchase the Unit at Sheriff's sale provided such action is authorized by the affirmative vote of the majority of the Executive Board, and if it does so purchase, the Executive Board shall thereafter have the power to sell, convey, mortgage or lease such Unit, to any Person whatsoever.

**Section 15.10 Voluntary Sale of a Unit.** Upon the voluntary sale or conveyance of a Unit, or any other transfer, the Unit, by operation of law or otherwise, except a transfer described in Sections 15.09 or 15.11, and a transfer by Deed in lieu of foreclosure to a holder of a mortgage, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments for Common Expenses which are charges against the Unit as of the date of the sale, conveyance or transfer, but such joint and several liability shall be without prejudice to the right

of the grantee to recover from the grantor, in the amount of any such unpaid Assessments which the grantee may pay, and until any such Assessments are paid, they shall continue to be a charge against the Unit, which may be enforced in the manner set forth in Section 15.08; provided, however, any Person who shall have entered into a written agreement to purchase a Unit shall be entitled to obtain a written statement from the Treasurer setting forth the amount of unpaid Assessments charged against the Unit and its Owner, and if such statement does not reveal the full amount of the unpaid Assessments as of the date it is rendered, neither the purchaser nor the Unit after transfer thereof, shall be liable for the payment of the amount in excess of the unpaid Assessments shown on such statement.

**Section 15.11 Mortgage Foreclosure.** If a mortgagee of a "first" mortgage of record or other purchaser of a Unit acquires title to such Unit as a result of foreclosure of the first mortgage, or by deed in lieu of foreclosure, such acquirer of title, his successors and assigns, shall be liable only for the share of Common Expenses or other charges by the Association pertaining to such Unit or chargeable to the former Unit Owner which have accrued for a period of no more than six (6) months prior to acquisition of title as a result of the foreclosure. Such unpaid share of the charges shall be deemed to be General Common Expenses collectible from all of the remaining Unit Owners, including such acquirer, his successors and assigns.

**Section 15.12 Surplus Funds.** Any surplus of the Association remaining after payment of or provision for Common Expenses and any allocation to reserves shall be applied to future Common Expenses and/or additional allocations to reserves as determined by the Executive Board for subsequent fiscal years, and shall not be refunded or credited to the Unit Owners.

**Section 15.13 Owners' Negligence.** Each Unit Owner shall be obligated to reimburse the Association for any expenses incurred by it in repairing or replacing any part or parts of the Common Elements damaged by his act, omission or negligence or by the act, omission or negligence of his tenants, agents, guests or licensees, promptly upon receipt of the Association's statement therefor. Such reimbursement shall be considered an unpaid Assessment collectable in any manner provided herein in the case of unpaid and past due Assessments.

**Section 15.14 Assignment of Assessments.** The Association may pledge or assign its right to collect and receive Assessments to a financial institution in order to secure a loan for the financing of the costs of maintaining, repairing or replacing any portion of the Common Facilities.

## **Article XVI Transfer and Lease of Units**

**Section 16.01 Transfer of Units.** Any Unit Owner may, at any time, transfer all of his ownership in the Unit to any other Person, and it shall not be necessary to secure the prior consent of the Association, the Executive Board or of any other Unit Owner. However, all Unit Owners shall comply with the appropriate provisions of the Act, including Section 5407, as shall apply to the sale or transfer of a Unit and pay to the Association the non-refundable payment provided in Section 15.04.

### **Section 16.02 Leasing of Units.**

- a. Declarant reserves the right to lease any and all of the Units owned by Declarant.
- b. No Unit Owner shall be permitted to lease his Unit unless such Unit Owner has complied with the relevant provisions of this Declaration, the Bylaws and any applicable Rules and Regulations. All leases must be in writing for a term not to be less than one (1) year and approved by the Association, which approval shall not be unreasonably withheld. All leases shall provide that the lessee shall be subject in all respects to the provisions of this Declaration, the Bylaws and the Rules and Regulations of the Community, as may from time to time be promulgated by the Executive Board. The leasing of a Unit shall not affect the liability of the Unit Owner with respect to his obligations under this Declaration, the Bylaws and any Rules and Regulations. The provisions of this paragraph shall not apply to the holder of a first mortgage lien on a Unit who acquires title thereto.
- c. In the event the Unit Owner shall fail to pay any charge or Assessment levied by the Executive Board against a leased Unit, and such failure to pay continues for ten (10) days, the Executive Board shall so notify the lessee of such Unit in writing of the amount due and, within fifteen (15) days after the date of such notice, the lessee shall pay to the Association the amount of such unpaid charges or Assessments, subject however to paragraph (d) of this Section. The amount of such unpaid charges or Assessments paid to the Association by lessee after the nonpayment by the Unit Owner shall be a credited against and shall offset the next monthly rental installment due to the Unit Owner following the payment by the lessee of such charges or Assessments to the Association.
- d. In no event shall the lessee be responsible to the Association for any amount of unpaid charges or Assessments during any one month in excess of one monthly rental installment.
- e. The inclusion of Subsections c. and d. of this Section in a lease or addendum to a lease for the rental of a Unit shall be a condition precedent to the approval of such lease by the Executive Board.

## **Article XVII Occupancy and Use Restrictions**

**Section 17.01 Use Restrictions.** Each Unit in the Community is subject to the provisions of this Article. The Association, through the Executive Board, has the authority to make Rules and Regulations and restrictions governing the use of Units in addition to those contained herein.

- a. Each Unit shall be used for residential purposes only; provided occupations carried on in the Unit are permitted only if (i) such use is incidental to the Unit's primary residential use; (ii) such use does not violate any other restrictions applicable to Units; (iii) no employees, customers or clients visit the Unit; and (iv) the Unit Owner shall obtain prior approval from the Township:

b. Nothing shall be built, caused to be built or done in or to any part of the Property which will alter or cause any alteration to the Common Elements without the prior written approval of the Executive Board.

c. Each Unit shall be maintained by its Owner or occupant in a safe, clean and sanitary manner and condition, in good order and repair and in accordance with all applicable restrictions, conditions, ordinances, codes and any Rules or Regulations which may be applicable hereunder or under law.

d. No Unit Owner or occupant of any Unit shall carry on, or permit to be carried on, any practice on his Unit or on the Property which unreasonably interferes with the quiet enjoyment and proper use of another Unit or the Common Elements by the Unit Owner or occupant of any other Unit, or which creates or results in a hazard or nuisance on the Property.

e. No sign, banner, flag, billboard or advertisement of any kind, including, without limitation informational signs, "for sale" or "for rent" signs and those of realtors, contractors and subcontractors, shall be erected on the Unit without the prior written consent of the Executive Board and, provided Declarant has not conveyed to third party purchasers all Units which Declarant has reserved the right to create in the Community, the Declarant. If permission is granted to any Owner to erect a sign within the Unit, the Executive Board reserves the right to restrict the size, shape, color, lettering, height, material and location of the sign, or in the alternative, provide the Owner with a sign to be used for such purposes. No sign shall be nailed or otherwise attached to trees. Unit Owners other than Declarant may not erect any sign on any of the Common Elements.

f. Unit Owners or occupants may not obstruct the Common Elements in any way including, but not limited to, interfering with any storm water drainage. Owners or occupants may not store anything in or on the Common Elements without the prior written approval of the Executive Board and, provided Declarant has not conveyed to third party purchasers all Units which Declarant has reserved the right to create in the Community, the Declarant.

g. Except as permitted in Section 17.01a., no commercial, industrial or professional activity as defined in the Township's Zoning Code shall be pursued on or in any Unit at any time. If zoning regulations change to expand the scope of activities that Unit Owners may pursue lawfully within the Unit, a Unit Owner may apply to the Executive Board for approval to commence the permitted use of his Unit. Each application shall be considered by the Executive Board on an individual basis. Once the Executive Board has given its approval to a particular use of a Unit, it may not revoke the approval as long as the nature and scope of the approved use remains unchanged. No Unit Owner shall permit his Unit to be used or occupied for any prohibited purpose.

h. Unit Owners shall not keep in any Unit animals, wildlife, livestock, reptiles or poultry of any kind, other than domesticated household birds and fish, house dogs or domesticated house cats; provided that in no event shall a Unit Owner or occupant of any Unit keep any more than a total of two (2) dogs or cats. Pets shall not be permitted to run loose or uncontrolled on the portion of any Unit outside of a Villa or on the Common Elements. Unit

Owners shall immediately clean up any waste left by their pets anywhere on the Property. No dog houses shall be permitted. Subject to compliance with Article XVIII herein electric underground fences may be permitted.

i. No portion of the Property shall be used or maintained as a dumping ground for rubbish, trash, new or used lumber or wood, metal scrap, garbage or other waste, except that such material may be kept on the Unit or in areas of the Property designated for this purpose by the Declarant (in connection with its construction) or by the Executive Board, provided that these materials are kept in sanitary containers in a clean and sanitary condition. Unit Owners shall place these containers for collection only in the designated areas and only on the day these refuse materials are to be collected. Empty containers shall be removed promptly after collection.

J. Any antenna or satellite reception device erected on any Unit may not be greater than one meter in diameter and must be erected in the rear of the Unit, unless such placement impedes reception, in which event such antenna or satellite reception device may be erected in another location on the Unit provided it is adequately screened in a manner approved by the Executive Board.

k. The Unit Owner of each Unit shall maintain the Unit in a manner satisfactory to the Association and in accordance with this Declaration and the Rules and Regulations. In the event that a Unit shall not be so maintained, the Association shall have the right to enter upon the Unit to maintain the same, after giving the Unit Owner at least fifteen (15) days' written notice to cure any maintenance problems or deficiencies. In the event that the Association exercises its right of entry for maintenance purposes, the Association shall have the right to assess the particular Unit Owner for the cost of such maintenance. The Association by its Executive Board shall have the right to establish Rules and Regulations governing the maintenance of any Unit.

l. No Unit Owner or occupant shall leave any non-operating vehicle, any vehicle not currently registered and licensed, any vehicle having an invalid and expired state motor vehicle inspection sticker parked anywhere on the Property, except, if entirely enclosed in the garage.

m. Driveways, streets and other exterior parking areas on the Property shall be used by Owners, occupants and guests for four wheel passenger vehicles, two wheel motorized bicycles and standard bicycles only. No recreational vehicles, vans (other than non-commercial passenger vans), mobile homes, trailers, boats, or trucks which are (i) used for commercial purposes, (ii) contain commercial lettering or commercial equipment, or (iii) other than sport utility vehicles, have a capacity in excess of three-quarters of a ton (whether or not registered as a commercial vehicle with the State Department of Transportation), shall be permitted to be parked on the Property, except on a day-to-day temporary basis in connection with repairs, maintenance or construction work on the Unit or if entirely enclosed in a Unit Owner's garage.

n. Motor vehicles may only be driven on the streets within the Community.

- o. No swimming pools shall be erected or installed on any Unit.
- p. No tents, storage tanks or accessory buildings or structures shall be erected or permitted to remain on a Unit.
- q. No Unit Owner shall alter the Common Elements or change the exterior appearance of the improvements or his Unit, including patios, decks and landscaping, without the prior written approval of the Executive Board and compliance with all applicable provisions of this Declaration, the Bylaws and any Rules and Regulations promulgated by the Executive Board. Unit Owners may install annual plantings without Executive Board approval provided the Unit Owner shall maintain these annual plants at their sole cost and expense. The Executive Board may impose a Limited Common Expense Assessment for the maintenance of any approved plantings. No Unit Owner may make any improvement to his Unit, notwithstanding the requisite written approval of the Executive Board, without first obtaining all approvals and permits required by the Township.
- r. No clothes lines and no outdoor clothes drying or hanging shall be permitted.
- s. No fences shall be permitted.
- t. No swing sets, playhouses, basketball poles and backboards or other outdoor recreational equipment shall be permitted.

**Section 17.02 Occupancy.**

- a. The Community is intended to be "55 or Over Housing" within the meaning of the Fair Housing Act (42 U.S.C.A. § 3601 *et seq.*) so as to qualify as "housing for older persons" within the meaning of the Fair Housing Act and Township requirements. At least one Person of the age of fifty-five (55) years or older occupy the Unit. The Fair Housing Act does permit exceptions to the occupancy requirements provided the occupancy does not violate the Fair Housing Act as follows: (i) a widow or widower under the age of fifty-five (55) years who resided with his or her deceased spouse in the Unit at the time of the spouse's death; and (ii) any Adult Child (hereinafter defined) who resided with a deceased parent fifty-five (55) years of age or older at the time of the parent's death, for at least 180 days immediately preceding the date of death.
- b. An "Adult Child" is defined as a Person who is at least nineteen (19) years of age but under the age of fifty-five (55) years.
- c. Subject to the Fair Housing Act, no occupancy shall be permitted to any Person who is or intends to have as a permanent resident in the Unit a Person under the age of 19 years unless such Person is a handicapped dependent who is protected by the provisions of the Fair Housing Act. A permanent resident is a Person who resides in a Unit for ninety (90) consecutive days. Nothing contained in this Declaration shall be deemed to prohibit the visitation by children under the age of 19 years who are family members or guests of the

residents. Permitted visitations shall not exceed thirty (30) consecutive days in any calendar year.

d. No occupancy of any Unit shall be permitted, begin or continue if such occupancy would be in violation of the provisions of this Declaration or result in the loss of the Community's "55 or Over Housing" exemption under the Fair Housing Act.

e. No transfer, sale, gift, lease, assignment, grant, purchase, rental or occupancy of any Unit shall be made by any Owner or any subsequent prospective purchaser or lessee until the existing Owner who desires to transfer makes full disclosure to the Executive Board in writing of the name, address and age of the prospective purchaser or lessee and all prospective residents of the Unit, together with evidence that said prospective purchaser or lessee and residents meet all qualifications set forth herein. Verification may consist of copies of driver's licenses, birth certificates or similar recognized substantiation.

f. Subject to the Fair Housing Act, in the event that a Unit Owner dies, testate or intestate, leaving as heirs one or more Persons who are not age qualified, these restrictions shall in no way be deemed to restrict the ownership of said Unit by the heirs; provided, however, that said heir or heirs, their successors or assigns, shall not reside in the Unit until the Executive Board has determined whether the Community age restrictions have been complied with.

g. In addition to requiring that reliable documentation of the age of the occupants of a Unit be provided by the Unit Owners to the Association upon the purchase of a Unit in the Community, the Association, in order to verify that the occupancy requirements are being complied with by the occupants of the Community, shall require regular updates of such initial information, through a survey of the occupants of the Community or through other means, at least every other year or at such other intervals as may be required by law.

h. Subject to the Fair Housing Act, at least eighty percent (80%) of the Units shall be occupied by at least one (1) person fifty-five (55) years of age or older.

## **Article XVIII Architecture Review**

**Section 18.01 Regulated Activities.** No building, wall or other structure or improvement including landscaping or plantings (except annual plantings), patios and decks nor exterior addition or alteration to the Unit which changes the external appearance of the Unit's improvements shall be commenced, erected, installed or maintained upon the Unit before the Unit Owner submits to the Executive Board an application requesting the Executive Board's review and approval of such improvement, addition, or alteration.

### **Section 18.02 Contents and Method of Submitting an Application; Powers of the Executive Board.**

a. The Executive Board shall have the right to establish design criteria and standards for alterations, additions and improvements within the Property.

b. Each Unit Owner shall submit to the President and Manager of the Association by United States mail, plans and specifications showing the nature, kind, shape, height, materials, finish, colors and location of the Unit Owner's proposed change, alteration or addition to the Unit. The submission shall contain proof of compliance with all applicable codes, laws and ordinances.

c. The Executive Board shall have the right to request additional information, plans and materials concerning any proposed alterations, additions and improvements.

d. The Executive Board shall review the plans to determine, inter alia, whether they are harmonious and compatible with the Units in the Community and consistent with the design criteria, if any, developed by the Executive Board.

e. In the event the Executive Board fails to approve, with or without conditions, or deny the application within forty-five (45) days from the date all plans and specifications, including all additional information, plans and materials which may be requested by the Executive Board, have been submitted, approval will be deemed to have been denied.

f. The Executive Board shall have the power to grant waivers from architectural design criteria and standards according to procedures and subject to the conditions established by the Executive Board.

**Section 18.03 Exclusion from Architectural Review.** The provisions of this Article XVIII shall not apply to the Declarant.

## **Article XIX Compliance and Default**

### **Section 19.01 Compliance and Default.**

a. Each Unit Owner shall be governed by and shall comply strictly with the terms, covenants, conditions and restrictions of the Act, this Declaration, the Bylaws and the Rules and Regulations adopted pursuant thereto, and all ordinances and regulations of the Township, as the same may be amended from time to time.

b. The Executive Board shall have the power to adopt, amend and enforce compliance with such reasonable Rules and Regulations relative to the operation, use and occupancy of the Units and the Common Elements consistent with the provisions of this Declaration and the Act, including, but not limited to such enforcement procedures and penalties for violations as the Executive Board shall deem appropriate. Any Rules and Regulations shall be adopted or amended, from time to time, by means of appropriate resolutions duly approved by the Executive Board in accordance with the Bylaws. A copy of Rules and Regulations and copies of any amendments thereto shall be delivered or mailed to each Unit Owner or occupant of a Unit promptly after the adoption thereof and shall become binding upon all Unit Owners, their successors in title and assigns, and occupants.

**Article XX**  
**Indemnification of Officers,**  
**Executive Board and Committee Members**

**Section 20.01 Indemnification of Officers, Executive Board and Committee**

**Members.** The Association shall indemnify every Executive Board member, officer and committee member, his heirs, executors and administrators, against all loss, costs and expenses, including attorneys' fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been an Executive Board member, officer or a committee member, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matter covered by the settlement as to which the Association is advised by counsel that the Person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of his duty as such Executive Board member, officer or committee member in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such Executive Board member, officer or committee member may be entitled. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated by the Association as Common Expenses; provided, however, that nothing contained in this Article shall be deemed to obligate the Association to indemnify any member, who is or has been an Executive Board member, officer or a committee member of the Association with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of his membership in the Association.

**Article XXI**  
**Amendments**

**Section 21.01 Generally.** Subject to the other provisions of this Declaration and the Act relative to amendment, this Declaration may be amended in the following manner:

a. Before Any Conveyances: Prior to the transfer of any Unit by the Declarant to a Unit Owner, the Declarant may amend this Declaration in any legal fashion as the Declarant may deem appropriate. After such first transfer of title, the terms of the following subsections shall apply; provided, however, that any other provisions of this Declaration setting forth other conditions of amendment shall take precedence.

b. Notice: Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Executive Board in which a proposed amendment is considered, and shall be served upon all Unit Owners in the manner hereinafter provided for service of notices.

c. Resolution: An amendment may be proposed by either the Executive Board or twenty percent (20%) of the Unit Owners. No resolution of the Executive Board adopting a proposed amendment shall be effective unless it has been adopted by the affirmative vote of at least sixty-seven percent (67%) of the Unit Owners.

d. Agreement: In the alternative, an amendment may be made by an agreement signed and acknowledged by at least sixty-seven percent (67%) of the Unit Owners in the manner required for the execution of a deed, and such amendment shall be effective when recorded.

e. Proviso Regarding Amendments: Notwithstanding any of the other provisions of this Section 21.01, except as otherwise permitted by the Act and provided in this Declaration (particularly with respect to Convertible and Additional Real Estate), no amendment may increase the number of Units or change the boundaries of any Unit, General Common Expense Percentage or voting strength in the Association allocated to a Unit, or the uses to which any Unit is restricted without the unanimous consent of the Unit Owners and the consent of the Eligible Mortgagees to which at least two-thirds of the votes in the Association are allocated. No amendment of this Declaration or any action taken by the Association or its Executive Board, shall be made or taken which, in any way would affect any of the rights, privileges, powers and options of the Declarant, its successors or assigns unless the Declarant, or its successors or assigns shall join in the execution of such amendment or consent, in writing, to the action of the Association or Executive Board. No amendment of this Declaration or any action taken by the Association or its Executive Board, shall be made or taken which, in any way would affect any of the rights, privileges, powers and options of the Township unless the Township shall join in the execution of such amendment or consent, in writing, to the action of the Association or Executive Board.

f. Execution and Recording: A copy of each amendment shall be attached to or included with a certificate, certifying that the amendment was duly adopted, which certificate shall be executed and acknowledged by the officers of the Executive Board with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are Recorded.

g. Correcting Errors: If any amendment to this Declaration or the Bylaws is necessary in the judgment of the Executive Board to change, correct or supplement anything appearing or failing to appear therein which is incorrect, defective or inconsistent with anything in either this Declaration, the Bylaws or the Act, or if such amendment is necessary to conform to the requirements of FNMA, FHLMC, HUD or VA with respect to "PUD" projects or to the requirements of the municipality in which the Community is located or to conform with laws governing "55 or Over Housing," including the Fair Housing Act, the Executive Board may, at any time and from time to time effect an appropriate corrective amendment without the approval of the Unit Owners or the holders of any liens on all or part of the Property, upon receipt by the Executive Board of an opinion from independent counsel to the effect that the proposed amendment is permitted by the terms of this paragraph and by the Act.

## **Article XXII Termination**

**Section 22.01 Statute.** The Community may be terminated as provided by Section 5220 of the Act.

**Section 22.02 Destruction.** In the event it is determined in the manner provided in the Act and the Bylaws that any Common Element shall not be reconstructed after casualty, the Community will be thereby terminated as to such Common Element. The determination not to reconstruct after casualty shall be evidenced by a certificate of the Executive Board executed by the President and Secretary or Treasurer certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded.

**Section 22.03 By Agreement.** The Community may be terminated at any time by an agreement, in writing, in the form of a Deed of Revocation, executed by eighty percent (80%) of the Unit Owners. Such Deed of Revocation shall become effective upon being Recorded.

**Section 22.04 General Provisions.** Upon termination of the Community, each Unit Owner shall thereby become a tenant-in-common of the Property as provided in Section 5220 of the Act, and the mortgagee and lienor of a former Unit Owner shall have a mortgage and lien solely and exclusively upon the respective interest of such tenant in common in the Property after the termination.

### **Article XXIII Notice**

**Section 23.01 Notice.** All notices required to be served upon Unit Owners pursuant to the Act, this Declaration or the Bylaws shall be sufficient if delivered to the Unit or mailed to the Unit Owner at the Unit mailing address by regular mail. The effective date of a notice shall be the date of delivery to the Unit in the case of actual delivery and a date five (5) days after deposit in the mail in the case of notice sent by mail.

### **Article XXIV Provisions Benefitting the Township**

**Section 24.01 Township Rights.** The Township shall be a third party beneficiary of the provisions of this Declaration that require compliance with applicable laws for housing of older persons and that require the Association to maintain, repair and replace the Common Facilities or that empower the Association to enforce the provisions of this Declaration against the Unit Owners. In the event the Association fails to fulfill its obligations hereunder with respect to the maintenance, repair and replacement of the Common Facilities or fails to enforce the provisions of this Declaration against the Unit Owners, the Township may perform such obligations or enforce such provisions and the Township shall be reimbursed by the Association for all expenses incurred in connection therewith. All rights provided herein to the Township shall be enforceable at law or in equity, and all costs and attorneys' fees incurred by the Township in enforcing its rights shall be included in the amount recoverable by the Township.

Article XXV  
**Miscellaneous Provisions**

**Section 25.01 Severability.** If any provisions of this Declaration are determined to be invalid, that determination shall not affect the validity or effect of the remaining provisions hereof or the Bylaws or Rules and Regulations, all of which shall continue in effect as if such invalid provisions had not been included herein.

**Section 25.02 Exhibits.** All exhibits attached hereto are deemed incorporated herein and made a part hereof

**Section 25.03 Headings.** The headings herein are for reference purposes only and shall not affect the meaning or interpretation of this Declaration.

**Section 25.04 Effective Date.** This Declaration shall become effective when it has been Recorded.

**Section 25.05 Binding.** This Declaration shall inure to the benefit of and shall be binding upon the Declarant's successors or assigns.

**IN WITNESS WHEREOF,** the Declarant, has set its hand and seal the day and year first written above.

FIVE POND ENTERPRISES, L.P., a  
Pennsylvania limited partnership

By: \_\_\_\_\_ Development  
Company, its general partner

By: \_\_\_\_\_  
Name: John J. McGrath  
Title: President

**COMMONWEALTH OF PENNSYLVANIA**

SS.

**COUNTY OF**

**Be it Remembered**, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, before me, a Notary Public in and for the Commonwealth and County aforesaid, personally appeared John J. McGrath, who acknowledged himself to be the President of \_\_\_\_\_ Development Company, the general partner of Five Pond Enterprises, L.P., a Pennsylvania limited partnership, and that he, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the \_\_\_\_\_ as such officer on behalf of such limited partnership.

\_\_\_\_\_

Notary Public

My Commission expires:

**Exhibit 1.01**

**Legal Description of the Property**

# C PICKERING, CORTS & SLIMMERSON, INC.

CONSULTING ENGINEERS, LAND SURVEYORS, PLANNERS & LANDSCAPE ARCHITECTS

September 22, 2004

Description of Lot 1  
Portion of Tax Map Parcel 49-1-10  
Warminster Township, Bucks County, PA

Job No. 520045  
Dwg. No. 3-189L

All that certain tract, piece or parcel. of land situate in the Township of Warminster, County of Bucks, Commonwealth of Pennsylvania, according to a Minor Subdivision Plan by Pickering, Corts & Susnmerson, Inc., Consulting Engineers & Land Surveyors, Newtown, Pennsylvania dated April 22, 2004, and last revised September 17, 2004, as follows to wit;

Beginning at a point on the title (former center) line of Delmont Avenue, T-379 (originally 33', now variable width), said point being on a course of N. 51° 37' 39" W. and distance of 30.00' from a found concrete monument being the northwesterly corner of lands of now or former Kenneth and Kimberly Scarborough, Tax Map Parcel 49-5-16;

Thence, along the aforementioned title (former center) line of Delmont Avenue, N. 38° 19' 53" E. a distance of 1342.61' to an angle point; Thence, along same, N. 38° 38' 33" E. a distance of 657.58' to a point for a corner, Thence,, along the southerly line of lands of now or former Warminster Township Municipal Authority, Tax Map Parcel 49-1-10-3, S. 50° 45' 13" E., passing over a found iron pin 14.11' from the beginning of this line, a distance of 201.59' to an iron pin found for a corner; Thence, along the easterly line of lands of the aforesaid Warminster Township Municipal Authority, N. 39° 1' 4" E. a distance of 200.00' to an iron pin found for a corner; Thence, along the northerly line of lands of aforesaid Warminster Township Municipal Authority, N. 50° 44' 39" W., passing over a found iron pin 16.13' from the terminus of this line, a distance of 203.66 to a point for a coiner; Thence, along the aforementioned title (former center) line of Delmont Avenue, N. 38° 38' 33" E. a distance of 78.33' to an angle point; Thence, along same, N. 38° 06' 53" E. a distance of 262.37' to a point for a corner; Thence, along the title (former center) line of Street Road, S.R. 0132, variable width, S. 52° 48' 00" E. a distance of 735.15' to a point for a corner; Thence, through the bed of Street Road and lands of now or former Christ's Home, Tax Map Parcel 49-1-10, S. 39° 14' 04" W. a distance of 577.30' to a point for a corner;

Thence, through the lands of Christ's Home, Tax Map Parcel 49-1-10, which this is a portion, the following six courses and distances;

S. 3° 37' 39" E. a distance of 327.03' to a point for a corner;

- 1.) S. 34° 16' 24" W. a distance of 485.44' to a point for a corner; S.
- 2.) 3° 44' 52" W. a distance of 374.20' to a point for a corner; S.
- 3.) 18° 23' 20" W. a distance of 357.02' to a point for a corner; S.
- 4.) 65° 39' 28" W. a distance of 448.27' to a point for a corner; S.
- 5.) 38° 50' 44" W. a distance of 209.69' to a point for a corner;
- 6.)

828 B NEWTOWN-YARDLEY ROAD • NEWTOWN, PA 18940 • TEL 215.968.93(10) •  
FAX: 215.968.3649

1600 REED ROAD, SUITE 1 • PENNINGTON, Nj 08534 . TEL: 609,737,2033 . PAX: 609.737.7306  
661 W. GERMANTOWN PIKE, SUITE 14 • PLYMOUTH M66TINC, PA 19462 • TEL: 610.238.4504 • PAX: 610.238.4S0S  
WW W.PCS-INC.BIZ



Thence, along the northerly line of lands of now or former Robt. M. Hoffman (T.M.P. 49-7-24), Laurence IF. Zurmuhl (T.M.P. 49-7-23), A. & V. Woodward (T.M.P. 49-7-22), T. & A. Beeker (T.M.P. 49-7-21), H. & D. Faulk (T. M.P. 49-7-20), C. & J. H e r (T.M.P.49-7-19), B. & J. Winterboume (T.M.P. 49-7-18), J. & W. Starr (T. M.P. 49-7-17), Warminster Baptist Church (T.M.P. 49-7-16), W. & B. Bloom (T.M.P. 49-7-15), Douglas DeLoag (T.M.P. 49-5-18), Renee Semola (T.M.P. 49-5-17), K. & K. Scarbomug1 (T. M.P. 49-5-16) and the northerly terminus of Wellington Drive, N. 51° 37' 39" W., passing over a found concrete monument 30.00' from the terminus of this line, a distance of 1109.51' to the point and place of beginning,

Being Lot 1 as shown on the above mentioned Minor Subdivision Plan containing 57.8409 acres.

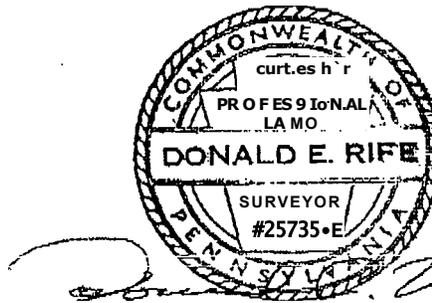


Exhibit 1.01(a)

Legal Description of Additional Real Estate

**PREMISES A**

ALL THAT CERTAIN lot or parcel of land, situate in the Township of Warminster, County of Bucks, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center line of Street Road (33 feet wide) at a distance of 2493.50 feet Southeast of the intersection thereof with Township Line Road, also known as Mud Lane; thence extending North 45 degrees 54 minutes East 150 feet to a corner; thence extending North 53 degrees 19 minutes West 150 feet to a point; thence extending North 45 degrees 54 minutes East 317.17 feet to a corner; thence extending through the land of which this was a part the following two courses and distances (1) South 53 degrees 19 minutes East 377.87 feet and (2) South 51 degrees 30 minutes 20 seconds West 477.1 feet to a point in the center line of Street Road; thence extending by the same North 53 degrees 19 minutes West 180.66 feet to the point of beginning.

COUNTY PARCEL NUMBER 49-1-14.

**PREMISES B**

ALL THAT CERTAIN lot or piece of ground situate in the Township of Warminster, County of Bucks and State of Pennsylvania, and described according to a Plan thereof made for Peiham Realty Co. And George R. Miller, et ux by Charles E\_ Shoemaker, Registered Professional Engineer, Abington, Penna., on March 19, 1960, as follows:

BEGINNING at a point on the Northeasterly side of Street Road (being the Northeasterly Pennsylvania State Highway required right of way line 80 feet wide) measured the three following courses and distance from the point of intersection of "Meadowood" centerline of said Street Road with the original center line of Township Line (Valley) Road (33 feet wide), (1) extending from said point of intersection, South 53 degrees 22 minutes 30 seconds East 281.72 feet to a point; South 53 degrees 56 minutes 30 seconds East 2,062.29 feet and (3) North 44 degrees 49 minutes 59 seconds East 50.04 feet to the point and place of beginning; thence extending from said beginning point, North 44 degrees 49 minutes 59 seconds East 97.79 feet to a point; thence extending South 54 degrees 09 minutes 20 seconds East 150 feet to a point; thence extending South 54 degrees 07 minutes 20 seconds East 150 feet to a point; thence extending South 44 degrees 48 minutes 17 seconds West 98.09 feet to a point on the Northeasterly side of Street Road, aforesaid; thence along the same North 54 degrees 00 minutes

05 seconds West 150 feet to the first mentioned point and place of beginning.

COUNTY PARCEL NUMBER 49-1-15-1.

### **PREMISES C**

ALL THAT CERTAIN tract of land, with buildings thereon erected, situate in the Township of Warminster, County of Bucks, Commonwealth of Pennsylvania, shown as Parcel "B" of a survey and plan of lands of George Miller Sr. And Jr., made December 12, 1977, by Edward B. Blumrick, Registered Land Surveyor, bounded and described as follows:

BEGINNING at a point on the deed line in the bed of Street Road - SR 132 and a corner of lands now or late of George Miller, Sr.; (1) thence along lands now or late of George Miller Sr. And Tract "A" as shown on the above mentioned plan, North 51 degrees 30 minutes 20 seconds East 705.97 feet to a point in line of lands now or late of George Miller, Jr. of which the herein described tract was a part; (2) thence along the same South 52 degrees 59 minutes East 324.44 feet to an iron pin set; (3) thence still along the same South 50 degrees 48 minutes West 701.78 feet to a point at the deed line in the bed of aforementioned Street Road; (4) *thence* along *the* same North 53 degrees 19 minutes West 333.87 feet to the first mentioned point and place of beginning.

CONTAINING 5.154 acres of land, more or less.

COUNTY PARCEL NUMBER 49-1-13-1.

### **PREMISES D**

ALL THAT CERTAIN tract of land, with buildings, thereon erected, situate in the Township of Warminster, County of Bucks, Commonwealth of Pennsylvania, shown as Tract "A" of a survey and plan of lands of George Miller, Jr. And Sr. Made December 12, 1977 by Edward B. Blumrick, Registered Land Surveyor, bounded and described as follows:

BEGINNING at a point in line of lands of Tract "B" as shown on the abovementioned plan and a corner of lands now or late of George Miller, Sr. of which the herein described tract will become a part, said point being located along existing lands now or late of George Miller, Sr. from the deed line in the bed of Street Road - SR 132, North 51 degrees 30 minutes 20 seconds East 477.01 feet; (1) thence along lands now or late of George Miller, Sr. aforementioned, North 53 degrees 19 minutes West 377.87 feet to a point in lands now or late of the Transcontinental Gas Pipe Line Corp; (2) thence through the same and along lands now or late of Mario Ferraguti, Earl Flagler and James Nagle, North 45 degrees 54 minutes East 226.59 feet to an iron pin, set, a corner of remaining lands now or late of George Miller, Jr. Of which the herein described tract was a part; (3) thence along the same crossing the aforementioned Transcontinental Pipe Line Corp., South 52 degrees 59 minutes East 400.15 feet to a point, an iron pin, a corner of Tract "B"

as shown on the abovementioned-plan; (4) thence along the same South 51 degrees 30 minutes 20 seconds West 228.96 feet to the first mentioned point and p T e o f beginning.

CONTAINING 1.988 acres of land more or less.

COUNTY PARCEL NUMBER 49-1-13-2.

BEING the same premises which Robert S. Miller and Arthur R. Harris and Harry Hilger Jr., Co-Trustees of the Estate of George R. Miller, also known as George R. Miller Sr., deceased by Deed dated 9-10-99 and recorded in Bucks County in Land Record Book 1928 page 1825 conveyed unto 1371 W. Street Rd. Partnership (PA. General Partnership), in fee.

Exhibit 3.Oli

Description of Convertible Real Estate

# PICKERING, CORTS & SUMMERSON, INC.

CONSULTING ENGINEERS, LAND SURVEYORS, PLANNERS & LANDSCAPE ARCHITECTS

September 22, 2004

Description of Lot 1  
Portion of Tax Map Parcel 49-1-10  
Warminster Township, Bucks County, PA

Job No. 520045  
Dwg. No. 3-189L

All that certain tract, piece or parcel of land situate in the Township of Warminster, County of Bucks, Commonwealth of Pennsylvania, according to a Minor Subdivision Plan by Pickering, Corts & Summerson, Inc., 'Consulting Engineers & Land Surveyors, Newtown, Pennsylvania dated April 22, 2004, and last revised September 17, 2004, as follows to wit;

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- 3.) S. 3° 44' 52" W. a distance of 374.20' to a point for a corner; S.
- 4.) 18° 23' 20" W. a distance of 357.02' to a point for a corner;
- 5.) S. 65° 39' 28" W. a distance of 448.27' to a point for a corner; S. 38° 50' 44" W. a
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Being Lot 1 as shown on the above mentioned Minor Subdivision Plan containing 57.8409 acres.

EXCEPTING and RESERVING therefrom: Building No. 16 (Units 61, 62, 63 and Building No. 17 (Units 65, 66, 67 and 68); and Building 18 (Units 69, 70, No. 71 and 72) as depicted on the Plats and Plans.

---

Exhibit 5.01

**Plats and Plans**

**Exhibit 6.Ola.**

**Units Included in the Community**

As depicted on the Plats and Plans:

- Building No. 16 (Units 61, 62, 63 and 64)
- Building No. 17 (Units 65, 66, 67 and 68)
- Building No. 18 (Units 69, 70, 71 and 72)

## **Exhibit 8.02**

### **Maintenance Obligations of Association with Respect to Controlled Facilities**

1. Snow removal on driveways where snowfall is in excess of 2 inches and private walks leading to front door and the two foot wide pathway along the driveways
2. Cutting and edging of lawns
3. Turf applications four times a year
4. Annual edging and mulching of all plant beds
5. Exterior painting of Villas
6. Trash collection
7. Replacement of roof shingles of Villas at end of useful life
8. Annual pruning of shrubbery

## **Exhibit 13.07**

### **Recorded Easements and Licenses**

1. Rights granted to Philadelphia Electric Company as in Deed Books 649 page 563, 761 page 384, 1477 page 251, 1604 page 209 and 1730 page 575.
2. Rights granted to The Bell Telephone Company of Penna. as in Deed Book 2248 page 130.
3. Rights granted to Warminster Township as in Deed Book 1633 page 50 Agreement relating thereto in Deed Book 2601 page 451.
4. Terms and Conditions of Sewer Permit recorded in Deed Book 2386 page 552.

## **Exhibit 15.02**

### **General Common Expense Percentages**

Each Unit in the Community shall initially have a General Common Expense Percentage of 8.333% which may be amended as provided in the Declaration.

EXHIBIT "B"  
Bylaws

**BYLAWS**

**OF**

**THE VILLAS AT FIVE PONDS**  
**COMMUNITY ASSOCIATION**

**Marc D. Brookman, Esquire**  
Duane Morns LLP  
One Liberty Place  
Philadelphia, PA 19103-7396

<sup>0</sup>11/3/2004 Duane Morris LLP  
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# THE VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION

## Bylaws

### ARTICLE I

#### **Name and Address**

**Section 1.01 Name.** The name of this association shall be THE VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION (the "Association").

**Section 1.02 Address.** The office of the Association shall be at the place to be designated by the Executive Board, subject to transfer upon notice to the Unit Owners of the Association.

### ARTICLE II Applicability

**Section 2.01 Applicability.** These Bylaws shall be applicable to the Association. In accordance with the terms of the Declaration of The Villas at Five Ponds, a planned community (the "Declaration"), all present and future Unit Owners shall be members of the Association and shall be subject to these Bylaws and to any Rules and Regulations adopted from time to time by the Executive Board. Ownership, rental or occupancy of any Unit in the Property shall be conclusively deemed to mean that the Unit Owner, tenant or occupant has accepted, ratified and will comply with these Bylaws, the Declaration and Rules and Regulations of the Association.

### ARTICLE III

#### **Purpose**

**Section 3.01 Association Purposes.** The purpose of the Association is to manage the Community and maintain, repair and replace the Common Elements from assessments received from the Unit Owners. This Association does not contemplate pecuniary gain or profit to the Unit Owners.

### ARTICLE IV

#### **Definitions and Interpretation**

**Section 4.01 Definitions.** Unless it is plainly evident from the context that a different meaning is intended, the terms used herein shall have the same meanings as provided in the Declaration.

**Section 4.02 Interpretation.** In the event of a conflict of interpretation between the provisions set forth in these Bylaws and the Declaration, the Declaration shall govern. In the event that the Internal Revenue Code is hereafter amended or changed, both the Declaration and these Bylaws shall be interpreted in a manner which conforms to the provisions of the Internal

Revenue Code with respect to non-profit entities, it being the intention to preserve the status of the Association as a bona-fide non-profit entity.

## **ARTICLE V Membership**

**Section 5.01 Membership.** Membership in the Association shall be limited to the Unit Owners and the Declarant. Votes in the Association are allocated among the Unit Owners pursuant to Section 11.02 of the Declaration.

**Section 5.02 Affirmative Vote.** Except as otherwise provided herein or in the Declaration, the passage of any decision or resolution shall occur upon the affirmative vote of at least a majority of the Unit Owners, either in person or by proxy, who are in good standing and entitled to vote as defined in the Declaration. If any vote shall be taken at an annual or special meeting, a quorum of the Unit Owners is required either in person or by proxy. Cumulative voting shall not be permitted.

**Section 5.03 Membership List.** Not less than thirty (30) days prior to the date of any annual or special meeting of the Association, the Secretary shall compile and maintain, at the principal office of the Association, an updated list of Unit Owners and their last known post office addresses and Unit number. The list shall be open to inspection by all Unit Owners and other persons lawfully entitled to inspect the list during regular business hours up to the date of the annual or special meeting. The Secretary shall also keep current and retain custody of the minute book of the Association which shall contain the minutes of all annual and special meetings of the Association and the Executive Board and all resolutions of the Executive Board (the "Minute Book").

**Section 5.04 Proxies.** Votes may be cast by written proxy or mail ballot. Written proxies and mail ballots shall be submitted by United States mail or delivered to the office of the Association or delivered directly to the Secretary of the Association. A ballot vote shall be defined as a written vote submitted by a Unit Owner which either states the specific vote of the Unit Owner with respect to the issues, resolutions or election being voted on by the Unit Owners at the annual or special meeting. A proxy vote shall be defined as written permission for the Executive Board or a specific Director to exercise the Unit Owner's vote as the Executive Board or the specific Director sees fit. To be valid, proxies and mail ballots must be duly executed by the Unit Owner or the appropriate person whose name appears on a certificate on file with the Association and must be received by the Secretary no later than 4:00 p.m. of the day before the meeting for which the proxy or mail ballot is specified to be effective.

**Section 5.05 Quorum.** Except as otherwise provided in these Bylaws, the presence, either in person or by proxy, of ten percent (10%) of the Unit Owners at the beginning of any annual or special meeting shall constitute a quorum. If any meeting of Unit Owners cannot be organized because a quorum has not attended, the Unit Owners present may adjourn the meeting from time to time, without notice other than announcement at the meeting, to a time not less than forty-eight (48) hours from the time the original meeting was called until a quorum as aforesaid shall be present or represented.

ARTICLE VI  
**Meetings of Unit Owners**

**Section 6.01 Place of Annual and Special Meetings.** All annual and special meetings of the Association shall be held at the principal office of the Association or at another suitable and convenient place permitted by law and fixed by the Executive Board from time to time and designated in the notices of the meetings.

**Section 6.02 Date of Annual Meetings.** Annual meetings of the Unit Owners shall be held in November of each year on such day as shall be fixed by the Executive Board. The Unit Owners may transact any business which may properly come before the meeting.

**Section 6.03 Notice of Annual Meetings.** The Secretary shall mail notices of annual meetings to each Unit Owner directed to his last known post office address, as shown on the records of the Association, by regular mail, postage prepaid. This notice shall be mailed not less than ten (10) nor more than thirty (30) days before the date of the meeting and shall state the date, time and place of the meeting, the purpose or purposes thereof and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws. In lieu of mailing notice as herein provided, notice may be delivered by hand to the Unit Owners or left at their residences in their absence.

**Section 6.04 Special Meeting.** It shall be the duty of the President to call a special meeting of the Unit Owners in the following situations: (a) the holding of elections of Directors pursuant to the terms of Section 11.04 of the Declaration; (b) whenever he is directed to do so by resolution of the Executive Board; or (c) upon presentation of a petition signed by thirty percent (30%) of the Unit Owners to the Secretary stating the specific purpose of the special meeting.

**Section 6.05 Notice of Special Meetings.** The Secretary shall mail or deliver notice of any special meeting of the Association to each Unit Owner in the manner provided in Section 6.03 of these Bylaws. The notice shall state the same items required by Section 6.03 of these Bylaws for notices of annual meetings. No business shall be transacted at any special meeting except as stated in the notice.

**Section 6.06 Order of Business.** The order of business at all meetings of the Owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Approval of the minutes of the preceding meeting.
- (d) Reports of officers and committees.
- (e) Election of Directors, if applicable.
- (0) Unfinished business.

- (g) New business.
- (h) Adjournment.

## **ARTICLE VII Executive Board**

**Section 7.01 Number of Directors.** Except for the initial Executive Board consisting initially of three (3) Directors appointed by the Declarant and replaced as provided in Section 11.04 of the Declaration, the affairs of the Association shall be governed by an Executive Board consisting of five (5) persons. The initial Directors or their successors shall serve until their successors take office. The Declarant shall be permitted to appoint and reappoint such Directors or successors which it is entitled to do under the Declaration without the necessity of obtaining resignations. As to those Directors nominated or appointed by the Declarant, this shall specifically modify Section 7.04 hereof. Each Director, other than Directors appointed by the Declarant, shall be a Unit Owner, or in the case of a corporate or partnership Unit Owner, a duly authorized agent or representative of the corporate or partnership Unit Owner. The corporate or partnership Unit Owner shall be designated as the Director in all correspondence or other documentation setting forth the names of the Directors. In any election of Directors, the nominees receiving the highest number of votes, either in person, by proxy and mail ballot, shall be the Unit Owners elected to the Executive Board.

**Section 7.02 Term of Directors and Compensation.** At the First Election Meeting of the Association, Owners (other than the Declarant) shall elect two (2) Directors to the Executive Board, who shall serve until the next annual meeting of the Association which shall occur at least one hundred and eighty (180) days after the First Election Meeting (at which time, and at each annual meeting thereafter, such Directors shall be reelected or successors elected by Owners other than the Declarant to serve annual terms, provided that each Directors shall continue to hold office until his successor is elected). The three (3) remaining Directors, who shall replace the Declarant-appointed Directors, shall be elected at the Transition Meeting and shall serve until the next annual meeting of the Association next following the annual meeting at which the two (2) Directors first elected to the Executive Board by the Owners are reelected or replaced (at which time five (5) Directors shall be reelected or their successors elected to serve two (2) year terms for the three (3) Directors with the highest number of votes and one (1) year for the two (2) Directors with next highest number of votes), provided that each Director shall continue to hold office until his successor is elected and thereafter each Director shall serve a two (2) year term.

**Section 7.03 Nominations to Executive Board.** Except as provided for in Section 7.01 of these Bylaws, Unit Owners may be nominated for election to the Executive Board in one of the following ways:

- (a) A Director shall be deemed to have been nominated for re-election to the position he holds by signifying his intention to seek re-election in a writing addressed to the Executive Board.

(b) A Unit Owner who is not a Director and who desires to run for election to that position shall be deemed to have been nominated for election upon his filing with the Executive Board a written petition of nomination.

**Section 7.04 Vacancy on Executive Board.** Except as provided in Section 11.04 of the Declaration and Section 7.01 hereof with respect to Directors appointed by the Declarant, if the office of any Director shall become vacant by reason of his death, resignation, retirement, disqualification, removal from office or otherwise, the remaining Directors, at a special meeting duly called for this purpose, shall choose a successor who shall serve for the unexpired term of the Director he is replacing. In the event that there shall be a deadlock in the voting for a successor by the remaining Directors, the one (1) Director with the longest continuous term on the Board shall select a successor. At the expiration of the term of his position on the Executive Board, the replacement Director shall be re-elected or his successor shall be elected in accordance with Section 7.01 of these Bylaws.

**Section 7.05 Removal of Directors.** Subject to the right of the Declarant to nominate and elect Directors as set forth in Section 11.04 of the Declaration, Directors may be removed, with or without cause, by a majority vote of the Owners.

**Section 7.06 Organizational Meeting of the Executive Board.** No later than twenty (20) days following the First Election Meeting, the Transitional Meeting and each annual meeting of the Association, the Executive Board shall hold a regular meeting for the purposes of organization, election of officers and transaction of other business. Notice of this meeting shall be given to all Directors in accordance with Section 7.08 of these Bylaws, except for the meeting following the First Election Meeting which shall be called by the Director receiving the highest number of votes.

**Section 7.07 Place of Meetings.** All meetings of the Executive Board shall be held at the principal office of the Association or at any other place or places designated at any time by resolution of the Executive Board or by written consent of all of the Directors.

**Section 7.08 Regular Executive Board Meetings.** Regular meetings of the Executive Board may be held at any time and place permitted by law as from time to time may be determined by the Executive Board. Notice of regular meetings of the Executive Board shall be given to each Director personally, by telegram, telephone or by United States mail, with postage prepaid, directed to him at his last known post office address, as the same appears on the records of the Association, at least five (5) but not more than thirty (30) days before the date of the meeting. This notice shall state the date, time, place and purpose of the meeting.

**Section 7.09 Special Executive Board Meetings.** Special meetings of the Executive Board may be called by the President of the Association on three (3) days' written notice to each Director, given in the same manner as provided in Section 7.08 of these Bylaws. Special meetings of the Executive Board shall be called by the President or the Secretary of the Association in like manner upon the written request of any three (3) Directors.

**Section 7.10 Waiver of Notice.** Before any meeting of the Executive Board, whether regular or special, any Director may, in writing, waive notice of such meeting and such

waiver shall be deemed equivalent to giving the required notice. All written waivers shall be filed in the Minute Book of the Association or made a part of the minutes of the meeting. Attendance by a Director at any meeting of the Executive Board shall likewise constitute a waiver by him of the required notice. If all Directors are present at any meeting of the Executive Board, no notice of the meeting shall be required and any business may be transacted at the meeting except as prohibited by law or these Bylaws.

**Section 7.11 Quorum.** At all duly convened meetings of the Executive Board, a majority of the Directors shall constitute a quorum for the transaction of business, except as otherwise expressly provided in these Bylaws. The acts of a majority of the Directors present at the meeting at which a quorum is present shall be the acts of the Executive Board. If at any meeting of the Executive Board there shall be less than a quorum present, the Directors present may adjourn the meeting from time to time and, at the adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice to any Director.

**Section 7.12 Consent in Writing.** Any action by the Executive Board may be taken without a meeting if all of the Directors shall individually or collectively consent in writing to the action. Such written consent shall be filed in the Minute Book. Any action taken by such written consent shall have the same force and effect as a unanimous vote of the Directors.

**Section 7.13 Records.** The Executive Board shall cause a complete record of all of its acts and the corporate affairs of the Association to be kept and to present a general report thereof to the Owners at the annual meetings of the Association or at any special meeting where a general report is requested in writing by one-fourth (1/4) of the Owners entitled to vote.

**Section 7.14 Powers and Duties.** The Executive Board shall have and exercise all powers and duties necessary for the proper administration of the affairs of the Association. In the performance of its duties as the governing body of the Association and in addition to those powers and duties set forth in the Declaration, the Executive Board shall have the duties and powers, including, but not limited to, the following:

(a) Duties:

(i) Each Director individually and the Executive Board collectively shall perform the duties of the Executive Board in good faith as a fiduciary of the Association, in a manner which the Director believes to be in the best interest of the Association and with the care of a person of ordinary prudence under similar circumstances, including, but not limited to, reasonable inquiry, skill and diligence.

(ii) Provide for the operation, maintenance, management, insurance, cleaning, sanitation, renewal, replacement, care and upkeep of the Common Facilities and all property, real or personal, of the Association.

(iii) Determine the Common Expenses and Limited Common Expenses and assess the same against the Owners in accordance with the provisions of the Declaration and these Bylaws.

(iv) Levy and collect, in addition to regular Common Expense Assessments, any special assessments in amounts which the Executive Board deems proper, whenever the Executive Board is of the opinion it is necessary to do so in order to meet increased operating or maintenance costs or additional capital expenses or because of emergencies.

(v) Use and expend any sums collected from Common Expense Assessments for the operation, maintenance, renewal, care and upkeep of the Common Facilities.

(vi) Maintain the Common Facilities at a level of maintenance which at a minimum approximates that which existed at the time of the Transitional Meeting.

(vii) Use any non-refundable contributions of Unit Owners who have purchased Units and any surplus revenues or for those purposes which the Executive Board may deem reasonable and necessary pursuant to its powers under the Declaration and these Bylaws.

(viii) Maintain or cause to be maintained by any management company on behalf of the Association blanket fidelity bonds for all Directors of the Executive Board, officers and employees of the Association and all other persons or firms who handle or are responsible for funds of or administered by the Association. The total amount of fidelity bond coverage shall be in an amount as determined by the Executive Board. Such fidelity bonds shall name the Association as an obligee; contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions; provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association, to any Insurance Trustee (as defined in Section 7.14(b)(iv) below) and to any servicer on behalf of the Federal National Mortgage Association. The premiums for such fidelity bonds shall be paid by the Association as part of the Common Expenses.

(ix) Pay all taxes and assessments levied or assessed against any property that may be owned by the Association, exclusive of any taxes or assessments levied against any Unit Owner or otherwise properly chargeable to the Unit Owner.

(x) Collect delinquent Assessments and other charges, including late charges, fines and other assessments, made by the Association through the Executive Board against any Unit and the Unit Owner thereof, together with the costs and expenses incurred in connection therewith, including, but not limited to, court costs and attorneys' fees, whether by suit or otherwise and to abate any nuisance and enforce the terms of the Declaration and the observance of the Rules and Regulations relating to the Property, by injunction or other legal action or means which the Executive Board may deem necessary or appropriate.

(xi) Establish operating, escrow and other accounts in the name of the Association as the Executive Board may deem appropriate from time to time and as may be consistent with generally accepted accounting practices.

(xii) Adopt a budget for each fiscal year which shall contain estimates of the costs and expenses of the Association, including, but not limited to, the following items:

A. Common Expenses which shall include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of the Common Facilities and any and all other expenses related to the operation thereof, including, but not limited to, common utility services, property and liability insurance, professional management expenses, administrative and office expenses, reserves and the costs associated with the administration of the Association;

B. Reasonable amounts to be credited, allocated or accumulated for reserves for replacement of those Common Facilities which require replacement, renovation or rehabilitation periodically; and

C. Proposed Common Expense Assessments against each Unit for the calendar year.

Copies of the proposed budget and proposed Assessments shall be distributed to all Owners at least thirty (30) days prior to the beginning of each fiscal year and shall be available to all Owners for inspection during regular business hours at the Association's office. If the budget is subsequently amended before the Assessments are made, a copy of the amended budget shall also be distributed and made available for inspection. Subject to the provisions of Section 7.14(a)(iv), nothing herein contained shall be construed as restricting the right of the Executive Board, at any time and in its sole discretion, to levy a special assessment in the event that the budget as originally adopted shall appear to be insufficient to pay the cost of the operation or management of the Property or in the event of emergencies.

(xiii) Maintain accounting records in accordance with generally accepted accounting principles.

(xiv) Cause a complete review of the books and accounts of the Association to be made by a competent independent public accountant at the end of each fiscal year and at any other time or times deemed necessary.

(xv) Make and enforce compliance with any reasonable Rules and Regulations relative to the operation, use and occupancy of the Property, including, but not limited to, penalties to be levied for violations of these Bylaws, the Declaration and any Rules and Regulations which the Executive Board shall adopt, and to amend the same from time to time as and when approved by appropriate resolutions which shall be binding on the Unit Owners, tenants and occupants of Units, their successors in title and assigns. A copy of these Rules and Regulations and copies of any amendments thereto shall be delivered or mailed to each Unit Owner and any tenant or occupant of a Unit promptly upon the adoption thereof.

(xvi) Determine on a periodic basis compliance with the Federal Fair Housing Act.

(b) Powers:

(i) Employ and dismiss personnel of the Association, and to purchase or arrange for those services, machinery, equipment, tools, materials and supplies as, in the opinion of the Executive Board, may from time to time be necessary for the proper operation and maintenance of the Common Elements.

(ii) Enter into a contract for professional management of the Property and the Association, at a price and upon the terms determined by the Executive Board, to perform those duties and services which the Executive Board may lawfully delegate. However, any management contract shall provide for termination by either party with or without cause on ninety (90) days' written notice thereof to the other upon transition of control of the Executive Board.

(iii) Employ or retain and receive advice from professional counsel and consultants, including, but not limited to, landscape architects, architects, engineers, planners, biologists, lawyers and accountants, which the Executive Board may deem necessary for any proper purposes of the Association, and to fix the compensation for professional advice or services, including, but not limited to, those hereinbefore or hereinafter referred to in these Bylaws. The Executive Board shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

A. One or more officers or employees of the Association whom the Executive Board reasonably believes to be reliable and competent in the matter presented;

B. Counsel, public accountants or other persons as to the matters which the Executive Board reasonably believes to be within the professional or expert competence of this person; and

C. A committee of the Executive Board duly designated in accordance with law, as to matters within its designated authority, which committee the Board reasonably believes to merit confidence. The Executive Board shall not be considered to be acting in good faith if it or any Director has knowledge concerning the matter in question that would cause this reliance to be unwarranted.

(iv) Name as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any insurance trust agreement or any successor to this trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall be given exclusive authority to negotiate losses under any policy providing property or liability insurance coverage. The Association or any Insurance Trustee or substitute Insurance Trustee designated by the Association shall have the power to act as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses, execution of releases of liability and the execution of all documents and the performance of all other acts necessary to accomplish these purposes.

(v) Establish depositories for the funds of the Association with the bank or banks as shall be designated from time to time by the Executive Board and in which monies of the Association shall be deposited. Withdrawal of monies shall be only by check signed by those persons who are authorized by the Executive Board to sign checks on behalf of the Association.

(vi) Invest monies of the Association in any investments which the Executive Board deems to be reasonably prudent.

(vii) Borrow and repay monies and give notes, mortgages or other security upon the term or terms which are deemed reasonable by the Executive Board.

(viii) Except for the Common Facilities, sell, lease, transfer or otherwise convey real and personal property owned by the Association by deed, lease or bill of sale executed by the appropriate officers of the Association, with the approval of at least sixty-seven percent (67%) of the Owners entitled to vote; provided that the Executive Board may sell any Unit it purchases at sheriff's sale pursuant to Section 15.08 of the Declaration without the approval of the Owners.

(ix) Acquire by purchase, gift, annexation or lease, real or personal property, if, at any time in the future, the Executive Board deems it to be proper and not inconsistent with the terms hereof to do so, with the approval of at least sixty-seven percent (67%) of the Owners entitled to vote; provided that the Executive Board may purchase a Unit at sheriff's sale pursuant to Article XV of the Declaration without the approval of the Owners.

(x) Take all steps necessary to effectuate any merger of the Association with any other association if approved by the vote of at least eighty percent (80%) of the Owners.

(xi) Do all things incidental and necessary to the accomplishment of the above.

The duties and powers imposed on the Executive Board by this Section 7.14 shall not be amended so as to reduce or eliminate any duties or powers of the Executive Board without the affirmative vote of at least eighty percent (80%) of the Owners entitled to vote; and in no event shall Section 7.14(b)(viii) be amended without the prior written approval of the Township.

## **ARTICLE VIII**

### **Officers**

**Section 8.01 Officers.** The officers of the Association shall be a President, Vice President, Secretary and Treasurer. The Secretary may be eligible to hold the office of Treasurer. The President shall be a Director. The Treasurer and Secretary need not be Directors.

**Section 8.02 Election.** The officers of the Association shall be elected annually by the Executive Board at the organizational meeting held pursuant to Section 7.06 of these Bylaws and shall hold office until their successors are elected or appointed by the Executive Board; provided that each officer shall hold office at the pleasure of the Executive Board and

may be removed, either with or without cause, and his successor elected by the affirmative vote of a majority of the Directors at any annual or special meeting of the Executive Board called for that purpose. The Executive Board may, from time to time, appoint other officers which, in its judgment, are necessary. Any officer may resign at any time by giving written notice to the Executive Board or to the President or Secretary of the Association. Any resignation shall take effect as of the date of the receipt of this notice or any later time specified therein; unless specified therein, the acceptance of this written resignation shall not be necessary to make it effective.

**Section 8.03 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office.

**Section 8.04 President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and the Executive Board. He shall have the general powers and duties usually vested in the office of the president of a community association, including, but not limited to, the power to appoint committees from the membership, from time to time, as he may deem appropriate to assist in the conduct of the affairs of the Association. The President shall be an ex-officio member of all standing committees, if any. He shall execute deeds, contracts and other instruments, in the name and on behalf of the Association and under its corporate seal when a seal is required, except when these documents are required or permitted by law to be otherwise executed, and except when the signing and execution thereof shall be delegated by the Executive Board to another officer or agent of the Association.

**Section 8.05 Vice President.** The Vice President shall perform such duties as may be assigned by the Executive Board or the President. In the absence of the President, the Vice President shall perform the duties of the President.

**Section 8.06 Secretary.** The Secretary shall attend all meetings of the Executive Board and all meetings of the Owners and record all votes and the minutes of all meetings and proceedings, including resolutions, in the Minute Book. He shall perform the same duties for any committees when required. He shall have charge of the Minute Book, the records of the Association and any papers which the Executive Board shall direct him to keep; shall perform all duties incident to the office of Secretary, including, but not limited to, the sending of notice of meetings to the Owners, the Directors and members of any committees, and shall perform any other duties which may be prescribed by these Bylaws or by the Executive Board or the President. He shall also have custody of the corporate seal and shall affix the same to any instrument requiring it when authorized by the Executive Board and shall attest the same when appropriate. The Secretary shall keep, or cause to be kept, at the principal office of the Association, a membership register showing the following: (a) the names and addresses of all Directors; (b) the names and addresses of all Owners; and (c) the number of memberships held by each Owner.

**Section 8.07 Treasurer.** The Treasurer shall have the responsibility for the Association's funds and securities, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies, checks and

other valuable effects in the name of and to the credit of the Association in those depositories which may be designated from time to time by the Executive Board. He shall disburse the funds of the Association, as he may be ordered to do from time to time by the Executive Board or by the President, and shall render to the President and the Directors at the regular meetings of the Executive Board, or whenever they or either of them shall require, an account of his transactions as Treasurer and of the financial condition of the Association. Nothing shall prohibit the functions of the Treasurer to be delegated to an agent of the Association provided this delegation is approved by resolution of the Executive Board. The delegation of the duties of the Treasurer shall not relieve the Treasurer from any responsibility related to overseeing and reviewing any duties performed by the agent.

**Section 8.08 Compensation.** The officers of the Association shall serve without compensation except that they shall be entitled to reimbursement for all expenses reasonably incurred in the discharge of their duties.

## **ARTICLE IX**

### **Association Books and Records**

**Section 9.01 Association Books and Records.** The Executive Board shall make available to the Unit Owners current copies of the Declaration, these Bylaws, any Rules and Regulations adopted pursuant thereto and the books, records and financial statements of the Association. For purposes of this paragraph, "available" shall mean available for inspection, upon request, during normal business hours at the office of the Association or the office of the manager of the Association.

## **ARTICLE X**

### **Dissolution and Termination**

**Section 10.01 Distribution of Assets Upon Dissolution and Termination of the Association.** Upon dissolution of the Association and termination of the Declaration, as provided in Article XXII of the Declaration, the real and personal property of the Association shall become the assets of the Owners, at the time of the dissolution as tenants-in-common. No dissolution of the Association shall occur without the prior written approval of the Township.

## **ARTICLE XI Miscellaneous**

**Section 11.01 Fiscal Year.** The fiscal year of the Association shall be the calendar year unless the Executive Board shall determine otherwise.

**Section 11.02 Amendments to Bylaws.** Except as otherwise provided herein, these Bylaws may be amended from time to time by the affirmative vote, in person or by proxy, of at least fifty-one percent (51 %) of the Owners entitled to vote. No amendment shall be made to these Bylaws while the Declarant owns any Unit or has the right to add or create Units in the Community so as to affect or change any power granted to the Declarant without the prior written consent of the Declarant.

**Section 11.03 Inspection of Bylaws.** The Association shall keep in its principal office the original or a copy of these Bylaws, as amended or otherwise altered to date, certified

by the Secretary, which shall be open to inspection by the Owners during normal business hours.

**Section 11.04 Membership Minutes.** The membership register and the Minute Book shall be open to inspection upon demand of any Owner during the normal business hours of the Association, for purposes reasonably related to his interest as an Owner.

**Section 11.05 Construction.** Number and gender as used in these Bylaws shall extend to and include both singular and plural and all genders as the context and construction require.

**THE VILLAS AT FIVE PONDS**

AGREEMENT OF SALE

DATE: \_\_\_\_\_

**1. NAMES AND ADDRESS:**

- (a) Seller: Five Ponds Enterprises, L.P.
- (b) Address: 1262 Wood Land, Suite 207, Langhorne, PA 19047
- (c) Telephone: 215-757-1400
- (d) Buyer: \_\_\_\_\_ Buyer \_\_\_\_\_
- (e) Home Address: \_\_\_\_\_
- (f) Telephone: \_\_\_\_\_
- (g) Business Address: \_\_\_\_\_
- (h) Telephone: \_\_\_\_\_
- (i) Broker: J.N. Associates, Inc.
- (j) Subagent: \_\_\_\_\_
- (k) Address: \_\_\_\_\_
- (l) Telephone: \_\_\_\_\_

**2. LOT BEING PURCHASED**

- (a) Lot Number: \_\_\_\_\_
- (b) Legal Address: \_\_\_\_\_
- (c) Model Type: \_\_\_\_\_

**3. PRICE AND TERMS**

- (a) Purchase Price:
  - I. Home: \_\_\_\_\_
  - II. Lot Premium: \_\_\_\_\_
  - M. Extras Per Attached: \_\_\_\_\_ Total Purchase Price \$ \_\_\_\_\_
- (b) Deposit amount paid directly to Seller at the execution of this Agreement: \$ \_\_\_\_\_
- (c) Amount to be paid directly to Seller on or Before: \$ \_\_\_\_\_
- (d) Balance due at Settlement: \$ \_\_\_\_\_
- (e) Settlement Date (subject to Section 8 hereof): \_\_\_\_\_

**4. THE LOT**

Seller, as the equitable owner, agrees to sell to Buyer and Buyer agrees to purchase from Seller the lot with house to be erected as described in Paragraph 2 above. Buyer agrees to pay to Seller the purchase price as set in Paragraph 3 above.

**5. TITLE**

Title to said premises shall be conveyed by a special warranty deed and shall be good and marketable and such as will be insured by a reputable title company at regular rates. The premises shall be conveyed free and clear of all liens and encumbrances except: (a) existing restrictions, conditions and easements:

Buyer initials \_\_\_\_\_

Seller initials \_\_\_\_\_

especially those set forth in the Declarations of Covenants and Restrictions for The Villas at Five Ponds Homeowners Association; (b) restrictions, conditions, and easements, if any, required to be placed on the premises; (c ) restrictions, conditions, and easements created by Seller at or prior to settlement hereunder and reasonably necessary for the development by Seller of the premises and adjoining properties; (d) the possibility of the filing of mechanics' liens or municipal liens; (e) zoning ordinance and any other act, ordinance, or regulation affecting the use of an improvement to said premises; (f) easements with respect to public or private sewers, storm sewer or surface water courses; (g) agreements and easements with telephone, gas, water, cats, electric and other public utility companies. In the event of any violation of any such restrictions, conditions, easements, agreements and provisions after settlement hereunder, Seller is irrevocably authorized and empowered by Buyer to enter upon the premises and forthwith terminate any such violation, and the Buyer assumes full liability for, and agrees to indemnify Seller against any loss or damages resulting from such violation. This provision shall survive settlement hereunder and at the option of the Seller may be included in the deed to Buyer. Seller, its agents or contractors, shall have an easement across and upon the lot being purchased in order to complete any work which may be required to be done by Seller after the date of settlement. Seller shall use due care not to unduly injure the premises in the course of construction, but Seller shall not be liable to Buyer for such damage to the premises or property as is ordinarily incident to such construction (including, but not limited to, change of grade and earth and tree removal) whether caused by Seller, its agents or contractors.

If Seller cannot deliver title as herein provided, Buyer shall have the option of taking such title as Seller can give without abatement of price or of being repaid all monies paid by Buyer, without interest, and in the latter event, this Agreement shall terminate, and neither party shall have any further liability to the other.

At or prior to the time of settlement, a restrictive covenant shall be place on the property providing that prior to the date of the last settlement at The Villas at Five Ponds which Seller sells its last lot, (1) Buyer that not display or permit to be displayed on the premises any sign, including but not limited to a real estate "for sale" sign.

**6. MORTGAGE CONTINGENCY.** This sale and settlement hereunder are NOT CONDITIONAL OR CONTINGENT IN ANY MANNER UPON THE SALE OR SETTLEMENT OF ANY OTHER REAL ESTATE nor subject to any mortgage or financing except as herein provided. The insertion of a condition on sale or settlement of Buyer's present home by Buyer's Lender in Buyer's mortgage commitment shall not relieve Buyer of Buyer's obligation to proceed to settlement.

(a.) It is mutually agreed and understood that within five (5) working days from the date hereof, Buyer will prepare and file written application and cooperate fully with a recognized Mortgage Lending Institution for a first mortgage loan to be secured upon the property in the amount of \$ \_\_\_\_\_ for a total term of no less than \_\_\_\_\_ years and at an initial interest rate that the lender is willing to specify, not to exceed \_\_\_\_\_ Buyer agrees to pay for any request from a recognized Mortgage Lending Institution for credit report, appraisal and service charges (loan origination fees, placement fees). The Buyer herein agrees to comply with any conditions that may be contained in the mortgage commitment. Additionally Buyer agrees that Seller may at its option extend settlement up to 120 days beyond date which Seller receives written notice of Buyer's mortgage commitment.

Buyer initials \_\_\_\_\_

Seller initials \_\_\_\_\_

(b.) Should Buyer be unable to obtain a written commitment for a mortgage loan on the terms set forth above, valid until date of settlement, Buyer shall advise Seller and Seller's agent, in writing by registered or certified mail (return receipt requested) and/or by personal delivery on or before \_\_\_\_\_ of such a condition. Seller shall at his sole option thereupon have a period of sixty days (60) from the date of receipt of such notice within which to obtain such a mortgage commitment for and on behalf of the Buyer, and Settlement shall, if required, be automatically extended for a further period of one hundred twenty (120) days after delivery to Buyer of a written mortgage commitment. Buyer agrees to execute an application at Seller's request and Buyer agrees to pay any request from and cooperate fully with a recognized Mortgage Lending Institution for credit report, appraisal and service charges (loan origination fees, placement fees, discount points, etc.) not to exceed \_\_\_\_\_

(c.) If Buyer fails to make application for such mortgage loan or notify Seller of his inability to obtain a written commitment as herein set forth or fails to execute any application for such mortgage loan at Seller's request, the condition and contingency provided for shall no longer prevail and this Agreement shall be and remain in full force and effect according to its terms in the same manner as if the condition and contingency were not a part hereof.

(d.) Should neither Buyer nor Seller be able to obtain such a mortgage commitment on the terms set forth above within the period above referred to, Buyer at Buyer's election may (i) proceed with the consummation of this contract without regard to the failure of the condition or (ii) may cancel this Agreement, in which event all monies paid hereunder by Buyer on account of the purchase price will be returned to Buyer upon receipt by Seller of (1) Buyer's written notice of intention to cancel, (2) the return to Seller of all copies of the Agreement of Sale. Thereafter all rights and liabilities of these parties shall cease and determine, anything herein contained to the contrary notwithstanding. Buyer shall notify Seller and Seller's Agent of Buyer's election under (i) or (ii) within three (3) days by registered mail (return receipt requested) or by personal delivery after being notified by Seller that a mortgage commitment was not obtained. In the event that Buyer fails to notify Seller of this election to cancel the contract under (ii) above within the prescribed time limit, buyer shall be obligated to proceed with the consummation of this Agreement, as if the condition and contingency were not a part hereof.

(e.) Seller agrees to permit inspection of the premises, for purposes of appraisal, by agents of any lending institution to which an application has been made hereunder.

(f.) Seller shall be under no obligation to commence construction until buyer has supplied Seller with a copy of the commitment called for herein.

(g.) Buyer agrees not to incur additional debt after the execution of this agreement which would interfere with Buyer's ability to obtain a mortgage commitment or keep it in effect. If Buyer incurs such debt and the mortgage application is rejected or the mortgage commitment is canceled as a result thereof, then Seller may elect to cancel this Agreement and retain all deposit monies.

(h.) If Buyer's mortgage commitment expires after Seller has commenced construction on Buyer's lot and the mortgage commitment is not renewed or extended, then Seller may elect to cancel this Agreement and retain all deposit monies.

Buyer initials \_\_\_\_\_

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Seller initials \_\_\_\_\_

7. **SETTLEMENT COSTS AND APPORTIONMENT.** At the time of settlement, Buyer agrees to pay all settlement charges, including title insurance, fire insurance, a reasonable service and conveyancing charge, and recording and acknowledgment fees. Buyer shall also pay \$495.00 to the Homeowner's Association for the capital start up fee as called for in the Declarations and Covenants. Buyer agrees as well to execute the Bond and Mortgage at such time and pay any charges charged by Buyer's lender. Buyer agrees to comply with all terms and conditions of the mortgage commitment. Taxes, water, and sewer charges shall be apportioned pro rata as of the date of settlement, which apportionments shall be based upon the fiscal years of the taxing authorities for which the subject taxes are levied. Applicable realty transfer taxes shall be borne equally by Buyer and Seller.

8. **SETTLEMENT.**

(a.) Settlement hereunder shall be held in accordance with the date set forth in Paragraph 3(e) hereof at Seller's office or at such other locations as Seller shall designate. The actual date of settlement shall be set by Seller and notice of said settlement date shall be sent to Buyer at least thirty (30) days before said settlement date.

(b.) In the event completion of construction is delayed due to inclement weather, strikes, government regulations, delay in obtaining or issuance of permits or mortgage commitments or approvals or inspection, or any act of God, storm, wind, or fire damage, unavailability of materials or failure of delivery of materials called for in the plans and specifications or any changes, alterations, additions, or modifications which are agreed to by the parties after the date of this Agreement, or for any other reason, the settlement date shall be extended until such as completion of the dwelling may require. However, at the time of settlement, the house and premises shall have been substantially complete which shall mean at such time as a Use and Occupancy Certificate is issued. Buyer hereby acknowledges that the above estimated time of completion on the part of the Seller is made as an accommodation to Buyer to assist Buyer in formulating further plans, but said settlement date shall not be considered of the essence of this Agreement. Seller is not responsible for and is hereby released from any loss, liability, expense, costs or incidental or consequential damages which may result by reasons of delay. If at the time of settlement, the unit is sufficiently complete to obtain a Use and Occupancy Certificate but minor work is incomplete or minor defects exist, Buyer agrees nevertheless to complete settlement, provided the Seller, at settlement, delivers to Buyer a letter whereby Seller agrees to complete or correct any such work or defects within a reasonable time. Seller will not escrow for any items not completed at the time of settlement. If the Buyer's mortgage lender requires an escrow, it will be the Buyer's responsibility to fund such escrow.

9. **DEFAULT BY SELLER.** If Seller shall default hereunder, Buyer's sole remedy shall be to be repaid the amounts theretofore paid by Buyer on account of the purchase price and of being reimbursed for reasonable title insurance company charges and reasonable mortgage application fees heretofore incurred, in which event this agreement shall terminate and neither of the parties shall have any further rights or obligations hereunder, provided, however, that if such default shall consist solely of Seller being unable at settlement to convey title as and to the extent set forth in paragraph 5 hereof, Buyer shall have the option of taking such title that Seller can give without abatement of price.

10. **DEFAULT BY BUYER.** If Buyer violates or fails to fulfill or perform any of the terms or conditions of this Agreement, all sums paid by Buyer on account of the sales price herein may be retained by Seller (a) as liquidated damages for such breach or (b) on account of the purchase price with a balance being recovered through a suit for specific performance or (c) as partial damages in the event Seller should elect to resell the property and claim against Buyer the

Buyer initials \_\_\_\_\_

Seller initials \_\_\_\_\_

amount of damages which Seller has incurred as a result of Buyer's breach. Seller shall have the option to elect any of the above remedies.

11. **SAMPLE HOUSE AND PLANS.** The house shall be completed substantially similar to the sample house (less any upgrades or decorator furnishings), which is situated at The Villas at Shadybrook and shall be in accordance with the "Standard Features" list attached hereto and made a part hereof. It is expressly understood and agreed that the furniture and house furnishings including without limitation, all special decorating effects, drapes, refrigerators, washers and dryers, landscaping, sod, signage, security systems, optional lighting, furnishings, wall paper, upgraded floor coverings, bath fixtures, other decorative features or extra cost items, as shown in or about any model homes are for display purposes only and are not considered a part of the premises being sold under this Agreement of Sale unless specifically itemized on Seller's Home Selection Form (Exhibit A). If the house to be constructed herein is not similar to the sample house, it will be completed substantially similar to the floor plans and elevations shown on the sales brochure, for the applicable model and shall also be in accordance with the "Standard Features" list attached hereto and made a part hereof. SELLER HAS THE RIGHT AT SELLER'S SOLE DISCRETION, TO MAKE SUBSTITUTIONS OF MATERIAL OF SUBSTANTIALLY EQUAL, OR BETTER QUALITY WHENEVER SELLER SHALL FIND IT NECESSARY OR EXPEDIENT TO DO SO, AND SELLER SHALL HAVE THE RIGHT TO MAKE ANY CHANGE IN THE CONSTRUCTION OF THE SAID PREMISES THAT SELLER MAY FIND NECESSARY IN THE COURSE OF CONSTRUCTION OF WHICH ARE REQUIRED BY GOVERNMENT REGULATION. Buyer hereby acknowledges that the house which Buyer has selected may be constructed as either a "right hand" house or a "left hand" house (i.e., a house having a front elevation with the garage door to the right is a "right hand" house or a "left hand" house (i.e., a house having a front elevation with the garage door to the left is a "left hand" house). Buyer cannot be guaranteed, prior to construction, which "hand" the house will be. Seller has the sole discretion to establish all vertical and horizontal contours of grading. It is agreed that the plans for said building and/or sample house referred to above have been inspected by Buyer or Buyer's duly authorized agent, and that the above premises are being purchased by Buyer as a result of said inspection and not upon any representation made by Seller, or any salesman or selling agent or *any* other person whatsoever.

12. **GRUBBING, CLEARING, GRADING AND SEEDING.** The grounds shall be finish graded, using on site sod and the areas disturbed shall be seeded for grass. All grading and seeding shall be completed in a manner within the sole discretion of Seller.

Seller will attempt to preserve as many of the existing trees or shrubs as reasonably possible during the construction of the improvement and house on the premises. It is expressly agreed, however, that Seller does not guarantee or warrant the survival of any of the trees or shrubs existing on the premises prior to the said construction.

As to quantity or quality of growth of grass, it is Buyer's responsibility to water, fertilize and reseed as necessary. Any soil washouts from rain or melting snow or burnouts due to droughts after settlement are the sole responsibility of Buyer. Further, if such grading, seeding and walkways cannot be completed prior to settlement due to inclement weather, settlement shall nonetheless take place in accordance with the terms hereto; and seller's only obligation shall be to complete same at such time after settlement as weather and Seller's scheduling permit, with Buyer agreeing that escrow for same is not required.

Buyer initials

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Seller initials

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13. **POSSESSION.** Possession will be given by Deed upon completion of final settlement and full payment of the balance of the funds called for under this agreement together with all costs of settlement. THE ACCEPTANCE OF KEY OR DEED OR ENTRY INTO POSSESSION OF ANY PART OF THE PREMISES BY BUYER IS AN ACCEPTANCE BY BUYER OF COMPLETION. IT IS HEREBY AGREED THAT, AFTER SETTLEMENT IS MADE AND/OR KEY IS ACCEPTED AND/OR ENTRY INTO POSSESSION OF ANY PART OF THE PREMISES BY BUYER, CLAIMS OR DEMANDS OF ANY KIND WILL BE LIMITED TO THOSE PROVIDED FOR IN PARAGRAPH #21 BELOW.

14. **NO RECORDING.** This agreement shall not be logged in any public office for recording. Any such unauthorized recording shall be deemed a material breach of this Agreement.

15. **WAIVER OF TENDER.** Formal tender of deed and tender of monies are hereby waived.

16. **TIME OF ESSENCE.** Except where stated to the contrary, anytime, wherever mentioned herein shall be of the essence of this Agreement.

17. **RISK OF LOSS.** Damage by fire or other casualty prior to settlement shall not void this Agreement provided that Seller shall rebuild the house as quickly as is reasonably practical and the date of settlement shall be automatically extended by the appropriate period required to allow Seller to rebuild the house aforesaid.

**18. CONDITIONS TO SELLER'S OBLIGATIONS.**

(a.) It is understood that this Agreement is made subject to the written approval of the Seller. Deposit of check or cash offered shall not create a binding agreement unless such agreement is approved in writing as herein provided.

(b.) If seller for any reason, cannot construct or complete the premises due to any present or future rules, regulations, or restrictions by Federal, State or Municipal Governments, or any agency thereof (or if the terms of this Agreement do not comply with such rules, regulations, or restrictions), or if Seller is unable to construct or complete the premises by reasons of unanticipated sub-surface drainage and/or latent conditions at the site or as a result of any conditions beyond Seller's control or as a result in a change in circumstances occurring after the date of the Agreement which would impose a severe hardship on Seller, Seller shall have the right to cancel this Agreement upon written notice to Buyer, delivered prior to settlement, in which event Seller shall return to Buyer, without interest, the full deposit monies, and in such event Seller shall have no further liability whatsoever to Buyer.

(c.) If Buyer has made a misstatement of material fact relating to this Agreement of Sale, or the mortgage application, Seller, at its option, may cancel this Agreement by returning to Buyer the sum or sums paid on account of the purchase price, without interest and this Agreement shall therefore become null and void, neither party shall have any further liability to the other.

19. **NO ENTRY.** Because of dangers involved in construction areas, buyer agrees not to enter upon the premises or into any portion of the dwelling to be constructed thereon or at any time to, interfere in any manner with construction upon the premises unless and until accompanied by a representative of the Seller. Buyer shall, in advance, contact Seller or Seller's representative at Seller's office or such sub office or location as Seller may designate in order to arrange any inspection

Buyer initials \_\_\_\_\_

Seller initials \_\_\_\_\_

of the premises or the dwelling to be constructed. Seller shall not be responsible for any physical injury or damage to property caused by any unauthorized entry by Buyer and Buyer hereby relieves Seller and Seller's agents, employers, or workmen of any liability and holds Seller and Seller's agents, employees and workmen harmless from any and all liability or claims arising out of any unauthorized entry. Buyer further agrees not to do *any* work on the premises or have anyone do work on Buyer's behalf on the premises, prior to settlement.

**20. SELECTIONS.**

(a.) Selections and/or options as listed on the Home Selection Form shall be made by Buyer within thirty (30) days after execution of this Agreement or within five (5) days after notice from Seller directing Buyer to do so. In the event Buyer fails to make such selections within the stipulated time, Seller is hereby authorized to make selections for buyer at Seller's discretion within the standard allowances. If material colors are unavailable as selected by Buyer, Seller will substitute with like colors. If like colors are unavailable, a change order must be agreed to in writing between Seller and Buyer for a color substitution. If a color substitution is necessary, Seller will advise Buyer of the necessary substitution. Buyer must immediately accept or reject the substitution offered. If no response is received from Buyer, the Seller reserves the right to substitute colors as Seller so chooses.

(b.) Buyer may select such options only by submitting to Seller, on Seller's form, a written authorization of Seller for such options together with payment of one-half (1/2) of the cost of the Seller's standard options. Any custom options would be paid for in full prior to the start of construction. Seller promises to convey as part of the dwelling, such extras as shall be scheduled and agreed upon be the parries. Except for the inclusion of the enumerated extras as fully set forth, no changes in construction or in completion ordered by Buyer will be made unless authorized in writing by Buyer at a cost agreed upon and approved by Seller in writing. In the event Buyer desires to select any additional extras or to make any other changes after the Agreement of Sale and Extras Agreement have been signed by bother parties, they may do so under the following conditions:

(i.) Buyer will immediately pay to Seller the exact cost of such changes or extras. In the event that the Seller does not obtain said money, the extras or changes will not become part of the Agreement.

(ii.) In the event that settlement is not held under the terms of this Agreement for any reason other than default by Seller, any monies paid to Seller for extras ordered shall in no instance be refunded.

(iii.) Seller's responsibility for omission of any option shall be limited to the cost paid by Buyer therefore, any such omission shall not invalidate the Agreement.

(iv.) Buyer will be charged ONE HUNDRED FIFTY DOLLARS (\$150.00), to amend the related documents and change orders. Said payment is due upon the signing of the Agreement regarding the changes or extras if approved by Seller.

**21. WARRANTY PROVISION.**

(a.) In accordance with the Pennsylvania Uniform Planned Community Act, 68 Pa. C.S. et seq.(the "Act"), Seller will cause to be corrected "structural defects" on the premises for two (2) years from the date the premises is conveyed to the Buyer at closing. The Act defines the term "structural defects" as defects in any structure which is a component of the premises or any other portion of the premises constructed, modified, altered or improved by or on behalf of the Seller; any of which reduce the stability or safety of the structure below accepted standards or restrict the normal intended use of the structure and which require repair, renovation, restoration or replacement .

Buyer initials \_\_\_\_\_

Seller initials

(b.) In addition to the warranties provided by the Act, subject to paragraph 13 of the Agreement, Seller agrees to guarantee and warrant all work and materials for a period of one (1) year against any defects in workmanship or materials provided such defects do not result from work or alterations by buyer or other on Buyer's behalf. Buyer agrees to notify Seller in writing of all complaints or defects in workmanship or materials. Seller shall make reasonable and necessary repairs or adjustments without cost to Buyer within sixty (60) days, weather and labor conditions permitting and emergencies excepted. Buyer shall not be entitled to any damages, monetary or otherwise, from Seller for defective workmanship or materials unless buyer notifies Seller of said defects and grants Seller the right to repair and correct said defects pursuant to the paragraph. The provisions of this warranty shall not apply if there is any money due and owing to Seller pursuant to this Agreement.

(c.) The provisions of this warranty shall cover all phases of construction for a period of one (1) year from date of occupancy or date of completion of Buyer's dwelling, whichever occurs first, except as otherwise specified by the manufacturer's warranty on individual equipment incorporated in the dwelling, in that case the manufacturer's warranty shall apply.

**THE LIMITED WARRANTY OF THIS AGREEMENT IS THE ONLY WARRANTY APPLICABLE TO THE PREMISES. NO IMPLIED WARRANTY (WHETHER OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE), IS GIVEN ON PORTIONS OF THE PREMISES OTHER THAN CONSUMER PRODUCTS. THE SELLER DOES NOT ASSUME ANY LIABILITY OR OBLIGATION ON ACCOUNT OF REPRESENTATIONS MADE BY ANY OTHER PERSON. THE OBLIGATION OF SELLER IS LIMITED SOLELY TO THE REPAIR OR REPLACEMENT OF THE DEFECTIVE COMPONENT AND DOES NOT EXTEND TO ANY DAMAGE OR HARM RESULTING THEREBY OR THEREFROM. EXCEPT AS SET FORTH ABOVE, THE PREMISES IS BEING SOLD "AS IS". THE SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES OR PERSONAL INJURIES ARISING FROM BREACH OR ANY OF THE LIMITED WARRANTIES DESCRIBED IN THIS AGREEMENT. IF ANY DEFECT IS DISCOVERED DURING THE APPLICABLE WARRANTY PERIOD, THE SELLER SHALL HAVE THE EXCLUSIVE RIGHT TO DETERMINE WHETHER THE DEFECT SHALL BE CORRECTED BY REPAIR, ADJUSTMENT OR REPLACEMENT. NO LIMITED WARRANTY CONTAINED HEREIN COVERS A DEFECTIVE PORTION OF THE PREMISES WHICH HAS BEEN SUBJECT TO ALTERATION, MISUSE OR ACCIDENTAL DAMAGE (CAUSED BY PERSONS OTHER THAN SELLER'S EMPLOYEES AND AGENTS), OR HAS NOT BEEN AFFORDED REASONABLE CARE. BUYER AGREES THAT SELLER SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES, LIABILITIES, CLAIMS OR LOSSES INCURRED BY BUYER ARISING OUT OF OR RELATING TO MOLD OR ANY OTHER FUNGUS OR AGENT, WHETHER OR NOT ASSOCIATED WITH ALLEGED DEFECTS IN CONSTRUCTION, INCLUDING, BUT NOT LIMITED TO, PROPERTY DAMAGES, PERSONAL INJURY, ADVERSE HEALTH EFFECTS, LOSS OF INCOME, EMOTIONAL DISTRESS, DEATH, LOSS OF USE OR LOSS OR VALUE AND BUYER HEREBY RELEASES SELLER FROM SAME.**

(d.) The limited warranty set forth herein above is provided to protect Buyer from faulty construction and defective materials. Warranties on appliances, equipment and other items which are consumer products for purposes of the Magnuson-Moss Warranty Act will not be effective after the stated term of the manufacturer's warranty on that item. Buyer understands and agrees that shrinkage, settlement and items of a similar nature, and the results thereof; are a normal development of new construction and are not an indication of poor workmanship or defective materials. Buyer also understands and agrees that the repair thereof is normal maintenance. The parties hereto agree that the cost of these repairs are not included in this limited warranty and shall be responsibility of Buyer.

Buyer initials \_\_\_\_\_

Seller initials \_\_\_\_\_

**22. INSULATION EFFICIENCY.**

(a.) Exterior fire walls will be insulated with fiberglass batt insulation to a thickness of 3-1/2", which thickness, according to the manufacturer will result in an R-value of R-13. The total wall system shall be R-16.

(b.) Ceiling exposed to one side cold and to one side heat shall be insulated with fiberglass bat or brown fiberglass wool insulation to a minimum thickness of 9-1/2", which thickness according to the manufacturer, will result in an R-value of R-30.

This disclosure is made in accordance with the Federal Trade Commission's Regulation 16 CFR 460.

23. **ENTIRE AGREEMENT.** This writing and the Exhibits attached here to, contains the entire agreement between the parties and no agent, representatives, salesman or officer of the parties hereto has the authority to make or has made any statement, agreement, representation, or contemporaneous agreement, oral or written, in connection therewith modifying, adding to or changing the terms and conditions set forth herein, No dealing between the parties shall be permitted to delete, contradict, vary or add to the terms thereof. No modification of this Agreement shall be binding unless such modification shall be in writing and signed by the parties hereto. This Agreement and any written modification, if any, shall not be deemed binding unless signed by an Officer of the Seller's Limited Partnership.

24. **OFFSETS.** Anything herein above to the contrary notwithstanding, Seller may at it's option deduct from any deposit monies to be refunded under provision of this Agreement to Buyer, any unpaid charges for which Buyer may be liable, including but not limited to the unpaid costs of *any* changes and or additions ordered by buyer .

25. **NO ASSIGNMENT.** This Agreement shall not be assigned or transferred by the Buyer without the written consent of the Seller being first had and obtained. Subject to the provision regarding assignment by the Buyer, this Agreement shall extend to and bind the heirs, administrators, successors and assigns of the respective parties hereof.

26. **NOTICES.** Notices to Seller hereunder, shall be given by registered or certified mail, postage prepaid, return receipt requested, addressed to Seller at the address on page one hereof.

27. **CAPTIONS.** The headings in the Agreement are for convenience of reference only and shall not affect the construction hereof.

28. **EQUITABLE OWNER.** Buyer acknowledges that Seller is the equitable owner of the tract of ground which is the subject of this Agreement of Sale. Buyer further acknowledges that at settlement, the deed to buyer may be from the legal owner of the property but that Buyer's dealings and contractual relationships have solely been with Seller and Buyer agrees to indemnify and hold harmless the legal owner from any claim or cause of action arising out of the construction of the home contemplated herein including reasonable attorney's fees.

29. **GOVERNING LAW.** This Agreement shall be governed by the laws of the commonwealth of Pennsylvania.

**30. BROKER.**

(a.) It is expressly understood and agreed between the parties that the within named agent, broker and any sub-agent, broker and their sales people, employees, *officers* and/or partners are the agents for Seller, not Buyers. Said individual will in no case be liable to either party for the performance of any of the terms or covenants of the Agreement or

Buyer initials \_\_\_\_\_

Seller initials \_\_\_\_\_

for damages for non-performance thereof. Furthermore, no Agent of Seller has any authority to make any representations, covenants, agreements, or the like, in respect of the premises. Agent, however, may perform services for the Buyer in connection with financing, insurance and document preparation. Although Buyer is free to order title insurance from any company it chooses, the Buyer is hereby specifically authorizing the Broker to place title insurance for said purchase with Manorview Abstract Company, an agent for Commonwealth Land Title Insurance Company. Manorview and owner have a common ownership. Buyer further authorizes Seller's agent to prepare documents and other conveyancing services for settlement.

(b.) Buyer warrants and represents that Buyer has made no agreement and has had no dealings, negotiations or communications with any brokers, finders or other intermediaries, nor has Buyer taken any action which may cause anyone to become entitled to a commission as a result of the purchase and sale contemplated by this Agreement. Buyer will indemnify, defend and hold seller harmless from any claims, actual or threatened, for compensation by reason of Buyer's breach of it's representation, warranty or obligation contained in this section. This provision shall survive closing and any termination of the Agreement.

(c.) The legislature and the State Real Estate Commission require that certain language be included in all Agreements of Sale, whether or not is is applicable. Those disclosures are as follows:

(I) A Real Estate Recovery Fund exists to reimburse any person who has obtained a final civil judgment against a Pennsylvania real estate licensee owing to fraud, misrepresentation, or deceit in a real estate transaction and who has been unable to collect the judgment after exhausting all legal and equitable remedies. For complete details about this Fund, call (717) 783-3658.

(II) The broker is the agent of the Seller.

(iii) The failure of the Agreement of Sale to contain the zoning classification of the property shall render the Agreement void and deposits tendered by the Buyer shall be returned to the Buyer without a requirement of court action. The zoning classification of the property is R-3 (Adult Residential District).

(IV) Access to a public road may require issuance of a Highway Occupancy Permit from the Department of Transportation. Seller has arranged all necessary Highway Occupancy Permits.

31. **ARBITRATION.** All claims, disputes and other matters in question arising out of or relating to this Agreement of Sale or the breach thereof shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then pertaining, unless the parties mutually agree otherwise. This Agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrator shall be final and judgment may be entered upon it in accordance with applicable law and any court having jurisdiction thereof.

32. **INTERSTATE LAND SALES ACT.** Buyer and Seller recognize that this sale is exempt from the Interstate Land Sales act by reason of Seller's absolute obligation to erect the house within two years of the date Buyer signs this contract. Should Seller for any reason fail to so construct the improvements within this two year period, buyer's sole remedy shall be to be repaid the deposit and option payments and to be reimbursed for reasonable title insurance company charges and loan application fees paid by Buyer. Should such delay be excused under State law by Acts of God, casualty or other delays completely beyond the control of Seller, such delay shall not excuse Seller's performance, but may delay their same only by the number of days of delays as outlined herein.

Buyer initials \_\_\_\_\_

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Seller initials \_\_\_\_\_

**33. EXHIBITS:**

Exhibit "A" = Home Selection Form (to be completed in accordance with paragraph 20)

Exhibit "B" = Standard Features List

Exhibit "C" = Site Plan

IN WITNESS WHEREOF, the said parties hereto, intending to be legally bound hereby, have hereunto set their hands and seals the day and year below written.

The above contract is hereby approved.

SELLER: Five Ponds Enterprises, L.P.

Buyer:

By \_\_\_\_\_

By \_\_\_\_\_

Attest: \_\_\_\_\_

Co-Buyer:

Date: \_\_\_\_\_

By:

Witness: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer initials \_\_\_\_\_

Seller initials \_\_\_\_\_

# DECLARATION RECEIPT

DAIE: \_\_\_\_\_

HOMEBUYERS : \_\_\_\_\_

LOT#: \_\_\_\_\_

We hereby acknowledge receipt of a copy of the Public Offering Statement, Declaration and bylaws for the Villas at Flowers Mill at Five Ponds, a planned community.

HOMEBUYER: \_\_\_\_\_ DATE: \_\_\_\_\_

HOMEBUYER: \_\_\_\_\_ DAIE: \_\_\_\_\_

## INFORMATION FOR PROSPECTIVE BUYERS

The following items are provided in order to assist you to a more complete understanding of the real estate transaction and to fulfill our responsibility as required by law. Please read them and sign where indicated. Thank you for your cooperation.

1. Agency. As a buyer(s), you should know that the listing and selling brokers and sales associates are licensed agents for the Seller unless otherwise specified. They have a fiduciary responsibility to the Seller who is their client and will pay their commission.

However, both listing and selling brokers and sales associates are obliged by law to treat you fairly and honestly. They must; (1) present all offers to the Seller as soon as possible and (2) respond honestly and completely to questions concerning the property.

2. Equal Housing Opportunity. Brokers and sales associates are required by law and/or the National Association of Realtors Code of Ethics to treat all parties in a real estate transaction fairly without regard to race, religion, national origin, ancestry, sex, age, marital status, sexual orientation, presence of children, physical or mental handicaps or familial status.

3. Real Estate Recovery Fund. "A Real Estate Recovery Fund exists to reimburse any person who has obtained a final civil judgment against a Pennsylvania real estate licensee owing to fraud, misrepresentation, or deceit in a real estate transaction and who has been unable to collect the judgment after exhausting all legal and inequitable remedies. For complete details about the fund, call (717) 783-3658."

4. Legal Requirement. All contracts for real property are required to be in writing in order to be enforceable and to comply with the law. The Agreement of Sale will be a legally binding document. You may wish to have legal counsel review all documentation prior to signing and to represent you pertaining to all legal documentation and it's interpretation.

I/We have received a copy of this information and have read and understood it.

BUYER            DATE

BUYER            DATE

VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION  
PRO FORMA BUDGET ANALYSIS PRO FORMA BUDGET

280 Units

<b>INCOME</b>	
Assessments	\$ 588,000
<b>TOTAL INCOME</b>	<u>\$ 588,000</u>

***General Administrative***

<b>EXPENSES</b>	
Management Service	\$ 47,040
Office & Administrative	6,800
Contingency	3,860
Insurance	3,600
Repairs & Maintenance	3,400
Legal & Accounting	2,500
<b>EXPENSES</b>	<u>\$ 67,200</u>

***Common Area***

<b>EXPENSES</b>	
Grounds Maintenance	\$ 37,400
Snow Removal	23,000
Site Lighting & Electricity	10,160
<b>SUBTOTAL</b>	<u>\$ 70,560</u>
<b>CAPITAL RESERVE</b>	<u>20,160</u>
<b>EXPENSES &amp; RESERVE</b>	<u>\$ 90,720</u>

***Recreation Area***

<b>EXPENSES</b>	
Cleaning & Supplies	\$ 27,000
Community Building Utilities	22,000
Pool Service & Maintenance	22,000
Insurance	6,000
Repairs & Maintenance	6,000
Sewer & Water	3,000
Community Building Supplies	2,400
Telephone & Cable	2,400
Security	1,500
Contingency	1,280
Trash Removal	500
<b>SUBTOTAL</b>	<u>\$ 94,080</u>
<b>CAPITAL RESERVE</b>	<u>26,880</u>
<b>EXPENSES &amp; RESERVE</b>	<u>\$ 120,960</u>

***Private Lots***

<b>EXPENSES</b>	
Grounds Maintenance	\$ 118,720
Snow Removal	56,000
Trash Removal	53,760
<b>SUBTOTAL</b>	<u>\$ 228,480</u>
<b>CAPITAL RESERVE</b>	<u>80,640</u>

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**EXPENSES & RESERVE**

\$ 309,120

**TOTAL EXPENSES & RESERVE**

\$ 588,000

**INCOME**

**Assessments:** The monthly assessment is projected at \$175. Until the recreation facilities have been completed and are available to the membership, the initial monthly assessment will be reduced to \$139, as \$36 of the projected monthly assessment is for the expense related to the recreation area. This amount also includes \$27 for maintenance of the common area.

**General Administrative**

**EXPENSES**

**Management Service:** The Association will be managed by a professional management company, which will operate under the direction of the Board of Directors and independently from the developer. Management includes administrative, financial and common-area maintenance administration.

**Office & Administrative:** Includes the cost of Association stationery, office supplies, postage, mailing, bank service charges, copying, assessment coupons, court costs and Board expenses.

**Contingency:** An amount provided for discretionary spending by the Board of Directors.

**Insurance:** The Association will maintain insurance on the Association's common property, Directors' & Officers' liability coverage and general liability insurance. Owners are responsible for insuring their entire homes, including building and contents coverage, as well as liability insurance.

**Repairs & Maintenance:** Includes the cost of all general common-area maintenance. The monthly expense is projected at an average of cost of \$250, plus \$400 for common-area extermination service.

**Legal & Accounting:** Provides funds for an accountant to prepare the year-end financial statement and tax return, and routine legal activity.

**Common Area**

**EXPENSES.**

**Grounds Maintenance:** The Association is responsible for maintaining the common lawn area. This includes the entrance areas, the area around the recreation facilities, the basins and the common areas along the perimeter of the property. The budget includes 26 mowings and 8 edgings per season, spring and fall cleanup, mulching and edging of the common-area shrubbery beds, annual trimming of the common-area shrubbery, turf applications, planting of entrance-area flowers and weeding of the common areas. The budget also includes \$2,400 for non-contracted services, to be spent by the Board as required, for the maintenance, replacement and improvement of the existing landscaping.

**Snow Removal:** The Association is responsible for plowing snow from all of the roads and public parking areas in the community when there is an accumulation of two or more inches of snow. All snow accumulation will be removed from the common sidewalks. The budget is based on six average snowfalls, at an average cost of \$3,800 per service.

**Site Lighting & Electricity:** The Association is responsible for electricity to the streetlights and pond aerators, as well as illumination of the entrance signs. The projected monthly cost is \$847.

**CAPITAL RESERVE** The annual contribution to the Association's capital reserve fund for the common areas is \$20,160, or a monthly unit contribution of \$6.

### **Recreation Area**

#### **EXPENSES**

**Cleaning & Supplies:** Provides for janitorial supplies and weekly cleaning of the Community Building.

**Community Building Utilities:** Includes the expense for the Community Building's electricity, including service to the pool pumps and filters. The budget is based on a cost of \$1,833 per month.

**Pool Service & Maintenance:** The Association will maintain two pools. The indoor pool will operate year-round. The outdoor pool will open on Memorial Day and close on Labor Day. The budget includes weekly cleaning and maintenance service when the pools are in operation, **but does not provide for lifeguard service.** The budget also includes \$2,000 for miscellaneous pool supplies.

**Insurance:** Includes the cost of insuring the Community Building and recreational facilities.

**Repairs & Maintenance:** Provides for maintenance of the Association's recreation facilities, based on an expense of \$500 per month.

**Sewer & Water:** Provides funds for water and sewer charges for the Community Building and the two swimming pools.

**Community Building Supplies:** Provides funds for miscellaneous Community Building supplies, excluding janitorial supplies, furniture and equipment.

**Telephone & Cable:** Includes the cost of the Association's telephone lines and television cable service.

**Security:** Includes the cost of monitoring and maintaining the security system for the Community Building.

PRO FORMA BUDGET ANALYSIS

Page 3

**Contingency:** An amount provided for discretionary spending by the Board of Directors.

**Trash Removal:** Provides for the cost of trash removal service for the Community Building.

**CAPITAL RESERVE** The annual contribution to the Association's capital reserve fund for the recreation areas is \$26,880, or a monthly unit contribution of \$8.

***Private Lots***

**EXPENSES**

**Grounds Maintenance:** Provides for 26 mowings, mulching and edging of the shrubbery beds in the spring, edging of the curbs and sidewalks on a monthly basis, annual trimming of the shrubbery, and 4 turf applications. Owners are responsible for replacement for the developer-installed shrubbery surrounding their villa units, and weeding of the mulched areas.

**Snow Removal:** The Association is responsible for providing snow removal service to the private driveways and walks. Driveway service will be performed when there is an accumulation of two or more inches of snow. All snow accumulation on the sidewalks will be removed. The budget is based on six average snowfalls, at a cost of \$9,333.

**Trash Removal:** Trash removal and recycling service will be provided once per week. The projected monthly cost is \$16 per unit.

**CAPITAL RESERVE** The Association is responsible for replacing the roof shingles at the end of their anticipated 30-year life, and repainting the exterior painted

surfaces of the villas on a five-year basis. The annual contribution to the reserve fund is \$80,640, or a monthly unit contribution of \$24.

VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION  
FIRST YEAR PRO FORMA BUDGET

80 Units

<b>INCOM</b>		
Assessments		\$ 134,400
<b>TOTAL INCOME</b>		<u>\$ 134,400</u>

***General Administrative***

<b>EXPENSES</b>		
Management Service		\$ 13,440
Insurance		2,000
Office & Administrative		1,940
Legal & Accounting		1,500
Repairs & Maintenance		840
Contingency		440
	<b>EXPENSES</b>	<u>\$ 20,160</u>

***Private Lots***

<b>EXPENSES</b>		
Grounds Maintenance		\$ 33,920
Snow Removal		16,000
Trash Removal		15,360
	<b>SUBTOTAL</b>	<u>\$ 65,280</u>
<b>CAPITAL RESERVE</b>		<u>23,040</u>
	<b>EXPENSES &amp; RESERVE</b>	<u>\$ 88,320</u>

***Common Area***

<b>EXPENSES</b>		
Grounds Maintenance		\$ 10,600
Snow Removal		6,600
Site Lighting & Electricity		2,960
	<b>SUBTOTAL</b>	<u>\$ 20,160</u>
<b>CAPITAL RESERVE</b>		<u>5,760</u>
	<b>EXPENSES &amp; RESERVE</b>	<u>\$ 25,920</u>

***Recreation Area***

<b>EXPENSES</b>		
Cleaning & Supplies		\$ 0
Pool Service & Maintenance		0
Community Building Utilities		0
Repairs & Maintenance		0
Insurance		0
Sewer & Water		0
Telephone & Cable		0
Community Building Supplies		0
Security		0
Trash Removal		0
	<b>SUBTOTAL</b>	<u>\$ 0</u>
<b>CAPITAL RESERVE</b>		<u>0</u>
	<b>EXPENSES &amp; RESERVE</b>	<u>\$ 0</u>

<b>TOTAL EXPENSES &amp; RESERVE</b>	<u>\$ 134,400</u>
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VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION  
FIRST YEAR PRO FORMA BUDGET ANALYSIS

80 Units

**NCOME**

**Assessments:** The monthly assessment is projected at \$140. This includes \$27 for maintenance of the common areas, and excludes the expense for the recreation areas, as they will not be available during the first year of operation.

**General Administrative**

**EXPENSES**

**Management Service:** The Association will be managed by a professional management company, which will operate under the direction of the Board of Directors and independently from the developer. Management includes administrative, financial and common-area maintenance administration.

**Insurance:** The Association will maintain insurance on the Association's common property, Directors' & Officers' liability coverage and general liability insurance. Owners are responsible for insuring their entire homes, including building and contents coverage, as well as liability insurance.

**Office & Administrative:** Includes the cost of Association stationery, office supplies, postage, mailing, bank service charges, copying, assessment coupons, court costs and Board expenses.

**Legal & Accounting:** Provides funds for an accountant to prepare the year-end financial statement and tax return, and routine legal activity.

**Repairs & Maintenance:** Includes the cost of all general common-area maintenance. The monthly expense is projected at an average of cost of \$60, plus \$120 for common-area extermination service.

**Contingency:** An amount provided for discretionary spending by the Board of Directors.

**Private Lots**

**EXPENSES**

**Grounds Maintenance:** Provides for 26 mowings, mulching and edging of the shrubbery beds in the spring, edging of the curbs and sidewalks on a monthly basis, annual trimming of the shrubbery, and 4 turf applications. Owners are responsible for replacement for the developer-installed shrubbery surrounding their villa units, and weeding of the mulched areas.

VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION  
FIRST YEAR PRO FORMA BUDGET ANALYSIS

Page 2

**Snow Removal:** The Association is responsible for providing snow removal service to the private driveways and walks. Driveway service will be performed when there is an accumulation of two or more inches of snow. All snow accumulation on the sidewalks will be removed. The budget is based on six average snowfalls, at a cost of \$2,667 each.

**Trash Removal:** Trash removal and recycling service will be provided once per week. The projected monthly cost is \$16 per unit.

**CAPITAL RESERVE** The Association is responsible for replacing the roof shingles at the end of their anticipated 30-year life, and repainting the exterior painted surfaces of the villas on a five-year basis. The annual contribution to the reserve fund is \$23,040, or a monthly unit contribution of \$24.

**Common Area**

**EXPENSES**

**Grounds Maintenance:** The Association is responsible for maintaining the common lawn area. This includes the entrance areas, the area around the recreation facilities, the basins and the common areas along the perimeter of the property. The budget includes 26 mowings and 8 edgings per season, spring and fall cleanup, mulching and edging of the common-area shrubbery beds, annual trimming of the common-area shrubbery, turf applications, planting of entrance-area flowers and weeding of the common areas. The budget also includes \$700 for non-contracted services, to be spent by the Board as required, for the maintenance, replacement and improvement of the existing landscaping.

**Snow Removal:** The Association is responsible for plowing snow from all of the roads and public parking areas in the community when there is an accumulation of two or more inches of snow. All snow accumulation will be removed from the common sidewalks. The budget is based on six average snowfalls, at an average cost of \$1,100 per service.

**Site Lighting & Electricity:** The Association is responsible for electricity to the streetlights and pond aerators, as well as illumination of the entrance signs. The projected monthly cost is \$247.

**CAPITAL RESERVE** The annual contribution to the Association's capital reserve fund for the common areas is \$5,760, or a monthly unit contribution of \$6.

VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION  
FIRST YEAR PRO FORMA BUDGET ANALYSIS

Page 3

**Recreation Area**

*Since the recreation facilities will not be complete until after the first year of operation, no narrative has been included, as the cost for the recreation facilities will have no financial impact on the first year pro forma budget for 80 units.*

VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION  
CAPITAL RESERVE ANALYSIS

244 Units

**COMMON AREAS**

ITEM	SIZE / #		UNIT COST	TOTAL VALUE	LIFE/ YEARS	ANNUAL FUNDING
Roads	13,000	sy	\$ 7	\$ 91,000	25	\$ 3,640
<u>Parking</u>						
Paving	3,500	sy	7	24,500	25	980
Sealcoating	3,500	sy	1	3,500	7	500
<u>Fence</u>						
Split Rail	1,200	If	10	12,000	15	800
Aluminum	2,600	If	50	130,000	30	4,333
Sidewalks	20,000	sf	7	140,000	50	2,800
Signs	1	#	4,000	4,000	10	400
Guard House	1	#	2,000	2,000	20	100
Streetlights		29 #	3,000	87,000	40	2,175
Walking Path	940	sy	7	6,580	20	329
Pond Aerators		2 #	4,500	9,000	10	<u>900</u>
SUBTOTAL						\$ 16,957
CONTINGENCY FACTOR						<u>613</u>
ANNUAL CONTRIBUTION						<u>\$17 Z0</u>
MONTHLY UNIT CONTRIBUTION						\$6

\*Note: The projected monthly unit contribution of \$6 for all 280 units is based on the engineering information available for the initial 244 units. At the time the Capital Reserve Analysis was prepared, the engineering information for the potential 36 additional units was not available. When this information becomes available, and is included in the Analysis, the monthly unit contribution is anticipated to remain at \$6.

VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION  
CAPITAL RESERVE ANALYSIS

280 Units

**RECREATION AREA**

ITEM	SIZE / #	UNIT COST	TOTAL VALUE	LIFE/ YEARS	ANNUAL FUNDING
<u>Building</u>					
Roof	120 sq	\$ 200	\$ 24,000	25	\$ 960
Gutters/Downspouts	1,200 lf	5	6,000	30	200
Carpet	600 sy	30	18,000	10	1,800
Paint			15,000	5	3,000
Furniture/Equipment			100,000	20	5,000
HVAC			6,000	15	400
Wallpaper			8,000	10	800
<u>Pools</u>					
Filters/Pumps	2 #	5,000	10,000	10	1,000
Fence			10,000	25	400
Cover			4,000	8	500
Deck	1,857 sf	7	12,999	25	520
Furniture			10,000	5	2,000
Components			40,000	10	4,000
<u>Tennis Courts</u>					
Fence	360 lf	15	5,400	30	180
Net	1 #	200	200	4	50
Replacement			10,000	20	500
Resurfacing			4,000	10	400
Recreation Equipment			30,000	15	2,000
Lighting			25,000	25	1,000
			SUBTOTAL		\$ 24,710
			CONTINGENCY FACTOR		2,170
			ANNUAL CONTRIBUTION		\$ 26,880
			MONTHLY UNIT CONTRIBUTION		\$ 8

VILLAS AT FIVE PONDS COMMUNITY ASSOCIATION  
CAPITAL RESERVE ANALYSIS

280 Units

<u>ITEM</u>	<u>UNIT SIZE / #</u>	<b>PRIVATE LOTS</b>	<u>TOTAL LIFE/ VALUE YEARS</u>	<u>ANNUAL FUNDING</u>
Roof	8,680 sq	\$ 200 \$ 1,736,000	25	\$ 69,440
Paint	280 #	175	49,000	5 _ <u>9,800</u>
	SUBTOTAL			\$ 79,240
	CONTINGENCY FACTOR			_ <u>1,400</u>
	ANNUAL CONTRIBUTION			<u>\$ 80,64G</u>
	MONTHLY UNIT CONTRIBUTION			\$ 24
	TOTAL MONTHLY UNIT CONTRIBUTION			\$ 38

Note: Please note that the amounts reflected in the Capital Reserve Analysis for the common areas, recreation facilities and private lots do not include the initial capital contributions of \$495 collected at settlement from each owner. These capital contributions are placed in a separate and independent

EXHIBIT "E"  
Limited Warranty

**THE VILLAS AT FIVE PONDS**  
**LIMITED HOME WARRANTY AGREEMENT**

The following warranty outlines in detail the responsibilities we assume for construction of your home. Please take time to read this warranty carefully. Your understanding of our procedures will help us provide you with prompt and efficient service. This Warranty Agreement is not transferable.

For the purpose of the Warranty Agreement, the terms below have the following meaning:

A. Builder shall mean McGrath Homes.

B. FPHOA shall mean Flowers Mill Home Owners' Association.

C. Owner shall mean the Purchaser.

D. Appliances, Fixtures, and Equipment (including their fittings, attachments and controls) shall include but not be limited to furnaces, gas fireplaces, humidifiers, air conditioners and air handling equipment, ventilating fans, air conditioning condensers and compressors, water heaters, pumps ranges, garbage disposals, dishwashers, bathtubs, sinks, toilets, faucets and fittings, light switches, convenience outlets, circuit breakers, thermostats and controls. Builder has assigned all warranties received from manufacturers to Owner. **ALL APPLIANCES SHALL BE GOVERNED BY SUCH MANUFACTURER'S WARRANTY, AND BUILDER DOES NOT MAKE AND SHALL NOT BE DEEMED TO HAVE MADE ANY SEPARATE OR INDEPENDENT WARRANTY, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, CONDITION, DESIGN, OPERATION OR FITNESS FOR A PARTICULAR PURPOSE OF ANY OF THE APPLIANCES.** All fixtures and equipment for which there is no written manufacturer's warranty shall be warranted by Builder against defects under this Agreement for a period of one year. For warranty service on Appliances, Owner should call the manufacturer or his representative. Warranty service on Fixtures and Equipment covered by this Agreement shall be obtained under the warranty procedures described below.

E. Systems (exclusive of Appliances, Fixtures and Equipment) shall mean the following:

I. Plumbing Systems - all pipes and their fittings.

II. Electrical Systems - all wiring and connections, including electrical boxes.

III. Heating and Cooling Systems - all duct work, water pipes, refrigerant lines, registers, convectors and dampers.

The basic standards for the structural, mechanical, plumbing & electrical work are those contained in the BOCA Basic Building Code as supplemented or required by local government codes and regulations.

Subject to the foregoing, Builder provides the following warranty:

## **TWO YEAR WARRANTY RESPONSIBILITY**

### **I. SITE WORK:**

A. FPHOA shall be responsible for maintaining lawn areas in accordance with Homeowners' Association Documents.

B. Builder will return one time only the first year and fill in all excessively settled areas or washed out areas, but FPHOA shall be responsible for any grass, shrubs, or other landscaping affected by placement of fill. Once grading patterns are established, improper water drainage caused by alterations of grade by persons other than Builder, shall void this warranty, and Builder shall not be responsible for any related problems due to such altered drainage patterns. Owner should not plant any shrubs or erect or install any structures until after Builder has completed grading and landscaping within the first year and not without approval of the FPHOA Architectural Committee.

C. For the purpose of this warranty "Excessively Settled" shall mean an area greater than fifteen (15) square feet which has settled on average more than four (4) inches below grade, and "Excessively Washed Out" shall mean an area wider than six (6) inches and more than four (4) inches below grade which has become a water course for drainage other than swales which are part of the overall drainage plan.

### **H. SITE DRAINAGE:**

A. All grades and swales have been established in accordance with the approved subdivision plans and should not be altered by Owner. FPHOA . is responsible for maintaining such grades and swales upon completion of grading work by Builder.

B. No standing water should remain in the yard 24 hours after a rain, except swales which may drain as long as 48 hours after a rain, or sump pump discharge. No grading determination shall be made while there is frost in the ground.

### **M. CONCRETE:**

A. Non-structural cracks or heaving in concrete work of any kind are not unusual. However, cracks greater than the following tolerances will be repaired:

1. Cracks in basement floors exceeding 1/4" in width and 1/4" in vertical displacement;
2. Cracks in garage floor slabs exceeding 1/4" in width and 1/4" in vertical displacement;

## **VII. WATER INFILTRATION AND MOISTURE PROTECTION:**

A. Under slab air ducts (if any), basements and crawl spaces are warranted against penetration of free water (as distinguished from dampness which is characteristic of most basements and crawl spaces during the first year). This warranty does not cover condensation, backing-up of sewers or down-spouts, flash floods, hurricanes, leaks through windows which are not properly maintained or other events beyond Builder's control. The foregoing warranty will be voided if any person other than Builder has altered the finished grade adjacent to the house. Owner is responsible for maintaining down-spouts and gutters in working order.

B. If a leak occurs under the basement floor slab, Builder will furnish, at his option, and install a permanent sump pump.

C. Builder will repair and/or caulk joints or cracks in exterior wall surfaces which leak. Owner should understand that caulking may shrink and must be maintained for the life of the home.

## **VIII. DOORS AND WINDOWS:**

A. Warped interior passage doors or closet doors in excess of 3/8" will be replaced or repaired.

B. Warped garage doors in excess of 1/2" will be replaced or repaired.

C. Exterior wood doors warped in excess of 3/8" will be repaired.

D. Metals doors and windows not operating correctly will be adjusted, corrected or repaired as required.

E. Some infiltration of air around windows and doors is normal, especially during periods of high winds. Builder will adjust poorly fitted windows or doors as required.

## **IX: FINISHES:**

A. Colors of paint, siding, roofing and other materials are subject to color variation due to manufacturers' methods of processing, methods of mixing and application and variables in weather conditions, and are not warranted.

B. Defective work in drywall installation such as nail pops, cracks, blisters or trowel marks will be repaired or corrected once at the end of the first year to permit normal settling to stabilize. Owner is alerted, however, that repair of drywall does not include repainting of any wall area. Owner should do no permanent decorating such as wall paper until the end of the first year, and Builder will not be responsible for any permanent decorating affected by the repair.

C. Loose ceramic tiles will be repaired unless caused by Owner's negligence. Cracks in grouting or in joints as junctions with bathtub are not unusual due to normal shrinkage. Such

conditions will be part of normal homeowner maintenance.

D. Defective work in resilient flooring such as nail pops, gaps at seams in excess of 1/8", or loose tiles will be corrected as required. In the event that resilient flooring must be replaced, Builder cannot be responsible for discontinued patterns or color variations of floor covering. Builder is not responsible for upgrades.

#### X. PAINTING:

A. Where exterior paint peels, Builder shall properly repair and refinish areas, matching the color as closely as possible.

B. Where repairs are required due to leaks in the roof or wall surface, areas will be refinished to match the surrounding areas as closely as possible.

#### XI. CABINETS AND VANITIES:

A. Cabinet doors and drawers not operating properly will be repaired.

B. Cracks, delaminations and chips in laminated plastic countertops which occur prior to ownership will be repaired or replaced as required. Those occurring after pre-settlement inspection are the responsibility of Owner.

#### XII. MECHANICAL:

##### A. Plumbing:

1. Generally all piping adjacent to exterior walls is insulated to prevent freezing during normally anticipated cold weather. Builder will correct the condition responsible for pipe freezing and will repair piping damaged by freezing.

2. Builder will make and necessary repairs to eliminate pipe leakage. Condensation is not considered leakage and is not covered by this warranty.

3. Builder will repair or replace leaking faucets or valves unless leakage is due to a worn washer or packing which items are part of normal homeowner maintenance.

4. Fixtures or fittings not meeting manufacturer's standards will be replaced.

5. Builder is not responsible for sewers, pipes, fixtures and drains which are clogged though the Owner's negligence.

##### Heating and Air Conditioning:

1. If the heating system is not operating properly due to defective design, the Builder will take corrective action. If the heating system is not operating properly due to a defect in a component covered by the manufacturer's warranty, Owner

should proceed against the manufacturer in accordance with the procedures described in paragraph (see Page 1) relating to Appliances.

2. If the cooling system is not operating properly due to defective design, the Builder will take corrective action. If the heating system is not operating properly due to a defect in a component covered by the manufacturer's warranty, Owner should proceed against the manufacturer in accordance with the procedures described in paragraph (see Page 1) relating to Appliances.

3. Owner is responsible for replacement of filters, lubrication and other normal maintenance functions and for defects due to the failure to perform such maintenance functions.

#### **XIII. ELECTRICAL:**

A. Defective wiring, switches, fixtures and outlets will be repaired or replaced.

B. Defective electrical appliances covered by a manufacturer's warranty will be the responsibility of the manufacturer, and Owner should proceed against the manufacturer in accordance with the procedures described in paragraph ( see Page 1) relating to Appliances.

#### **XIV. ROOF:**

A. Builder will repair all roof leaks.

B. Roof shingles are subject to the manufacturer's warranty, and Builder gives no independent warranty with respect thereto.

C. The warranty will be voided if the roof is used for any activity or any appurtenance such as a TV antenna or satellite dish.

### **CONDITIONS OF WARRANTY**

**THE WARRANTY CONTAINED HEREIN IS DESIGNED TO PROTECT THE PURCHASER FROM FAULTY CONSTRUCTION AND DEFECTIVE MATERIALS. THE WARRANTY DOES NOT APPLY TO DEFECTS CAUSED BY NORMAL WEAR AND TEAR OR BY ACTS OF NATURAL DISASTERS BEYOND THE CONTROL OF BUILDER BUILDER DOES NOT MAKE AND SHALL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, RELATING TO THE HOME AND APPLIANCES, FIXTURES AND EQUIPMENT THEREIN OTHER THAN AS SPECIFICALLY SET FORTH HEREIN. NO PERSON HAS BEEN AUTHORIZED TO MODIFY THE TERMS HEREOF AND BUILDER WILL NOT ASSUME ANY LIABILITY OR OBLIGATION ON ACCOUNT OF REPRESENTATIONS MADE BY ANY AGENT OR OTHER PERSON.**

Builder shall not be liable for:

1. Loss or damage caused by alterations or corrective work to the home, its appliances, fixtures, systems and equipment undertaken by parties other than Builder.
2. Consequential damage caused by any defect, including personal injury or damage to personal property of Owner or any third party; Builder's obligations for any such defect being strictly limited to a replacement and repair to such defect.

All requests for repairs of warranted items must be received by Builder via CERTIFIED MAIL prior to two years from the date of settlement of Owner's home.

Builder's service number for **emergency repairs only** is 215-757-4700.

Please send request for repairs to:

CUSTOMER RELATIONS MANAGER

1262 WOOD LANE  
SUITE 207  
LANGHORNE, PA 19047

**Permit/Approval**

Building Permits

Certificate of Occupancy

EXHIBIT "F"  
Permits/Approvals

**Expiration Date/Comments**

*To be obtained prior to the construction of  
each Unit*

*To be obtained prior to the occupancy of each  
Unit*