



COVENANTS OF  
BLACKTHORNE ESTATES, INC.



THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BLACKTHORNE ESTATES PHASE I is made this January 1, 1996, by WENDLER CONSTRUCTION INC., a Pennsylvania Corporation, hereinafter referred to as "Declarant"; Plan Vol. 90, page 2629 thru 2631.

Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the Plan (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Plan. Declarant desires to provide a flexible and reasonable procedure for the phase by phase development of the Plan, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such property as is now or hereafter subjected to this Declaration;

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property as is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Plan or any additional tracts added thereto, or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof. This Declaration does not and is not intended to create a condominium within the meaning of the Pennsylvania Uniform Condominium Act, 68 Pa. C.S.A. 3101 et seq.

ARTICLE I  
DEFINITIONS

As used in these Declaration of Restrictions, the following terms shall have the meanings designated:

1.1. "Architectural Control Committee" means the committee of the Homeowners' Association established by Bylaws of the Homeowners' Association to implement and approve the architectural control provisions under Articles III and V of these restrictions.

1.2. "Architectural Prints" means:

- (a) a detailed architectural drawing of the exterior design and details, including roof pitch, of a dwelling and the location, size, design and number of garage doors, decks, porches, patios, and driveways;
- (b) complete building plans;
- (c) complete specifications covering the type, size and quality of

interior and exterior (including foundation), structural materials and color of exterior walls, trim, porches, patios, decks and roofs; and

(d) a proposed topographical plot plan showing the location and elevation of the dwelling relative to the lot lines.

1.3. "Association" means the Pennsylvania non-profit corporation known as 'Blackthorne Homeowners' Association, which is a membership corporation established by Declarant at the time of establishment of the Plan.

1.4. "Base Assessment" shall mean and refer to assessments levied against all Lots in the Plan to fund Common Expenses.

1.5. "By-Laws" shall mean and refer to the By-Laws of 'Blackthorne Homeowners' Association, Inc.

1.6. "Carriage Home" means any dwelling unit connected by at least one wall to another dwelling unit.

1.7. "Class B Control Period" shall mean and refer to the period of time during which the Declarant is entitled to appoint a majority of the members of the Board of Directors as provided in the Homeowners Association By-Laws.

1.8. "Cluster" means a group of adjacent Lots on which Manor Homes or Carriage Homes are to be constructed designated as a Cluster on a Plan of Subdivision.

1.9. "Cluster Assessment" shall mean and refer to the assessment levied against Lots in a particular Cluster as hereinafter described.

1.10. "Common Area" shall be an inclusive term referring to all General Common Areas, all Exclusive Common Areas and all areas subject to the Lease as defined herein.

1.11. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Lot Owners, including the expenses associated with the General Common Area and any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

1.12. "Community-Wide Standard" shall mean the standard of conduct, design, construction, maintenance, or other activity generally prevailing throughout the Plan. Such standard may be more specifically determined by the Board of Directors and the Architectural Control Committee.

1.13. "Country Club" shall refer to the land and facilities adjacent to or in the vicinity of the Plan and which is operated as a country club known or to be known as Blackthorne Country Club, a not for profit Pennsylvania corporation, with recreational facilities, either owned or leased, which may include a golf course a club house, pool, tennis courts and all related and supporting facilities and improvements.

1.14. "Declarant" means Wendler Construction Inc., a Pennsylvania Corporation, its successors and assigns.

1.15. "Exclusive Common Area" shall mean and refer to certain portions of the Common Area which are for the exclusive use and benefit of one or more, but less than all, Lots. Exclusive Common Areas shall be designated as such on the Plan of Subdivision as recorded for each phase. All costs associated with maintenance, repair, replacement and insurance of Exclusive Common Areas shall be assessed against the Owners of Lots in only those areas which are benefitted thereby as a Cluster Assessment, as defined herein.

1.16. "General Common Area" shall mean all real and personal property which the Association now or hereafter owns or otherwise holds in each phase as it is recorded.

1.17. "Golf Course" means the proposed golf course running through the Plan known as or to be known as The Blackthorne Country Club, which is not for common use.

1.18. "Landscape Plans" means:

(a) a drawing showing the location of all landscaping and the configuration of planting beds relative to the location of the Building and the boundaries of the Lot, and

(b) specifications detailing and identifying the genus, species and size of all plants shown on the drawing, and the design of all landscape structures and the type, quality and color of all materials to be used in the construction thereof.

1.19. "Landscaping" means trees, shrubs, hedges, fences, retaining walls, rock gardens or other vegetation or landscaping structures or devices.

1.20. "Lease" shall mean that lease agreement entered into between the declarant and/or the Homeowners Association and/or the Country Club which specifies these portions of the common area which shall be designated and used as the Golf Course and other terms and conditions of said leasehold agreement. Said Lease shall also contain Country Club's responsibility for maintenance and care of non golf course common areas.

1.21. "Lot" shall mean a portion of the Plan, whether developed or undeveloped, intended as the site for a detached residence for a single family, a Carriage Home or a Manor Home, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or part of the Plan.

1.22. "Manor Home" means a dwelling unit situated on a Lot designated as such on the Plan of Subdivision for each phase of the Plan.

1.23. "Master Plan" means the PRD Plan submitted by Declarant to Penn Township and approved as a phased development on July 15, 1993.

1.24. "Mortgage" shall mean and refer to a permanent or construction mortgage, a deed of trust, a deed to secure debt, or any other form of security deed, including any collateral security documents executed in connection therewith.

1.25. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

1.26. "Mortgagor" shall mean refer to any Person who gives a Mortgage.

1.27. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Lot which is part of the Plan, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

1.28. "Plan" shall mean and refer to the real property described in Exhibit A attached hereto, together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

1.29. "Plan of Subdivision" means the map or maps of the streets and other improvements to be constructed by Declarant to be submitted to Penn Township for each phase of the Master Plan showing the size and location of each Lot within the phase and any General or Exclusive Common Area which shall, upon approval of each phase, be recorded with the Recorder of Deeds for Westmoreland County, Pennsylvania:

1.30. "Preliminary Plan" means a preliminary architectural drawing of the exterior design of a dwelling showing front, sides and rear elevations and overall exterior dimensions, including roof pitch.

1.31. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

## ARTICLE II ADMINISTRATION OF RESTRICTIONS

During the development stage of the Plan, the Class B Member Control Period Declarant intends to retain control of the administration of these restrictions. Once the Class B Control Period terminates, Declarant intends to transfer administration of these restrictions to the Association. Prior to any transfer to the Association, Declarant reserves the right to transfer or assign its rights hereunder, in whole or in part, to any other person. Successors of Declarant shall automatically accede to all rights of Declarant under these restrictions.

Should an Owner violate any of these restrictions, Declarant or their successors, shall have the right to undertake correction of the violation and the costs incurred by Declarant in doing so shall be immediately due and, if not paid, Declarant may impose a lien on the Owner's Lot until paid and which may be foreclosed in the manner of the foreclosure of a mortgage under the statutes of Pennsylvania.

## ARTICLE III ARCHITECTURAL CONTROL, CONTRACTORS

No building shall be erected, located or altered upon any Lot within the Plan unless and until the architectural features of the building as revealed by the Architectural Prints have been approved by Declarant.

3.1. Preliminary Plan. A Preliminary Plan shall be submitted to Declarant within twelve (12) months after a Lot is acquired by the original Owner Declarant shall have thirty (30) days following submission to either approve or reject it. If Declarant does not approve or reject the Preliminary Plan within the thirty (30) day period, it shall be deemed approved. If Declarant rejects all or any portion of the Preliminary Plan, the Owner shall resubmit it or portions of it, and Declarant shall have thirty (30) days after resubmission within which to accept or reject. Failure of Declarant to accept or reject shall be deemed acceptance.

3.2. Architectural Prints. The Architectural Prints shall be submitted to Declarant within fifteen (15) months after the Lot is acquired by the original Owner Declarant shall have thirty (30).

days following submission to either approve or reject them. If Declarant does not approve or reject within the thirty (30) day period, they shall be deemed approved. If Declarant rejects all or any portion of the Architectural Prints, the Owner shall resubmit all or portions of them, and Declarant shall have thirty (30) days after resubmission within which to accept or reject. Failure of Declarant to accept or reject shall be deemed acceptance.

3.3. **Construction.** Construction of a dwelling unit must commence within eighteen (18) months after a Lot is acquired by the original Owner. Any unrelated Owner other than the original Owner shall complete the design and commence construction of the dwelling within nine (9) months after acquisition of such Lot or the end of the original eighteen (18) month period, if later. Construction must be completed within twelve (12) months after a building permit is issued. If construction is not commenced within such eighteen (18) or nine (9) month period, as applicable, Declarant may, at its sole option, repurchase such Lot from the Owner for the original purchase price paid by the Owner.

3.4. **Discretion.** The extent of discretion reserved to Declarant in approving and rejecting Architectural Prints is broad and will cover not only matters treated elsewhere in these restrictions, but other deemed by Declarant to be appropriate from time-to-time, including considerations that are aesthetic and subjective, to assure a proper mix, coordination and blending of house design, exterior material and color treatments, and placements of houses on Lots within the Plan, and to maintain height and view control. Design approval shall take into account not only front elevations, but rear and side elevations as well, with particular attention to aesthetic and subjective considerations relative to dwellings with walk-out lower levels.

3.5. **Contractors.** Only construction contractors who have been approved by Declarant may construct dwelling units in the Plan. If an Owner wishes to use a construction contractor not previously approved by Declarant, such Owner shall submit a portfolio of such contractor's prior projects, or such other evidence of such contractor's capability as Declarant may reasonably request to enable Declarant to determine such contractor's qualifications. Contractors will not be approved for construction in the Plan unless they agree to enter into the same contract and commission arrangement with Wendler Construction Inc. as all other approved contractors. Prior to commencing construction, contractor and Owner shall sign an acknowledgment that they have read and understand the contents of this Declaration.

**ARTICLE IV**  
**VARIANCES, DETERMINATIONS, AND APPROVALS**

4.1. **Variances.** Declarant shall have the right to grant a variance from any of these restrictions to the Owner of any Lot if, in the sole discretion of Declarant, such variance would not substantially impair the intent of these restrictions or the prosperity of the Plan, or rights of other Owners.

Once transfer of administration of any restriction has been made by Declarant to the Association, all determinations and approvals required of Declarant under such restriction, and all variances therefrom obtainable from Declarant shall be obtained from the Architectural Control Committee.

4.2. **Determinations.** All determinations, approvals and variances, whether from Declarant or the Architectural Control Committee, shall be in writing and shall be procured prior to any act being undertaken which requires such determinations, approvals or variances, or which would violate these restrictions unless a variance was obtained.

4.3. **No Precedent.** The granting of any variance or approval, or the making of any determination shall not be construed as a precedent binding Declarant or the Architectural Control Committee to any other similar or identical variance approval or determination, and no action or interaction of Declarant or the Architectural Control Committee shall be deemed a waiver of any of their rights hereunder.

**ARTICLE V**  
**LANDSCAPE CONTROL**

5.1. **Plans.** No Landscaping shall be planted, constructed or altered or planting beds or landscape structures created or altered on any Lot within the Plan until Landscape Plans have been submitted to and approved by Declarant, with the exception of annual and perennial flowers which may be planted at the discretion of the Owner.

5.2. **Approval.** The Landscape Plans shall be submitted to Declarant, who shall have thirty (30) days following submission to either approve or reject them. If Declarant does not approve or reject within the thirty (30) day period, they shall be deemed approved. If Declarant rejects all or any portion of the Landscape Plans, the Owner shall resubmit them or portions of them, and Declarant shall have thirty (30) days after resubmission within which to accept or reject. Failure of Declarant to accept or reject shall be deemed acceptance.



5.3. **Tree Removal.** No tree with a trunk more than four (4) inches in diameter shall be removed from a Lot without the prior approval of Declarant unless such tree shall be damaged, diseased or within the building lines of a proposed dwelling unit.

5.4. **Discretion.** The extent of discretion reserved to Declarant in approving and rejecting Landscape Plans is broad and will cover not only matters treated elsewhere in these restrictions, but other matters deemed by Declarant to be appropriate from time to time, including considerations that are aesthetic and subjective, to assure the completeness of the Landscaping on the Lot, height and view control, uniformity of design between the building on the Lot and the Landscaping, and a proper mix, coordination and blending of Landscaping within the Plan.

5.5. **Time.** As a part of construction of a dwelling on any Lot, the Lot shall be landscaped to standards determined by Declarant to be minimally acceptable and, if not completed by occupancy of the dwelling, shall be completed within two (2) months thereafter. For purposes of the preceding sentence, the months of December, January, February and March shall be excluded from calculation of the two-month period, although a landscape plan shall be submitted and approved prior to occupancy.

## ARTICLE VI CESSATION OF CONSTRUCTION AND REMOVAL OF UNAPPROVED CONSTRUCTION

6.1. **Preconstruction Conference.** Prior to the commencement of construction of any dwelling on any Lot, the Owner and the contractor retained by the Owner to construct the dwelling shall meet with Declarant to review Declarant's requirements for construction based on the various provisions of this Declaration relating to construction. The purpose of this meeting is to avoid any construction which violates the provisions of this Declaration or approvals given by or required to be obtained from Declarant under these restrictions.

6.2. **Cessation.** If at any time any construction on a Lot violates any provision of this Declaration or any approval given by or required to be obtained from Declarant under these restrictions, Declarant may require that all or any part of the construction cease for as long as necessary to remove or otherwise remedy the violation, and, upon failure of the Owner and/or contractor to cease construction and to begin and continuously proceed to remedy the violation, the Owner shall be responsible to Declarant in liquidated damages in an amount equal to \$250.00 for each day the violation continues, which amount, if not paid, shall be a lien on the Lot and subject to foreclosure in the manner provided for

foreclosure of mortgages in Pennsylvania. The provisions of the preceding sentence shall apply to any aspect of construction activity on the Lot, including, but not limited to, the dwelling, driveways, parking areas or Landscaping. The rights and remedies contained herein shall be in addition to and not in derogation of those rights and remedies provided to the Declarant elsewhere in this Declaration and, specifically, in Article XXVI.

## ARTICLE VII OCCUPANCY

Before a dwelling constructed on any Lot in the Plan is occupied, the Owner thereof shall file with Declarant an accurate "as built" survey and shall advise Declarant that the dwelling is ready for final inspection so that Declarant may ascertain whether the dwelling have been built according to the Architectural Prints as approved by Declarant and to ensure that they do not violate these restrictions in any way. Should Declarant not inspect the dwelling within fourteen (14) days after the Owner has advised it in writing that the dwelling are ready for final inspection, the inspection shall be deemed to have been waived. No dwelling may be occupied until any significant variation between the Architectural Prints as approved and the dwelling and appurtenances as built have been corrected or an agreement reached between Declarant and the Owner as to compliance. If the minimally acceptable Landscaping has been completed by the time the dwelling is ready for occupancy as determined by Declarant, Declarant shall inspect the Landscaping for compliance with the Landscape Plans and these restrictions under the same procedure established for inspection of the dwelling and other appurtenances. No dwelling may be occupied if the Landscaping does not conform to the Landscape Plan and the provisions of these restrictions, unless corrections have been made prior to occupancy, or an agreement reached between Declarant and the Owner as to compliance. If the minimally acceptable Landscaping is completed after the time of occupancy, as provided in Article V, the Lot Owner shall complete the same as required in Article V and obtain inspection from Declarant in the manner established for inspection of the dwelling and appurtenances. If at any time Declarant determines that plantings have been made or landscaping structures constructed which violate these restrictions or the approved Landscape Plan, Declarant shall be entitled to remove the same and the cost thereof shall be immediately due and payable by the Owner to Declarant. In addition, a lien may be imposed on the Lot until payment is made, and the lien may be foreclosed in the manner of the foreclosure of a mortgaged under Pennsylvania statutes.

The approval procedures established in this Article shall apply to an addition to an existing dwelling and Landscaping beyond the

approval Landscape Plan. Regardless of whether any inspections are made, this Article shall not be construed to create any liability whatever on the part of Declarant to any Lot Owner.

**ARTICLE VIII  
ARCHITECTURAL PROVISIONS**

8.1. **Type of Use.** Only detached single family residential buildings and multifamily dwellings (Manor Homes and Carriage Homes) containing eight or fewer units per building shall be built in the Plan and once built, shall only be used for such purpose, except that Declarant reserves the right to maintain a sales office within the Plan and a "model" home or homes within the Plan.

8.2. **Frontage.** The frontage for purposes of this Article shall be the footage of the Lot on the public street as platted in the Plan of Subdivision for each phase.

8.3. **Lot Area.** The square footage shall be the footage for each Lot as platted on the Plan of Subdivision for each phase.

8.4. **Dwelling Size.** Dwelling Units constructed on Lots within the Plan shall have a minimum square footage of finished floor space above street grade, excluding breezeways, porches and garages as determined by Declarant as follows:

<u>SINGLE FAMILY</u>	<u>Minimum Square Footage</u>
Two Story	2350
1 1/2 Story	2100
Ranch or Split Entry	1860 (on 1st. floor)
<u>MULTIFAMILY</u>	
Carriage Homes (Duplex)	1600
Manor Homes (Towne Home)	1200

Frontage for corner lots will be indicated on the Plan of Subdivision for each phase. Variances will be granted when deemed necessary in Manor Homes areas.

It is anticipated that Declarant may grant a credit in an amount determined by Declarant toward the minimum square footage requirements for any dwelling built with open space above first floor living areas. It is also anticipated that Declarant may grant a credit for any dwelling of exceptional design and construction as determined by Declarant.

- 8.5. **Building Setback.** The minimum setbacks of dwellings (including garages, porches, decks, patios, greenhouses, eaves, bays and chimneys) from the front, side and rear Lot lines shall be determined by Declarant and contained on the Plan of Subdivision for each phase of the Plan. In the absence of such determination, the setbacks for front, side and rear Lot lines as prescribed by ordinances of Penn Township shall apply.
- 8.6. **Heights.** Declarant shall determine individual maximum height restrictions on dwellings built on each Lot in the Plan because of the need and desirability to limit and control the height of dwellings. In the absence of a determination to the contrary, no dwelling shall exceed two and one-half (2 1/2) stories in height, and no portion of any dwelling, other than chimney, shall exceed forty-five (45) feet in height, as measured from the lowest grade adjacent to the dwelling to the highest point of the building, other than the chimney. Dormers on rooflines may be utilized.
- 8.7. **Roofs.** All roofing must be constructed of material of a quality equal to or better than 235 pound asphalt textured shingles; or other rigid material. Cedar shakes used must be 3/4 to 1 1/2 inch thick. All roofing materials shall be approved by Declarant. All roofs shall be of at least 6/12 pitch.
- 8.8. **Soffit and Fascia.** All material used in and the design of soffit and fascia shall be approved by Declarant.
- 8.9. **Materials.** As a part of architectural approval, and to maintain a high quality of construction and appearance within the Plan, Declarant may require that at least fifty (50) percent or more of exterior sidewalls of any dwelling, and the entire exposed foundation of any dwelling, be of brick or approved masonry construction. This minimum may be reduced or eliminated by Declarant for dwellings of exceptional design and quality. No aluminum or vinyl siding shall be used in the construction of a dwelling without the prior approval of Declarant.
- 8.10. **Specifications.** Construction specifications shall mean the following. Footers shall be at least twenty (20) inches wide and ten (10) inches high with reinforcing steel bars. An approved system of exterior waterproofing shall be applied to all walls below grade. Exterior framing walls shall be built to accommodate an insulation factor of at least R-19.
- 8.11. **Ceilings.** Ceiling insulation shall have an insulation factor of at least R-30. The ceiling heights in all dwellings shall be at least eight (8) feet on the first floor and eight (8) feet on the second floor.
- 8.12. **Garages.** Each dwelling constructed within the Plan shall have an attached or integral garage, containing space for a minimum

of two (2) vehicles with a minimum of four hundred (400) square feet of floor area. Declarant reserves the right to regulate the width and number of garage doors for each garage built within the Plan. No detached garage, of any type may be erected within the Plan. Garage doors shall be closed except when in operation.

8.13. **Parking Areas and Driveways.** Outside parking areas other than driveways shall not be permitted. The location of all driveways within the Plan shall be approved by Declarant. All driveways shall be constructed of either concrete (minimum four (4) inches), asphalt (minimum three (3) inches) or other material as approved by Declarant. Vehicles or boats shall not be regularly parked outdoors in a position visible to other dwellings.

8.14. **Outbuildings and Outdoor Recreational Equipment.** No Playhouse, treehouse, toolhouse, greenhouse, gazebo, satellite dish, or outbuilding or structure of any type detached from a dwelling, or children's play equipment or recreational equipment shall be constructed or placed on any Lot within the Plan without the approval of Declarant as to size, design, materials and location. Declarant reserves the right to prohibit any of the same if, in the opinion of Declarant, it would constitute a nuisance to Owners of other Lots within the Plan.

8.15. **Decks, Hedges, Walls and Fences.** No decks, hedges, walls or fences shall be permitted on any Lot within the Plan unless approved as to height, location, material and design by Declarant.

8.16. **Swimming Pools and Tennis Courts.** No above ground swimming pool or hot tub shall be constructed on any Lot within the Plan. In ground swimming pools or hot tubs may be constructed on any lot within the Plan if same is not within twenty (20) feet of the Golf Course and plans therefor have been approved by the Declarant. The Plan shall include the design, location, fencing (or other enclosures) and lighting. Approval or rejection of plans shall be governed by the procedures for approval or rejection of Architectural Prints under Article III. In no event shall a swimming pool be located within fifteen (15)-feet-of-any-adjoining Lot, nor shall any such facility be used in a manner to constitute a nuisance to Owners of Lots within the Plan. On account of view considerations, tennis courts shall be prohibited without the consent of Declarant, and any consent shall be subject to approval by Declarant of size, design, location, fencing and lighting for said tennis courts.

8.17. **External Energy Systems.** No solar collector or any other device or equipment erected either on the exterior of a dwelling or detached therefrom and designed for the production of energy for heating or cooling or for any other purpose shall be permitted without approval from Declarant.

8.18. **Outdoor Lighting, Mailboxes.** The placement and intensity of outdoor lighting, whether for security or ornamentation, other than decorative fixtures erected on dwellings and having a maximum wattage of 150 watts, shall be approved by Declarant. All dwellings shall have one post lamp at the street for the purpose of street lighting, operated by electric eye, or gas lamp, in such style as Declarant shall designate. The style of all post lights and mailboxes shall be determined by Declarant.

8.19. **Subdivision of Lots.** No Lot shall be subdivided without the prior written approval of Declarant. Once the Declarant gives its written approval, then the lot owner is obligated to obtain the necessary and appropriate governmental approvals for said Subdivisions.

8.20. **Tree Planting.**

(a) Each single family lot shall have planted one (1) shade tree of four (4) inch caliper.

(b) Each Manor home lot shall have planted one (1) shade tree of four (4) inch caliper.

(c) Each Carriage home shall have planted one (1) shade tree of four (4) inch caliper.

## ARTICLE IX

### HERBICIDE AND FERTILIZER CONTROL

The water quality of lakes within the Plan is of prime importance to the Owners of lands within the Plan. Therefore, Declarant reserves the right to regulate the type and extent of fertilizers and herbicides used by Owners within the Plan, as well as the time for application of the same. This right is sufficiently broad to require that all or some of the Lots be fertilized by an independent contractor retained by Declarant; with the costs of the same to be charged pro rata to affected Lots on a benefit basis, or to suspend the uses of fertilizers or herbicides at certain intervals or for extended periods of time.

## ARTICLE X

### DAMAGED OR DESTROYED BUILDINGS

Any dwelling or other structure on any Lot in the Plan which may be damaged or destroyed by fire, windstorm or from any other cause, shall be repaired, rebuilt, or torn down and all debris removed and the Lot restored to a sightly condition with reasonable promptness. Declarant may enter on any premises where an excavation, foundation, uncompleted dwelling or other structure has been left without substantial and continuing building progress for more than

three (3) months then, in that event, the Declarant may come onto the property and cause such excavation or foundation to be filled or removed, or such uncompleted dwelling or other structure to be demolished, and the expense thereof shall immediately due and payable to the Declarant by the Owner and shall become a lien on the property, and may be foreclosed by Declarant as in the case of the foreclosure of a mortgage under Pennsylvania statutes. Any Lot which becomes vacant as a result of such casualty shall become subject to the purchase option of Declarant described in Article III of the Homeowners' Association Bylaws. Also, by purchasing a Deed in the subject Development, purchaser/lot owner agrees and accepts all the Covenants contained herein and, particularly, grants to the Declarant the right to come onto his or her lot pursuant to the terms and conditions specified in this Article.

## ARTICLE XI

### APPEARANCE OF LOTS AND BUILDINGS

The Owners of all occupied Lots in the Plan shall keep their premises landscaped and maintain their dwellings in good repair, consistent with the Community Wide Standards in the Plan. Prior to and during the construction of a dwelling on any Lot, the Owner or the Declarant as applicable shall keep and maintain the Lot in a slightly condition consistent with the Community Wide Standards of the development in the Plan, causing weeds and other growth to be cut. Notwithstanding the foregoing, it shall be the obligation of every Owner to prevent accumulations of rubbish and debris on the Lot at all times, including periods of construction. Debris shall be placed in a container during construction, and removed periodically. No construction trailers are allowed on individual Lots for construction of single family homes.

## ARTICLE XII

### GRADING, EXCAVATING AND EROSION CONTROL

The rough grading of each Lot within the Plan will have been established by Declarant by the time of the initial sale of the Lot. Finished grading shall not be altered substantially therefrom without the approval of Declarant. Once the final grade has been established, no modifications therefrom shall be made without the approval of Declarant. Any earth removed in grading or excavating shall be deposited at a location designated by Declarant at the expense of the Contractor.

To ensure that undue erosion of soil into the lakes or onto the Golf Course does not occur, Declarant reserves the right to regulate and limit construction activity on any Lot within the Plan and to require seeding or other soil erosion control measures which comply with the D.E.R. and E.P.A., Soil Conservation District and

any and all other applicable governmental regulations.

ARTICLE XIII  
NUISANCES

The following shall be considered nuisances and shall not be permitted within the Plan, it being desirable and essential to maintain a high-quality aesthetic living community within the Plan:

- 13.1. The keeping of wildlife, livestock or poultry;
- 13.2. The keeping of any domestic animals by the Owner of any Lot in the Plan other than: (i) animals which are kept exclusively indoors; (ii) no more than three dogs; and (iii) no more than three cats. In no case shall outdoor kennels, pens or runs be maintained for any animal;
- 13.3. Billboards or signs of any type, except signs advertising the sale of Lots, although Declarant reserves the right to install and maintain promotional signs and displays within the Plan during development;
- 13.4. Outdoor tanks for storage of fuel;
- 13.5. Outdoor receptacles for ashes, garbage or refuse;
- 13.6. Burning of garbage, refuse, brush or leaves;
- 13.7. The parking or storage of commercial vehicles, campers, trailers, motor homes, boats, snowmobiles, or other recreational devices or vehicles unless placed wholly within an enclosed garage;
- 13.8. Exterior television antennae, satellite dish receiver antennae, tower receiver antennae, or communications transmitting or receiving devices of any type;
- 13.9. Pumps or other apparatus to pump water from the lakes adjacent to Lots within the Plan or from underground wells;
- 13.10. On-site exploration or drilling of oil or gas;
- 13.11. On-site exploration or removal of sand, gravel, coal, or other subsurface minerals;
- 13.12. Outdoor clotheslines;
- 13.13. Uncovered metal chimneys;
- 13.14. Vegetable gardens in the front or side yards, or any vegetable garden exceeding 300 square feet;



13.15. Operation of snowmobiles, dirt bike-type motorcycles, or other motorized or alternately powered recreational vehicles, except such other motorized or alternately powered vehicles that may be lawfully operated on public streets;

This does not apply to Blackthorne Country Club golf carts and maintenance vehicles.

13.16. Windmills;

13.17. Airborne vehicles of any type;

13.18. Camping;

13.19. A home business which causes excessive vehicular traffic in the Plan or which is conducted at a time of day or night or in a manner which causes a disturbance or annoyance to residents in the Plan;

13.20. The use of privately owned golf carts, other than golf carts owned by the Blackthorne Country Club;

13.21. The discharge of firearms (the term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size);

13.22. The installation of window air conditioning units;

#### ARTICLE XIV. HOMEOWNERS' ASSOCIATION

Declarant has established and incorporated the Homeowners' Association. Copies of the ByLaws of said Assoc./Corp. which specify the powers and obligations of said Assoc./Corp., voting rights of its members and administrative structures of the said Assoc./Corp., shall be given to each Owner by Declarant prior to or closing of the sale of each Lot by Declarant. Upon becoming a member of the Assoc./Corp., and after expiration of the Class "B" Control Period, each Owner shall be entitled to a vote in accordance with the terms of the Bylaws. However, each Owner shall be required to pay dues from the date of his purchase of the Lot to the Homeowners' Association. Said period to include the Class "B" Control Period.

#### ARTICLE XV PROPERTY RIGHTS

Every Owner shall have a right and easement of enjoyment in and to the Common Areas, subject to this Declaration as it may be amended from time to time and to any restrictions or limitations contained

in any deed conveying such property to the Association; however, excepted from said Common Areas is that area which is leased to or is used by the Golf Course.

Access to the Country Club is strictly subject to the rules and procedures established by the Members of the Country Club. Except as hereinafter set forth, no Owner or occupant gains any right to enter or to use of the Country Club by virtue of ownership or occupancy of a Lot or membership in the Homeowners' Association.

## ARTICLE XVI MEMBERSHIP AND VOTING RIGHTS

16.1. **Membership.** Every Owner, as defined in Article I of these Covenants shall be deemed to have a membership in the Association.

No Owner, whether one (1) or more Persons, shall have more than one (1) vote per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-laws. The membership rights of a Lot owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the By-Laws.

16.2. **Voting.** The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) **Class "A".** Class "A" Members shall be all Owners with the exception of the Class "B" Members, if any.

Class "A" Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership under paragraph A hereof; there shall be only one (1) vote per Lot.

In any situation where a Member is entitled personally to exercise the vote for his Lot and more than one (1) Person holds the interest in such Lot required for membership, the vote for such Lot shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.

(b) **Class "B".** The Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration, are specified elsewhere in the Declaration. The Class "B" Member shall be entitled to four

(4) votes for each Lot owned by Declarant.

## ARTICLE XVII MAINTENANCE

17.1. **Association's Responsibility.** The Association shall maintain and keep in good repair the Common Area, such maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements situated upon the Common Areas, including, but not limited to, drainage systems, recreation and open space, estuarine systems, utilities, and traffic control devices.

All costs associated with maintenance, repair and replacement of General Common Areas shall be a Common Expense to be allocated among all Lots as part of the Base Assessment. All costs associated with maintenance, repair and replacement of Exclusive Common Areas, if any, shall be a Cluster Expense assessed as a Cluster Assessment solely against the Lots to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder. Nothing herein shall prohibit the Association from entering into and maintaining a Lease Agreement or other Agreement with the Golf Club or other entity for the maintenance, care and control of the non-golf course common areas.

17.2. **Owner's Responsibility.** Each Owner shall maintain his or her Lot and all structures, driveways and other improvements comprising the Lot in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association as hereinafter set forth. If any Owner fails properly to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred by the Association against the Lot and the Owner thereof as a Maintenance Assessment in accordance with Article XXII of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

## ARTICLE XVIII INSURANCE

18.1. **Coverage.** The Association's board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk

coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard. The Développeur and Declarant shall be named as co-insureds on said policies of public liability insurance as well as any other policies of insurance entered into by the Association. The Association shall produce proof of payment of premiums on a semi-annual basis to Developer/Declarant and the Developer/Declarant shall be given a copy of the most current policy of insurance.

The Board shall also obtain a public liability policy covering the Common Area, the Association and the Owners for all damage or injury caused by the negligence of the Association or any of the Owners or their agents. The public liability policy shall have at least a \$300,000 minimum property damage limit and a \$1,000,000 Liability Coverage.

18.2. Premiums. Premiums for all insurance on the General Common Area shall be Common Expense of the Association and shall be included in the Base Assessment. Premiums for insurance on an Exclusive Common Areas shall be included in the Cluster Assessment of the Cluster benefitted thereby. Such policies may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

18.3. Contracts. All insurance coverage obtained by the Declarant or the Board shall be written in the name of the Association as trustee for the respective benefitted-parties, as further identified in B below. Such insurance shall be governed by the provisions hereinafter set forth:

A. All policies shall be written with a company licensed to do business in Pennsylvania which holds a Best's rating of A or better, if reasonably available, or, if not available, the most nearly equivalent rating.

B. All policies on the Common Area shall be for the benefit of the Association, its Members, and Mortgagees providing construction financing on the Common Area; all policies secured at the request of a Cluster shall be for the benefit of the Owners of lots within the Cluster and their Mortgagees, as their interests may appear.

C. Exclusive authority to adjust losses under policies obtained by the Association on the Plan shall be vested in the Association's

Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

D. In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees.

## ARTICLE XIX ANNEXATION OF ADDITIONAL PROPERTY

19.1. Annexation Without Approval of Class "A" Membership. As the owner thereof, Declarant shall have the unilateral right, privilege and option, from time to time at any time until the property described on Exhibit "B" or any additional tracts of land acquired by Developer has been subjected to this Declaration or December 31, 2020, whichever is later, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit "B" attached hereto and by reference made a part thereof or any additional tracts acquired by Developer. Such annexation shall be accomplished by filing in the public records of Westmoreland County, Pennsylvania, an amendment to this shall not require the consent of Class "A" Members. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibits "A" or "B" or any additional tracts of land acquired by the Developer and that such transfer is memorialized in a written, recorded instrument executed by the Declarant. Declarant specifically reserves the right to acquire and subject to this Declaration of Covenants additional tracts of land without the consent of the Class "A" Members.

19.2. Annexation With Approval of Class "A" Membership. After termination of the Class "B" Control Period, then subject to the consent of the owner thereof, the Association may annex real property other than that described in Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmation vote of fifty-one percent (51%) of the Class "A" Votes of the Association present at a meeting duly called for such purposes. During the Class "B" Control Period, any additional tracts of land may be added to the Development and subjected to this Declaration of Covenants.

19.3. **Acquisition of Additional Common Area.** Declarant may convey to the Association additional real estate, improved or unimproved, located with the properties described in Exhibit "A" or "B" or any subsequently acquired tract of land by the Declarant, which upon conveyance or dedication to the Association shall be accepted by the Association or its designee and thereafter shall be maintained by the Association or its designee at its or its designee's expense for the benefit of its Members.

## ARTICLE XX

### RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

20.1. **Common Area.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard, unless same has been contractually assumed by the Country Club or its successors or assigns pursuant to the Lease or other Agreement.

20.2. **Personal Property and Real Property for Common Use.** The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

20.3. **Lawn and Landscaping Care; Snow Removal.** The Association shall arrange for the care of all lawns and landscaping and the removal of all snow and ice from walkways and driveways on Lots on which Carriage Homes and Manor Homes are situated. The Owners of such Lots shall be assessed for such services in the manner as set forth in Article XXII hereof.

20.4. **Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Lots within the Plan, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the By-Laws of the Association.

The Association, through the Board, by contract or other agreement shall have the right to enforce county ordinances or permit Penn

Township and/or Westmoreland County to enforce ordinances in the Plan for the benefit of the Association and its Members.

20.5. **Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

20.6. **Governmental Interests.** The Association shall permit the Declarant reasonable authority to designate sites within the Plan for fire, police, water, and sewer facilities.

## ARTICLE XXI ASSESSMENTS

21.1. **Creation of Assessments.** There are hereby created assessments for Association expenses as well as for the costs for maintenance of the Carriage Homes and Manor Homes as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in Section 6 of this Article. There shall be four (4) types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; (b) Cluster Assessments for Cluster Expenses benefitting only Lots within a particular Cluster; as well as costs for maintenance of the Carriage Homes and Manor Homes; (c) Maintenance Assessments to provide for maintenance to the exterior of any Dwelling Unit if not maintained by the Owner thereof to remain in compliance with the provisions hereof; and (d) Special Assessments as described in Section 5 below. Each Owner, by acceptance of a deed or recorded contract of sale to any portion of the Plan, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest at a rate not to exceed the highest rate allowed by Pennsylvania law as computed from the date the delinquency first occurs, cost, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest cost, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer or management agent of the Association setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment to

the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Fifty Dollars (\$50.00) for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board which may include, without limitation, acceleration of the annual Base Assessment and any Cluster Assessment for delinquents. Unless the Board otherwise provides, the Base Assessment, and the Cluster Assessments shall be paid in quarterly installments.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Lot. The obligation to pay assessment is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

So long as the Declarant has an option unilaterally to subject additional property to this Declaration, in lieu of paying Base Assessments on its unsold Lots the Declarant shall be obligated for the difference between the amount of assessments levied on all Lots subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expense.

21.2. Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared.

The Base Assessment to be levied for the coming year against each Lot subject to assessment under Section 7 below shall be computed



by dividing the budgeted Common Expenses by the total number of Lots shown on the Master Plan for the property described on Exhibit "A" and property as, from time to time, may be subjected to this Declaration. The Board shall cause a copy of the Common Expense budget and notice of the amount of Base Assessment to be levied against each Lot for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. During the Class "B" Control Period, said budget shall become effective upon approval of the Board. After the Class "B" Control Period expires, such budget and assessment shall become effective unless disapproved at a meeting of the Members by vote of the Members representing at least a majority of the total votes of the Association. Such budget and assessment shall become effective unless disapproved at a meeting of the Members by the vote of the Members representing at least a majority of the total votes in the Association. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Class A Members as provided for special meetings in Article II, Section 4, of the By-Laws.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

21.3. Computation of Cluster Assessments. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a separate budget covering the estimated Cluster Expenses to be incurred by the Association for each Cluster. The budget shall include the costs for the complete care of all lawns and landscaping-including cutting, trimming and fertilizing and for removal of snow and ice on all walkways and driveways located in Clusters on which Manor Homes or Carriage Homes are constructed. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of any capital items within the Cluster, as appropriate, such as, private road repair. The Association or its management agent shall use their best efforts to obtain these services from quality providers consistent with Community Wide Standards at reasonable expense.

The Cluster Assessment for each Lot and/or Unit within a Cluster shall be computed on an equal basis for each Lot and/or Unit based on the total number of Lots and/or Units in the Cluster subject to such equitable adjustments as the Board may impose.

During the Class "B" Control Period, the Board shall cause a copy of such budget and notice of the amount of the Cluster Assessment to be levied on each Unit in the Cluster for the coming year to be delivered to each Owner of a Lot in the Cluster at least thirty

(30) days prior to the beginning of the fiscal year, and same shall be effective and binding upon an obligation on each Lot and Unit Owner upon passage of same by the Board. After expiration of the Class "B" Control Period, such budget and assessment shall become effective unless disapproved by the majority of the Owners of Lots in the Cluster to which the Cluster Assessment applies; provided, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least ten percent (10%) of the Lots in such Cluster. Meetings of the Cluster Committees, if called, shall be conducted in accordance with Article III of the By-Laws of the Homeowner's Association.

If the cost of providing lawn and landscaping maintenance and snow and ice removal for a fiscal year exceeds the budgeted amounts for such expenses, the portion of such deficiency allocable to each Lot shall be computed within thirty (30) days after the end of such fiscal year. Such amount shall be assessed against each Owner within the Cluster. Such deficiency shall be paid within fifteen (15) days thereof.

In the event the proposed budget for any Cluster is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

21.4. Maintenance Assessments. In addition to the other Assessments herein provided, the Association may also levy a Maintenance Assessment against any Owner to reimburse the Association for costs incurred in bringing an Owner and his Lot and the dwelling constructed thereof into compliance with the provisions of this Declaration, any amendments thereto, the Articles, the By-Laws, and the Association rules. Maintenance Assessments may be levied upon any Lot if the Owner fails to keep the exterior of the Dwelling Unit in proper repair, including painting, roofing and pavement. Maintenance Assessments may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing. All maintenance services arranged by the Board shall be obtained in the same manner as the other services provided by the Association.

21.5. Special Assessments. After the Class "B" Control Period, in addition to the assessments authorized in Section 1 of this Article, the Association may levy a Special Assessment or Special Assessments from time to time; provided, such assessment shall have the affirmative vote or written consent of Voting Members or their alternates representing at least fifty-one percent (51%) of the Class "A" vote in the Association; during the Class "B" Control Period, the affirmative vote or written consent of the Class "B" Member(s) shall be deemed sufficient to impose said Special Assessment. The obligation to pay Special Assessments shall be computed on the same basis as for Base Assessments. Special

Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

21.6. **Lien for Assessments.** Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record

(meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure. By purchasing a Lot or Unit in this Development, Owner consents to the entry of a lien or notice of lien in the Office of the Prothonotary of Westmoreland County for Owner's failure to comply with any and/or all of the terms of this Covenant or Amendments thereto. Said notice shall set forth the name and address of the Owner, nature of violation and any and all amounts assessed against Owner or due from the Owner to the Declarant and/or the Association, interest on same and reasonable attorney's fee and cost.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) No right to vote shall be exercised on its behalf; (b) no assessment shall be assessed or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Assessments and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

21.7. **Capital Budget and Contribution.** The Board shall annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital contribution required, if any, shall be fixed by the Board and included within and distributed with the budget and assessment, as provided in Section 2 of this Article.

21.8. **Date of Commencement of Assessments.** The assessments provided for herein shall commence as to each Lot on the first day of the first month following (i) the date of conveyance of the Lot by the Declarant, or (ii) the effective date of the first budget,

whichever is later. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

21.9. Subordination of the Lien to Institutional First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of Pennsylvania law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any institutional first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien.

## ARTICLE XXII GENERAL PROVISIONS

22.1. Term. The covenants and restrictions of this Declaration shall run with and bind the Plan, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

22.2. Amendment. Prior to the conveyance of the first Lot, Declarant may, with the express written approval of the Township, unilaterally amend this Declaration. After such conveyance, the Declarant shall amend this Declaration so long as it still owns property described in Exhibits "A" and "B", ect. for development as part of the Plan, and so long as the amendment has no material adverse effect upon any right of any Owner and has the express written approval of the Township. No amendment required by any federal, state and/or local agency shall be deemed material. Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing seventy-five percent (75%) of the total votes of the Association and the express written consent of the Township. Any amendment to be effective must be recorded in the public records of Westmoreland County, Pennsylvania.

If an Owner consents to any amendment to this Declaration or the By-Laws, it shall be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage

or contract between the Owner and a third party shall affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege. No amendment may impair the validity or priority of the lien of any Mortgage held by a Mortgagee or impair the rights granted to Mortgagees herein without the prior written consent of such Mortgagees.

22.3. **Indemnification.** The Association shall indemnify every officer and/or director and/or committee member, whether they are Class A or Class B officers, directors and/or committee members, against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer and/or director and/or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer and/or director and/or committee member. Said officers and/or directors and/or committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and/or directors and/or committee members shall have no personal liability with respect to any contract or commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers and/or directors and/or committee members are also Members of the Association), and the Association shall indemnify, defend and forever hold harmless each such officer and/or director and/or committee member free from harm against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer and/or director and/or committee member and/or former officer and/or director and/or committee member may be entitled, and such indemnification to include but not be limited to reasonable attorney's fees and costs. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' and committee members' liability insurance to fund this obligation, if such insurance is reasonably available.

22.4. **Easements of Encroachment.** There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion of portions of the Common Area adjacent thereto or as between adjacent Lots of the Country Club, due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the

part of an Owner, tenant, or the Association.

22.5. Easements for Utilities, Etc. there is hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibits "A" or "B", or any additional tracts of land acquired by the Declarant and subjected to this Declaration, the Association, and the designees of each (which may include, without limitation, Penn Township, Westmoreland County, Pennsylvania, and any utility), blanket easement upon, across, over, and under all of the Common Area and, to the extent shown on any plat, over the Lots for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier easements across all lots for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Plan without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Plan.

22.6. Easement for Golf Balls. Every Lot and the Common Area and the Exclusive Common Area of any Cluster are burdened with an easement permitting golf balls unintentionally to come upon the Common Area or Lots immediately adjacent to the Golf Course and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, or the exterior portions of a Lot to retrieve errant golf balls; provided, however, if any Lot is fenced or walled, the golfer will seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls.

22.7. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions hereof, which shall remain in full force and effect.

22.8. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Lot for emergency, security, and safety, which right may be exercised by the

Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

22.9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Robert N. Cawood and Raymond F. Wendler, Jr..

22.10. Litigation. After the Class "B" Control Period has expired, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of two-thirds (2/3) of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article XXII hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. During the Class "B" Control Period, such actions may be taken by the Board without approval of the Members.

22.11. Use of the Words "Blackthorne" or Blackthorne Homeowners Association." No Person shall use the words "Blackthorne" or Blackthorne Homeowners Association" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant.

However, Owners may use the terms "Blackthorne" or "Homeowners Association" in printed or promotional matter where such term is used solely to specify that particular property is located within Blackthorne.

### ARTICLE XXIII DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant

may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the public records of Westmoreland County, Pennsylvania. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" or in any additional tracts of land previously subjected to this Declaration in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots owned by the Declarant as models and sales offices.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) twenty (20) years from the date this Declarant is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

#### ARTICLE XXIV COUNTRY CLUB

The Owner of each Lot shall be entitled to become a social member at the Country Club without payment of the initial membership fee that would be charged to a non-resident of the Plan. As set forth in the By-Laws of the Country Club, Owners and those subsequently acquiring Lots shall have preferential rights to other classes of Membership in the Country Club. The Founding Members, their spouses and lineal descendants shall have the same rights as Golfing Members which shall not be subsequently modified. An Owner's right to continue as any class of Member in the Country Club shall be contingent upon such Owner's payment of the dues and other fees payable with respect thereto and such Owner's observing all of the Country Club's rules and regulations regarding membership in the Country Club and use of its facilities. Owners of Lots may, despite their status as such, be expelled from the Country Club as set forth in the Country Club's By-Laws and rules and regulations. Such By-Laws and rules and regulations may be



amended as set forth therein. If a Lot is owned by more than one individual, all of the Owners shall designate in writing the individual entitled to hold the membership in the Country Club. Such designation may not be changed by such multiple Owners without payment of whatever fees may then apply to transfers of such Membership. Failure to submit a unanimous written and executed designation of the individual entitled to be the Member of the Club shall leave said Lot without a membership in said Golf Club.

#### ARTICLE XXV INJUNCTIVE RELIEF

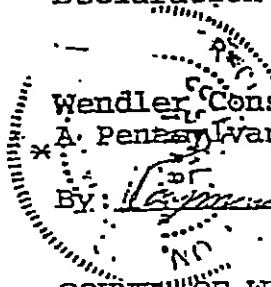
Declarant and Owners recognize that the filing of a notice of lien and/or collection of a delinquent assessment or, generally, the imposition of monetary fines assessing damages may be insufficient to remedy a violation of these Covenants. Accordingly, Owners consent to Declarant and/or the Association's Board of Directors filing suit in equity or a comparable legal proceeding to obtain injunctions, preliminary or final, or any other appropriate judicial relief, to compel compliance with or prevent violation of any of the terms and/or conditions of these Covenants. By purchasing a Lot in this Plan or any additions thereto which are subject to these Covenants, Owner consents to entry of any said injunction, preliminary or final, or order or decree of court to compel compliance with or prevent violation of these Covenants, the Owner further agrees to pay the Declarant and/or the Association any and all costs, including but not limited to reasonable attorney's fees and costs, to initiate and prosecute said actions for injunctive relief and the cost of compelling Owner's conformity with any court order or decree.

This remedy shall be in addition to any right and/or remedy of Declarant to file and/or collect any assessment due or monetary damages provided for in these Covenants or at law generally.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 30<sup>th</sup> day of JANUARY 1996.

Wendler Construction Inc.  
A Pennsylvania Corporation

BY: Raymond F Wendler Jr Pres



COUNTY OF WESTMORELAND  
COMMONWEALTH OF PENNSYLVANIA

RECORDED  
WESTMORELAND COUNTY, PA  
1996 JAN 31 PM 12: 06  
Mammie C. Kasper  
RECORDER OF DEEDS

COMMONWEALTH OF PENNSYLVANIA,

SS:

COUNTY OF ALLEGHENY

On this 30 day of JANUARY A.D. 1996,

before me the undersigned officer, personally appeared Raymond F WENDLER JR

who, being duly sworn, deposes and says that the persons, firms and corporations who have executed this release of liens are all of the persons, firms and corporations who have furnished services, labor, or materials in the construction, repair or improvement of the building described in said release and that, as of the date of this affidavit, such work has been fully completed.

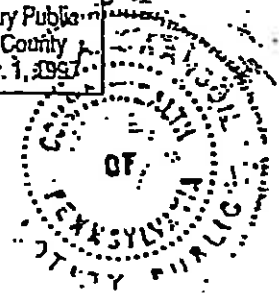
Sworn to and subscribed this 30

day of JANUARY A.D. 1996

Raymond F Wendler Jr

My Commission Expires: \_\_\_\_\_ 19\_\_

NOTARIAL SEAL  
LARRY A. SWANSON, Notary Public  
Penn Hills Twp Allegheny County  
My Commission Expires Nov. 1, 1997



CURVE DATA FOR LOTS				
LOT NO.	RADIUS	LENGTH	TANGENT	DELTA
PARCEL 3	425.00'	45.77'	22.91'	61°0'12"
103	25.00'	36.87'	22.71'	95°30'00"
108	25.00'	41.67'	27.52'	84°30'00"
111	25.00'	42.11'	28.01'	95°30'00"
112	25.00'	39.27'	25.00'	90°00'00"
116	25.00'	30.77'	17.68'	70°31'44"
116	25.00'	39.27'	25.00'	90°00'00"
119	25.00'	21.03'	11.18'	48°11'23"
121	25.00'	21.03'	11.18'	45°11'23"
1001	25.00'	39.27'	25.00'	90°00'00"
1002	25.00'	39.27'	25.00'	90°00'00"
1007	25.00'	39.27'	25.00'	90°00'00"
1015	25.00'	39.27'	25.00'	90°00'00"

LOT AREAS		
LOT NO.	SQ. FT.	ACRAGE
SINGLE FAMILY		
101	13,788	0.32
102	12,595	0.29
103	14,173	0.33
104	13,200	0.30
105	13,200	0.30
106	15,000	0.34
107	15,000	0.34
108	17,927	0.41
109	13,313	0.31
110	13,257	0.30
111	15,314	0.35
112	15,411	0.35
113	15,670	0.36
114	22,276	0.51
115	16,304	0.37
116	15,742	0.36
117	16,875	0.39
118	16,875	0.39
119	16,086	0.37
120	18,997	0.44
121	18,481	0.42
122	20,052	0.46

LOT AREAS		
LOT NO.	SQ. FT.	ACRAGE
CARRIAGE HOMES		
1001	21,702	0.50
1002	13,066	0.30
1003	11,988	0.28
1004	11,988	0.28
1005	13,187	0.30
1006	12,100	0.28
1007	13,616	0.31
1008	12,441	0.29
1009	11,550	0.27
1010	11,550	0.27
1011	11,550	0.27
1012	11,550	0.27
1013	11,306	0.31
1014	12,346	0.28
1015	13,302	0.31

ROADWAY CURVE DATA				
CURVE	RADIUS	LENGTH	TANGENT	DELTA
CURVE 1	595.00'	166.77'	83.94'	16°03'33"
CURVE 2	400.00'	57.20'	28.65'	8°11'36"
CURVE 3	400.00'	150.51'	76.16'	21°33'33"
CURVE 4	50.00'	84.21'	55.02'	95°30'00"
CURVE 5	50.00'	42.11'	22.39'	48°15'00"
CURVE 6	50.00'	42.11'	22.39'	48°15'00"

