

AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
POWHATAN COMMUNITY SERVICES ASSOCIATION

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AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
POWHATAN COMMUNITY SERVICES ASSOCIATION

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS (this "Declaration"), is made this 5th day of January, 2016, by **POWHATAN COMMUNITY SERVICES ASSOCIATION**, a Virginia nonstock corporation, having an address of 5425 Discovery Park Boulevard, Suite 200, Williamsburg, Virginia 23188 (hereinafter "Association"), and **POWHATAN ENTERPRISES, INC.**, a Virginia corporation, having an address of 212 Powhatan Secondary Road, Williamsburg, Virginia 23188. [Note to Clerk: For recording purposes, please index each party both "Grantor" and "Grantee".]

RECITALS:

A. By instrument entitled "Declaration of Covenants and Restrictions", dated July 27, 1981 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office"), in Deed Book 215, page 722 (the "1981 Declaration"), Powhatan Enterprises, Inc., a Virginia corporation ("Developer") subjected certain real property, more particularly described in Exhibit A thereto, to certain covenants, restrictions, easements, charges and liens set forth therein.

B. By various instruments entitled "Supplementary Declaration of Covenants and Restrictions" or "Supplemental Declaration of Covenants and Restrictions" (collectively, the

"Supplemental Declarations") recorded in the Clerk's Office, Developer subjected additional real property described in Exhibit A of each such Supplemental Declaration to the 1981 Declaration and to the covenants, easements, restrictions, charges and liens of each such Supplemental Declaration.

C. The 1981 Declaration, as heretofore amended and supplemented, is hereinafter referred to collectively as the "Original Declaration."

D. Developer and the Association (by vote of its Members) have determined that it is in the best interest of the Association to amend and restate the Original Declaration in its entirety and to adopt the amendments set forth in this Declaration.

E. Article VII, Section 2 of the Original Declaration provides that the Original Declaration "may be amended at any time by an instrument of record after the written consent thereto by not less than seventy-five percent (75%) of the Owners and the Developer shall have been obtained."

F. Developer and the Owners of at least seventy-five percent (75%) of the Lots (as defined in the Original Declaration) have consented in writing to, and have ratified, this amended and restated Declaration.

NOW, THEREFORE, the Original Declaration is amended and restated in its entirety as herein set forth. This Declaration may be executed in counterparts, all of which shall be read together as one document. Upon recordation of this Declaration in the Clerk's Office, this Declaration shall replace the Original Declaration.

ARTICLE I

Definitions

Section 1.1. "Additional Area" shall have the meaning set forth in Section 2.2 of this Declaration.

Section 1.2. "Annual Assessment" shall have the meaning set forth in Section 5.3 hereof.

Section 1.3. "Articles of Incorporation" means the Amended and Restated Articles of Incorporation of Powhatan Community Services Association, as the same may be amended and/or restated from time to time.

Section 1.4. "Architectural Review Committee" shall have the meaning set forth in Section 6.1 hereof.

Section 1.5. "Association" means the Powhatan Community Services Association, a Virginia Nonstock corporation, its successors and assigns.

Section 1.6. "Board of Directors" means the duly constituted board of directors of the Association.

Section 1.7. "Bylaws" means the Amended and Restated Bylaws of Powhatan Community Services Association, as the same may be amended from time to time.

Section 1.8. "Common Area" means (i) real estate and/or easements specifically designated as "Common Area" or "Common Area Easement" on recorded plats of the Properties, in any Supplemental Declaration or in any amendment to this Declaration or in any other instrument executed by Developer and recorded in the Clerk's Office; (ii) the portions of the Properties, if any, designated for "open space," "buffer zones," "scenic easements," "conservation areas," "landscape easements," "landscape protection zone," "LPZ," and "BMP" or

similar purposes on recorded plats of the Properties and conveyed (by deed, plat dedication or easement) to and accepted by the Association; and (iii) all other real property easements, and improvements or facilities now or hereafter owned by the Association which are intended to be devoted to the common use and enjoyment of the Owners and such non-Owners, if any, who have been authorized to use such Common Area pursuant to Sections 4.2 through 4.7 hereof. The Common Area includes or may in the future include, without limitation, certain streets which are not dedicated to the public, certain alleyways and access drives providing access to and from residential Lots and Parcels, entrance signs and entry features, landscaping easements, certain fencing, medians located within or adjacent to streets within the Properties, certain parks and open space areas, one or more storm water retention ponds or "BMP's," swimming pools and related facilities, Association trails and other recreational facilities. Portions of the Common Area may be designated by the Developer pursuant to Section 4.3 hereof as "Limited Common Area," as hereinafter defined, for the exclusive use of one or more but less than all of the Owners and such non-Owners, if any, who have been authorized to use such Limited Common Area pursuant to Sections 4.3 and 4.5 hereof. Also, certain Parcels, as hereinafter defined, may include open space areas, easements and facilities which are intended to be maintained privately either by private ownership or by separate associations and which will not be designated as Common Area or Limited Common Area and will not be maintained by the Association.

Section 1.9. "Declaration" means this Amended and Restated Declaration of Covenants and Restrictions, as same may from time to time be amended, restated or supplemented.

Section 1.10. "Developer" shall mean and refer to Powhatan Enterprises, Inc., a Virginia corporation, and its successor as "Developer" of the Properties to whom Powhatan Enterprises, Inc. has assigned its rights hereunder by instrument recorded in the Clerk's Office.

Section 1.11. "Existing Property" shall mean and refer to that real property described in Section 2.1 hereof.

Section 1.12. "General Assessment" shall have the meaning set forth in Section 5.3 hereof.

Section 1.13. "Governing Documents" shall mean and refer to this Declaration, any Supplemental Declaration(s), the Articles of Incorporation and the Bylaws of the Association, all as may be amended and/or restated from time to time.

Section 1.14. "Limited Common Area" shall mean and refer to those areas of land now or hereafter conveyed to the Association or shown on any recorded subdivision plat of the Properties and improvements thereon, which are intended to be devoted to the common use and enjoyment of the Owners of the Living Units located within the Parcel to which the use of such Limited Common Area is restricted in accordance with the terms of the Supplemental Declaration applicable to that Parcel and to such non-Owners, if any, who have been authorized to use such Limited Common Area pursuant to Section 4.3 through 4.7 hereof. The term Limited Common Area shall refer both to areas which are restricted to all Owners located within a single Parcel, and to areas restricted to the use of less than all of the Owners located within a single Parcel. Limited Common Area shall not include areas designated as "Common Element" and/or "Limited Common Element" of any condominium established pursuant to the Condominium Act

of Virginia Section 55-79.39 *et seq.* of the Virginia Code, as the same may be amended from time to time.

Section 1.15. "Limited Common Expenses" shall have the meaning set forth in Section 5.3 hereof.

Section 1.16. "Limited Common Expenses Assessment" shall have the meaning set forth in Section 5.3 hereof.

Section 1.17. "Living Unit" shall mean and refer to any structure situated upon a Lot designed and intended for use and occupancy as a residence by a single household.

Section 1.18. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Properties with the exception of Common Area and Limited Common Area. The term shall include a condominium unit within a condominium created pursuant to the Condominium Act of Virginia, Section 55-79.39 *et seq.* of the Virginia Code, as the same may be amended from time to time. The term "Lot" shall not include any portion of the Properties which at the time in question is not included in a recorded plat of a Parcel, or with respect to condominiums a governmentally approved site plan, nor shall "Lot" include Common Area, Limited Common Area, public streets or property dedicated to and accepted by a public authority.

Section 1.19. "Member" means every Person or entity who holds membership in the Association.

Section 1.20. "Multifamily Structure" shall mean and refer to a structure with two or more Living Units under one roof, except when such Living Unit is situated upon its own individual Lot as defined herein.

Section 1.21. "Original Declaration" shall have the meaning set forth in Paragraph "C" of the Recitals.

Section 1.22. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.23. "Parcel" shall mean and refer to platted subdivisions of one or more Lots which are subject to the same Supplemental Declaration and/or are subject to one or more Supplemental Declaration(s) which evidence the intent of Developer to create one unified Parcel.

Section 1.24. "Parcel Assessments" means those Limited Common Expense Assessments levied against all the Lots within a specified Parcel as set forth in the Supplemental Declaration(s) applicable to such Parcel.

Section 1.25. "Person" means any natural person, corporation, limited liability company, joint venture, partnership, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or any other separate legal entity. "Person" shall also mean and include, without limitation, a property or condominium unit owners association.

Section 1.26. "Powhatan Master Plan" shall mean and refer to the conceptual Master Plan of Powhatan, prepared by Langley and McDonald, Engineers, Planners and Surveyors, Virginia Beach, Virginia, dated April 1978, consisting of: (i) map plan drawings; and (ii) written statement of overall recreational concept, as may be revised from time to time by the Developer and the Board of Supervisors of James City County, Virginia.

Section 1.27. "Property" or "Properties" shall mean and refer to the Existing Property, together with such other real property as may from time to time be subjected in whole or in part to this Declaration or annexed thereto pursuant to Article II hereof as and when such other real property is subjected.

Section 1.28. "Supplemental Declaration" shall mean any declaration of covenants, conditions and restrictions which may have been or may hereafter be recorded by the Developer, which extends the provisions of this Declaration to a Parcel and contains such complementary provisions for such Parcel as are set forth therein, including without limitation those Supplemental Declarations described in Paragraph "B" of the Recitals.

Section 1.29. "Virginia Code" shall mean the Code of Virginia (1950), as in effect on the first date of recordation of this Declaration and as amended from time to time thereafter. Except as otherwise expressly permitted herein, if any sections of the Virginia Code referred to in this Declaration are hereafter repealed or recodified, each such reference shall be deemed to apply to the section of the Virginia Code that is the successor to the previous section referred to herein, or, if there is no successor section, such reference shall be interpreted as if the section had not been repealed.

Section 1.30. "Zoning Ordinance" means any ordinance, regulation or provision enacted by the applicable governing body of the James City County, Virginia, regulating, restricting, permitting or prohibiting the use of land and the construction of Improvements thereon and, for the purpose of this definition, shall include the conditions and provisions of any conditional use permit affecting any portion of the Properties or any other government controlled or directed process affecting any portion of the Properties. Without limiting the generality of the foregoing,

“Zoning Ordinance” also includes any applicable proffers made by Developer and/or any of its respective predecessor(s) in title to the extent applicable to the Properties and accepted by the County, as the same may be amended, modified, supplemented or amended and restated from time to time.

ARTICLE II

Property Subject to This Declaration and Additions Thereto

Section 2.1. Existing Property The real property which is subject to the Original Declaration and amended and restated by this Declaration as of the date of its recordation in the Clerk’s Office (hereafter the “Existing Property”) is described in Exhibit A hereafter.

Section 2.2. Additions. Developer contemplates the extension of this Declaration to other real estate shown on the Powhatan Master Plan and not previously submitted to the Declaration (the “Additional Area”). However, Developer shall not be obligated to bring all or any part of the Additional Area within the scheme of development established by this Declaration, and no negative reciprocal easement shall arise out of this Declaration so as to benefit any portion of the Properties or the Additional Area until such portion of the Additional Area is expressly subjected to the provisions of this Declaration in accordance with this Section 2.2 and then such portion of the Additional Area shall be subject to any additions, deletions and modifications as made pursuant to this Section 2.2. Added properties may become subject to this Declaration in the following manner:

(a) Additions by the Developer. Developer reserves the right, at its discretion, at such time or times as it shall determine to subject the Additional Area, or such portions thereof

as Developer shall determine, together with improvements thereon and easements, rights and appurtenances thereunto belonging or appertaining, to the provisions of this Declaration in whole or in part. Each of the additions authorized pursuant to this Section 2.2 shall be made by the recordation in the Clerk's Office of a Supplemental Declaration describing the portion(s) of the Additional Area subjected to this Declaration. Each such instrument may contain such additions, deletions and modifications to the provisions of this Declaration as may be desired by Developer.

(b) Addition of Common Area and/or Limited Common Area. Developer may subject portions of the Additional Area designated as Common Area and/or Limited Common Area to this Declaration by recordation of a deed conveying such property to the Association and/or by any of the means described in Sections 1.8, 1.14 and 4.3 hereof.

(c) Other Additions. Real property not described in subparagraphs (a) and (b) above may be subjected to this Declaration upon approval in writing of the Developer [so long as Developer's corporate existence continues in effect as reflected in the records of the State Corporation Commission of the Commonwealth of Virginia ("SCC")] and of the Association, pursuant to the approval of such annexation by a majority of votes cast by members present (in person or by proxy) at a regular membership meeting or special membership meeting of the Association duly called and held for this purpose.

Section 2.3. Power Not Exhausted by One Exercise, Etc. No exercise of the power granted Developer hereunder as to any portion of the Additional Area shall be deemed to be an exhaustion of such power as to other portion(s) of the Additional Area not so subjected to the provisions hereof or to the provisions of a Supplemental Declaration. The discretionary right of Developer to subject the Additional Area to the provisions of this Declaration or a Supplemental

Declaration is not conditioned upon or subject to the approval of other Owners and therefore the requirements set forth in Section 9.2 for amendments to this Declaration shall be inapplicable to this Article II. The failure of Developer to extend the provisions of this Declaration to the Additional Area or any portion(s) thereof shall not be deemed to prohibit the establishment of a separate scheme of development (including provisions substantially similar or identical to those contained herein) for such portion(s) of the Additional Area to which this Declaration is not extended.

Section 2.4. Development of Additional Area. The portion(s) of the Additional Area subjected to the provisions of this Declaration may contain additional Common Area and/or Limited Common Area and facilities to be owned and/or maintained by the Association.

ARTICLE III

Owners Association

Section 3.1. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to, and shall not be separated from, ownership of any Lot. Upon the recordation of a deed to a Lot, the membership of the selling Owner shall cease and the purchasing Owner shall become a member of the Association.

Section 3.2. Classes of Membership and Voting Rights.

(a) The Association shall have two (2) classes of membership.

Class A. Class A Members shall be all Owners of Lots including Developer as to those Lots owned by Developer; and

Class B. The Class B Member shall be the Developer until the earlier of (i) Developer ceases to be a corporation in existence as reflected in the records of the SCC; or (ii) Developer notifies the Association in writing that it no longer desires to be the Class B Member.

Section 3.3. Suspension of Voting Rights. The Board of Directors of the Association may suspend the voting rights of any Member subject to assessment under this Declaration during the period when any such assessment shall be past due, but upon payment of such assessment the voting rights of such Member shall automatically be restored. The Board of Directors, after appropriate due process, may also suspend the voting rights of any Member who is in violation of the Governing Documents or the Rules or Architectural Guidelines adopted from time to time by the Association's Board of Directors and/or who allows a violation to exist on his/her Lot if such violation remains uncorrected after the last day of a period established for correction by the Association (such period to be stated in a notice to the Owner together with a statement of the violation complained of and the manner of its correction).

Section 3.4. Articles and Bylaws to Govern. Except to the extent expressly provided in this Declaration, all the rights, powers and duties of the Association and the Members, including the Members' voting rights, shall be governed by the Articles and the Bylaws. However, in the event of any conflict or inconsistency between or among the provisions of this Declaration or any Supplemental Declaration and the provisions of the Articles or Bylaws, this Declaration and all Supplemental Declarations (to the extent applicable) shall control.

ARTICLE IV

Common Area and Limited Common Area

Section 4.1. Obligations of the Association. The Association, subject to the rights of the Members set forth in this Declaration and subject to the rights of non-Owners, but only to the extent non-Owners are granted rights pursuant to the provisions of this Declaration, shall be responsible for the maintenance, management, operation and control of the Common Area and the Limited Common Area and all improvements thereon (including fixtures, personal property and equipment related thereto). The Association shall keep the Common Area and the Limited Common Area and the improvements thereon in good, clean and attractive condition, order and repair in accordance with the requirements of the Zoning Ordinance, this Declaration and any applicable Supplemental Declaration.

The Association's performance of its obligations under this Section 4.1 shall be for the benefit of its Members and such non-Owners, if any, who have been authorized to use the Common Area and Limited Common Area pursuant to Sections 4.2, 4.3 and 4.4 hereof, provided, however, that the rights of such Members and non-Owners, if any, shall be subject to the provisions of this Declaration, any applicable Supplemental Declaration, the Articles, the Bylaws and such rules and regulations as may be adopted from time to time by the Association's Board of Directors.

Section 4.2. Owners' Rights of Enjoyment and Use of Common Area. Subject to the provisions of this Declaration, any applicable Supplemental Declaration, the Articles, and the Bylaws and such rules and regulations as may be adopted from time to time by the Association's Board of Directors, and except to the extent limited by the designation of "Limited Common

Area,” every Owner shall have a right of enjoyment in and to the Common Area which right of enjoyment shall be appurtenant to and shall pass with the title to every Lot and Parcel. The Common Area shall be used by Owners only for the purpose or purposes for which the Common Area may have been improved by Developer or the Association and subject to any applicable restrictions in the Zoning Ordinance. Any Common Area which has not been improved for a particular use is intended to remain in its natural condition until so improved, and any use thereof by an Owner shall not damage or disturb such natural condition or the enjoyment thereof by other Owners. The Board of Directors of the Association shall have the right to grant to any Person or Persons a license and/or similar right to make exclusive use of portions of the Common Area provided that any such grant is evidenced by duly adopted resolution of the Board of Directors of the Association.

Section 4.3. Limited Common Area. The Developer shall have the power, for so long as the Developer has the right to add Additional Area under Section 2.2 hereof, to restrict portions of the Properties then owned by Developer for the primary use of the Owners of one or more specific Lots or of all Lots within a specified Parcel by designating such property as “Limited Common Area.” Developer may either: (i) indicate the locations of the Limited Common Area appertaining to one or more Lots by depicting such Limited Common Area and the Lots to which it is appurtenant on a plat attached to or recorded with a Supplemental Declaration; (2) label a portion of the Common Area as “Common Area that may be assigned as Limited Common Area” on a plat attached as an exhibit to the applicable Supplemental Declaration and thereafter assign such Limited Common Area to one or more specific Lots and/or Parcel by unilaterally amending the Supplemental Declaration to indicate the assignment depicting the Limited

Common Area being assigned and the Lots and/or Parcel to which it is appurtenant; or (3) indicating that such property is Limited Common Area by a description in the applicable Supplemental Declaration and/or the deed which conveys such Limited Common Area to the Association.

Subject to the provisions of this Declaration, any applicable Supplemental Declaration, the Articles, the Bylaws, and such rules and regulations as may be adopted from time to time by the Association's Board of Directors, the Owners of Lot(s) to which Limited Common Area has been assigned and such non-Owners, if any, who have been authorized to use such Limited Common Area pursuant to Section 4.5 hereof, shall have the primary right of enjoyment in and to the Limited Common Area assigned which right of enjoyment shall be appurtenant to and shall pass with the title to every Lot to which such Limited Common Area is appurtenant. The Limited Common Area shall be used by Owners of Lots to which such Limited Common Area have been assigned, and such non-Owners, if any, who have been authorized to use such Limited Common Area pursuant to Section 4.5 hereof, only for the purpose or purposes for which the Limited Common Area may have been improved by the Developer or the Association and subject to any applicable restrictions in the Zoning Ordinance. Any Limited Common Area which has not been improved for a particular use is intended to remain in its natural condition until so improved, and any use thereof by an Owner of a Lot to which such Limited Common Area is appurtenant shall not damage or disturb such natural condition or the enjoyment thereof by other Owners of Lots to which such Limited Common Area is appurtenant. The Board of Directors of the Association shall have the right to grant to any Person or Persons a license and/or similar right to make exclusive use of portions of the Limited Common Area provided

that any such grant is evidenced by duly adopted resolution of the Board of Directors of the Association if granted by the Association.

Section 4.4. General Limitations on Owners' Rights. The Owners' rights of enjoyment in the Common Area and the Limited Common Area shall be subject to the following:

(a) the right of the Association to establish reasonable rules and regulations and to charge reasonable admission and other fees for the use of the Common Area and the Limited Common Area and to grant any person(s) a license and/or similar right to make exclusive use of portions of the Common Area and the Limited Common Area as more particularly set forth and described in Sections 4.2, 4.3 and 4.5 hereof;

(b) the right of the Board of Directors of the Association to suspend the right of an Owner to use or benefit from any of the Common Area or the Limited Common Area for the period during which any assessment against his Lot or Parcel is delinquent as may be limited by the last sentence of §55-514C of the Virginia Code as in effect as of the date hereof;

(c) the right of the Board of Directors of the Association to suspend the right of an Owner to use or benefit from any of the Common Area or Limited Common Area for any period during which any other violation by the Owner of this Declaration, a Supplemental Declaration or the rules and guidelines promulgated by the Association pursuant to this Declaration remains uncorrected after the last day of a period established for correction by the Association (such period to be stated in a notice to the Owner together with a statement of the violation complained of and the manner of its correction) and for not more than sixty (60) days after such correction;

(d) the right of the Association to mortgage any or all of the Common Area or the Limited Common Area for the purpose of making improvements or repairs thereto as further addressed in the Bylaws;

(e) the right of the Board of Directors of the Association to grant utility easements across the Common Area or the Limited Common Area as provided in Section 8.4;

(f) the right of the Board of Directors of the Association to dedicate or transfer all or any part of the Common Area or the Limited Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be desired;

(g) all of the other easements, covenants and restrictions provided for in this Declaration and any Supplemental Declaration(s) applicable to the Lots, Common Area and/or the Limited Common Area; and

(h) the Developer's designation of certain Common Area as "Limited Common Area" for the primary use and benefit of the Owners of one or more specified Lots or Parcels (and such non-Owners, if any, who have been authorized to use such areas pursuant to Section 4.5 below); and

(i) the Association shall have the express authority to remove improvements and/or to replace improvements to the Common Area and the Limited Common Area if the Board of Directors deems such removal and/or replacement to be in the best interests of the Association.

Section 4.5. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Area or Limited Common Area to members of his household who permanently reside in the Living Unit on his Lot and to his guests, and he may transfer such right to his tenants who

reside in such Living Unit pursuant to leases which satisfy the requirements of this Declaration, subject to such rules and regulations and fees as may be established from time to time by the Association.

Section 4.6. Damage or Destruction of Common Area or Limited Common Area by Owner. In the event any Common Area or Limited Common Area or improvement thereon is damaged or destroyed by an Owner, his tenants, guests, licensees, agents or members of his household, the Association may repair such damage at the Owner's expense. The Association shall repair such damage in a good and workmanlike manner in conformance with the original plans and specifications of the area or improvement involved, or as the Common Area, Limited Common Area or improvement may have been theretofore modified or altered by the Association, in the discretion of the Association. The cost of such repairs shall become a special assessment on the Lot of such Owner and shall constitute a lien on such Owner's Lot and be collectible in the same manner as other assessments set forth herein.

Section 4.7. Title to Common Area or Limited Common Area. Developer shall convey each Common Area and Limited Common Area to the Association, in a condition acceptable to the Association, free and clear of all liens and financial encumbrances but subject to this Declaration and all other easements, conditions and restrictions of record at such time as such improvements are completed and in a condition acceptable to the Association but no later than the date that is two (2) years after the date such Common Area or Limited Common Area has been subjected to this Declaration. Regardless of whether the Common Area and Limited Common Area actually have been conveyed by the Developer to the Association, Owners and the Association shall have all the rights and obligations imposed by this Declaration, any

Supplemental Declaration, the Articles and Bylaws with respect to the Common Area and the Limited Common Area from and after the date such Common Area and Limited Common Area are designated as such by recordation of an appropriate instrument in the Clerk's Office. The Association shall be liable from the date a deed or deeds to such Common Area and Limited Common Area is/are recorded in the Clerk's Office for payment of future taxes, if any, with respect thereto.

ARTICLE V

Covenant for Assessments

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot or Parcel, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association assessments as set forth in the Declaration, any Supplemental Declaration and in the Bylaws. The assessments, together with interest thereon, late charges and costs of collection including attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made in order to secure payment thereof and shall also be the personal obligation of the party who was the Owner of such Lot at the time when the assessment fell due. No Owner may waive or otherwise avoid liability for the assessments provided herein by nonuse of the Common Area or Limited Common Area, or abandonment of his Living Unit and/or Lot. Each assessment that is not paid when due shall bear interest at the rate established by the Association, which rate shall not exceed the maximum rate permitted by applicable law. Each assessment that is not paid within ten (10) days of its due date shall, at the option of the Association, incur a late

charge in the amount of twenty-five dollars (\$25.00) or as may be otherwise established from time to time by resolution duly adopted by the Board of Directors of the Association.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used for the management, maintenance, improvement, care, operation, renovation, repair and replacement of the Common Area and Limited Common Area and improvements thereon and other property owned or acquired by the Association of any nature whatsoever; for the discharge of all taxes and other levies and assessments against the Common Area and Limited Common Area and improvements thereon and other property owned or acquired by the Association; for the procurement of insurance by the Association in accordance with the Bylaws; for the establishment of reserves with respect to the Association's obligations; for the discharge of the Association's contractual and legal obligations; for funding and/or providing educational and training activities for directors and officers of the Association and to Association volunteers and Owners; for the provision of services by the Association, its advisors, consultants, attorneys, contractors, employees, and agents, as authorized in this Declaration, any applicable Supplemental Declaration and/or in the Articles or Bylaws; for the discharge of such other obligations as may be imposed upon or assumed by the Association pursuant to its Articles or Bylaws or this Declaration or any Supplemental Declaration; and for such other purposes as may be authorized by or pursuant to the Articles or Bylaws.

Section 5.3. Annual Assessments. "Annual Assessments" shall mean "General Assessments" and "Limited Common Expense Assessments."

(a) General Assessments.

1. Purpose. “General Assessments” shall mean those assessments used for the general purposes set forth in Section 5.2 above except that the General Assessments shall not be used for those purposes for which Limited Common Expense Assessments shall be used.

2. Basis. The General Assessments shall be established upon the basis of an annual budget adopted by the Board of Directors of the Association and increased or decreased from time to time by the Board of Directors of the Association pursuant to the Bylaws.

(b) Limited Common Expense Assessments.

1. Purpose. “Limited Common Expenses” are those expenses attributable to managing, maintaining, improving, caring, operating, renovating, repairing, establishing appropriate reserves for, insuring and replacing Limited Common Area, as well as the cost of providing certain services to individual Lots and Parcels. The purpose of the “Limited Common Expense Assessment” is to provide a means whereby the Owners of Lots which directly benefit from specific Limited Common Area and/or certain services applicable to individual Lots pay their proportionate share of the Limited Common Expenses attributable to such Limited Common Area and/or services. (Limited Common Expense Assessments levied against all the Lots within a specified Parcel may also be referred to as “Parcel Assessments” in the Supplemental Declaration(s) applicable to such Parcel.)

2. Basis. Limited Common Expenses may be assessed by the Association only against the Lots benefited in proportion to their relative General Assessment

liability, inter se or based on usage, as appropriate. Such Limited Common Expenses shall be determined as follows:

(i) any expenses designated in a Supplemental Declaration as expenses and/or “Parcel Assessments” to be paid by the Owners of designated Lots subject to such Supplemental Declaration;

(ii) any expenses proposed by the Board of Directors or a specific group of Owners as Limited Common Expenses against a specific group of Lots and agreed to by Members entitled to cast a majority of the total number of votes with respect to such Lots, assessed against such Lots as such Owners may agree or in proportion to their relative General Assessment liability, inter se; and

(iii) any service to individual Lots based on usage.

(d) Assessment Levels. For General Assessment purposes, all Lots shall be assessed at one hundred percent (100%) of the General Assessment except all Lots and Parcels owned by the Developer on which no Living Unit certified for occupancy exists.

Section 5.4. Special Assessments. In addition to the General and Limited Common Expense Assessments, the Board of Directors of the Association may levy a periodic special assessment if the purpose in doing so is found by the Board of Directors to be in the best interest of the Association and the proceeds of such assessment are used for (1) the maintenance and upkeep, including without limitation capital expenditures, of the Common Area (or the Limited Common Area, provided the special assessment is levied against only those Lots served by such Limited Common Area); and (2) the discharge of taxes, the procurement of insurance, the establishment of reserves, payment of costs and expenses incurred by the Association in the

course of its operations, and the discharge of such services and other obligations as may be assumed by the Association pursuant to its Articles, Bylaws, the Declaration or any Supplemental Declaration or any cost sharing, use or cross easement arrangements entered into with any other Person, and for such other purposes as authorized by or pursuant to the Articles or Bylaws.

Section 5.5. Date of Commencement of Annual Assessments. Subject to Section 5.9, the Annual Assessments provided for herein shall commence as to each Lot or Parcel on the first day of the month following the recordation of the deed to such Lot or Parcel to an Owner, other than the Developer, who purchases the same. The first Annual Assessment on a Lot or Parcel shall be adjusted according to the number of months remaining in the calendar year. Unless the Board of Directors of the Association amends the Bylaws to provide otherwise, the Annual Assessments shall be paid as provided in the Bylaws.

Section 5.6. Effect of Nonpayment of Assessments; Remedies of Association. The lien of the assessments provided for in this Declaration may be perfected and enforced in the manner provided in § 55-516 of the Virginia Code. A statement from the Association showing the balance due on any assessment shall be prima facie proof of the current assessment balance and the delinquency, if any, due on a particular Lot or Parcel. The Association may also bring an action at law against any Owner personally obligated to pay the same, either in the first instance or for deficiency following foreclosure, and interest, late charges and costs of collection including attorney's fees shall be added to the amount of such assessment and secured by the assessment lien. In addition, if any installment of any Annual Assessment or Special Assessment is not paid within thirty (30) days after the due date, the Board of Directors shall have the right

upon notice to the Owner to accelerate the installments owed and declare the entire balance of any Annual Assessment or Special Assessment due and payable in full.

Section 5.7. Subordination of Lien to Mortgages. The lien upon each of the Lots and Parcels securing the payment of the assessments shall have the priority set forth in § 55-516A of the Virginia Code.

Section 5.8. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments and liens created herein: (i) all properties dedicated and accepted by a public authority; (ii) all Common Area and Limited Common Area; and (iii) all Lots and Parcels owned by the Developer on which no Living Unit certified for occupancy exists.

Section 5.9. Annual Budget. The Board of Directors shall adopt an annual budget for each fiscal year, which budget shall provide for the annual level of assessments (including provision for reserves and physical damage insurance deductibles) and an allocation of expenses. The Board of Directors may amend and/or modify any previously adopted annual budget at any time and from time to time during the Association's fiscal year, and shall have the right to amend and/or modify the annual level of assessments payable pursuant to such amended and/or modified annual budget.

Section 5.10. Capital Contribution. Upon the acquisition of record title to a Lot by a Person (other than Developer), a mandatory capital contribution shall be made by or on behalf of such Person to the Association in the initial amount equal to one-hundred and fifty percent (150%) of the amount of the Annual General Assessment for such Lot which capital contribution may be increased from time to time by resolution of the Board of Directors. This contribution

shall be deposited in the purchase and sales escrow at settlement and shall be disbursed therefrom to the Association for its capital reserve fund(s), or if there is no settlement, shall otherwise be paid directly to the Association upon such person obtaining title. Amounts payable under this Section 5.10 are in addition to any assessments and any fees associated with the Association's preparation and delivery of the Disclosure Packet pursuant to the Virginia Property Owners' Association Act (§ 55-509 et. Seq., of the Code of Virginia, as amended). The amount of any unpaid capital contribution shall constitute a lien on such Owner's Lot or Parcel and shall be deemed a special assessment upon such Lot or Parcel and such shall be regarded as any other assessment with respect to lien rights of the Association and remedies provided herein for non-payment. Persons who acquire title to a Lot or Parcel are obligated to pay such contribution to the Association regardless of whether such Person acquired title to such Lot or Parcel by purchase (with or without consideration), gift or devise.

ARTICLE VI

Architectural Control

Section 6.1. Architectural Review Committee. The Board of Directors shall appoint a committee [the "Architectural Review Committee" (formerly known as the "Architectural and Land Preservation Board)]. The Architectural Review Committee shall be composed of three (3) or more persons, who need not be Members of the Association, from time to time appointed by the Board of Directors of the Association. The members of the Architectural Review Committee shall serve for such terms as may be determined by the Board of Directors of the Association. The Architectural Review Committee appointed by the Board of Directors shall have the

authority for reviewing and, as appropriate, approving or disapproving Plans submitted for modifications, alterations or additions made on or to existing structures and/or Living Units on Lots. The Developer has reserved unto itself the right and authority to review and, as appropriate, approve or disapprove Plans submitted for Lots on which no Living Units have previously been constructed (the "Developer Review Rights"). At such time as Developer ceases to own any unimproved Lots or at such time as Developer's Class B Membership has expired, whichever occurs earlier, its Developer Review Rights shall automatically transfer to the Association's Architectural Review Committee which shall then assume such rights and authority with respect to Lots upon which no Living Unit has been constructed. The Architectural Review Committee appointed by the Board of Directors, and the Developer for such time as Developer possesses Developer Review Rights, shall be collectively referred to herein for ease of reference as the "Architectural Review Committee." References herein to Architectural Review Committee shall apply to either or both, as applicable.

Section 6.2. Plans to be Submitted. Before commencing the construction, erection or installation of any building, addition, patio, deck, pool, fence, wall, animal pen or shelter, exterior lighting, sign, mailbox or mailbox support, improvement or other structure (each of the foregoing being hereinafter referred to as an "Improvement") on any Lot or Parcel, including any site work in preparation therefor, and before commencing any alteration, enlargement, demolition or removal of an Improvement or any portion thereof in a manner that alters the exterior appearance (including but not limited to paint color) of the Improvement or of the Lot or the Parcel on which it is situated, each Owner shall submit to the Architectural Review Committee a completed application on the form provided by the Architectural Review

Committee (the "Application"), a proposed construction schedule and at least three sets of plans and specifications of the proposed construction, erection, installation, alteration, enlargement, demolition or removal, which plans and specifications shall include (unless waived by the Architectural Review Committee): (i) a site plan showing the size, location and configuration of all Improvements, including driveways and landscaped areas, and all setback lines, buffer areas and other features required under the Zoning Ordinance or the guidelines adopted by the Architectural Review Committee, (ii) as to Improvements initially constructed on a Lot or a Parcel, landscaping plans showing the trees to be removed and to be retained and shrubs, plants and ground cover to be installed, (iii) architectural plans of the Improvements showing exterior elevations, construction materials, exterior colors, driveway material, (iv) a sediment and erosion control plan, and (v) a tree protection plan and such other information as the Architectural Review Committee in its discretion shall require (collectively, the "Plans"). The Architectural Review Committee may, in its sole discretion, waive the requirement that any or all of the required Plans be submitted in a particular case where it determines such Plans are not necessary to properly evaluate the Application. The Architectural Review Committee shall not be required to review any Plans unless and until the Application has been submitted in completed form with the proposed construction schedule and the Plans contain all of the required items. The Application, Plans and the proposed construction schedule must be submitted to the Architectural Review Committee at the address of the Association in the same manner as notices are to be sent to the Association pursuant to Article XI. The Architectural Review Committee may grant blanket plan approval to builders who purchase more than one Lot at a time, subject to

such additional conditions (such as receipt of a site plan for a specific Lot) as the Architectural Review Committee may establish.

Section 6.3. Consultation with Architects, etc.; Administrative Fee. In connection with the discharge of its responsibilities, the Architectural Review Committee may engage or consult with architects, engineers, planners, surveyors, attorneys and others. Any Person seeking the approval of the Architectural Review Committee agrees to pay all fees thus incurred by the Architectural Review Committee and further agrees to pay an administrative fee to the Architectural Review Committee in such amount as the Architectural Review Committee may from time to time reasonably establish. The payment of all such fees is a condition to the approval or disapproval by the Architectural Review Committee of any Plans, and the commencement of review of any Plans may be conditioned upon the payment of the Architectural Review Committee's estimate of such fees.

Section 6.4. Approval of Plans. The Architectural Review Committee shall not approve the Plans for any Improvement that would violate any of the provisions of this Declaration or of any Supplemental Declaration applicable thereto. In all other respects, the Architectural Review Committee may exercise its sole discretion in determining whether to approve or disapprove any Plans, including, without limitation, the location of any Improvement on a Lot or Parcel. Subject to such procedural rules as may be adopted from time to time by the Board of Directors, an Owner whose Application has been disapproved by the Architectural Review Committee may appeal such decision to the Board of Directors if such Owner notes his/her appeal in writing to the Association and such notice of appeal is received by the Association on or before the date that is ten (10) business days after the date of the notice to the Architectural Review Committee's

decision. The Board of Directors may affirm, reverse or modify the Architectural Review Committee's decision by a vote of two-thirds (2/3) or more of the Directors present and voting at a duly called meeting at which a quorum is present.

If the Architectural Review Committee shall fail to act upon any Application submitted to it within thirty (30) days after its receipt of a complete Application, Plans and proposed construction schedule, the applicant may submit such Application to the Board of Directors for approval. If the Board of Directors shall fail to act on such Application within thirty (30) days after its receipt of such complete Application, Plans and approved construction schedule, then such Application, Plans and proposed construction schedule shall be deemed to have been approved as submitted and no further action shall be required; provided, however, that such failure to act by the Board of Directors shall not relieve the Owner of the obligation of complying with applicable federal, state and local building codes and architectural standards, covenants, design guidelines and rules and regulations set forth herein or adopted in accordance herewith in connection with the proposed action which was the subject of the Application, Plans and construction schedule or with the Architectural Guidelines.

Section 6.5. No Structures to be Constructed, etc. Without Approval. No Improvement shall be constructed, erected, installed or maintained on any Lot or Parcel, nor shall any Improvement be altered, enlarged, demolished or removed in a manner that alters the exterior appearance (including paint color) of the Improvement or of the Lot or the Parcel on which it is situated, unless the Application, Plans and construction schedule therefor have been approved by the Architectural Review Committee. After the Application, Plans and construction schedule therefor have been approved, all Improvements shall be constructed, erected, installed,

maintained, altered, enlarged, demolished or removed strictly in accordance with the approved Plans. Upon commencing the construction, erection, installation, alteration, enlargement, demolition or removal of an Improvement, all of the work related thereto shall be carried on with reasonable diligence and dispatch and in accordance with the construction schedule approved by the Architectural Review Committee.

Section 6.6. Guidelines May Be Established. The Architectural Review Committee may, subject to the approval of the Board of Directors, in its discretion, establish guidelines and standards (collectively, "Architectural Guidelines") to be used in considering whether to approve or disapprove Plans. Such guidelines may vary by Parcel and/or Neighborhood and may include, without limitation, uniform standards for signage and mailboxes and mailbox supports. However, nothing contained in this Declaration shall require the Architectural Review Committee to approve the Plans for Improvements on a Lot or a Parcel on the grounds that the layout, design and other aspects of such Improvements are the same or substantially the same as the layout, design and other aspects of Improvements approved by the Architectural Review Committee for another Lot or Parcel. The Architectural Guidelines may include specific procedures to implement the Application and Application review process, including, without limitation, a procedure for an applicant's appeal of the Architectural Review Committee's decision, as well as requirements relating to the form of the Application and required signatures thereon.

Section 6.7. Limitation of Liability. The approval by the Architectural Review Committee of any Plans, and any requirement by the Architectural Review Committee that the Plans be modified, shall not constitute a warranty or representation by the Architectural Review

Committee of the adequacy, technical sufficiency or safety of the Improvements described in such Plans, as the same may be modified, and the Architectural Review Committee shall have no liability whatsoever for the failure of the Plans or the Improvements to comply with applicable building codes, laws and ordinances or to comply with sound engineering, architectural or construction practices. In addition, in no event shall the Architectural Review Committee have any liability whatsoever to an Owner, a contractor or any other party for any costs or damages (consequential or otherwise) that may be incurred or suffered on account of the Architectural Review Committee's approval, disapproval or conditional approval of any Plans. The Architectural Review Committee shall have no liability whatsoever to any Owner due to the fact that the housing style, type, square footage, and/or price range associated with any approved Plans and/or Improvements differ from those of Improvements approved by the Architectural Review Committee for another Lot or Parcel.

Section 6.8. Other Responsibilities of Architectural Review Committee. In addition to the responsibilities and authority provided in this Article VI, the Architectural Review Committee shall have such other rights, authority and responsibilities as may be provided elsewhere in this Declaration, in any Supplemental Declaration and in the Bylaws.

ARTICLE VII

Use of Property

Section 7.1. Restrictions.

(a) General Restrictions. All Lots and Parcels within the Properties shall be developed and maintained in accordance with the Powhatan Master Plan. In addition, such

development must comply with all state and local laws and regulations, including, but not limited to regulations arising out of the Chesapeake Bay Preservation Act as the same may be amended from time to time.

(b) Residential Use, Occupancy and Leases

(1) No Lot or Living Unit, or any portion thereof, shall be used or occupied by non-Owners for transient or hotel purposes or in any event leased for an initial term of less than twelve (12) months. All leases must be for the entire Lot and Living Unit. No more than one lease may be entered into for the same Lot/Living Unit for the same term. Subleasing and/or assignment of leases is/are not permitted. No Lot or Living Unit, or portion thereof, shall be submitted to or used for any timesharing, cooperative, licensing or similar arrangement that would entail daily, weekly, monthly or any other type of revolving or periodic occupancy by multiple Owners, occupants, cooperators, licensees, or timesharing participants. Every Owner shall cause the occupants of his or her Lot and Living Unit to comply with this Declaration, the Bylaws, the Architectural Guidelines and any rules and regulations of the Association. No Owner shall lease a Lot/Living Unit other than on a written form of Lease: (i) requiring the lessee to comply with the Declaration and the other rules and governing documents of the Association; (ii) providing that the failure to comply with such documents shall constitute a material default under the lease; (iii) providing for an initial, good faith, obligatory term of twelve (12) months or more; and (iv) providing that subleases and/or assignments shall be prohibited.

(2) The Association's Board of Directors shall have the right to adopt reasonable rules and regulations to facilitate the administration and enforcement of the

provisions of this sub-paragraph, including but not limited to, requiring Owners who lease their Lots/Living Units to provide to the Association a completed tenant information form containing, without limitation, the name(s) of Persons who will reside in the Living Unit as members of the tenant's household, tenant contact information and the term of lease, within five (5) days of entering into a lease of their Lot/Living Unit.

Section 7.2. Protective Covenants.

(a) Nuisances. No nuisance shall be permitted to exist on any Lot or Parcel. Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot or Parcel or on the Common Area or the Limited Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules in furtherance of this provision.

(b) Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot, nor any easement or other interest herein, shall be conveyed or transferred by an Owner, provided that this shall not prohibit the vacating of boundaries between adjacent Lots to create a bigger Lot, deeds of correction, deeds to resolve boundary line disputes and similar corrective instruments and provided that this shall not prohibit the division or combination of condominium units in accordance with law, or the creation of condominiums. Any Owner other than Developer who

vacates a boundary between two lots must pay full assessments for both Lots as such Lots are described in the initial subdivision plat recorded in the Clerk's Office.

(c) Rules. From time to time the Board of Directors may adopt general rules, including but not limited to rules to regulate potential problems relating to the use of Properties and the well-being of Members and residents, such as the definition of nuisances, keeping of animals, storage and use of all vehicles, storage and use of machinery, use of outdoor drying lines, antennas, satellite dishes, signs, trash and trash containers, restrictions on sprinkler and irrigation systems, private irrigation wells and uses of lakes, water bodies and wetlands, maintenance and removal of vegetation on the Properties and the type and manner of application of fertilizers or other chemical treatments to the Properties in accord with non-point source pollution control standards (collectively, the "Rules"). All such Rules and any subsequent amendments thereto shall be binding on all Members and occupants of the Properties, including members of their household and their tenants, guests and invitees, except where expressly provided otherwise in such Rule. Such Rules as adopted from time to time are herein incorporated by reference and shall be as binding as if set forth herein in full; provided, however, that in the event of a conflict between any provision(s) in the Rules and the Governing Documents, the provision(s) set forth in the Governing Documents shall control.

(d) Lakes and Water Bodies. There shall be no swimming or use of personal flotation devices in any lakes or ponds located within the Properties. Limited boating activity is permitted except where specifically prohibited by posted signs. Limited boating activity is restricted to canoe, kayak, or other small manually propelled water craft as deemed appropriate by the Association. Motorized, remote controlled and sailing craft are not permitted. The Association

shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams or other water bodies within the Properties.

(e) Permitted Uses. Except as otherwise provided in the Governing Documents (including without limitation any applicable Supplemental Declaration), no Lot or Living Unit shall be used for other than residential purposes. The Developer specifically reserves the right to operate a construction office or a rental, brokerage and management office at any time on Lots owned or leased by the Developer (or any other Lot with the permission of the Owner thereof) and on any portion of the Common Area or Limited Common Area, to the extent permitted by law. Upon expiration of Class B membership, the use of such former office shall be limited to residential purposes.

(f) Hazardous Uses; Waste. Nothing shall be done or kept on the Properties which will increase the rate of insurance applicable for permitted uses for the Common Area, Limited Common Area, or any part thereof without the prior written consent of the Board of Directors, including, without limitation, any activities which are unsafe or hazardous with respect to any person or property. No Person shall permit anything to be done or kept on the Properties which will result in the cancellation of any insurance on the Common Area, Limited Common Area or any part thereof or which would be in violation of any law, regulation or administrative ruling. No vehicle of any size which transports inflammatory or explosive cargo may be kept or driven on the Properties at any time; provided, however, that this restriction shall not apply to customary transport of lawn mower and/or household fuel in reasonable and customary quantities. Each Owner shall comply with all federal, state and local statutes, regulations,

ordinances, or other rules intended to protect the public health and welfare as related to land, water, groundwater, air or other aspects of the natural environment (the "Environmental Laws"). Environmental Laws shall include, but are not limited to, those laws regulating the use, generation, storage or disposal of hazardous substances, toxic wastes and other environmental contaminants (collectively, the "Hazardous Materials"). No Owner shall knowingly use, generate, manufacture, store, release, dispose of or knowingly permit to exist in, on, under or about such Owner's Lot, the Common Area, the Limited Common Area or any portion of the Properties, or transport to or from any portion of the Properties any Hazardous Materials except in compliance with the Environmental Laws. No waste shall be committed on the Common Area or Limited Common Area.

(g) Lawful Use. No improper, offensive or unlawful use shall be made of the Properties or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Properties shall be complied with, by and at the sole expense of the Owner or the Association whichever shall have the obligation for the upkeep of such portion of the Properties, and, if the Association, then the cost of such compliance shall be included in the General Assessment or Parcel Assessment, as appropriate.

(h) Emissions. There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances into the atmosphere except for normal residential chimney emissions, no production, storage or discharge of Hazardous Materials on the Properties or discharges of liquid, solid wastes or other environmental contaminants into the ground or any body of water, if

such emission, production, storage or discharge may adversely affect the use or intended use of any portion of the Properties or may adversely affect the health, safety or comfort of any person.

(i) Noise. No person shall cause any unreasonably loud noise (except for security devices) anywhere on the Properties, nor shall any person permit or engage in any activity, practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Properties.

(j) Obstructions. No person shall obstruct any of the Common Area or Limited Common Area, or otherwise impede the rightful access of any other person on any portion of the Properties upon which such person has the right to enter. No person shall place or cause or permit anything to be placed on or in any of the Common Area or Limited Common Area without the approval of the Board of Directors of the Association. Nothing shall be altered or constructed in or removed from the Common Area or Limited Common Area except with the proper written approval of the Board of Directors. No vehicles may be parked in any public or private street or right-of-way within the Properties and vehicles may not be parked overnight in any parking areas located within the Common Area and Limited Common Area.

(k) Association Property. The Common Area and Limited Common Area shall be used only for the furnishing of the services and facilities for which the same is reasonably suited and which are incident to the use and occupancy of the Lots. The improvements located on the Common Area and Limited Common Area shall be used only for their intended purposes. Except as otherwise expressly provided in the Governing Documents, no Owner shall make any private, exclusive or proprietary use of any of the Common Area or Limited Common Area without the prior written approval of the Board of Directors and then only on a temporary basis.

(l) Mining and Excavation. No Lot shall be used for the purpose of boring, mining, excavating, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth except with the prior written approval of the Board of Directors.

(m) Signs. Except for such signs as may be posted by the Association, no signs of any character shall be erected, posted or displayed in a location that is visible from the Common Area, Limited Common Area or any other Lot, except as otherwise expressly permitted in the Rules and/or the guidelines adopted from time to time by the Architectural Review Committee.

(n) Trash. Except in connection with construction activities, no burning of any trash and no accumulation or storage of litter, refuse, bulk materials, building materials, garbage, or trash of any other kind shall be permitted on any Lot. Trash containers shall not be permitted to remain in public view from the Common Area, Limited Common Area, or public right-of-way except on days of trash collection. Trash containers and refuse disposal systems must be maintained in enclosures and screened as approved by the Architectural Review Committee. Trash, leaves and other materials shall not be burned in violation of local ordinances. No incinerator shall be kept or maintained upon the Properties without the prior written approval of the Board of Directors. All trash collection and removal shall be in accordance with the Rules.

(o) Landscaping; Sight-lines. No tree, hedge or other landscape feature shall be planted or maintained in a location which obstructs sight-lines for vehicular traffic on public streets. Pavement, plantings and other landscape materials shall not be placed or permitted to remain upon any Lot: (i) if such materials may damage or interfere with any easement for the installation or maintenance of utilities; (ii) in violation of the requirements of such easements; (iii) unless in conformity with public utility standards; or (iv) if such materials may unreasonably

change, obstruct or retard direction or flow of any drainage channels. No water pipe, sewer pipe, gas pipe, drainage pipe, television cable, electrical wire, or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground.

(p) Vegetation. No live trees with a diameter in excess of five (5) inches, measured three (3) feet above ground, nor trees in excess of three (3) inches in diameter, similarly measured, which are generally known as flowering trees (such as dogwood or redbud) or as broad leaf evergreens (such as holly, laurel, or rhododendron), no live vegetation on slopes of greater than twenty percent (20%) gradient or marked "no cut" areas on approved site plans may be cut without prior approval of the Architectural Review Committee. The Board of Directors may set rules for cutting of trees to allow for selective clearing or cutting.

(q) Temporary Structures. No structure of a temporary character, such as, by way of illustration and not limitation, trailers, tents, shacks, barns, pens, kennels, runs, stables, sheds not anchored on foundations or other temporary accessory buildings shall be erected, used or maintained on any Lot except in connection with construction activities. The guidelines adopted by the Architectural Review Committee, from time to time, may contain further limitations with respect to permanent accessory structures which may be erected, used or maintained on any Lot.

(r) Fences. Except for any fence installed by the Developer or the Association, no fence shall be installed except in conformance with standards established therefore and with the written approval of the Architectural Review Committee. No chain link fencing will be permitted on the Properties; provided, however, that the Developer or its designees may erect a chain link fence for the temporary storage of building materials, for the protection of building sites or around storage areas, maintenance areas, swimming pools or ponds.

(s) Vehicles. Except in connection with construction activities, no trucks (as defined in the Rules), trailers, campers, recreational vehicles, boats or other large vehicles, including grounds maintenance equipment, may be parked on any portion of the Common Area, Limited Common Area or any portion of a Lot visible from the Common Area, Limited Common Area or any other Lot or on any public right-of-way within or adjacent to the Properties, unless expressly permitted by the Board of Directors and only in such parking areas or for such time periods (if any) as may be designated for such purpose. Parking of all such vehicles and related equipment, other than on a temporary and non-recurring basis, shall be in garages or screened enclosures approved by the Architectural Review Committee or in areas designated in the Rules. All vehicles must be parked so as not to impede traffic or damage vegetation. No junk or derelict vehicle or other vehicle on which current registration plates and current city and state inspection permits are not displayed shall be kept upon any portion of the Common Area, Limited Common Area or any portion of a Lot visible from the Common Area, Limited Common Area or another Lot. Vehicle repairs and storage of vehicles are not permitted, except in accordance with the Rules; provided, however, that noncommercial repair of vehicles is permitted within enclosed structures. All motor vehicles including, but not limited to, trail bikes, motorcycles, dune buggies, and snowmobiles shall be driven only upon paved streets and parking lots. No motor vehicles shall be driven on community trails, pathways or unpaved portions of the Common Area or Limited Common Area, except such vehicles as are authorized by the Board of Directors as needed to maintain, repair, or improve the Common Area or Limited Common Area. This prohibition shall not apply to normal vehicular use of designated streets, and alleys constructed on the Common Area or Limited Common Area.

(t) Timeshares. No Lot shall be subjected to or used for any timesharing, cooperative, licensing or other arrangement that would entail weekly, monthly, or any other type of revolving or periodic occupancy by multiple Owners, cooperators, licensees, or timesharing participants.

(u) Home Occupations. No Lot or Living Unit shall be used for any business, commercial, manufacturing, mercantile, storing, vending or other non-residential purpose; provided, however, that an Owner may maintain a home occupation within a Living Unit as permitted by James City County and may maintain an office in the Living Unit constructed on such Owner's Lot if (i) such occupation or office generates no significant number of visits (as determined by the Board of Directors) by clients, customers or other persons related to the business, (ii) no equipment or other items related to the business are stored, parked or otherwise kept on such Owner's Lot or the Properties outside of an approved enclosure, and (iii) such Owner has obtained approvals for such use as may be required by James City County. As a condition to such use, the Board of Directors may require the Owner to pay any increase in the rate of insurance or other costs for the Association which may result from such use.

(v) Animals. The maintenance, keeping, boarding or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited on any Lot or upon the Common Area, or Limited Common Area, except that the keeping of guide animals and orderly domestic pets (e.g., dogs, cats or caged birds) without the approval of the Board of Directors, is permitted, subject to the Rules; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding and that any such pet causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Properties upon ten

(10) days written notice from the Board of Directors. Pets shall not be permitted upon the Common Area or Limited Common Area unless accompanied by someone who can control the pet and unless carried or leashed. Pet droppings shall be removed by the Owner of the pet. Any Owner who keeps or maintains any pet upon any portion of the Properties agrees to indemnify and hold the Association, each Owner and the Developer free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Properties. All pets shall be registered and inoculated as required by law.

(w) Clothes Drying Equipment. No clothes lines or other clothes drying apparatus shall be permitted outside of an enclosed structure on any Lot, unless approved in writing by the Architectural Review Committee. No portion of a Lot shall be used for the drying or hanging of laundry unless such laundry is adequately screened from public view.

(x) Mailboxes and Newspaper Tubes. Only mailboxes and newspaper tubes approved by the Architectural Review Committee shall be permitted. The Architectural Review Committee may adopt specific criteria applicable to mailboxes and newspaper tubes, and such criteria may vary by Parcel.

(y) Lighting. No exterior lighting shall be directed outside the boundaries of any Lot.

(z) Pools. No above-ground swimming pool shall be erected or maintained on any Lot. No in-ground swimming pool shall be erected or maintained on any Lot unless approved by the Architectural Review Committee and unless screened from view and enclosed by a fence.

(aa) Construction Activities. This section shall not be construed as forbidding any work involved in the construction or maintenance of any portion of the Properties so long as such work is undertaken and carried out (i) with the minimum practical disturbance to persons

occupying other portions of the Properties; (ii) in such a way as does not violate the rights of any person under other provisions of this Declaration; and (iii) in accordance with all applicable restrictions in the Rules, any Architectural Guidelines, the resolutions of the Board of Directors and the other provisions of this Declaration. The Architectural Review Committee may approve temporary structures for construction purposes which may otherwise be in violation of the Governing Documents or the Rules.

(bb) Septic Tanks. No septic tank shall be installed, used, or maintained on any Lot.

(cc) Antennas and Satellite Dishes. The Board of Directors of the Association may adopt as a part of the Rules and/or Architectural Guidelines standards or criteria, regarding the installation of antennas and satellite dishes provided such standards and/or criteria do not conflict with Federal, State or Local law or with Federal Communications Commission rules or regulations.

Section 7.3. Maintenance of Property.

(a) Owner Obligation. To the extent that exterior maintenance of a Lot and/or Living Unit is not provided by the Association pursuant to this Declaration or in a Supplemental Declaration, each Owner shall keep all Lots and Parcels owned by him, and all Living Units and Improvements therein or thereon, in good order and repair, free of debris, all in a manner and with such frequency as is acceptable to the Association and consistent with a first-quality development, the Rules, and the Architectural Guidelines. Further each Owner shall keep the lawns of their Lot maintained free of weeds and mowed regularly.

(b) Reconstruction and Repair. If a Living Unit, building, structure or other major Improvement located upon a Lot or Parcel is damaged or destroyed, the Owner thereof

shall restore the site either (i) by repairing or reconstructing such building or other major improvement, or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Properties. Unless the Architectural Review Committee permits a longer time period, such work must be commenced within sixty (60) days after the date of the casualty and substantially completed within twelve (12) months after the date of the casualty.

(c) Failure to Maintain. In the event an Owner shall fail to maintain his Living Unit, Lot or Parcel and the Improvements situated thereon as provided herein, the Association, after notice to the Owner and approval of the Board of Directors shall have the right, but not the obligation, to enter upon such Lot or Parcel to correct such failure. All costs related to such correction shall become a special assessment upon such Lot or Parcel and as such shall be regarded as any other assessment with respect to lien rights of the Association and remedies provided herein for non-payment.

ARTICLE VIII

Easements

Section 8.1. Maintenance of Lots. Developer reserves the perpetual easement, right and privilege, and the Association is granted the perpetual easement, right and privilege, to enter on any Lot, after at least five (5) days' notice to the Owner thereof, for the purpose of inspecting such Lot and/or mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, dispensing pesticides, herbicides and fertilizer and grass seed, removing trash and taking such other action as the Developer or the Association may consider necessary to

correct any condition which detracts from the overall beauty of the Properties or which may constitute a hazard or nuisance. The cost, if any, incurred by the Association in taking such action (including any overhead costs associated therewith) shall constitute a special assessment on the Lot and shall be collectible in the manner provided herein for the payment of assessments.

Section 8.2. Right of Entry for Governmental Personnel. A right of entry onto any Common Area and Limited Common Area is hereby granted to personnel of James City County in the lawful performance of their official duties, including but not limited to: law enforcement officers and fire and rescue personnel as needed to lawfully carry out their duties, including but not limited to enforcement of cleared emergency vehicle access; public utility and public works vehicles in the performance of their installation, maintenance and repair duties; and inspection personnel for the purpose of reviewing the Association's proper maintenance of the Common Area and Limited Common Area.

Section 8.3. Easement for Landscaping, Signs and Related Purposes. There shall be and is hereby reserved to the Association, a non-exclusive easement over all Lots, Common Area and Limited Common Area for a distance of twenty (20) feet behind any Lot line which parallels, and is adjacent to, a street (whether public or private) for the purpose of erecting and maintaining street intersection signs, directional signs, temporary promotional signs, plantings, street trees installed pursuant to one or more community street tree plans, street lights, entrance features and/or "theme areas," lighting, stone, wood, or masonry wall features and/or related landscaping.

Section 8.4. Landscape Protection Zones and Scenic Easements. The Developer has established, and may in the future establish, Landscape Protection Zones designated on plats previously or hereafter filed for record in the Clerk's Office. The Architectural Review

Committee, with the approval of the Association's Board of Directors, shall establish restrictions for use of areas so designated, and scenic easements in order to protect natural streams and water supplies, to maintain and enhance the conservation of natural and scenic resources, to promote the conservation of soils, wetlands, beaches, tidal marshlands, wildlife, game and migratory birds, enhance the value of abutting and neighboring forests, wildlife preserves, natural reservations or sanctuaries or other open areas and open spaces, and to afford and enhance recreation opportunities, preserve historical sites, and implement generally the Powhatan Master Plan for development. The Developer has reserved and hereby continues to reserve the right of access upon such designated areas for the establishment and maintenance of improvements thereto.

Section 8.5. Utility and Drainage Easements. The Developer has reserved and hereby continues to reserve unto itself, its successors and assigns, a perpetual, alienable easement and right of way:

(a) to construct, maintain, inspect, replace and repair electric and telephone poles, wires, cables, conduits, sewers, pipes, water mains, other suitable equipment and facilities for the conveyance of water, sewer, gas, telephone, electricity, television, cable, communications or other utilities or public conveniences on, over, and under the rear ten (10) feet of each Lot and such other areas as may be designated for such purposes on appropriate recorded plats of subdivision;

(b) for storm and surface water drainage, including the right to construct, maintain, inspect, replace and repair pipes, ditches, culverts, and other suitable facilities for the disposition of storm and surface water drainage, on, over, and under the rear ten (1) feet of each

Lot and seven and one-half (7 ½) feet along both sides of each Lot, and such other areas as may be designated for such purposes on appropriate recorded plats of subdivision; and

(c) The easements provided in this Section 8.4 shall include the right of ingress and egress thereto, and the right to cut any trees, brush and shrubbery, make any make any grading of soil, and take other similar action reasonably necessary to provide economical and safe utility installation and drainage facilities. The rights herein reserved may be exercised by a licensee of the Developer, but shall not be deemed to impose any obligation upon the Developer, to provide or maintain any utility or drainage service.

Section 8.6. Easement for Encroachment. Each Lot, Common Area and Limited Common Area are hereby declared to have an easement of up to one foot in width over all adjoining Lots, Common Area and Limited Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of a building, or any other similar cause, and any encroachment due to building overhang or projection, and any encroachment of the mechanical units, heating and air conditioning pads and equipment. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful act or acts with full knowledge of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor unintentional encroachments over adjoining Lots shall be permitted, and that

there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

ARTICLE IX

General Provisions

Section 9.1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty-five (35) years from the date this (Amended and Restated) Declaration is recorded, after which they shall be automatically extended for successive periods of twenty-five (25) years each, unless this Declaration is sooner terminated by an amendment adopted pursuant to the amendment provisions of this Declaration.

Section 9.2. Amendments. This Declaration may be amended in accordance with §55-515.1 and §55-515.2 of the Virginia Code and with the written consent of the Developer (for so long as Class B membership exists); provided, however, that the provisions of Section 8.2 may not be amended without the consent of the Board of Supervisors of James City County and no amendment to terminate this Declaration shall be effective without the consent of the Board of Supervisors of James City County. Further, the Association's Board of Directors shall have the right without the consent of any other Owners, but expressly subject to the above conditions regarding the Board of Supervisors of James City County, to amend this Declaration in any respect as may be necessary or appropriate in order for this Declaration or the Properties to comply with applicable laws now or hereafter enacted or to satisfy the requirements of any Federal Mortgage Agency, including, without limitation, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the

U.S. Department of Housing and Urban Development, as the same may be amended from time to time, with respect to their purchase or guaranty of mortgage loans secured by Lots.

Section 9.3. Enforcement. The Developer, the Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, easements, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any Supplemental Declaration. Without limiting the generality of the foregoing, if any Owner fails to comply with any of the provisions of this Declaration or any Supplemental Declaration and such failure continues for at least five (5) days after notice thereof is given to the Owner, then either Developer or the Association may, but without any obligation to do so, take such action as either of them considers necessary or appropriate (including, without limitation, entering the Owner's Lot) to correct the noncompliance; provided, however, that judicial proceedings are instituted before any Improvements are subsequently altered or demolished. The cost incurred in taking such action shall constitute a special assessment upon the Owner's Lot(s) and shall be collectible in the manner provided herein for the payment of assessments. Failure by the Developer, the Association or any Owner to enforce any provision of this Declaration or any Supplemental Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.5. Conflict. In the event of conflict among the Governing Documents, this Declaration shall control, then applicable Supplemental Declarations, then the Articles, then the

Bylaws except that in all cases where the Governing Documents may be found to be in conflict with statute, the statute shall control.

Section 9.6. Interpretation. Unless the context otherwise requires, the use of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term “including” shall mean “including, without limitation.” The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions thereof.

Section 9.7. Release of Negative Reciprocal Easements. All Owners acknowledge that the Developer owns real estate in James City County, Virginia, which may in some areas be contiguous to the Properties and may be shown on the Powhatan Master Plan. No real estate shall be included within the scheme of this Declaration, however, except the Properties and any additional properties added pursuant to Article II, Section 2 hereof as and when such properties are added. Each Owner, by his acceptance of this Declaration or the deed to his Lot, waives any right and interest he may have: (i) in and to real estate not covered by this Declaration; and (ii) to the enforcement of all or any portion of this Declaration, any Supplemental Declaration, and other Governing Documents as to such real estate.

Section 9.8. Use of the Words “Powhatan Community Services Association”, “Powhatan”, “Powhatan Secondary” or “PCSA”. No person or entity shall use the words “Powhatan Community Services Association”, “Powhatan Secondary”, “Powhatan” or “PCSA” or any derivative thereof in any printed or promotional material without the prior written consent of Association.

Section 9.9. Approvals and Consents. All approvals and consents required or permitted by this Declaration (other than approvals or consents given by Owners or Members in a vote conducted in accordance with the Bylaws) shall be in writing, shall be signed by the party from whom the consent or approval is sought and, unless otherwise provided herein, may be withheld by such party in its sole discretion.

Section 9.10. Assignment of Developer's Rights. Any and all rights, powers, easements and reservations of Developer set forth herein may be assigned in whole or in part, at any time or from time to time, to the Association, to another Owner, or to any other Person in Developer's sole discretion. Each such assignment shall be evidenced by an instrument which shall be signed by Developer and its assignee and recorded in the Clerk's Office.

Section 9.11. Successors and Assigns. The provisions hereof shall be binding upon and shall inure to the benefit of Developer, the Association and (subject to Article II hereof) the Owners, Members and their respective heirs, legal representatives, successors and assigns.

Section 9.12. Compliance with Property Owners' Association Act. The Association shall have all of the rights, powers and duties provided in, be subject to and comply with the Virginia Property Owners' Association Act as set out in §55-509 *et seq.*, in the Virginia Code, as the same may be amended from time to time.

Section 9.13. Multiple Counterparts. This Declaration may be executed in multiple counterparts, all of which shall be read together as one document.

ARTICLE X

Dissolution of The Association

The Zoning Ordinance and proffers applicable to the Properties and the Additional Land require that all residential Lots be subject to a residential owners association. Accordingly, the future dissolution of the Association would be conditioned on the prior consent of the Board of Supervisors of James City County. In addition, dissolution of the Association requires amendment of the Declaration to terminate the Declaration as set forth in Section 9.2 hereof. Prior to dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be offered for dedication to the locality in which they are situated. In the event that such dedication is refused acceptance upon dissolution, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to similar purposes.

ARTICLE XI

Notices

All notices, demands, requests and other communications required or permitted hereunder shall be in writing and shall either be delivered in person or sent by overnight express courier or by U.S. first class mail, postage prepaid. Notices to the Association or to Owners may be sent to the address which the Bylaws provide. All such notices, demands, requests and other communications shall be deemed to have been given when sent to the appropriate address specified above. Rejection or other refusal to accept shall not invalidate the effectiveness of any notice, demand, request or other communication. Notwithstanding the foregoing, any notice of

the filing of a memorandum of assessment lien shall be sent in the manner required by Section 55-516C of the Virginia Code.

The foregoing notwithstanding, at such time, if any, as Virginia law authorizes notices to be sent by means other than as set forth above, the Association may utilize such alternative means of notifying Owners to the fullest extent authorized by law.

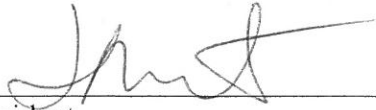
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SIGNATURES APPEAR ON FOLLOWING PAGES.]

WITNESS the following signatures and seals as of the date first above written.

**POWHATAN COMMUNITY SERVICES
ASSOCIATION,**

a Virginia nonstock Corporation

By: 
Title: President

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to-wit:

The foregoing Amended and Restated Declaration of Covenants and Restrictions was acknowledged before me this 5th day of January, 2016, by James West, President of Powhatan Community Services Association, a Virginia nonstock corporation.

[SEAL]


Notary Public

My commission expires: 01-31-2019
Registration No: 7103524



CERTIFICATION PURSUANT TO VIRGINIA CODE SECTION 55-515.1F

BY: 
Title: President

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged before me this 5th day of January, 2016, by James West, President of Powhatan Community Services Association, a Virginia nonstock corporation, on behalf of the corporation, who did state and certify that the requisite percentage of Owners of Lots have voted to approve and have given their written consent to and ratified such Amended and Restated Declaration of Covenants and Restrictions by signing a document evidencing their ratification of and consent to such Amended and Restated Declaration of Covenants and Restrictions.

[SEAL]


Notary Public

My commission expires: 01-31-2019
Registration No: 7103524



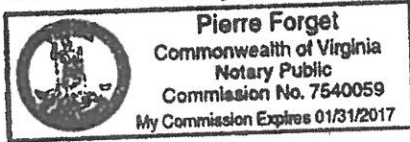
POWHATAN ENTERPRISES, INC.,
a Virginia corporation

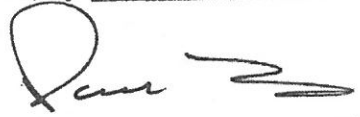
BY: 
Title: President

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to-wit:

The foregoing Amended and Restated Declaration of Covenants and Restrictions was acknowledged before me this 6th day of January, 2016, by Laurence E. Bonner President of Powhatan Enterprises, Inc., a Virginia corporation.

[SEAL]




Notary Public

My commission expires: 01/31/2017
Registration No: 7540059

EXHIBIT A

All those certain lots, pieces and parcels of land which were subjected to that certain instrument entitled "Declaration of Covenants and Restrictions" dated July 27, 1981 and recorded August 6, 1981 in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia ("Clerk's Office") in Deed Book 215, page 722 together with those lots, pieces and parcels of land thereafter subjected to the foregoing instrument of record by various Supplementary Declarations of Covenants and Restrictions and Supplemental Declarations of Covenants and Restrictions of record in the Clerk's Office.