

Winding Oaks, a Planned Community

Public Offering Statement

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Winding Oaks, a Planned Community

Public Offering Statement

Introduction and Disclosures

Pursuant to the requirements of the *Pennsylvania Uniform Planned Community Act*, 68 Pa.C.S. §5101, *et seq.* (the "Act"), this Public Offering Statement conveys information regarding the property described as Winding Oaks.

The Act defines and uses certain words to describe parcels of ground and improvements to these parcels.

The Act describes a "Unit" as a "physical portion of the planned community designated for separate ownership or occupancy."

The Act describes and uses the terms "planned community," and "subject property," to identify the parcel of land which is the subject to the Act. In this Public Offering Statement, the term "Planned Community" will be synonymous with the term "Subject Property."

The name of the Planned Community is Winding Oaks, a Planned Community. The Planned Community is located along Cordial Lane in Swatara Township, Dauphin County, Pennsylvania.

The Declarant of Winding Oaks, a Planned Community is Gerald R. Horst with an address at 120 North Pointe Blvd., Lancaster, PA 17601.

Within seven days after receipt of this Public Offering Statement, or any amendment to this Public Offering Statement that materially and adversely affects the rights or obligations of the purchaser, the purchaser, before conveyance, may cancel any contract for purchase of a Unit from the Declarant.

If the Declarant fails to provide a Public Offering Statement, and any amendments, to a purchaser before conveying a Unit, the purchaser may, in addition to any other relief, recover from the Declarant an amount equal to 5% of the sales price of the unit up to a maximum of \$2,000 or actual damages, whichever is the greater amount.

A minor omission or error in the Public Offering Statement, or an amendment thereto, that is not willful shall entitle the purchaser to recover only actual damages, if any.

If a purchaser receives the Public Offering Statement more than seven days before signing a contract, the purchaser cannot cancel the contract unless there is an amendment to the Public Offering Statement that would have a material and adverse effect on the rights or obligations of that purchaser.

Any deposit (which shall not include any payment specifically stated in a sales contract to be in payment of or on account of extras, changes or custom work) made in connection with the purchase or reservation of a Unit from the Declarant ("Deposit") shall be placed in escrow and will be held in an escrow account in this Commonwealth by a licensed real estate broker, an attorney admitted to practice in this Commonwealth, a financial institution, or a licensed title insurance company in an account or in the form of a certificate of deposit designated solely for that purpose with a financial institution whose accounts are insured by a governmental agency or instrumentality until:

- (1) delivered to the Declarant, at the settlement of the purchase of the property being purchased;
- (2) delivered to the Declarant, because of purchaser's default under a contract to purchase the Unit;

or

- (3) refunded to the purchaser.

Any Deposit will be returned to the purchaser if the purchaser cancels the contract pursuant to section 5406 of the Act which provides that:

(a) declarant shall provide a purchaser of a unit with a copy of the public offering statement and all amendments thereto not later than the date the purchaser executes the contract of sale for such unit or, if no contract of sale is executed, not later than seven days before conveyance of such unit. Unless a purchaser is given the public offering statement, including all the currently effective amendments thereof, within the time period referred to in the preceding sentence, the purchaser, before conveyance, may cancel the contract within seven days after first receiving the public offering statement and all currently effective amendments. If a public offering statement is amended after the public offering statement has been received by a purchaser of a unit, the amendment shall be provided to the purchaser promptly after it becomes effective. If the amendment materially and adversely affects the rights or obligations or both of the purchaser, then the purchaser, before conveyance, may cancel the contract of sale within seven days after receiving the amendment.

(b) Method and effect of cancellation.--If a purchaser elects to cancel a contract pursuant to subsection (a), the purchaser may do so by hand-delivering notice thereof to the declarant or by mailing notice thereof by prepaid United States mail to the declarant or to the declarant's agent for service of process. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly.

1. The Community of Winding Oaks

The overall tract of land identified as Winding Oaks is a parcel of land located along and east of Cordial Lane in Swatara Township, Dauphin County, Pennsylvania. The overall tract of land is shown on the Development Plan¹. A portion of this land (referred to as the "Planned Portion Property") is being developed in accordance with the Pennsylvania Uniform Planned Community Act² and is referred to in this Public Offering Statement as "Winding Oaks, a Planned Community" and is shown on the Plats and Plans³ attached to and made a part of the Declaration. The developer of the portion referred to as "Winding Oaks, a Planned Community" is Gerald R. Horst, identified in the documents as the "Declarant" and in this summary either as the Declarant or as the "Developer."

Although the Planned Portion Property is currently only a part of the overall land identified as Winding Oaks, other portions of the overall tract of land identified as Winding Oaks (referred to as "Additional Real Estate") may (but are not required to) be added to and become part of the Planned Portion Property

The Planned Portion Property is comprised of individual single family residential properties (on which townhome style homes (referred to as "Dwellings") are, or are planned to be, built), Common Elements comprised of private street rights-of-way, land for Storm Water Facilities,⁴ and land for the use and enjoyment of residents of Winding Oaks ("Common Land").

The Developer does not intend to rent any of the Units and does not intend to market blocks of Units to investors.

¹ Plan identified as *Preliminary/Final Land Development Plan for Winding Oaks* of record in the Office of the Recorder of Deeds in and for Dauphin County, Pennsylvania in Plan Book H, Volume 9, Pages 63-67.

² Property is made subject to the Act by the recordation of a *Declaration*. The *Declaration of Covenants, Restrictions, Easements and Establishment of Homeowners Association for Winding Oaks, a Planned Community in Swatara Township, Dauphin County, Pennsylvania* (the "Declaration") was recorded in the Office of the Recorder of Deeds in and for Dauphin County, Pennsylvania on October 17, 2006 as Instrument Number 20060042877.

³ Plats and Plans are a part of the Declaration and consist of drawings attached to the Declaration pursuant to § 5210 of the Act depicting and identifying, among other items, the name, location and dimensions of the planned community, the location and dimensions of vertical Unit boundaries (equivalent to lot lines), Unit identifying numbers, the location and dimensions of all easements serving or burdening any portion of the planned community to the extent feasible, and all other matters customarily shown on land surveys.

⁴ Portions of the Planned Community designated for the purpose of control of storm water quality and drainage, including but not limited to utilization of "best management practices" ("BMP") in accordance with plans therefor approved by all governmental entities having jurisdiction, for treatment, detention, retention and/or control of the volume and/or rate and/or the direction of storm water, together with certain improvements to the Subject Property, including but not limited to certain basins, pipes, swales, inlets, outfalls, dissipaters, spreaders, systems and other components and facilities appurtenant thereto as are constructed for the purpose of storm water quality and drainage management

2. Common Elements

Common Elements of the Winding Oaks Community are owned or are maintained, improved, repaired, replaced, regulated, managed, insured and/or controlled by the Winding Oaks Community Association (see Section 7 of this Public Offering Statement).

The Common Elements include land for the Storm Water Facilities and areas of open land which are referred to in this Public Offering Statement and in the Declaration as "Common Land."

In addition, the Private Streets, and shared Common Driveways and Parking Areas throughout the Winding Oaks Community, are Common Elements.

The *Common Elements* are comprised of both *Common Facilities* (both *General Common Facilities* and *Limited Common Facilities*) and *Controlled Facilities* (both *General Controlled Facilities* and *Limited Controlled Facilities*).

The *General Common Facilities* include all those parcels of land, including all improvements thereto, within the Planned Community shown on the Plat as "Common Land." The Common Facilities do not include any land Conveyed or to be Conveyed to Governmental/Public Service Entities.

The Common Land will be used in a variety of ways. Private Streets are located within the Common Land. A pedestrian trail system will be installed within the Common Land. Some portions of the Common Land are, and will remain in their natural state where appropriate such as where the Common Land is wetlands or woods, tree stands or other vegetation which serves as a visual barrier, nature preserve or other beneficial function.

The community of Winding Oaks is required, by governmental regulation to control the flow of storm water through and from the land. Storm water is controlled by various Storm Water Facilities. Within the Planned Community, storm water detention or retention basins, storm water surface flow through swales, and storm water pipes are located on the Common Land.

Limited Common Facilities are Common Facilities allocated for the exclusive use appurtenant to one or more but fewer than all of the Units. There are currently no Limited Common Facilities within Winding Oaks, a Planned Community.

The *General Controlled Facilities* are those portions of the Winding Oaks Community, whether or not a part of a Unit, which are not Common Facilities but are maintained, improved, repaired and replaced by the Winding Oaks Community Association.

The General Controlled Facilities include sidewalks, trees, and street lights located within rights of way dedicated to Swatara Township or to any other governmental entity.

The *Limited Controlled Facilities* include the accessible areas of lawns of Units. Lawn areas within enclosing fences shall be deemed not to be accessible.

3. Maintenance Obligations of Unit Owners

Except for some maintenance, repair and replacement of Limited Controlled Facilities⁵ which are the responsibilities of the Association⁶, the insurance, maintenance, repair and replacement of the Dwelling are the sole responsibility of the Unit Owner. The Unit Owner must, at all times, make adequate provision for the maintenance, repair and replacement of, and maintain, repair or replace as and when required in a manner which retains the functional condition thereof, the Dwelling and appurtenances thereto excepting only the repair and replacement of Limited Controlled Facilities to the extent of the obligation of the Association to maintain, repair and replace in accordance with the terms of Section 4.3.3 of the Declaration.

4. Insurance Obligations of Unit Owners

Each Owner of a Unit shall, at all times, maintain at the owner's sole cost, property insurance (such as, but not limited to, an HO3 policy of insurance) in an amount not less than an amount sufficient to replace and rebuild the Owner's Dwelling, and any and all improvements and betterments thereto.

If requested by the Association, an Owner must provide evidence of such insurance.

⁵ The accessible areas of lawns of Units. Lawn areas within enclosing fences shall be deemed not to be accessible.

⁶ The Association shall have the obligation to make adequate provision for the maintenance, repair and replacement of, and to maintain, repair or replace as and when in the sole judgment of the Executive Board required, in a manner which preserves, keeps functional, complies with all applicable Township, County, State and Federal regulations, ordinances and laws and retains the functional condition thereof all of the Controlled Facilities.

5. Development of the Planned Portion Property

Development of the overall tract of land identified as Winding Oaks, and additions to the Planned Portion Property (if any) are anticipated in phases. Currently, only the first phase, comprised of fourteen Units and Common Facilities shown on the Plats and Plans are part of the Planned Portion Property.

The overall tract of land identified as Winding Oaks has been planned for development into 112 Units on which Townhome style Dwellings will be built.⁷

If additional phases are added to and become part of the Planned Portion Property, all of the Units in each phase will be made subject to the provisions of the Act as the phase is added. The maximum number of additional Units which may be added to and become part of the Planned Portion Property is 136. Together with the 14 Units within the current Planned Portion Property, the maximum number of Units which may be in the Planned Portion Property is 150. Initially, only some of the phases are made subject to the provisions of the Act by the Declaration. Subsequently, additional phases can (but are not required to) be made subject to the provisions of the Act by Amendment to the Declaration. Any and all Units within phases added to the Planned Portion Property would be subject to all of the terms of the Declaration on an equal basis.

The Developer is or will be offering Units for sale with Dwellings constructed on the Units. The Dwellings built, however, are not part of a Unit as defined in the Act. The Developer has commenced construction of improvements to the Planned Community required for the use and occupancy of the Units within Winding Oaks as residential properties, including, but not limited to, the installation of Private Streets, utility services including water, sewage, gas, electric, telephone, and cable, and Storm Water Facilities (collectively referred to as "Facilities and Amenities"). The Facilities and Amenities which must be built are identified and described (as "Community Improvements") in Section 1.17 of the Declaration and shown on the Development Plan. The Declarant has posted the following financial security with the indicated entities to assure the performance by the Declarant of these obligations.

Swatara Township	Lender of Credit in the amount of \$851,000.00
Swatara Township Authority	Cash Deposit of \$19,400.00
water	No financial security posted
gas and electric service	No financial security posted
telephone service	No financial security posted

The source of funding to complete the Facilities and Amenities is a construction loan from Sovereign Bank to Gerald R. Horst.

⁷ Although a Development Plan has been filed with Swatara Township showing the development of the land identified as Winding Oaks into 112 Units, the final plan of development of the land identified as Winding Oaks may be comprised of a different number of Units, or may be planned in a different manner, subject to compliance with zoning and all other laws. If economic conditions change, it is possible that only the initial phase of Winding Oaks will be developed in accordance with the Development Plan.

The Facilities and Amenities to be completed by the Declarant are as follows and will be owned, upon completion, as indicated:

Private Streets, curbs and sidewalks adjacent to the private streets will be Common Facilities of the Winding Oaks Community Association.

Water service pipes will be owned by United Water Pennsylvania, Inc.

Sewers conveying sewage waste will be conveyed to and owned by the Swatara Township Authority.

Electric, gas, and telephone service facilities are not being completed by the Declarant and are, and will remain, the property of the respective service providers.

All Common Land, including improvements to the Common Land such as a pavilion, gazebo, pedestrian trail, signs including but not limited to direction and information signs, and entrance and identification signs, including lighting thereof, landscaping, including but not limited to ground cover, flowers, shrubs, bushes and trees, and retaining walls will be Common Elements of the Winding Oaks Community Association.

The Storm Water Facilities will be Common Elements of the Winding Oaks Community Association.

Except for the payments of assessments to the Association, real estate taxes, and utility bills, there are no responsibilities of Unit Owners for the maintenance, repair, improvement, administration and regulation of the Facilities and Amenities.

The Developer is scheduled to complete the Facilities and Amenities on or before the termination of the Development Period.⁸

⁸ The Development Period will begin on the date of the first conveyance of a Unit to a person other than a declarant and will last until the earliest of:

- a. Sixty days after conveyance by Declarant to persons other than a declarant of one hundred thirteen (113) Units (being 75% of the Units which may be created pursuant to the terms of this Declaration), or
- b. Seven (7) years from the date of the Declaration, or
- c. Two (2) years after all declarants have ceased to offer Units for sale in the ordinary course of business; or
- d. The date designated, by notice in writing, from the Declarant to the Executive Board of the Association as the date of termination of the Development Period.

All structural components and major utility installations of the Facilities and Amenities in the Planned Community are currently under construction and are not complete as of the date of this Public Offering Statement.

The list of all structural components in the Winding Oaks Community, including the dates of construction, installation and major repairs of existing structural components (if known or ascertainable), the expected useful life of each item, and the estimated cost in current dollars of replacing each of the structural components is as follows:

New Structural Components	Date of Construction	Expected Useful Life	Estimated Cost to Replace (in current dollars)
Storm Water Facilities:			
Basin and lining	Under Construction	60 years	\$12,000.00
Storm sewers	Under Construction	60 years	\$202,160.00
Private Roadway Paving	Under Construction	30 years	\$186,420.00
Private Roadway Curbing	Under Construction	50 years	\$64,800.00
Sidewalks	Under Construction	60 years	\$126,575.00
Walking Trails	Under Construction	30 years	\$1680.00
Signage	Under Construction	15 years	\$2,500.00
Retaining Walls	Under Construction	50 years	\$25,000.00

Because all major utility installations are repaired and replaced by the utility service providers there is no cost to the Association of replacing each of the same.

The following governmental approvals and permits are required for the use and occupancy of the Planned Community.

Land development approval from Swatara Township, which has been obtained, and which does not expire.

Approval of the design of the sanitary sewer system from Swatara Township Authority, which has been obtained, and which does not expire

NPDES (National Pollutant Discharge Elimination System) Permit (Permit # PAG2-0022-04-027) issued by the Pennsylvania Department of Environmental Protection, which has been obtained, with an expiration date of June 24, 2009.

Building Permits from Swatara Township for construction of Dwellings on the individual Units, which have not been obtained, are expected to be obtained immediately prior to the construction of a Dwelling on a Unit, the expense of which is the responsibility of the builder of the Dwelling.

Certificates of Occupancy from Swatara Township for permission to occupy Dwellings constructed on the individual Units, which have not been obtained, are expected to be obtained immediately prior to the occupancy of a Dwelling on a Unit, the expense of which is the responsibility of the builder of the home.

6. The Declaration

A copy of the Declaration is attached to this Public Offering Statement.

The Declaration may be amended by a vote of the owners of sixty seven percent (67%) of the Units within the Planned Portion Property. In addition, if required by any governmental entities having jurisdiction over land use, mortgagees of Units, title insurers, or financing agencies, the Declarant may amend the Declaration or other documents governing the development and use of the Planned Portion Property.

The Declaration defines and describes:

- a. the components of "Winding Oaks, a Planned Community" (§§ 2.5 - 2.8)
- b. provisions relating to permitted changes of the Community (§§ 2.1, 2.9, 3.7)
- c. uncompleted improvements and Common Elements and the provisions regarding assurance of completion (§ 2.10)
- d. provisions applicable to leasing of Units (§ 3.5)
- e. maintenance and insurance obligations of Unit owners (§§ 3.1 - 3.2)
- f. the property rights and responsibilities regarding the Common Elements including:
 - 1) Owner's easement of enjoyment (§ 3.3.3)
 - 2) limitation of easements, rights and privileges (§ 3.4)
- g. easements and licenses granted to the Association and to the Declarant (§ 3.6.3 - 3.6.4)
- h. a list of current restrictions, easements or licenses appurtenant to or included in the Planned Community (§ 3.6.5)

The Declaration establishes that the Winding Oaks Community Association (the "Association") will be the entity responsible for complying with responsibilities in the Planned Community. The Declaration defines and describes:

- a. the composition of the Association (§ 4.1)
- b. the powers and duties of the Association (§ 4.1.1, 4.2)
- c. the responsibilities of the Association for the maintenance, improvement, repair, replacement, regulation, management and control of the Common Elements and Controlled Facilities (§ 4.3)
- d. insurance to be carried by Association (§ 4.4)
- e. Membership and voting rights in the Association (§ 4.5)

There is no provision in the Declaration for any circumstances under which the Association is to become a master association or part of a master association. (a "master association" exercises powers granted to other associations on behalf of one or more other planned communities or other incorporated or unincorporated associations)

The Declaration establishes that the Association will be managed by an Executive Board. The Declaration defines and describes:

- a. the composition of the Executive Board (§ 4.6)
- b. powers and duties of the Executive Board (§ 4.6.1)
- c. right and limitation of Declarant to appoint members of the Executive Board during and only during the Development Period (§ 4.6.2)
- d. provisions regarding transfer of control of the Executive Board from Declarant to members elected by the Unit Owners (§§ 4.6.2.1 - 4.6.2.2)
- e. indemnification of officers, Executive Board and committee members (§ 4.6.3)

The Declaration establishes the procedures for assessments. The Declaration defines and describes:

- a. creation of the lien and personal obligation of assessments (§ 5.1)
- b. purpose of assessments (§ 5.3)
 - 1) Annual Assessments (§ 5.4)
 - 2) Special and other Assessments (§§ 5.5, 5.6, 5.7)
 - 3) Initial Assessments (§ 5.8)
 - 4) Capital Improvement Fee on transfer (§ 5.9)
- c. payments of assessments (§ 5.10)
- d. remedies of the Association for non payment of assessments (§ 5.11)
- e. property exempt from assessment (§ 5.12)
- f. enforcement by Swatara Township (§ 5.13)
- g. procedure for issuance of estoppel certificates (§ 5.2)

The Declaration establishes restrictions of the use of Units within the Planned Community (Article VI) including (but not limited to):

- a. architectural review and approval required for, among other things, additions, alterations, landscaping and decorations of Units (§ 6.2)
- b. restrictions regarding, among other things, occupancy, business uses, animals, vehicles, signs, and prohibitions against nuisances and hazardous activities.

The Declaration establishes Special Declarant Rights to:

- a. subject the Planned Community to easements (§ 7.1)
- b. appoint members of the Executive Board pursuant to the provisions of the Declaration (§ 7.2)
- c. use easements and licenses granted to Declarant (§ 7.3)

The Declaration also describes and establishes provisions for:

- a. exceptions to Declaration provisions for development and sales (§ 7.4)
- b. rights of Secured Lenders (§ 8.1)
- c. obligations of Association to Secured Lenders (§ 8.2)
- d. enforcement of the provisions of the Declaration (§ 9.1)
- e. severability of parts of the Declaration (§ 9.2)
- f. amendment of the Declaration (§ 9.3)

7. The Winding Oaks Community Association

The Winding Oaks Community Association (the "Association") is organized as a Pennsylvania non-profit membership corporation.

The Association may contract with outside firms for management services, and to perform some of the required functions of the Association.

The Association has several functions:

- a. The Association is responsible for maintaining, repairing and replacing when required all of the Common Facilities such as:

Private Streets, Sidewalks and Trees;

all Common Land within Winding Oaks and all improvements to the Common Land including the pavilion, gazebo, pedestrian trails, signs (such as trail markers, direction and information signs, and entrance and identification signs), landscaping, (such as ground cover, flowers, shrubs, bushes and trees) retaining walls, and other Common Land uses;

the Storm Water Facilities;

Common Driveways and Parking Areas;

- b. The Association is responsible for maintaining Controlled Facilities such as:

The accessible areas of lawns of Units. Lawn areas within enclosing fences shall be deemed not to be accessible.

- c. The Association can enforce, against any Unit Owner(s) violating them, the conditions, covenants, restrictions, and easements in the *Declaration*.

8. Membership and Assessments

To accomplish the purposes of the Declaration, each purchaser (or other grantee) of a Unit in Winding Oaks is obligated, upon and by becoming an Owner of a Unit in Winding Oaks, to become an Owner/Member of the Association.

The Owner, or owners collectively if more than one, of each Unit constitute one Member of the Association. Each Member shall hold one Membership in the Association. The Association will have the same number of Memberships as there are Units in the Planned Community.

Each Membership will have one vote in the Association. The total number of votes in the Association will be equal to the total number of Units within the Planned Community.

If any Membership is comprised of two or more persons (that is, if any individual Unit is owned by two or more persons), the vote for such Membership shall be cast as such owners shall decide among themselves and the vote may be exercised by any one of them, unless any objection or protest by any other of them is made prior to the completion of a vote, in which case the vote for such Membership will be cast in accordance with the majority vote of such owners and if no majority vote of such owners is attainable, the vote of such Membership will be cast as an abstention. In no event, however, will more than one vote be cast with respect to any Membership.

Cumulative voting will be permitted only for the purpose of electing members of the Executive Board. Cumulative voting will not be permitted for any other purpose. Cumulative Voting permits the casting of multiple votes for one candidate for election. In cumulative voting, each Membership is allocated the same number of votes as there are positions to be filled. For example, in an election to elect three directors, each Membership would have three votes. Under cumulative voting, in an election for three directors, each Membership would cast three votes. The three votes may be cast as one vote for each of three separate candidates, or all three votes may be cast for one candidate, or two votes may be cast for one candidate and one vote cast for a second candidate.

To carry out its responsibilities, the Association has the authority to collect assessments from each Unit Owner in the Planned Portion Property.

Each Unit Owner is obligated to pay annual and other assessments, when assessed, to the Association for the Association's operating and other expenses. In the event of failure to pay these assessments, the Association has the right to pursue collection by legal means and has the right to lien the Unit owned.

The Budgets are the amounts of money required to meet the obligations of the Association as required by the Declaration.

The Assessments are the amounts to be paid by each Unit Owner to the Association.

The General Common Expenses Assessment for each Unit for each year is based on the General Common Expenses Budget established for the year, multiplied by the Percentage Interest of the Unit.

The Special Allocation Expenses Assessments for each Unit for each year is based on the proportional benefit to such Unit of the Special Allocation Expenses Budgets. Special Allocation Expenses Budgets include, but are not be limited to:

the costs of utility services paid by the Association which shall be, if separately metered to each Unit, assessed in proportion to usage or, if not separately metered to each Unit, assessed in equal amounts to all Units to which such utility services are provided; and

costs associated with the maintenance, repair or replacement of a Limited Common Element which shall be assessed in equal shares against the Units to which such Limited Common Element was appurtenant at the time the cost was incurred.

The estimated Budget which would be applicable when the entire Community is completed is attached to this Public Offering Statement.

Until the entire Community is completed, interim budgets will be applicable.

IMPORTANT NOTE: Interim Budgets may result in assessments which are, and may be, more or less than the assessments projected upon completion of the Community.

Interim Budgets (and Assessments) may be less because operating costs may not include Association expenses for community facilities which are not yet complete.

Interim Budgets (and Assessments) may be less because they may be based on the receipt of operating subsidies from the Declarant.

Interim Assessments may be greater because operating costs are being assessed against (divided among) fewer than the number of Units projected to be in the community upon completion.

The Budgets of the Association include reserves for replacement of Common and Controlled Facilities as indicated in the Budgets. In the event that reserves for replacements are insufficient when replacements of some Common Facilities⁹ or Controlled Facilities¹⁰ are required,¹¹ the Executive Board will levy, subject to approval of all Unit Owners, Special Assessment for Capital Improvements pursuant to Section 5.5 of the Declaration.¹²

In addition to annual assessments, each initial purchaser of a Unit from a Declarant is obligated to pay an initial assessment to the Association in the amount of \$250.00. The initial assessment will be used by the Association to pay start-up expenses, to prepay certain expenses, such as insurance premiums, and to provide an initial reserve against future expenses.

Other than assessments assessed in accordance with the Declaration, there are no current or expected fees or charges to be paid by Unit Owners for the use of the Common Elements and other facilities related to the Planned Community.

There is no personal property not owned by the association but provided by the Declarant.

⁹ See Sections 2.7.1 and 2.7.2 of the Declaration.

¹⁰ See Sections 2.7.3 and 2.7.4 of the Declaration.

¹¹ "as and when in the sole judgment of the Executive Board required, ... in a manner which preserves, keeps functional, complies with all applicable Township, County, State and Federal regulations, ordinances and laws and retains the functional condition thereof ..." Declaration Section 4.3.2

¹² "In addition to the annual assessments authorized in the Governing Documents, the Executive Board may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of a part of the Common Elements including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of Members voting at a Special Purpose Meeting duly called for such purpose in accordance with the provisions of Section 4.5.2 of this Declaration."

9. Executive Board

The affairs of the Association will be managed by an Executive Board, the members of which will be (except during the Development Period) elected by the Members in accordance with the Bylaws of this Association. The Executive Board will be constituted and organized, and will operate, in accordance with the Bylaws of this Association.

To assure that the Association is established and operates to accomplish the purposes for which it is created, the Association will go through a Development Period during which the Developer (Declarant) exercises greater control and has certain rights.

During this Development Period, various governmental and other financing agencies require that the Developer (Declarant) be in control of the Association and be responsible for an orderly transition of control of the Association to resident Members over the course of the Development Period.¹³

During the Development Period, the Developer (Declarant) has the right to appoint a majority of the Executive Board of the Association. Other members of the Executive Board are elected by a vote of the Unit Owners. Initially, the Executive Board will be comprised of three members. The Executive Board, however, has the right to revise the number of its members.

¹³ See § 4.6.2 of the *Declaration*.

10. The Bylaws

A copy of the Bylaws of the Association are attached to this Public Offering Statement

The Bylaws define and describe:

- a. form of entity of the Association
- b. laws to which the Association is subject
- c. powers of the Association
- d. name and location of the principal office and registered office of the Association
- e. membership in the Association
- f. meetings of the Members of the Association:
 - 1) annual and special meetings
 - 2) notice of meetings and waiver of notice
 - 3) quorum, adjournments of meetings, proxies and voting
- g. written consent in lieu of meetings
- h. judges of elections
- i. Executive Board of the Association
 - 1) number and terms of members of the Executive Board
 - 2) resignation and removal of members of the Executive Board
 - 3) compensation and personal liability of members of the Executive Board
 - 4) meetings of members of the Executive Board
- j. committees
- k. powers and duties of the Executive Board
 - 1) delegation of powers
- l. officers of the Association and duties of officers
 - 1) titles, qualifications, powers and duties of officers
 - 2) election of officers by the Executive Board
 - 3) removal of and filling vacancies of officers
- m. maintenance of books and records
- n. notices requirements
- o. fiscal year of the Association
- p. amendments to the Bylaws

11. Rules and Regulations

There are currently no rules nor regulations affecting the Winding Oaks Community other than pursuant to the provisions of the Amended Declaration and the Bylaws

12. Purchase Agreement and Other Documents and Provisions affecting Purchasers

A copy of the Purchase Agreement to be entered into by a Purchaser for a Unit in the Planned Community is attached to this document

The Purchase Agreement defines and describes:

- a. the parties (Buyer and Seller)
- b. the property being purchased
- c. the construction of a home on the property being purchased
 - i. description of the home
 - ii. plans and specifications
- d. the purchase price for the property being purchased
- e. Earnest Money Deposit(s):
 - i. amount(s)
 - ii. who holds
 - iii. interest earned on Earnest Money Deposits
- f. Settlement of the purchase
- g. mortgage financing contingency
- h. notice provisions
- i. default provisions
- j. integration provision
- k. information regarding broker, cooperating broker (if any), and buyer agent (if any)

There are no other documents to be signed by Purchasers of Units prior to or at settlement of the purchase of a Unit except as may be required by any mortgage lender selected by the Purchaser and/or the entity selected by the Purchaser to insure title to the Unit, of which Declarant has no knowledge.

There is no financing for purchasers offered or arranged by the Declarant.

There are no restraints on alienation of any Unit.

13. Conditions affecting Title

Some or all of the Planned Community is subject to recorded restrictions, easements and licenses. As of the date of this Statement, the following restrictions, easements or licenses appurtenant to or included in the Subject Property are recorded, or intended to be recorded, in the Office of the Recorder of Deeds in and for Dauphin County, Pennsylvania:

- a. Rights granted to Sun Oil Company as set forth in Misc. Book N-4, Page 63, as amended in Misc. Book M-11, Page 280, and further amended in Record Book 1255, Page 620.
- b. Rights granted to Pennsylvania Power & Light Company as set forth in Misc. Book W-4, Page 325 and Misc. Book R-13, Page 544.
- c. Rights granted to The Manufacturers Light and Heat Company as set forth in Misc. Book Z-4, Page 534
- d. Rights granted to Socony-Vacuum Oil Company as set forth in Misc. Book Z-5, Page 602.
- e. Matters, conditions, easements, notes, site data, sketches, etc. as shown on Subdivision Plan Books V-47; V-109; Y-34; Q-4, Page 6; and X-4, Page 37 including rights of owners of lots sold in accordance with such plans in and to the use of all streets shown on said plans.
- f. Terms and conditions of Easement Agreement as set forth in Record Book 4341, Page 509.
- g. Subject to the legal operation and effect of the set-back lines, plan notes, easements, conditions and encumbrances as shown on Subdivision Plan Book H-9, Page 65, et seq.
- h. Terms and conditions of Easement Agreement relating to Water Mains as set forth in Record Book 6160, Page 187
- i. [Easement(s) to sewer provider]
- j. [Easement(s) to electric provider]
- k. [Easement(s) to telephone service provider]
- l. [Easement(s) to cable television provider]
- m. Subject to Declaration of Covenants, Restrictions, Easements and Establishment of Homeowners Association for Winding Oaks, a Planned Community in Swatara Township, Dauphin County, Pennsylvania recorded in the Office of the Recorder of Deeds in and for Dauphin County, Pennsylvania on October 17, 2006 as Instrument Number 20060042877.

14. Other Documents and Provisions regarding the Planned Community

There are no contracts, leases nor agreements of a material nature to the Planned Community that will or may be subject to cancellation by the Association under section 5305 of the Act (relating to termination of contracts and leases of Declarant) except:

Management Agreement with management company

There are no judgments against the Association, nor any pending suits to which the Association is a party nor any pending suits material to the Planned Community of which the Declarant has actual knowledge.

There are no outstanding and uncured notices of violations of governmental requirements affecting the Planned Community.

There are restraints on alienation of Common Elements. The Association may not dispose of the Common Facilities, by sale or otherwise, except upon Conveyance of the Common Facilities to a Governmental/Public Service Entity or other organization which such other organization has been organized for, or has adopted the purpose of, ownership of the Common Facilities and performance of the duties and obligations of the Association as set forth in the Governing Documents, subject to the provisions of §5318 of the Act.

The Declarant has no knowledge of:

- (i) Hazardous conditions, including contamination, affecting the planned community site by hazardous substances, hazardous wastes or the like or the existence of underground storage tanks for petroleum products or other hazardous substances.
- (ii) Any investigation conducted to determine the presence of hazardous conditions on or affecting the planned community site.
- (iii) Any finding or action recommended to be taken in the report of any such investigation or by any governmental body, agency or authority, in order to correct any hazardous conditions and any action taken pursuant to those recommendations.

The address and phone number of the regional office of the Department of Environmental Resources (now Department of Environmental Protection) where information concerning environmental conditions affecting the Planned Community may be obtained is:

Department of Environmental Protection (717) 240-7812
43 Brookwood Avenue
Suite 4
Carlisle, PA 17013

The address and phone number of the regional office of the United States Environmental Protection Agency where information concerning environmental conditions affecting the Planned Community may be obtained is

: United States Environmental Protection Agency (800) 438-2472 or (800) 814-5000
1650 Arch Street
Philadelphia, PA 19103

15. Insurance Coverage

The following insurance coverage is provided or intended to be provided by the Association for the benefit of Unit Owners pursuant to the provisions of which,

- (1) Each Unit Owner is or shall be an insured person under the policy with respect to liability arising out of his or her membership in the Association;
- (2) The insurer waives or shall waive its right to subrogation under the policy against any Unit Owner or member of the Owner's household.
- (3) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.
- (4) If at the time of a loss under the policy there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy is primary insurance not contributing with the other insurance:

comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Executive Board but not less than in the amount of \$500,000.00, covering all occurrences commonly insured against for death, bodily injury and property damage, arising out of or in connection with the use, ownership or maintenance of the Common Elements

There is no insurance provided nor intended to be provided by the Association which includes any Dwelling on a Unit or any improvements or betterments made to Units.

16. Warranties

The Declarant warrants that each Unit will comply with all laws, ordinances, rules and regulations of all governmental entities having jurisdiction thereof and will be served by Public Water, Public Sewer, Electric, Gas, and Telephone service (referred to collectively as "Utilities") and for which all approvals, permits and contracts from all governmental entities having jurisdiction thereof and providers of Utilities therefor for construction of a Dwelling thereon are immediately obtainable and, upon the completion of the construction of a Dwelling thereon in accordance with all requirements of all governmental entities having jurisdiction thereof and in accordance with the requirements of all entities providing Utilities (including without limitation payment for and compliance with all requirements for the obtaining of approvals, permits and contracts for such construction and provision of Utilities), a certificate of occupancy shall be immediately obtainable therefor.

17. Property Restrictions

The use of each Unit in Winding Oaks is limited by restrictions and obligations set forth in Article VI of the Declaration.

Restrictions include architectural review and approval required for, among others, additions, alterations, lighting, fencing and gardens and restrictions regarding, among others, occupancy, business uses, animals, vehicles, fences, firewood, tanks, and prohibitions against nuisances and hazardous activities.

The Association, any Unit Owner, or other person with interest in a Unit or portion of the Planned Community, may enforce these restrictions by legal means.

18. Annexation, Merger and Dissolution

No additional properties may be included in, or "added on", to the overall tract of land identified as Winding Oaks (such adding on is referred to as "annexation").

The documents provide that, in the event that the Association is dissolved, the Common Land must be conveyed to another entity which would continue to hold the Common Land for the enjoyment of all Unit Owners subject to the provisions of the Act.

Prepared By: Robert G. Dobslaw
Attorney at Law

Return To: Robert G. Dobslaw
Attorney at Law
110 Ridings Way
Lancaster, PA 17601-1708

Parcel ID#: P/O 63-063-054

Pursuant to the provisions of 68 Pa.C.S. Section 5201
this Declaration shall be recorded
in the Office of the Recorder of Deeds
in and for Dauphin County, Pennsylvania
and is to be indexed in the same records
as are notarized for the recording of a deed
and shall identify **Gerald R. Horst** (Declarant)
as the **grantor**, and
Winding Oaks, a Planned Community (Name of Planned Community)
as the **grantee**.

All of the real property made subject to this Declaration
is located in
Swatara Township,
Dauphin County,
Pennsylvania

**DECLARATION
OF COVENANTS, RESTRICTIONS, EASEMENTS
AND ESTABLISHMENT OF HOMEOWNERS ASSOCIATION
FOR WINDING OAKS, A PLANNED COMMUNITY
IN SWATARA TOWNSHIP, DAUPHIN COUNTY, PENNSYLVANIA**

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DECLARATION
OF COVENANTS, RESTRICTIONS, EASEMENTS
AND ESTABLISHMENT OF HOMEOWNERS ASSOCIATION
FOR WINDING OAKS, A PLANNED COMMUNITY
IN SWATARA TOWNSHIP, DAUPHIN COUNTY, PENNSYLVANIA

This Declaration is made this _____ day of October, 2006 by Gerald R. Horst (herein referred to as "Declarant").

PREAMBLE

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached to and made a part of this Declaration (herein referred to as the "Subject Property"); and

WHEREAS, the Subject Property is a part of a certain larger parcel of land described in Exhibit "B" attached to and made a part of this Declaration (herein referred to as the "Overall Parcel") situate in Swatara Township, Dauphin County, Pennsylvania; and

WHEREAS, the Overall Parcel has been approved for development by Swatara Township, Dauphin County, Pennsylvania as shown on that certain plan identified as *Preliminary/Final Land Development Plan for Winding Oaks* prepared by Alpha Consulting Engineers, Inc. dated August 25, 2004, last revised October 11, 2004 (herein referred to as the "Development Plan"), which such Development Plan is of record in the Office of the Recorder of Deeds in and for Dauphin County, Pennsylvania in Plan Book H, Volume 9, Pages 63-67; and

WHEREAS, the Subject Property together with such portions of the Overall Parcel which are made subject to the terms and conditions of this Declaration are herein referred to as the "Community of Winding Oaks" or the "Community"; and

WHEREAS, Declarant desires to develop and improve the Overall Parcel pursuant to the Development Plan, as amended if amended, as approved by Swatara Township (herein referred to as "Approved Development"), subject to the rights of Declarant as set forth herein to modify the Development Plan, and to make the Subject Property subject to the terms and conditions of this Declaration with the intent that the Owners of the Units and the owners and occupants of the dwellings constructed on the Subject Property and their invited guests may have the benefit, use and enjoyment of certain portions and improvements to the Subject Property as and when developed which shall include all those certain portions of the Subject Property defined in this Declaration as Common Land together with all improvements to such Common Land, together with certain areas and improvements to the Subject Property providing vehicular and pedestrian access to and through the Subject Property and storm water management, subject to the obligation of each Owner of any part of the Subject Property to contribute to the cost of maintenance and improvement of the Common Land, improvements thereto, storm water management facilities, and areas and improvements to the Subject Property providing vehicular and pedestrian access, and all other obligations of the Association all as more fully set forth in this Declaration; and

WHEREAS, the Declarant desires to provide for the preservation and enhancement of the property values, amenities, and opportunities in the Subject Property contributing to the personal and general health, safety and welfare of residents and to this end desires to make the Subject Property subject to the terms and provisions of the Pennsylvania Uniform Planned Community Act (68 Pa.C.S. §5101, *et seq.*) (herein referred to as the "Act") and pursuant to the provisions of said Act, to make provision for the maintenance and administration of the Common Elements, the performance of all other obligations of the Association, the enforcement of covenants and restrictions set forth in this Declaration or in any document or plan referred to in this Declaration, and the method by which assessments and charges shall be made and enforced against each parcel of real property which has been made subject to this Declaration and the Owner thereof for the aforesaid purposes and to subject the Subject Property to the covenants, restrictions, easements, charges and liens set forth in this Declaration, each and all of which is and are for the benefit of the Subject Property and for each Owner of a part thereof; and

WHEREAS, to provide a means for meeting the purposes and intents set forth in this Declaration, the Act, and the requirements of Swatara Township, Dauphin County, Pennsylvania, the Declarant has incorporated, under the laws of the Commonwealth of Pennsylvania, the "Winding Oaks Community Association, Inc.", a non-profit corporation in which each Unit Owner in the Subject Property shall be a Member and which such Membership shall run with and be inseparable from ownership of a Unit in the Subject Property.

NOW, THEREFORE, Declarant hereby declares that the Subject Property, and each part of, the Subject Property (excepting any part thereof, if any, Conveyed or to be Conveyed to Governmental/Public Service Entities) is and shall be held, transferred, sold, conveyed and occupied subject to the easements, covenants, conditions, restrictions, charges and liens set forth in this Declaration.

AND FURTHER, the Subject Property is, by this Declaration, made a Planned Community (as such term is defined by the Act) in accordance with the provisions of the Act.

AND FURTHER, Declarant hereby delegates and assigns to the Winding Oaks Community Association the power and duty of maintaining and administering the Common Elements, administering and enforcing the covenants and restrictions set forth in this Declaration, collecting and disbursing the assessments and charges hereinafter set forth in this Declaration, and promoting the recreation, health, safety, and welfare of the residents of the Community of Winding Oaks.

ARTICLE I

DEFINITIONS

In addition to the terms set forth in this Article I, words and terms in this Declaration shall be defined pursuant to the provisions of the Act unless inconsistent therewith, in which case this Declaration shall control.

- 1.1. "Act" shall mean and refer to the Pennsylvania Uniform Planned Community Act, 68 Pa.C.S. §5101, *et seq.*
- 1.2. "Additional Real Estate" shall mean and refer to such portions of the Overall Parcel which have not been made subject to the provisions of this Declaration
- 1.3. "Allocated Interest." See Association Interest.
- 1.4. "Approved Development" shall mean and refer to the development and improvement of the Subject Property pursuant to and in accordance with
 - 1.4.1. The Development Plan, as the same may be modified, as approved by Swatara Township, Dauphin County, Pennsylvania; and
 - 1.4.2. the Swatara Township Zoning Ordinance, as the same may be amended.
- 1.5. "Architecturally Controlled Improvement" shall have the meaning set forth in Section 6.2.1 of this Declaration.
- 1.6. "Assignee Declarant." See Declarant.
- 1.7. "Association" shall mean and refer to the Winding Oaks Community Association, Inc., a Pennsylvania non-profit corporation, its successors and assigns as organized pursuant to the provisions of the Act and with, except as specifically granted or limited as set forth in this Declaration, all powers described in the Act.
- 1.8. "Association Interest" shall mean and refer to the relative interest in the Association of each Unit. The Association Interest of each Unit shall be the quotient of one (1) divided by the then number of Units in the Subject Property.
- 1.9. "Association Obligations" shall mean and refer to the requirements of the Association to comply with and to perform all obligations and duties:
 - 1.9.1. pursuant to all provisions of this Declaration and of the Governing Documents, including but not limited to the obligations set forth in Section 4.3 of this Declaration and all other obligations herein and therein; and
 - 1.9.2. pursuant to all provisions of all conditions, covenants and restrictions of record applicable to the Subject Property.

- 1.10. "Common Driveways." See Driveways and Parking Areas.
- 1.11. "Common Driveways and Parking Areas." See Driveways and Parking Areas.
- 1.12. "Common Elements" shall mean and refer to the Common Facilities and the Controlled Facilities; "Limited Common Elements" shall mean and refer to the Common Facilities, Limited Common Facilities and the Controlled Facilities, Limited Controlled Facilities.
- 1.12.1. "Common Facilities" shall mean and refer to the General Common Facilities and the Limited Common Facilities.
- 1.12.1.1. "General Common Facilities" shall mean all real property interest (including all of the improvements thereto) of all of the Subject Property not designated as Units, including therein lands defined in this Declaration as Common Land including improvements thereto, Roadways within the Subject Property not accepted for dedication by any Governmental/Public Service Entity, Private Streets, Parking Areas, Street Lighting, and the Storm Water System, all excluding areas and improvements Conveyed or to be Conveyed to any Governmental/Public Service Entity, and all excepting the Limited Common Facilities. General Common Facilities are set forth in Section 2.7.1 of this Declaration.
- 1.12.1.2. "Limited Common Facilities" shall mean and refer to General Common Facilities allocated for the exclusive use (subject to enjoyment, access, and use easements as set forth in Section 3.3.3 of this Declaration) appurtenant to one or more but fewer than all of the Units. Limited Common Facilities are set forth in Section 2.7.2 of this Declaration.
- 1.12.2. "Controlled Facilities" shall mean and refer to those portions of the Subject Property whether or not a part of a Unit, which are not Common Facilities but are maintained, improved, repaired and replaced by the Association and shall mean and refer to the General Controlled Facilities and the Limited Controlled Facilities.
- 1.12.2.1. "General Controlled Facilities" shall mean and refer to all of the Controlled Facilities which are not Limited Controlled Facilities. General Controlled Facilities are set forth in Section 2.7.3 of this Declaration.
- 1.12.2.2. "Limited Controlled Facilities" shall mean and refer to Controlled Facilities allocated for the exclusive use appurtenant to one or more but fewer than all of the Units. Limited Controlled Facilities are set forth in Section 2.7.4 of this Declaration.

- 1.13. "Common Expense Liability" shall mean and refer to liability of each Unit for a proportionate share of General Common Expenses; a proportionate share of Special Allocation Expenses, Special Assessments for Capital Improvements, if any; Assessment to repair damage caused by Owner or others for whom Owner is responsible, if any; and Emergency Assessments, if any, applicable to such Unit. The Common Expense Liability of each Unit each year is the product of the Association Interest of such Unit and the General Common Expense Budget together with the Special Allocation Expense Assessment(s), Special Assessments for Capital Improvements, if any, Assessment to repair damage caused by Owner or others for whom Owner is responsible, if any, and Emergency Assessments, if any, against such Unit all as duly adopted pursuant to the provisions of Sections 5.4, 5.5, 5.6, and 5.7 of this Declaration.
- 1.14. "Common Facilities." See Common Elements.
- 1.15. "Common Land" shall mean all real property interest (including all of the improvements thereto) of all of the Subject Property not designated as Units, Limited Common Facilities, Roadways, Private Streets, or Parking Areas.
- 1.16. "Community" or "Community of Winding Oaks" shall mean and refer to the Subject Property together with such portions of the Overall Parcel which are made subject to the terms and conditions of this Declaration.
- 1.17. "Community Improvements" shall mean and refer to all those changes, items and facilities set forth on Exhibit "C" hereto which shall be made to, constructed on, or placed within the Subject Property.
- 1.18. "Controlled Facilities." See Common Elements.
- 1.19. "Convey" or "Conveyance" shall mean and refer to the act of conveyance, dedication, lease, grant of easement or license, or any other similar grant of an interest in real property, together with the acceptance thereof by the grantee.
- 1.20. "Declarant" shall mean and refer to Gerald R. Horst, his heirs, successors, assigns and personal representatives for the purpose of development, who shall, unless such is expressly delegated and assumed in writing with notice to Swatara Township pursuant to Section 2.10.1 of this Declaration, have common authority and responsibility for development of the Subject Property. Declarant may assign the rights and delegate the duties of Declarant herein in whole or in part to one or more assignees, who shall, unless expressly assuming, in writing, such common authority and responsibility for development of the Subject Property, be (an) Assignee Declarant(s). There is no limit to the number of persons or entities who may become Assignee Declarants.
- 1.21. "Declaration" shall mean and refer to the terms, easements, covenants, conditions, restrictions, charges and liens set forth in this Declaration and all other provisions set forth in this entire document, as they may be duly amended from time to time.

- 1.22. "Development Period" shall mean and refer to the time period commencing on the date of the first conveyance of a Unit to a person other than a Declarant or Assignee Declarant and continuing until the earliest of the following events:
- 1.22.1. Sixty days after conveyance by Declarant to persons other than a Declarant or Assignee Declarant of One Hundred Thirteen (113) Units (being 75% of the Units which may be created pursuant to the terms of this Declaration), or
 - 1.22.2. Seven (7) years from the date of the first conveyance of a Unit to a person other than a Declarant or Assignee Declarant; or
 - 1.22.3. Two (2) years after all Declarant(s) and/or Assignee Declarant(s) have ceased to offer Units for sale in the ordinary course of business; or
 - 1.22.4. Two (2) years after any development right to add new Units was last exercised; or
 - 1.22.5. The date designated, by notice in writing, from the Declarant to the Executive Board of the Association as the date of termination of the Development Period.
- 1.23. "Development Plan" shall mean and refer to that certain set of plans, comprised of 13 sheets being a cover sheet and sheets numbered 1 through 12, collectively identified as *Preliminary/Final Land Development Plan for Winding Oaks* prepared by Alpha Consulting Engineers, Inc. dated August 25, 2004, last revised October 11, 2004, as approved by, and on file with, Swatara Township pursuant to the Swatara Township Zoning Ordinance, as amended and the Swatara Subdivision and Land Development Ordinance, as amended, a portion of such plan being recorded in the Office of the Recorder of Deeds in and for Dauphin County, Pennsylvania in Plan Book H, Volume 9, Pages 63-67.

In the event that any Development Plan is revised or modified and approved by all government entities having jurisdiction as revised or modified, such revised or modified and approved Development Plan shall replace and supercede any and all previous Development Plans to the extent of any and all differences between Development Plans.

- 1.24. "Driveways and Parking Areas" shall mean and refer to "Individual Driveway" and "Common Driveways and Parking Areas."
- 1.24.1. "Individual Driveway" shall mean and refer to all pavement, curbs, and other components and facilities appurtenant thereto, not within any structure, which is constructed on or adjacent to a Unit for the limited purpose of vehicular access to or parking for not more than one Dwelling on such Unit:
 - 1.24.1.1. including any portion thereof constructed within any Roadway Rights-of-Way; and
 - 1.24.1.2. excluding any portion thereof constructed within any Roadway Cartways.

- 1.24.2. "Common Driveways and Parking Areas" shall mean and refer to all pavement, curbs, and other components and facilities appurtenant thereto, not within, or within, any structure, as are constructed within the Subject Property for the purpose of vehicular access to more than one Unit and/or for the purpose of vehicular access and/or parking:
- 1.24.2.1. which is not an Individual Driveway; and
- 1.24.2.2. including any portion thereof constructed within any Roadway Rights-of-Way.
- 1.25. "Dwelling" shall mean and refer to the principal structure and all appurtenances thereto erected or constructed on a Unit, used or to be used as no more than one residence of natural persons.
- 1.26. "Executive Board" shall mean and refer to the body of persons, duly elected or appointed pursuant to the provisions of Section 4.6 of this Declaration and the Bylaws of this Association, designated and empowered by this Declaration as set forth herein to act on behalf of the Association and which shall, as set forth herein, manage the business and affairs of the Association in compliance with, and subject to, the provisions of the Act and the Governing Documents.
- 1.27. "Financing Agencies" shall mean and refer to those federal, state, local and private agencies and entities which regulate, participate, or otherwise have an interest in the financing, whether the primary or secondary mortgage market, security, title, or conveyancing or real property interests in the Community including but not limited to the Department of Housing and Urban Development, Federal Housing Administration, Federal Home Administration, Veterans Administration, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association and other similar entities.
- 1.28. "General Common Expenses." See Common Expense Liability
- 1.29. "General Common Facilities." See Common Elements, Common Facilities.
- 1.30. "General Controlled Facilities." See Common Elements, Controlled Facilities.
- 1.31. "Governing Documents" shall mean and refer to this Declaration, the Articles of Incorporation of the Association, and the Association Bylaws as all may be duly amended from time to time.
- 1.32. "Governmental/Public Service Entity" shall mean and refer to the public, any governmental or quasi-governmental entity, public corporation, agency or authority, public or private utility, or similar entity acting on behalf of, or in service to, the public.
- 1.33. "Individual Driveway." See Driveways and Parking Areas.

- 1.34. "Institutional Lender" and "Secured Lender" are synonymous and each shall mean and refer to one or more lenders regularly engaged in financing the purchase, construction, or improvement of real estate including but not limited to commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts including but not limited to real estate investment trusts; or any assignee of loans made by such lenders; or any governmental or private institution which insures the loans of such lenders; or any combination of the foregoing entities.
- 1.35. "Limited Common Elements." See Common Elements.
- 1.36. "Limited Common Facilities." See Common Elements, Common Facilities.
- 1.37. "Limited Controlled Facilities." See Common Elements, Controlled Facilities.
- 1.38. "Member" or "Membership" shall mean and refer to members of the Association. The owner, or owners collectively if more than one, of each individual Unit shall constitute one Member of the Association. Each Member shall hold one Membership in the Association. The Association shall have such number of Memberships as there are Unit in the Subject Property.
- 1.39. "Open Space." See Common Elements.
- 1.40. "Overall Parcel" shall mean and refer to that certain real property described in Exhibit "B" attached hereto and made a part hereof.
- 1.41. "Owner" and "Unit Owner" are synonymous and each shall mean and refer to the record owner, whether one or more persons and/or entities, of a Unit which is a part of the Subject Property, excluding those having such interest, however described, merely as security for the performance of an obligation. Provided, however, a mortgagee in possession shall be deemed an Owner during the time of possession.
- 1.42. "Plats and Plans" shall mean and refer to the drawings attached to this Declaration pursuant to § 5210 of the Act depicting and identifying the location and dimensions of the Subject Property, the identifying number of each Unit, the location and dimensions of the vertical boundaries of each Unit, the location and dimensions of Limited Common Elements, the location and dimensions of easements serving or burdening the Subject Property, easements serving or burdening the Subject Property, the location and dimensions of the Additional Real Estate, and other matters customarily shown on land surveys.
- 1.43. "Parking Areas." See Driveways and Parking Areas.
- 1.44. "Private Streets." See Roadways.
- 1.45. "Registered Mortgagee" shall mean and refer to any Institutional Lender that holds a bona fide first mortgage encumbering a Unit as security for the performance of an obligation and has registered with the Association and provided current contact information.

- 1.46. "Retaining Walls" shall mean and refer to all those certain structures, landscaping, grading, and similar placement of natural and man-made materials placed, installed, or erected and maintained for the purpose of maintaining the physical location of soils and the prevention or inhibition of erosion, dislocation, subsidence or similar movement of soils after the establishment of the final grading thereof as shown as such on Development Plan(s).
- 1.47. "Roadways," "Streets" and "Private Streets" are synonymous and each shall mean and refer to the Roadway Rights-of-Way and the Roadway Cartways within the Roadway Rights-of-Way and shall mean and refer to all those certain rights in, and improvements to the Subject Property designated for, and shown on Development Plan and on the Plats and Plans as and for vehicular access to Units and other portions of the Subject Property.
- 1.47.1. "Roadway Rights-of-Way" shall mean and refer to the perpetual easement rights and privilege of access for ingress, egress, and regress on, over, through and within all those certain portions of the Subject Property depicted and shown on Development Plan and on the Plats and Plans as for the purpose of vehicular access to Units and other portions of the Subject Property.
- 1.47.2. "Roadway Cartways" shall mean and refer to all pavement, curbs, and other components and facilities appurtenant thereto as are constructed within the Roadway Rights-of-Way for the purpose of driving of vehicles thereon (but excluding therefrom any Driveways).
- 1.48. "Secured Lender." See Institutional Lender.
- 1.49. "Special Allocation Expenses." See Common Expense Liability
- 1.50. "Storm Water System" shall mean and refer to the Storm Water Facilities and the Storm Water Easements and shall mean and refer to all those certain rights in, and improvements to, *inter alia*, the Subject Property designated for the purpose of control of storm water quality and drainage, including but not limited to utilization of "best management practices" ("BMP") in accordance with plans therefor approved by all governmental entities having jurisdiction, for treatment, detention, retention and/or control of the volume and/or rate and/or the direction of storm water.
- 1.50.1. "Storm Water Facilities" shall mean and refer to all basins, pipes, swales, inlets, outfalls, dissipaters, spreaders, systems and other components and facilities appurtenant thereto as are constructed for the purpose of storm water quality and drainage management of and from the Subject Property including without limitation such as are located outside the boundaries of the Subject Property on easements for such purpose.
- 1.50.2. "Storm Water Easements" shall mean and refer to the perpetual easement rights and privilege of access for ingress, egress, and regress on, over, through, under and within all those certain portions of the Subject Property depicted and shown on the Development Plan as "Drainage Easements" for the purpose of installing, operating, inspecting, replacing, adding to, maintaining and repairing the Storm Water Facilities as necessary or desirable in connection with operation of the Storm Water Facilities

- 1.51. "Streets." See Roadways.
- 1.52. "Subject Property" shall mean and refer to that certain real property described in Exhibit "A" attached hereto and made a part hereof, and such additions thereto, if any, as may be hereafter made subject to this Declaration.
- 1.53. "Township" shall mean and refer to the Swatara Township, Dauphin County, Pennsylvania, duly and properly constituted as a political subdivision of the Commonwealth of Pennsylvania.
- 1.54. "Unit." shall mean and refer to each and every one of those certain physical portions of the Subject Property designated for separate ownership or occupancy, the boundaries of which are described pursuant to Section 2.5 of this Declaration. The term "Unit" shall not be construed to include any Common Facility or lands Conveyed or to be Conveyed to Governmental/Public Service Entities.
- 1.55. "Unit Owner." See Owner

ARTICLE II

DESCRIPTIONS

2.1. Declarant's right to modify

All of the descriptions set forth in this Article II are Subject to the right of Declarant to modify the descriptions pursuant to the provisions of Section 3.7 of this Declaration.

- 2.1.1. The dimensions of the community to be developed pursuant to the terms of this Declaration, the boundaries, locations, and dimensions of Units, Common Elements, and Improvements, including Roadways, may be altered by Declarant and portions of Common Elements may be allocated as Limited Common Elements by Declarant, subject to the following limitations:
 - 2.1.1.1. Any alteration of the dimensions of the community to be developed pursuant to the terms of this Declaration shall have been approved by all governmental entities having jurisdiction of a plan or plans of subdivision and/or land development which supercede and replace, in whole or in part, one or more Development Plan(s) as Development Plan is defined in Section 1.23 of this Declaration; and
 - 2.1.1.2. Any alteration to any Limited Common Elements, including but not limited to the allocation to which Unit or Units each Limited Common Element is allocated, shall require the consent of the Unit Owner and/or Unit Owners whose Unit or Units are affected; and
 - 2.1.1.3. An Amendment to this Declaration setting forth the alterations to the dimensions of the community to be developed pursuant to the terms of this Declaration and/or to the boundaries, locations, and dimensions of Units, Common Elements, and Improvements, including Roadways, and/or to any Limited Common Elements, including but not limited to the allocation to which Unit or Units each Limited Common Element is allocated shall have been executed by the Declarant and recorded pursuant to the provisions of § 5219(c) of the Act; and
 - 2.1.1.4. If any alteration permitted by this Section 2.1.1 shall result in any relocation of boundaries between units, plats or plans necessary to show the altered boundaries between adjoining units and their dimensions and identifying numbers shall be prepared and recorded pursuant to § 5214 of the Act; and
 - 2.1.1.5. If any alteration permitted by this Section 2.1.1 shall result in any subdivision of a Unit into a combination of Units and Common Elements, an Amendment to this Declaration, including the Plats and Plans, subdividing that Unit shall be prepared and recorded pursuant to § 5215 of the Act; and

2.1.1.6. If any alteration permitted by this Section 2.1.1 shall result in any portion of the Common Elements being allocated as Limited Common Elements, an Amendment to this Declaration setting forth the portions of Common Elements so allocated as Limited Common Elements shall have been executed by the Declarant pursuant to § 5209(c) of the Act.

2.2. Property subject to this Declaration

The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is the Subject Property, located in Swatara Township, Dauphin County, Pennsylvania, as described in Exhibit "A" attached hereto and made a part hereof.

There is no real estate in which the Unit Owners will own only an estate for years, and there are no noncontiguous parcels of real estate comprising the Community. There are no encroachments by or upon any portion of the Community.

2.3. Name, location, and dimensions of Community

The name of the community to be developed pursuant to the terms of this Declaration is "Winding Oaks, a Planned Community." The location and dimensions of the community to be developed pursuant to the terms of this Declaration are shown and depicted on the Plats and Plans.

2.4. Plats and Plans

The Plats and Plans are attached to this Declaration.

There are no existing improvements to the Subject Property. All Community Improvements (as such term is defined in Section 1.17 of this Declaration) shown on the Plats and Plans MUST BE BUILT and the intended location and dimensions of all such Community Improvements (the location and dimensions of which are capable of being shown on a plan) are shown on the Plats and Plans.

The location and dimensions of all easements serving or burdening any portion of the Subject Property (the location and dimensions of which are capable of being shown on a plan) are shown on the Plats and Plans.

2.5. Units

Each Unit is defined and described as being a separate and distinct parcel of real property, the location and dimensions of the vertical boundaries of which are shown, depicted and delineated on the Plats and Plans and the horizontal unit boundaries of which are coextensive with the horizontal boundaries of the Subject Property, on which one dwelling is or may be erected, excepting therefrom any real property Conveyed or to be Conveyed to Governmental/Public Service Entities. The identifying number of each Unit is shown on the Plats and Plans. There are no vertical boundaries and no horizontal boundaries of any Unit which are not shown on the Plats and Plans.

If any mechanical or electrical components, including without limitation wires, switches, outlets, jacks and other interconnects, conduits, pipes, fixtures, or hardware, serving only one Unit lies partially or completely outside the designated boundaries of a Unit, any portion thereof serving only that Unit shall be a part of the Unit.

The conveyance and ownership of any Unit on which a Dwelling has been constructed shall include the conveyance and ownership of the entire Dwelling as defined in Section 1.25 of this Declaration and, to the extent that any portion of the Dwelling shall, at any time and for any reason including but not limited to, resulting from construction, reconstruction, shifting, settlement, or movement of any kind, not be within the boundaries of the Unit as shown, depicted and delineated on the Plats and Plans, the Common Lands and all other Units are hereby made subject to a perpetual and exclusive easement appurtenant to such Unit for the existence and maintenance on, over, across, under and through the Common Lands and on, over, across, under and through any and all other Units to the extent of, and for the existence and maintenance of, all portion(s) of the Dwelling not within the boundaries of the Unit as shown, depicted and delineated on the Plats and Plans.

There are no buildings that contain or comprise all or part of any Unit nor located within nor must be built within any portion of the Subject Property.

There are fourteen (14) Units in the Subject Property.

No Unit may be subdivided into two or more Units.

2.6. Party Walls

Each wall, the centerline of which is a boundary line between two Units is a Party Wall. To the extent not inconsistent with the Governing Documents, the general rules of law regarding Party Walls and liability for damage due to negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the Party Wall in proportion to such use. If a Party Wall is damaged or destroyed by fire or other casualty, any Owner who has used the Party Wall may restore it, and if thereafter the other Owners make use of the Party Wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of the restoring Owner to a larger contribution under any rule of law regarding liability for negligent or willful acts or omissions. An Owner who through negligent or willful act causes the Party Wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements. The right of any Owner to contribution from any other Owner under the provisions of this section shall be appurtenant to the land and shall pass to each Owner's successors in title.

2.7. Common Elements

The Common Elements are comprised of both Common Facilities and Controlled Facilities.

The Common Facilities are comprised of both General Common Facilities and Limited Common Facilities

Neither the General Common Facilities nor the Limited Common Facilities include any real property Conveyed to Governmental/Public Service Entities.

The description of the obligations of the Association for the maintenance, improvement, repair, replacement, regulation, management and control of the Common Facilities is set forth in Section 4.3.2 of this Declaration.

The Controlled Facilities are comprised of both General Controlled Facilities and Limited Controlled Facilities.

The description of the obligations of the Association for the maintenance, improvement, repair, replacement, regulation, management and control of the Controlled Facilities is set forth in Section 4.3.3 of this Declaration.

2.7.1. General Common Facilities

The General Common Facilities are defined in Section 1.12.1.1 of this Declaration and include:

- 2.7.1.1. All Roadways, including sidewalks located within the rights-of-way thereof, to the extent not accepted for dedication by Swatara Township or any other governmental entity.
- 2.7.1.2. The Storm Water Facilities to the extent not accepted for dedication by Swatara Township or any other governmental entity.
- 2.7.1.3. Utility and service conduits, lines and systems within the Subject Property and not owned by the providers of services or by any other Governmental/Public Service Entity including, but not limited to, those providing water, electric, telephone, gas, television cable, communication or any other such service, all excluding such as are Conveyed or to be Conveyed to any Governmental/Public Service Entity
- 2.7.1.4. Street Lights located within the Subject Property and not located within rights of way dedicated to Swatara Township or to any other governmental entity.
- 2.7.1.5. Common Land as shown and depicted on the Development Plans, including improvements thereto including but not limited to:
 - 2.7.1.5.1. Driveways and Parking Areas to the extent such are not Limited Common Facilities;
 - 2.7.1.5.2. walking trails;
 - 2.7.1.5.3. Retaining Walls
 - 2.7.1.5.4. signs including but not limited to trail markers, direction and information signs, and entrance and identification signs, including lighting thereof;
 - 2.7.1.5.5. landscaping, including but not limited to ground cover, flowers, shrubs, bushes and trees to the extent such are not Limited Common Facilities

2.7.2. Limited Common Facilities

The Limited Common Facilities are defined in Section 1.12.1.2 of this Declaration. Limited Common Facilities and the Units to which such Limited Common Facilities are allocated are identified and delineated on the Plats and Plans and include:

- 2.7.2.1. Driveways and Parking Areas to the extent designated as Limited Common Facilities on the Plats and Plans are Limited Common Facilities appurtenant to Units as identified on the Plats and Plans.

2.7.3. General Controlled Facilities

The General Controlled Facilities are defined in Section 1.12.2.1 of this Declaration and include:

- 2.7.3.1. Those portions of the Storm Water Facilities that are not located within the Common Facilities.
- 2.7.3.2. Street lights located within rights of way dedicated to Swatara Township or to any other governmental entity.
- 2.7.3.3. Trees located within rights of way dedicated to Swatara Township or to any other governmental entity.
- 2.7.3.4. Sidewalks located within rights of way dedicated to Swatara Township or to any other governmental entity.
- 2.7.3.5. Retaining Walls not located within the Common Facilities.

2.7.4. Limited Controlled Facilities

The Limited Controlled Facilities are defined in Section 1.12.2.2 of this Declaration and include:

- 2.7.4.1. The accessible areas of lawns of Units. Lawn areas within enclosing fences shall be deemed not to be accessible.

2.8. Time Share Estates

There are no time-share estates created by the provisions of this Declaration.

2.9. Convertible, Withdrawable and Additional Real Estate

There is no Convertible Real Estate in which additional Units, Common Elements, and Limited Common Elements or any combination thereof may be created.

There is no Withdrawable Real Estate which may be withdrawn from the Community.

The Additional Real Estate in which additional Units, Common Elements, and Limited Common Elements may be created is all of the Overall Parcel, the location and dimensions of which are shown on the Plat and Plans and the description of which is set forth in Exhibit "B" to this Declaration, excepting thereout and therefrom the Subject Property, the location and dimensions of which are shown on the Plats and Plans and the description of which is set forth in Exhibit "A" to this Declaration.

2.10. Uncompleted Community Improvements and Common Elements

2.10.1. Common Authority and Responsibility

All of the Subject Property shall be developed and all public improvements and improvements to Common Elements shall be completed according to the Approved Development, under Declarant's common authority and responsibility. Declarant may assign the rights and delegate the duties of common authority and control herein to an assignee, subject, however, that no such assignment shall be valid unless in writing and notice thereof shall have been given, in writing, to the Township.

After the Development Period, and after the completion of all Community Improvements pursuant to the provisions of Section 2.10.5 of this Declaration, the Association shall have common authority and responsibility for the Common Elements.

2.10.2. Completion

All public improvements to the Subject Property and all Common Elements shall be completed within one year after commencement of construction of such improvements and Common Elements, or within such additional time as shall be agreed to between Declarant and Township.

Declarant is required to complete all improvements to the Subject Property and the Common Elements by the later of a) the date of the conveyance to third parties by the Declarant of the last Unit the Declarant reserves the right to include in the Community pursuant to the provisions of Section 3.7 of this Declaration, or b) or the date of the expiration of the Development Period as such Development Period is defined in Section 1.22 of this Declaration.

2.10.3. Responsibility prior to completion

Until each improvement to the Subject Property and Common Elements shall be completed, the Declarant shall be solely responsible for real estate taxes assessed against or allocable to such improvement to the Subject Property or the Common Elements and for all other expenses in connection with such improvement to the Subject Property or Common Elements.

2.10.4. Financial security for completion

2.10.4.1. For the Benefit of the Association

Declarant, by this Declaration, guarantees to the Association that all Community Improvements to the Subject Property and the Common Elements shall be completed. No third-party guarantee, bond, escrow, letter of credit or other mechanism is provided by the Declarant to the Association to assure, for the benefit of the Association, completion of the Community Improvements and the Common Elements. Only the Declarant's own guarantee is provided to the Association to assure completion of the Community Improvements and the Common Elements.

2.10.4.2. For the Benefit of the Township

Declarant has posted, with the Township and/or other governmental entities having jurisdiction, one or more third-party bond(s) and/or letters of credit, in addition to the Declarant's own guarantee of completion, to assure, for the benefit of the Township and/or other governmental entities having jurisdiction, completion of public improvements to the Subject Property and Common Elements, in accordance with the provisions of the Pennsylvania Municipalities Planning Code (53 P.S. §10101, *et seq.*) There is no time limit of the term of any third-party bond or letter of credit posted with the Township and/or other governmental entities having jurisdiction.

2.10.5. Certification of Completion

Any theretofore incomplete portion of the community, improvement to the Subject Property, or Common Element will be deemed to be completed upon the recording of a certificate executed by an independent registered surveyor, architect or professional engineer stating that the portion of the community, improvement to the Subject Property, or Common Element is substantially completed in accordance with the descriptions set forth in this Declaration, the plats and plans and the public offering statement and so as to permit the use of such portion of the community, improvement to the Subject Property or Common Element for its intended use.

ARTICLE III

PROPERTY RIGHTS AND RESPONSIBILITIES

3.1. Insurance

Each Owner of a Unit shall, at all times, maintain at the owner's sole cost, property insurance (such as, but not limited to, an HO3 policy of insurance) in an amount not less than an amount sufficient to replace and rebuild the Owner's Dwelling, and any and all improvements and betterments thereto. Each Owner shall be liable to the Association for any and all damage to the Association for all damage to any Common Elements resulting from any act, omission, or negligence of the Owner or the Owner's family, guests, employees, agents, lessees or licensees, to the extent not covered by the proceeds of any insurance; provided, however, this provision is by way of supplement to and not in derogation of the assessment and enforcement powers of the Association pursuant to the terms of the Governing Documents. If requested by the Association, an Owner shall provide evidence of such insurance.

3.2. Maintenance Obligations of all Unit Owners

Except as set forth in Section 4.3.3 of this Declaration, the maintenance, repair and replacement as and when required of any and all portions of any Dwelling (as defined in Section 1.25 of this Declaration) located on a Unit shall be the sole responsibility of the owner or owners of such Unit. Each and every Grantee of an ownership interest of any portion of the Subject Property, by the acceptance of such ownership interest, whether or not it shall be so expressed in the deed conveying an ownership interest, and including without limitation any purchaser at judicial sale or heir or devisee of a deceased Owner, by the acceptance of ownership to a portion of the Subject Property, obligates and binds such Grantee or owner, and the heirs, successors and assigns of such Grantee or owner, and such Grantee or owner is deemed to covenant as a covenant running with the land, that the Grantee or owner of the Unit will at all times:

- 3.2.1. make adequate provision for the maintenance, repair and replacement of, and maintain, repair or replace as and when required in a manner which retains the functional condition thereof, the Dwelling and appurtenances thereto excepting only the repair and replacement of Limited Controlled Facilities to the extent of the obligation of the Association to maintain, repair and replace in accordance with the terms of Section 4.3.3 of this Declaration.

3.3. Common Facilities

All of the Subject Property which is neither a part of any Unit, nor Conveyed nor to be Conveyed to a Governmental/Public Service Entity, is a Common Facility.

3.3.1. Disposition of Common Facilities

The Association may not be dissolved nor, except for the conveyance of Roadways to Swatara Township or other governmental entity, dispose of the Common Facilities, nor any portion thereof, by sale or otherwise, except upon Conveyance of the Common Facilities to a Governmental/Public Service Entity or other organization which such other organization has been organized for, or has adopted the purpose of, ownership of the Common Facilities and performance of the duties and obligations of the Association as set forth in the Governing Documents, subject to the provisions of §5318 of the Act and subject to 1) the provisions of the Zoning Ordinance of Swatara Township, as amended, 2) written approval of the Swatara Township, and 3) written notice thereof to all Owners.

The Roadways as defined in Section 1.47 of this Declaration, in whole or in part, are hereby made subject to a continuing and irrevocable offer of dedication to Swatara Township.

Utility and service conduits, lines and systems not owned by the providers of services or by any other Governmental/Public Service Entity including, but not limited to, those providing water, electric, telephone, gas, television cable, communication or any other such service, may be dedicated or Conveyed, without the requirement of consideration therefor, to any Governmental/Public Service Entity.

3.3.2. Use of General Common Facilities

The General Common Facilities shall remain in perpetuity reserved and restricted to use for Storm Water Facilities, as open space, undeveloped land and/or space for recreational facilities, accessways, utility and other easements and servitudes and such other uses as are consistent with the Governing Documents. Unless and until any General Common Facilities are used for recreational facilities, Storm Water Facilities, or accessways, such General Common Facilities, whether subject to easement or other servitude or unencumbered, shall be designated as "Undeveloped Land". Such Undeveloped Land shall be graded and landscaped or shall be left in its natural state where appropriate such as where such Undeveloped Common Land is wetlands or woods, tree stands or other vegetation which serves as a visual barrier, nature preserve or other beneficial function.

The Common Facilities may not be further subdivided.

3.3.3. Owner's Easement of Enjoyment

Every Owner shall have an unrestricted right of ingress and egress to the Owner's Unit over and on Roadways, Driveways and Parking Areas, and all portions of Limited Common Facilities appurtenant to the Owner's Unit and a right and easement of enjoyment in and to the Common Facilities which are not Limited Common Facilities appurtenant to other Units, which shall be appurtenant to and shall pass with the title to and be unseverable from each Unit.

Each Owner's right and easement of enjoyment in and to the Common Facilities is subject to the following provisions:

3.3.3.1. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situate upon the Common Facilities.

3.3.3.2. The right of the Association, upon determination, after notice and opportunity for a hearing, of nonpayment of assessments or violation of Governing Documents by an Owner, to suspend the rights of any Unit Owner to the use and enjoyment of Common Facilities, except each Owner's right and easement of enjoyment in and to the Roadways, Driveways and Parking Areas, Storm Water System, and Controlled Facilities located on an Owner's Unit, shall not be suspended at any time.

3.3.4. Delegation by Owner

Every Owner shall have the right to delegate, in accordance with the Governing Documents, his or her right of enjoyment in and use of the Common Facilities to the members of his or her family, guests, tenants, or contract purchasers who reside in the Subject Property.

3.4. Limitation of Easements Rights and Privileges

The easements, rights and privileges granted by this Declaration shall be for the benefit of the Declarant, the Township, the Association and the Owners from time to time of all or any portion of the Subject Property, and such Owners may grant the benefit of such easements, rights and privileges to such Owner's tenants for the period of such tenancy, but the same is not intended to create, and shall not be construed as creating any rights in and for the benefit of the general public.

3.5. Lease Requirements

Any conveyance of a leasehold estate in a Unit must be in writing (by written lease or written rental agreement) which must provide that the conveyance and tenancy are subject to all of the provisions of the Governing Documents.

3.6. Easements and Licenses

3.6.1. Easements to which Units are Subject

- 3.6.1.1. Each Unit is subject to an easement and right on, over, under and through the ground within the Unit for the establishment, correction and/or maintenance of proper drainage of surface water within the Subject Property, which such easement and right shall include, but not be limited to, the right to cut any trees, bushes or shrubbery, grade soil, or to take any other action reasonably necessary for health, safety or to comply with governmental requirements
- 3.6.1.2. Each Unit Owner shall afford to the Association and to its agents or employees access through the Unit reasonably necessary for the purposes of maintenance, repair and replacement of the Common Elements.
- 3.6.1.3. Each Unit is subject to access easements for the free and uninterrupted right of entry, ingress, egress and regress upon, over, under, through and across the Unit for access for the installation, placement, maintenance, repair, replacement, modification, or any other grading, construction, reconstruction or removal of one or more walls, fences, landscaping, and similar structures and uses and for conduits, lines and systems, being or providing conveyance of utility services, including but not limited to electrical service, together with such service equipment, facilities and components thereof as shall be necessary therefor.
- 3.6.1.4. Each Unit is subject to negative easements and covenants running with the land prohibiting any use of, or conditions to be created or maintained on, the Unit interfering with the use and purpose of the access easements and rights-of-way set forth in this Section 3.6.1.
- 3.6.1.5. Upon any use of the access easements and rights-of-way set forth in this Section 3.6.1 for the purposes of such access easements and rights-of-way, upon the completion of any work performed, including, but not limited to, the construction, repair, rebuilding, relocation, or removing of all, or any portion, of any utility service line installed pursuant to the easements, such user shall, at user's sole cost and expense, restore any part of the Unit disturbed by such work including regrading as necessary to approximately the same grades as existed before the work commenced, and shall plant appropriate vegetative ground cover on all areas disturbed by the work.

3.6.1.6. Each Unit within which a Sidewalk Access Easement is located or within which a sidewalk adjacent to or within a Roadway Right of Way is located is subject to:

3.6.1.6.1. a public access easement and right-of-way for the free and uninterrupted right of entry, ingress, egress and regress upon, through and across the area of the sidewalk for the use of the public, if members of the public so desire, solely as licensees, for walking, running, hiking, biking, and similar pedestrian and recreational uses at the user's sole risk and subject that such public access easement and right-of-way is not an invitation to the public to enter and use such public access easement and right-of-way upon, through and across the area of the sidewalk and any use of such public access easement and right-of-way upon, through and across the area of the sidewalk by the public is not, in any way, connected, directly or indirectly, with any business dealings of or with the owner of the property subject to the public access easement and right-of-way upon, through and across the area of the sidewalk; and

3.6.1.6.2. a negative easement and covenant running with the land prohibiting any use of, or conditions to be created or maintained on, the Unit interfering with the use and purpose of the public access easement and right-of-way set forth in this Section 3.6.1.6.

3.6.2. Easements for Utilities

There is hereby reserved, and any Governmental/Public Service Entity is hereby granted the right to use, an easement and a right-of-way in perpetuity for free and uninterrupted right of entry, ingress, egress and regress upon, over, under, through and across the all of the Subject Property, for the placing and maintaining of utility service equipment, facilities and components, whether for the purpose of serving the Subject Property or any other property or properties, and for access for the installation, removal, maintenance, repair or replacement of any utility or service conduits, lines and systems, including, but not limited to, those providing water, sanitary sewer, storm water management (including but not limited to storm water treatment, drainage swales, culverts, piping, discharge outlets, basins and similar improvements), electric, telephone, gas, television cable, communication or any other such service, subject to the condition that upon any use of the Easements or Right-of-Way reserved by this Section 3.6.2 for the purposes of such Easements or Right-of-Way, upon the completion of any work performed, including, but not limited to, the construction, repair, rebuilding, relocation, or removing of all, or any portion, of any of the aforesaid service components pursuant to the Easements hereby granted, the user shall, at user's sole cost and expense, restore any part of the land disturbed by such work to approximately the same condition as existed prior to the commencement of work.

3.6.3. Declarant Easement

For so long as the Declarant or successor to or assign of Declarant is engaged in developing or improving any portion of the Overall Parcel, there is hereby reserved to Declarant, which Declarant may assign to designee(s) of Declarant, an unlimited blanket easement and a right-of-way for free and uninterrupted right of entry, ingress, egress and regress upon, over, under, through and across the entire Subject Property for the purpose of Declarant's discharge of all of Declarant's obligations or of Declarant's exercise of the rights of Declarant as set forth in this Declaration, any and all development activities including without limitation erection and maintenance of directional and promotional signs, conduct of sales activities including maintenance of any office or model homes, storage, movement and use of building and construction materials, equipment and personnel, construction and modification of structures and Community Facilities including Storm Water Facilities, vehicle and pedestrian areas and utility services, and grading and regrading, including removal of existing vegetation including trees, all to the extent Declarant shall, in Declarant's sole judgment, deem appropriate or necessary in the development of the Subject Property.

3.6.4. Association Easement

Each Unit is hereby made subject to a the perpetual and nonexclusive right of access to the Association to each Unit and Dwelling (i) to inspect same, (ii) to remedy any violations of the provisions of this Declaration, the Bylaws or any Rules and Regulations of the Association, and (iii) to perform any work required in connection with the maintenance, repairs or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Unit(s) or Dwellings) or Common Elements; provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Owner, in case of an emergency, such right of entry shall be immediate, whether the Owner is present at the time or not.

3.6.5. Easements, Restrictions, Licenses, and Conditions of Record

Some or all of the Subject Property is subject to recorded easements, restrictions, licenses and conditions. As of the date of this Declaration, the following easements, restrictions, licenses and conditions appurtenant to or included in the Subject Property are recorded in the Office of the Recorder of Deeds in and for Dauphin County, Pennsylvania as follows:

- 3.6.5.1. Rights granted to Sun Oil Company as set forth in Misc. Book N-4, Page 63, as amended in Misc. Book M-11, Page 280, and further amended in Record Book 1255, Page 620.
- 3.6.5.2. Rights granted to Pennsylvania Power & Light Company as set forth in Misc. Book W-4, Page 325 and Misc. Book R-13, Page 544.
- 3.6.5.3. Rights granted to The Manufacturers Light and Heat Company as set forth in Misc. Book Z-4, Page 534
- 3.6.5.4. Rights granted to Socony-Vacuum Oil Company as set forth in Misc. Book Z-5, Page 602.
- 3.6.5.5. Matters, conditions, easements, notes, site data, sketches, etc. as shown on Subdivision Plan Books V-47; V-109; Y-34; Q-4, Page 6; and X-4, Page 37 including rights of owners of lots sold in accordance with such plans in and to the use of all streets shown on said plans.
- 3.6.5.6. Terms and conditions of Easement Agreement as set forth in Record Book 4341, Page 509.
- 3.6.5.7. Subject to the legal operation and effect of the set-back lines, plan notes, easements, conditions and encumbrances as shown on Subdivision Plan Book H-9, Page 65, *et seq.*
- 3.6.5.8. Terms and conditions of Easement Agreement relating to Water Mains as set forth in Record Book 6160, Page 187
- 3.6.5.9. [Easement(s) to sewer provider]
- 3.6.5.10. [Easement(s) to electric provider]
- 3.6.5.11. [Easement(s) to telephone service provider]
- 3.6.5.12. [Easement(s) to cable television provider]

3.6.6. Right to Subject Property to Easements

There is hereby explicitly reserved to the Declarant, during and only during the Development Period as such Development Period is defined in Section 1.22 of this Declaration, the unrestricted option to subject the Subject Property to easements or licenses in favor of Governmental/Public Service Entities as are required for the provision of public utilities to and through the Overall Parcel and/or as are reasonably required for the construction of improvements to the Overall Parcel in accordance with all laws, ordinances and regulations of all governmental entities having jurisdiction thereof. The grant by the Declarant of such easements and/or licenses shall effect the Association not greater than a) the effects of the easements and licenses set forth in Section 3.6 of this Declaration together with b) the effects of development and improvement of the Subject Property in accordance with the Approved Development. Further, the grant by the Declarant of such easements and/or licenses shall not, individually, result in a greater than ten percent (10%) increase or decrease in the annual General Common Expenses Budget of the Association.

3.7. Addition of Other Property to the Provisions of this Declaration

There is hereby explicitly reserved to the Declarant, during and only during the Development Period as such Development Period is defined in Section 1.22 of this Declaration, the unrestricted option to make subject, or to refrain from making subject, to this Declaration, some, or all, of the Additional Real Estate, being those portions of the Overall Parcel not then subject to this Declaration, and, if making subject to this Declaration, to within such Additional Real Estate designate parts thereof as Units, Common Elements, and Limited Common Elements.

If some, or all of the Additional Real Estate is made subject to this Declaration, a maximum of 136 Units may be created within the Additional Real Estate, all of which such Units shall be restricted exclusively to residential use. If any Additional Real Estate is not made subject to this Declaration, no assurances are made regarding the manner of use of the Additional Real Estate, including without limitation, number of residences or size of other uses. No assurance is made regarding the extent to which any buildings and units which may be erected upon each portion of the Additional Real Estate will be compatible with the other buildings in Winding Oaks in terms of architectural style, quality of construction, principal materials employed in construction, and size. All, some, or none of the use and occupancy restrictions to which the Units subject to this Declaration are made subject may or may not be made applicable to Units within portions of the Additional Real Estate. Although buildings, improvements and limited common elements may be constructed, made or created upon or within each portion of the Additional Real Estate, no assurances are made as to the description or location of such buildings, improvements and limited common elements, including types, sizes and proportion of limited common elements to Units.

If some, or all of the Additional Real Estate is made subject to this Declaration and the number of Units within the Subject Property is increased, the following revisions would occur:

Because the number of Memberships in the Association is equal to the number of Units within the Subject Property, the number of Memberships in the Association would increase by the number of Units within the Additional Real Estate made subject to this Declaration and the Association Interest of each then existing Unit would be reduced by a percentage equal to the difference between the quotient of one (1) divided by the number of Memberships in the Association prior to the making the Additional Real Estate subject to this Declaration and the quotient of one (1) divided by the number of Memberships in the Association after making the Additional Real Estate subject to this Declaration, divided by the quotient of one (1) divided by the number of Memberships in the Association prior to the making the Additional Real Estate subject to this Declaration multiplied by 100; and

the relative voting strength of each then existing Membership in the Association would be reduced by a percentage equal to the difference between the quotient of one (1) divided by the number of Memberships in the Association prior to the making the Additional Real Estate subject to this Declaration and the quotient of one (1) divided by the number of Memberships in the Association after making the Additional Real Estate subject to this Declaration, divided by the quotient of one (1) divided by the number of Memberships in the Association prior to the making the Additional Real Estate subject to this Declaration multiplied by 100; and

The Common Expense Liability of each Unit would be reduced by a percentage equal to the difference between the quotient of one (1) divided by the number of Memberships in the Association prior to the making the Additional Real Estate subject to this Declaration and the quotient of one (1) divided by the number of Memberships in the Association after making the Additional Real Estate subject to this Declaration, divided by the quotient of one (1) divided by the number of Memberships in the Association prior to the making the Additional Real Estate subject to this Declaration multiplied by 100. Although the Common Expense Liability of each Unit would be reduced, the General Common Expenses of the Association would increase, with the result that the annual Assessment of Common Expense Liability against each Unit would either increase, decrease or remain unchanged.

The change in the Association Interest, Voting Strength, and Common Expense Liability of each then existing Unit would be from a fraction, the numerator of which is one (1) and the denominator of which is the number of Units existing on the Subject Property prior to the addition of Additional Real Estate to a fraction, the numerator of which is one (1) and the denominator of which is the number of Units existing on the Subject Property after the addition of Additional Real Estate.

The Additional Real Estate, all, some, or none of which may be made subject to this Declaration shall be such portions of the Overall Parcel not theretofore made subject to this Declaration. Such portions (if any) may be added at different times and no assurance is made regarding the boundaries of such portions, or the order in which they may be added. If any such portion of the Additional Real Estate is made subject to this Declaration, there is no requirement nor prohibition that any other portion of the Additional Real Estate will, may or may not be made subject to this Declaration.

There are no limitations on the Declarant's options as set forth in this Section 3.7 other than limitations created by or imposed by operation of law.

ARTICLE IV

WINDING OAKS COMMUNITY ASSOCIATION

4.1. The Association

The Association is a non-profit, non-stock corporation organized and existing under the laws of the Commonwealth of Pennsylvania and charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents, as such may be amended from time to time, provided no other Governing Documents other than this Declaration shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

4.1.1. Powers and Duties of the Association

The Association shall have all powers necessary to enjoy the rights of the Association and to perform the duties of the Association all as set forth in this Declaration and as set forth in the Act, including, but limited to, the power, right, and duty to:

- 4.1.1.1. Adopt and amend bylaws and rules and regulations.
- 4.1.1.2. Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from Unit Owners.
- 4.1.1.3. Hire and terminate managing agents and other employees, agents and independent contractors.
- 4.1.1.4. Transfer or convey to Swatara Township such storm water management and/or access maintenance easement(s) as shall be reasonably required by Swatara Township for the purpose of the maintenance, repair and replacement of Storm Water Facilities.
- 4.1.1.5. Transfer or convey to Swatara Township or any governmental entity such Roadways as shall be accepted for dedication by Swatara Township or other governmental entity as and for the public use as road rights-of-way.
- 4.1.1.6. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Community.
- 4.1.1.7. Make contracts and incur liabilities.
- 4.1.1.8. Regulate the use, maintenance, repair, replacement and modification of Common Elements.
- 4.1.1.9. Cause additional improvements to be made as a part of the Common Facilities and, to the extent permitted by this Declaration, the Controlled Facilities subject to the provisions of Section 5.5 of this Declaration.
- 4.1.1.10. Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, but Common Facilities may be conveyed or subjected to a security interest only pursuant to the provisions of the Act and to the provisions of the Governing Documents.
- 4.1.1.11. Grant easements, leases, licenses and concessions through or over the Common Facilities and, only to the extent permitted by this Declaration, the Controlled Facilities.

- 4.1.1.12. Impose and receive payments, fees or charges for the use of the Common Elements.
- 4.1.1.13. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of this Declaration, and the bylaws and rules and regulations of the Association.
- 4.1.1.14. Impose reasonable charges for the preparation and recording of amendments to this Declaration, resale certificates required by section 5407 of the Act (relating to resales of units).
- 4.1.1.15. Provide for the indemnification of its officers and Executive Board and maintain directors' and officers' liability insurance.
- 4.1.1.16. Exercise any other powers conferred by the Act, this Declaration or the bylaws.
- 4.1.1.17. Exercise all other powers that may be exercised in this Commonwealth by legal entities of the same type as the Association.
- 4.1.1.18. Exercise any other powers necessary and proper for the governance and operation of the Association.
- 4.1.1.19. Assign its right to future income, including the right to receive common expense assessments, without limitation.
- 4.1.1.20. Have current copies of the Declaration, Articles of Incorporation, Bylaws of the Association, Rules and Regulations adopted by the Association, and the books, records, and financial statements of the Association available for inspection by Unit Owners and/or by Institutional Lenders during normal business hours at the office of the managing agent (if hired by the Association pursuant to Section 4.1.1.3 of this Declaration) or, in the absence of a managing agent, upon reasonable notice at the residence of the President of the Association.

4.1.2. Approval Required

Any exercise of a power under the above Sections 4.1.1.9, 4.1.1.10, or 4.1.1.11 which would materially impair quiet enjoyment of a Unit shall require the prior written approval of the Owner of such Unit.

4.2. Additional Powers

Nothing in this Declaration shall prohibit, and the Association may, but shall not be obligated to, unless otherwise set forth in this Declaration, provide any of the services or engage in any the activities set forth in this Section 4.2, subject that the Association shall not provide any service or engage in any activity which shall be prohibited by any governmental entity having jurisdiction and any provision of activity shall, at all times, be in strict accordance with the requirements of all governmental entities having jurisdiction thereof:

- 4.2.1. provide or distribute utility services within the Subject Property or any portion thereof, including but not limited to security, electricity cable television, telephone, or other communication lines, water, sewer, drainage, electricity, or other utility services including but not limited to garbage and trash collection and disposal;

- 4.2.2. in addition to any of the same as are required to be performed by the Association, provide insect and pest control; improvement of vegetation and wildlife conditions; forestry management, pollution and erosion controls;
- 4.2.3. provide transportation; day care and/or child care services; recreation, sports, craft and cultural programs.

The Executive Board may, by majority vote, initiate or terminate any of the above services or activities, which shall action take effect sixty (60) days after notice to the Members, except in an emergency. As determined by the Executive Board, depending upon the nature of the service or activity, the costs of such additional services or activities may be part of the General Common Expenses of the Association, may be assessed as Special Allocated Expenses, or may be provided on a fee-for-service or other reasonable basis, subject that, if requested by petitions signed by, or on behalf of, not less than ten percent (10%) of the Memberships, a Special Purpose Meeting or Voting shall be held pursuant to Section 4.5.2 of this Declaration, at which the Executive Board's action to initiate or terminate an additional service or activity in accordance with this Section 4.2 may be repealed by majority vote. If repealed, the Executive Board may not reinstitute or terminate the service or activity for three (3) years unless approved by majority vote the Memberships at or by a Special Purpose Meeting or Voting.

4.3. Maintenance Responsibilities of the Association

4.3.1. Association Responsibilities and Authority for Damages or Loss

Subject to the provisions of § 5312 (h) of the Act, in the event of any damage to or loss of Common Facilities, the Association shall cause the Common Facility to be repaired, rebuilt, and/or replaced to substantially the same condition as existed before the damage or loss.

Each and every Grantee of an ownership interest of any portion of the Subject Property, by the acceptance of such ownership interest, whether or not it shall be so expressed in the deed conveying an ownership interest, and including without limitation any purchaser at judicial sale or heir or devisee of a deceased Owner, by the acceptance of ownership to a portion of the Subject Property, obligates and binds such Grantee or owner, and the heirs, successors and assigns of such Grantee or owner, and such Grantee or owner is deemed to covenant as a covenant running with the land, that the Grantee or owner of the portion of the Subject Property at all times shall, and shall be deemed to, grant an irrevocable Power of attorney, coupled with an interest, to the Association pursuant to which the Association shall be such Grantee's or owner's attorney-in-fact for, and only for, the purpose of representing the Grantee or owner in any proceedings, negotiations, settlements, or agreements relating to:

- 4.3.1.1. claims under any insurance policies maintained by the Association pursuant to the provisions of Section 4.4 of this Declaration, subject to the provisions of § 5312 (h) of the Act;
- 4.3.1.2. disposition of the Common Facilities pursuant to the provisions of Section 3.3.1 of this Declaration; and
- 4.3.1.3. with the exception of awards to Unit Owners pursuant to § 5107 of the Act (relating to acquisition of Units or parts of Units by eminent domain), termination of the legal status of the Subject Property as subject to the provisions of the Act, subject to § 5220 of the Act.

4.3.2. Common Elements

The Association shall have the obligation to make adequate provision for the maintenance, repair and replacement of, and to maintain, repair or replace as and when in the sole judgment of the Executive Board required, any and all buildings, structures, facilities, cartways, wetlands, ponds, lawn, trees, shrubs, landscaping, and land comprising the General Common Facilities including without limitation all Limited Common Facilities, as defined in Section 1.12.1 and set forth in Section 2.7.1 of this Declaration in a manner which preserves, keeps functional, complies with all applicable Township, County, State and Federal regulations, ordinances and laws and retains the functional condition thereof which shall include, but shall not be not limited to:

4.3.2.1. Maintenance of Storm Water Facilities

The Association shall have the obligation to make adequate provision for the repair and replacement of, and to repair and replace, as and when in the sole judgment of the Executive Board required to maintain in a manner which preserves, keeps functional, complies with all applicable Township, County, State and Federal regulations, ordinances and laws (including but not limited to utilization of "best management practices" ("BMP") in accordance with plans therefor approved by all governmental entities having jurisdiction), and retains the functional condition thereof the Storm Water System including without limitation all Storm Water Facilities including but not limited to all basins, pipes, swales, inlets, outfalls, dissipaters, spreaders, infiltrators, systems and other components and facilities appurtenant thereto as are constructed for the purpose of storm water quality and drainage management.

4.3.2.2. Maintenance of Common Element Cartways, Common Driveways and Parking Areas

The Association shall have the obligation to make adequate provision for the repair and replacement of, and to repair and replace, as and when in the sole judgment of the Executive Board required to maintain in a manner which retains the functional condition thereof, any and all Common Element Cartways and Common Element Driveways and Parking Areas (excepting only any of such as are dedicated to and accepted by Swatara Township or Conveyed to a Governmental/Public Service Entity) including the reasonably practicable removal of snow therefrom and the reasonably practicable treatment for ice accumulation thereon.

4.3.2.3. Maintenance of Common Land and Improvements thereto

The Association shall have the obligation to make adequate provision for the maintenance, repair and replacement of, and to maintain, repair or replace as and when in the sole judgment of the Executive Board required, in a manner which preserves, keeps functional, complies with all applicable Township, County, State and Federal regulations, ordinances and laws and retains the functional condition thereof all of the Common Land as defined in this Declaration and improvements thereto including without limitation any and all lawns, wetlands, ponds, pedestrian walks, and any and all buildings or other structures existing or constructed or erected thereon.

4.3.3. Controlled Facilities

The Association shall have the obligation to make adequate provision for the maintenance, repair and replacement of, and to maintain, repair or replace as and when in the sole judgment of the Executive Board required, in a manner which preserves, keeps functional, complies with all applicable Township, County, State and Federal regulations, ordinances and laws and retains the functional condition thereof all of the Controlled Facilities as defined in Section 1.12.2 of this Declaration which shall include, but shall not be not limited to:

4.3.3.1. Maintenance of sidewalks

The Association shall have the obligation to make adequate provision for the repair and replacement of, and to repair and replace, as and when in the sole judgment of the Executive Board required to maintain in a manner which retains the functional condition thereof, any and all sidewalks within Roadway Rights of Way including the reasonably practicable removal of snow therefrom and the reasonably practicable treatment for ice accumulation thereon.

4.3.4. Street Lights

The Association shall pay all costs to operate and maintain street lights located within the Subject Property, whether General Common Facilities (Street Lights located within the Subject Property and not located within rights of way dedicated to Swatara Township or to any other governmental entity) or General Controlled Facilities (Street Lights located within rights of way dedicated to Swatara Township or to any other governmental entity).

4.4. Insurance to be carried by the Association

The association shall maintain such insurances as are required by, and such insurance coverage shall be maintained and administered in accordance with, the provisions of §5312 of the Act including:

- 4.4.1. comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Executive Board but not less than in the amount of \$500,000.00, covering all occurrences commonly insured against for death, bodily injury and property damage, arising out of or in connection with the use, ownership or maintenance of the Common Elements; and
- 4.4.2. any other insurance deemed appropriate by the Executive Board to protect the Association or the Unit Owners.
- 4.4.3. Insurance policies maintained by the Association pursuant to this Declaration and the Act must provide that:
 - 4.4.3.1. Each Unit Owner is an insured person under the policy with respect to liability arising out of his, her or its Membership in the association; and
 - 4.4.3.2. The insurer waives its right to subrogation under the policy against any Unit Owner or member of the owner's household; and
 - 4.4.3.3. No act or omission by any Unit Owner, unless acting within the scope of his, her or its authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and
 - 4.4.3.4. If at the time of a loss under the policy there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy is primary insurance not contributing with the other insurance.

4.5. Membership and Voting Rights

The conditions of membership in the Association are such that the Members shall be those Owners and only those Owners from time to time of Units in the Subject Property.

Membership in the Association is coextensive with, and indivisible from, ownership of a Unit in the Subject Property. Each and every Owner of a Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a Unit.

The Owner, or owners collectively if more than one, of each individual Unit shall constitute one Member of the Association. Each Member shall hold one Membership in the Association. The Association shall have such number of Memberships as there are Units in the Subject Property.

Each Membership shall have one vote in the Association. The total number of votes in the Association shall be equal to the total number of Units within the Subject Property.

4.5.1. Exercise of vote

If any Membership is comprised of two or more persons (that is, if any individual Unit is owned by two or more persons), all such persons shall be entitled to the benefits of, and be responsible jointly and severally for the obligations of, membership in the Association. The vote for such Membership shall be cast as such owners shall decide amongst themselves and the vote may be exercised by any one of them, unless any objection or protest by any other of them is made prior to the completion of a vote, in which case the vote for such Membership shall be cast in accordance with the majority vote of such owners and if no majority vote of such owners shall be attainable, the vote of such Membership shall be cast as an abstention. In no event, however, shall more than one vote be cast with respect to any Membership.

Cumulative voting shall be permitted only for the purpose of electing members of the Executive Board. Cumulative voting shall not be permitted for any other purpose.

4.5.2. Special Purpose Meetings or Written Consent in Lieu

4.5.2.1. Meetings

Written notice of any Special Purpose Meeting called pursuant to a provision of this Declaration shall be sent to all Memberships not less than ten (10) days nor more than sixty (60) days in advance of the meeting, which such notice shall prominently contain a disclosure of the percentage of the votes which shall constitute a quorum, and the percentage of the quorum which shall be required for action on the subject matter.

At the first such meeting called, the presence of Memberships or of proxies entitled to cast not less than fifty percent (50%) of the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called for a date not later than sixty (60) days following the preceding meeting, subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

4.5.2.2. Written Consent in Lieu

Any action which may be taken at any Special Purpose Meeting may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the number of Memberships that would be necessary to authorize or take such action at a meeting at which all Memberships entitled to vote thereon were present and voted.

4.6. Executive Board

The affairs of this Association shall be managed by an Executive Board, the members of which shall be elected by the Members in accordance with the Bylaws of this Association. The Executive Board shall be constituted and organized, and shall operate, in accordance with the Bylaws of this Association.

4.6.1. Powers and Duties of the Executive Board

The Executive Board shall have the powers to do all things necessary or appropriate to carry out the duties and obligations imposed upon it by the Governing Documents or otherwise by law and such powers shall include that the Executive Board may act in all instances on behalf of the Association.

4.6.2. Right and Limitation of Declarant to appoint Members of the Executive Board

During and only during the Development Period as such Development Period is defined in Section 1.22 of this Declaration, Declarant shall have the right to appoint and to remove at will, and, in the event of removal, resignation, death, termination, absenteeism or other event resulting in vacancy, to reappoint, at will, replacements for, no fewer than such number of members of the Executive Board as shall comprise a majority of the number of members of the Executive Board. Subject to the right of the Declarant, in Declarant's sole judgment, at will, to remove and replace such Declarant appointed members, with or without cause, the terms of such appointed members of the Executive Board shall be for the period from appointment until the termination of the Development Period.

Notwithstanding the right of Declarant to appoint members of the Executive Board pursuant to this Section 4.6.2 of this Declaration:

4.6.2.1. not later than sixty (60) days after conveyance by Declarant to persons other than a declarant of thirty eight (38) Units (being 25% of the Units which may be created pursuant to the terms of this Declaration), the greater of one (1) or such number of members of the Executive Board as shall comprise a minimum of 25% of the number of members comprising the whole Executive Board shall be elected by Unit Owners other than the Declarant; and

4.6.2.2. not later than sixty (60) days after conveyance by Declarant to persons other than a declarant of seventy five (75) Units (being 50% of the Units which may be created pursuant to the terms of this Declaration), the greater of one (1) or such number of members of the Executive Board as shall comprise a minimum of 33% of the number of members comprising the whole Executive Board shall be elected by Unit Owners other than the Declarant.

4.6.3. Indemnification of Officers, Executive Board and Committee Members

The Association shall indemnify each and every Executive Board member, officer and committee member, his or her heirs, executors and administrators, against all loss, cost and expenses, including attorneys' fees, reasonably incurred by him or her in connection with any action, suit or proceeding to which he or she may be made a party by reason of his or her being, or having been, an Executive Board member, officer or committee member, except as to matters as to which he or she shall be finally adjudged in such action, suit or proceeding, to be liable for gross negligence or willful misconduct. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason, or arising out of or in connection with, this indemnification provision shall be treated by the Association as General Common Expenses.

ARTICLE V

ASSESSMENTS

5.1. Creation of the Lien and Personal Obligation of Assessments

The Grantee of an ownership interest in a Unit, by the acceptance of such ownership interest, whether or not it shall be so expressed in the deed conveying an ownership interest, and including without limitation any purchaser at judicial sale or heir or devisee of a deceased Owner, by the acceptance of ownership to a Unit obligates and binds such Grantee or owner, and the heirs, successors and assigns of such Grantee or owner, to become a Member of the Association and to be bound by all of its rules and regulations and to be subject to all of the duties and obligations imposed by ownership of, and membership in, said Association and is deemed to covenant and agree to pay to the Association an annual assessment equal to the Common Expense Liability allocated to such Unit, and, subject to the provisions of §5314 of the Act, such assessments shall be established and collected as hereinafter provided.

Subject to the provisions of §5315 of the Act, all assessments, together with, except as set forth in Section 8.2.1 of this Declaration, late fees, interest, costs of collection when delinquent, including reasonable attorney's fees whether or not suit is brought, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with late fees, interest, costs of collection when delinquent, including reasonable attorney's fees whether or not suit is brought, shall also be the personal obligation of each person who was the Owner of such property at the time when the assessment or installment thereof became due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them, but nothing herein contained, except as set forth in Section 8.2.1 of this Declaration, shall be deemed to discharge the lien of the assessment upon the real property, the subject thereof. No Owner may waive or otherwise escape liability for the assessments provided for herein by non use of the Common Facilities nor by abandonment of the Unit owned.

Any amounts received by the Association from the payment of General Common Expenses assessments and in excess of the amount required for actual General Common Expenses and reserves for future General Common Expenses shall be credited to Units in accordance with Section 5313 of the Act, and shall be taken into account when establishing the budget for the next succeeding fiscal year, but need not be refunded or applied (until exhausted) to subsequent assessments.

Any amounts received by the Association from the payment of Special Allocation Expenses assessments in excess of the amount required for actual Special Allocation Expenses and reserves for future Special Allocation Expenses intended to be paid from the Special Allocation Expenses assessments shall be credited to Units in accordance with Section 5313 of the Act, and shall be taken into account when establishing the budget for the next succeeding fiscal year, but need not be refunded or applied (until exhausted) to subsequent assessments.

5.2. Estoppel Certificate

Within ten (10) days of the request therefor, the Executive Board of the Association shall cause to be provided an Estoppel Certificate which shall set forth any assessments and charges, or installments thereof, due upon such Unit as of the date of issuance and shall certify as to whether or not there are violations of the Governing Documents remaining within the Unit known to the Association as of the date of issuance. A reasonable fee may be established from time to time for the cost of preparation of such certificate and shall be paid at the time of request for such certificate. A properly executed certificate of the Association as to the status of assessments or installments thereof on a Unit is binding upon the Association as of the date of its issuance as to any purchaser or mortgagee relying thereon in good faith, but shall not relieve the Owner of personal liability.

5.3. Purpose of Assessments

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Subject Property and for the improvement and maintenance, repair and replacement of the Common Elements and for the performance of the obligations of the Association. In addition, the assessments may be used for the creation, maintenance and enhancement of reserves, and the maintenance of appropriate policies of insurance, and for the payment of all obligations required of the Association created by its own acts or imposed upon it by law or by the terms of the Governing Documents.

5.4. Annual Assessments

On or before thirty (30) days prior to the end of each Fiscal Year of the Association, the Executive Board shall adopt Annual General Common Expenses and Special Allocation Expenses Budgets in amounts deemed appropriate, in the sole judgment of the Executive Board, for the purposes set forth in the Governing Documents. Notwithstanding the foregoing, the General Common Expenses and Special Allocation Expenses Budgets shall include such amounts as are reasonably necessary to establish and maintain an adequate reserve fund a) for the replacement, when required, of the Common Elements (including without limitation improvements to the Common Elements including Limited Common Elements), and b) to cover insurance deductible amounts pursuant to the provisions of Section 4.4.1 of this Declaration.

The Executive Board shall, at least thirty (30) days in advance of each annual assessment period, fix:

- 5.4.1. an annual assessment against each Unit for such Unit's General Common Expense Liability in an amount equal to the amount of the annual General Common Expenses Budget multiplied by such Unit's Association Interest; and

- 5.4.2. annual special allocation assessments against each Unit in an amount proportionate to the benefit to such Unit of the Special Allocation Expenses Budgets which Special Allocation Expenses Budgets shall include, but not be limited to:
- 5.4.2.1. the costs of utility services paid by the Association which shall be, if separately metered to each Unit, assessed in proportion to usage or, if not separately metered to each Unit, assessed in equal amounts to all Units to which such utility services are provided; and
- 5.4.2.2. costs associated with the maintenance, repair or replacement of a Limited Common Element which shall be assessed in equal shares against the Units to which such Limited Common Element was appurtenant at the time the cost was incurred.

Written notice of the adopted budgets and Annual Assessments against each Unit shall be sent to every Unit Owner subject thereto. Unless objection to any Budget or Annual Assessment is made by the Owners of not less than fifty-one (51%) percent of the Units subject to such Assessments within thirty (30) days after the date of mailing of such notice, the same shall be deemed adopted and shall be binding on all Members of the Association as provided in this Declaration.

In the event that the Executive Board shall fail to fix any annual assessments for any fiscal year, then each assessment established for the prior fiscal year shall be continued until such time as the Executive Board shall act.

5.5. Special Assessments for Capital Improvements

In addition to the annual assessments authorized in the Governing Documents, the Executive Board may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of a part of the Common Elements including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of Members voting at a Special Purpose Meeting duly called for such purpose in accordance with the provisions of Section 4.5.2 of this Declaration.

5.6. Assessment to repair damage caused by Owner or others for whom Owner is responsible

The Executive Board may levy an assessment against any Unit for the Association's cost of repair, replacement (and expenses relating thereto) of any Common Element damaged as the result of the negligence or intentional conduct of any of such Unit's Owners, residents, tenants, occupants, or guests, employees, agents, or invitee or licensee of any thereof.

5.7. Emergency Assessment

The Executive Board may, by a two-thirds (2/3) vote, impose a Special Assessment for any unusual unanticipated or emergency maintenance, repair or other expense required pursuant to the terms of this Declaration or any law to be paid by the Association (including, after depletion of reserves, any unexpected expenditures not provided by the budget or unanticipated increases in the amounts budgeted).

5.8. Initial Assessment

Each Unit Owner (other than a Declarant) shall, at the time of the first Conveyance of a Unit from a Declarant or Assignee Declarant to such Unit Owner, pay to the Association an initial assessment in the amount of Two Hundred Fifty and no/100 Dollars (\$250.00).

The initial assessment shall constitute a non-refundable payment to the Association, to be used by the Association to pay start-up expenses, to prepay certain expenses, such as insurance premiums, and to provide an initial reserve against future expenses and shall not be credited as an advance payment of annual or special assessments.

5.9. Capital Improvement Fee on Resale or Transfer

Subject to the provisions of the Act and specifically subject to the limitations of § 5302(a)(12) of the Act, the Grantee of an ownership interest in a Unit, by the acceptance of such ownership interest, including without limitation any purchaser at judicial sale or heir or devisee of a deceased Owner, by the acceptance of ownership to a Unit obligates and binds such Grantee or owner, and the heirs, successors and assigns of such Grantee or owner, to, upon the conveyance of the interest in the Unit, other than the first Conveyance of a Unit from a Declarant or Assignee Declarant, to such Unit Owner, pay a Capital Improvement Fee in an amount equal to one third (1/3) of the annual assessment against the Unit for such Unit's General Common Expense Liability for the most recently completed fiscal year of the Association.

5.10. Payments of Assessments

The Executive Board may authorize, in its discretion, any assessment to be paid in installments thereof on an annual, quarterly or monthly basis.

The obligation to pay Assessments shall not be subject to deduction or set-off or otherwise be diminished, discharged, suspended or abated because of, (i) any claim which such Owner(s) may have against the Association; (ii) the failure or purported failure of the Association to provide services required of it; (iii) the fact that there is no Dwelling on such Owner's Unit or that the Dwelling thereon has been demolished, destroyed or removed, in whole or in part, or is unoccupied or uninhabitable for any reason; or (iv) the default or delinquency of any other Owner(s).

The obligation of an Owner to pay Assessments shall not be affected by leasing of the Unit, and the Owner shall remain personally liable therefor. If a lease imposes the obligation to pay Assessments or any part thereof on the tenant, the Association shall conclusively be deemed to be a third party beneficiary of such covenant and shall have the right (but not the obligation) to enforce such obligation directly against the tenant.

Each Owner shall reimburse, defend and indemnify the Association upon demand for any losses, expenses, costs, or damages incurred by the Association as a result of any claims, damage to Common Elements, caused by or resulting from any act, omission or negligence of the Owner or the Owner's family, guests, employees, agents, lessees, licensees, contractors or subcontractors. Such damages may be assessed and collected as a Special Assessment against such Owner.

In connection with the collection of delinquent Assessments, the Executive Board shall have the power, in its discretion, to waive the obligation of an Owner to pay Assessments in arrears (in whole or in part) and attendant interest, late charges and costs of collection; and to compromise or settle the Association's claims against an Owner. No indulgence, waiver or compromise in any one instance shall require that the Board grant any similar indulgence, waiver or compromise in any other instance to the same Owner or to any other Owner(s).

5.11. Effect of Non Payment of Assessments: Remedies of the Association

Any assessment or installment thereof not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen (15%) per cent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien of such assessment or installment thereof against the Unit.

The Grantee of an ownership interest in a Unit, by the acceptance of such ownership interest, whether or not it shall be so expressed in the deed conveying an ownership interest, and including without limitation any purchaser at judicial sale or heir or devisee of a deceased Owner, by the acceptance of ownership to a Unit obligates and binds such Grantee or owner, and the heirs, successors and assigns of such Grantee or owner, as a covenant running with the land, that the Grantee or owner of the Unit will at all times agree to the enforcement of all assessments in the manner specified in this Declaration and in the Act. Each Owner agrees to pay reasonable attorney's fees as established from time to time by the Executive Board and costs incurred in the collection of any assessment against such Owner and/or such Owner's Unit, whether by suit or otherwise, or in enforcing compliance with or specific performance of the terms and conditions of the Governing Documents as against such Owner and/or such Owner's Unit.

Any assessment or installment thereof not paid within fifteen (15) days after the due date shall be delinquent. Thereupon the Association may exercise any one or more of the following remedies, after notice of such delinquency to the Unit Owner, which are all declared to be cumulative and not exclusive. The selection of a single remedy or multiple remedies shall not be deemed an election thereby excluding any other remedies, but the Association may exercise any and all remedies singularly, consecutively, or concurrently: (a) declare the entire balance of such annual or special assessment due and payable in full; and (b) charge a late fee in the amount to be set by the Executive Board; and (c) upon notice to the Owner suspend the right of such Owner to vote and/or to use the Common Elements until the assessment and accrued charges are paid in full; and (d) employ any other remedies available at law or in equity which, without limitations of the foregoing, shall include either of the following procedures:

5.11.1. Enforcement by Suit

The Association may commence and maintain a suit by law against any Owner or Owners for such delinquent assessments as to which they are personally obligated. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of fifteen (15%) per cent per annum from the due date, costs of collection, court costs, and reasonable attorney's fees. Suit to recover any money judgment for any unpaid assessments shall be maintainable without foreclosing or waiving the lien hereinafter provided for.

5.11.2. Enforcement by Lien

The Association may foreclose the lien imposed by §5315 of the Act and perfected by the recordation of this Declaration in accordance with, and subject to, the provisions of §5315 of the Act.

5.12. Exempt Property

All property Conveyed to any Governmental/Public Service Entity shall be exempt from assessments pursuant to this Declaration.

5.13. Enforcement by Swatara Township and Assessments Therefor

In the event that the Association or any successor organization, shall at any time after the end of the Development Period, fail to maintain all or any portion of the Common Elements in a reasonable order and condition in accordance with the Approved Development in a manner which preserves, keeps functional, complies with all applicable Township, County, State and Federal laws, rules, and regulations and retains the functional condition thereof, the Board of Supervisors of Swatara Township may serve written notice upon the Association or upon the Owners of the Units in the Subject Property setting forth the manner in which the Association has failed to maintain the Common Elements in such condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within thirty (30) days thereof and shall state the date and place of a hearing thereon, which shall be held not more than thirty (30) nor less than fourteen (14) days of the notice.

At such hearing, Swatara Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which said deficiencies shall be corrected. If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within thirty (30) days or any extension thereof, Swatara Township, in order to preserve the taxable value of the premises and to prevent the Common Elements from becoming a public nuisance, may enter upon such portions of the Subject Property as are necessary to maintain and may thereafter maintain the same for such period of time as the Board of Supervisors of Swatara Township shall determine. Said maintenance by Swatara Township shall not constitute a taking of said Common Elements, nor vest in the public any rights to use the same except when the same is voluntarily dedicated to the public by the Association pursuant to the terms of this Declaration and the Act and such dedication is acceptable to Swatara Township. Before the expiration of said period, Swatara Township shall, upon its initiative or upon the request of the Association or of the Units Owners in the Subject Property, call a public hearing to be held by the Board of Supervisors upon notice to the Association or the Owners, at which hearing the Association or the Owners of Units in the Subject Property shall show cause why such maintenance by Swatara Township shall not, at the option of said Township, continue. If the Board of Supervisors shall determine that the Association is ready and able to maintain said Common Elements in the conditions as hereinabove set forth, Swatara Township shall cease to maintain the Common Elements at the end of said period. If the Board of Supervisors shall determine that the Association is not ready and able to maintain said Common Elements in the conditions as hereinabove set forth, Swatara Township may, in its discretion, continue to maintain said Common Elements for an additional period of time and, subject to a similar hearing and determination, in each time period thereafter. The decision of the Board of Supervisors shall constitute a final administrative decision subject to judicial review.

The cost of such maintenance and the hearing and enforcement procedure referred to above, including reasonable attorney, engineering and like fees and costs, shall be assessed ratably, in accordance with tax assessments, against the Units within the Subject Property and shall become a lien on said Units. Swatara Township, at the time of entering upon the portions of the Subject Property required to maintain for the purpose of maintenance, shall file a notice of lien in the Office of the Prothonotary of Dauphin County upon the Units within the Subject Property affected by the lien.

ARTICLE VI

RESTRICTIVE COVENANTS

6.1. Enforcement

The Grantee of an ownership interest in a Unit, by the acceptance of such ownership interest, whether or not it shall be so expressed in the deed conveying an ownership interest, and including without limitation any purchaser at judicial sale or heir or devisee of a deceased Owner, by the acceptance of ownership to a Unit, acknowledges and agrees that any use of the Unit Owner's property in violation of the provisions of this Article VI, including without limitation any Architecturally Controlled Improvement constructed, installed, placed or maintained on said Unit Owner's Unit without approval of the Executive Board as set forth in this Section 6.1, ("Non-conforming Modification"), shall be removed or corrected in its entirety, within Fifteen (15) days of notice to said Unit Owner of such Non-conforming Modification, (which such notice shall be by the mailing thereof by certified mail, return receipt requested to the resident of the Unit, or by hand delivery to an adult resident of said Unit). Such removal shall be at the expense of said Unit Owner, and each and every Grantee of an ownership interest in a Unit, by the acceptance of such ownership interest, whether or not it shall be so expressed in the deed conveying an ownership interest, and including without limitation any purchaser at judicial sale or heir or devisee of a deceased Owner, by the acceptance of ownership to a Unit, hereby grants to the Executive Board an easement, license, and the authority to cause such Non-conforming Modification to be removed at said Unit Owner's expense if not removed within fifteen (15) days after notice as aforesaid. Notwithstanding any provision of this Declaration to the contrary, no summary abatement of any Non-conforming Modification (including without limitation the grant to the Executive Board of an easement, license, and the authority to cause such Non-conforming Modification to be removed at said Unit Owner's expense if not removed within fifteen (15) days after notice) which would result in the alteration or demolition of any item of construction shall commence unless and until judicial proceedings to restrain violation or to recover damages, of violations or attempts to violate any restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Governing Documents shall have been instituted.

6.2. Architectural Control

6.2.1. Architecturally Controlled Improvements

"Architecturally Controlled Improvement" shall mean and refer to each and every one of the following (excepting any of such of which is prior to the first Certificate of Occupancy issued for occupancy of a structure on a Unit), subject that inclusion of an item in the following list of items shall not imply that such item is or shall be permitted:

- 6.2.1.1. construction of any improvement on any Unit within the Subject Property which such construction shall require a permit therefor from any governmental entity having jurisdiction thereof; and

- 6.2.1.2. any addition to any structure; and
- 6.2.1.3. construction or placement of any structure, improvement, fixture, device or item on a Unit attached to or appurtenant to the principal structure on the Unit including, but not limited to, any garage, carport, patio cover, greenhouse, pool house, shed, storage building, playhouse or play structure, solar panel, fireplace, grill, or other cooking or food preparation facility (excepting such of which as are portable and, when not in use, are stored within a structure), poles, wires, ropes, or other fixtures or appliances or portion thereof upon which laundry is hung or exposed, dog house, kennel or dog run, or any roofed, covered, or enclosing shelter of any manner or kind; and
- 6.2.1.4. any alteration, modification or change in or to any of the exterior components, fixtures, materials, colors, and/or appearance of any building, wall or other structure or any portion thereof (including without limitation, any painting or staining thereof) on a Unit; and
- 6.2.1.5. any addition to and/or demolition or removal of any building, wall or other structure or any portion thereof on a Unit; and
- 6.2.1.6. construction or placement on any Unit of any swimming pool, fountain, tub, pond, or other water or other liquid containment or display structure, fixture or device; and
- 6.2.1.7. installation of lighting fixtures, illuminating devices or illumination sources, including but not limited to lamppost lights, anywhere on a Unit excepting only such lighting fixtures, illuminating devices or illumination sources installed wholly within a building on a Unit; and
- 6.2.1.8. fencing, privacy wall or gate, together with landscaping adjacent or in proximity thereto on a Unit; and
- 6.2.1.9. any flower or vegetable garden maintained on any Unit in excess of three hundred (300) square feet in area; and
- 6.2.1.10. play equipment, whether or not affixed or secured to the ground, including but not limited to basketball hoops, swing sets, hockey nets, skateboard ramps, pools and fountains; and
- 6.2.1.11. erection and/or maintenance of any antenna or exposed electrical or electronic wires or lines on the outside of any structure, including without limiting the generality thereof, any television receiving antenna, satellite receiving antenna, radio receiving antenna or radio or television transmitting antenna.
- 6.2.1.12. anything hung, painted, displayed, relocated or extended on or affixed or placed upon the outside surfaces of doors, the outside of the windows (or inside, if visible from the outside), the exterior walls, or roofs of any structure on a Unit or any part thereof; and

- 6.2.1.13. landscaping, such as foundation plantings, flowers, and shrubs, to be installed within Limited Common Facilities.

Anything in this Declaration to the contrary notwithstanding, except for such improvements or work as are the substantially similar replacement of improvements and/or work previously approved pursuant to the provisions of this Section 6.2, no Architecturally Controlled Improvement shall be permitted to commence or remain unless and until such improvement or work shall have been approved pursuant to the provisions of Section 6.2.2 of this Declaration.

6.2.2. Architecturally Controlled Improvements Review and Approval

Any Unit Owner desiring to construct or cause to be constructed, or work to be performed of, an Architecturally Controlled Improvement shall submit to the Executive Board for approval: plans, construction documents and drawings for such improvement or work, which plans, documents and drawings shall clearly show the scope of the work and/or the proposed architectural design, and describe all exterior materials and colors to be used in the construction or implementation of the proposed improvement (hereinafter collectively referred to as "Proposed Work/Construction Documents").

The Proposed Work/Construction Documents shall be deemed received by the Executive Board when, and only when, the person or entity submitting same shall have received written acknowledgments evidencing the receipt of the Proposed Work/Construction Documents signed by no less than such number of members of the Executive Board as shall constitute a majority thereof.

The Executive Board may delegate some or all of the Executive Board's architectural review and approval responsibilities pursuant to this Section 6.2.2 to an architectural review committee, the members of which shall be appointed by, and shall serve at the pleasure of, the Executive Board.

The Executive Board shall consider the suitability of the proposed work and/or improvement, including the extent of the work and, if applicable, the materials and colors to be utilized, the siting and landscaping thereof, if any, the harmony thereof with surroundings, including dwellings and/or other structures within the Subject Property, and the effect on, and view from, roadways, adjacent and neighboring properties. The Executive Board shall, by a vote of the majority thereof, have the right, in its sole discretion, to approve or disapprove any proposed Architecturally Controlled Improvement.

The Board shall render its decision in writing, with regard to the proposed improvements within thirty (30) days after receipt of the Proposed Work/Construction Documents. If additional information regarding the Proposed Work/Construction Documents, the aforesaid thirty (30) day period shall be extended for the period of time between the date of such request for additional information and the date such additional information is submitted by the applicant, plus fifteen (15) days. If the Proposed Work/Construction Documents are not approved, the reasons for disapproval shall be set forth in the written decision. If a written decision is not mailed within the aforesaid thirty (30) day period

(as the same may be extended as aforesaid), then the Proposed Work/Construction Documents shall be deemed to have been approved as submitted, but no change to the Proposed Work/Construction Documents submitted may be made without submission of such changes for approval in accordance with the procedures set forth herein. The disapproval of Proposed Work/Construction Documents shall be without prejudice to the right of the applicant to resubmit an application for approval in which the reasons for disapproval have been addressed by the applicant. Approval may be granted subject to conditions specified in the written decision granting conditional approval, in which event the Proposed Work/Construction Documents shall be deemed to have been approved subject to the applicant's compliance with such conditions.

All Proposed Work/Construction Documents submitted to the Executive Board for review may be retained by the Executive Board regardless of whether the proposed Architecturally Controlled Improvement has been approved or disapproved

The Executive Board may promulgate rules and regulations establishing procedures to be followed with respect to matters requiring the approval of the Executive Board or the architectural review committee hereunder, and may also adopt a schedule of reasonable fees that may be charged for review of proposals submitted by Owners that are subject to approval pursuant to this Section 6.2.2.

The Executive Board may promulgate regulations and architectural policies setting forth general architectural and aesthetic standards or policies to be met for all or specified types of improvements,

In rendering its decision, the Executive Board (or the architectural review committee, as the case may be) shall have the power to interpret this Declaration and the Executive Board's regulations and policies relating to architectural and aesthetic standards and to grant reasonable variances from specific requirements of this Declaration or the rules and regulations if, in the Executive Board's opinion (i) the particular requirement to be varied poses unreasonable hardship on the applicant as a result of the peculiar features of the applicant's Unit or Dwelling or other existing improvements or features on the Unit, (ii) the particular requirement to be varied would not render the proposed improvements aesthetically incompatible or inconsistent with other existing improvements on the applicant's Unit or existing structures on neighboring or nearby Units, or (iii) the particular requirement, as applied to the proposed improvements, is impractical or would increase the cost of the proposed improvement by an unreasonable amount. The granting of such variances shall be within the sole and absolute discretion of the Executive Board, and no variance granted in any one instance shall create any obligation on the Executive Board to grant a variance in any other instance. Such variances may be granted subject to such conditions as the Executive Board may require in its sole discretion

6.2.3. Liability for Approval or Disapproval

Neither the Association, the Executive Board (or any committee thereof), nor any officer or agent thereof shall be liable, in damages or otherwise, to anyone in connection with the approval or disapproval of any Proposed Work/Construction Documents or for the

consequences of such approval or disapproval. Neither the Association, the Executive Board (or any committee thereof), nor any officer or agent thereof shall be responsible for determining the safety or structural soundness of any Architecturally Controlled Improvement or its compliance with applicable laws, ordinances, regulations, or building codes. The establishment of a mechanism for the approval of Proposed Work/Construction Documents for Architecturally Controlled Improvements is for the sole purpose of protecting certain aesthetic standards within the Community for the benefit of the Owners and is not intended for the protection of the health or safety of Owners, occupants, or any other person or entity.

6.3. Restrictions Applicable to Units

Each Unit in the Subject Property is and shall be held, transferred, sold, conveyed and occupied subject to the following conditions, covenants, and restrictions, which shall be covenants running with the land each and all of which is and are for the benefit of the Subject Property and for each Owner of a part thereof:

6.3.1. Use Restriction

Unless otherwise hereinafter expressly provided, each Unit shall be used solely for residential purposes.

6.3.2. Business Use

No trade, business or profession shall be regularly conducted or pursued on any Unit or within or without any Structure on any Unit, except customary home occupations clearly incidental to the residential use of the Unit, such that do not involve visitation to the Unit by customers, clients or patients or deliveries of materials to the Unit, and further subject to compliance with and approval of all governmental agencies having jurisdiction thereof.

No vehicle, equipment, or structure shall be placed, maintained, constructed or operated, temporarily or permanently, on any Unit for any trade, business, or other commercial purpose.

6.3.3. Animals

Except for animals commonly recognized as domestic house pets, no animals of any kind, whether mammal, bird, reptile or other, shall be at any time kept on any Unit.

No animals may be raised or kept on any Unit or in any Structure on any Unit for commercial breeding or for any other commercial purpose.

Pets shall be maintained and controlled at all times so as not to offend or disturb other Unit owners or occupants by noise, elimination, odor, intrusion, destruction of property or otherwise

The walking and exercising of pets on or about the Common Land shall be subject to such Rules and Regulations as the Executive Board may adopt from time to time.

No electronic radio or "invisible fence" for purposes of restraining pets shall be installed on any portion of the Common Land.

Unless approved as Architecturally Controlled Improvements in full and complete accordance and compliance with the provisions of Section 6.2.2 of this Declaration, no kennel, "dog runs" or "dog houses" including, but not limited to, those constructed of "chain link" or other fencing materials, shall be constructed, placed, or maintained, temporarily or permanently, on any Unit.

6.3.4. Fences and Hedges

No fence or hedges or mass groupings of shrubs, trees or other plantings which could be a visual barrier comparable to a fence shall be erected, installed, or maintained on any Unit unless and until such fence, hedge, or other plantings, together with the landscaping to be installed adjacent or in proximity thereto, shall have been approved as an Architecturally Controlled Improvement pursuant to the provisions of Section 6.2.2 of this Declaration.

6.3.5. Surface Water Flow

After the completion of the construction thereon of a Dwelling together with appurtenant structures, if any, and the establishment of grades for the flow of surface water, the grading of any Unit shall not be changed or modified so as to impede, redirect, accelerate or otherwise change or modify the flow of surface water to, over or from the Unit.

6.3.6. Firewood

Wood or any other material which is capable of being used for fuel in a fireplace, stove, or similar heating device shall not be stored on any Unit outside of a structure on said Unit.

6.3.7. Tanks

Tanks for the storage of any liquid or gas (including but not limited to water, gas, oil, or propane) shall not be installed, placed or maintained on any Unit outside of a structure on said Unit and above the surface of the ground of said Unit excepting only fuel tanks which are attached to and are a part of a cooking appliance and while such appliance is in use.

6.3.8. Nuisances

Each Owner shall keep that Owner's Unit in a clean, neat, sanitary and safe condition. Each Owner shall refrain from any activity that unreasonably interferes with the quiet and peaceful enjoyment of any and all others portions of the Subject Property.

No nuisance, or noxious, offensive, or dangerous activity or thing shall be created, permitted or conducted on or about any Unit including but not limited to open or smoking fires, and uncovered refuse.

No storage, depositing, dumping, burial, burning or abandonment of any solid waste, debris, trash or refuse of any nature shall be permitted on or about the Units or Common Facilities, except trash or debris left at curbside for trash collection purposes. Trash or refuse placed outside for collection shall, to the extent possible, be kept in enclosed containers or approved recycling bins. Such containers shall be removed promptly after the contents thereof have been collected.

6.3.9. Hazardous Activities

No activities shall be conducted anywhere on the Subject Property which are might reasonably be unsafe or hazardous to any person or to property. Without limiting the generality of the foregoing, no firearms shall be discharged on the Subject Property, and no open fires shall be lighted or permitted on the Subject Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace. No hunting of any type shall be permitted on the Subject Property. No person shall permit anything to be done or kept upon the Subject Property which will result in the cancellation of insurance or increase of premiums for any insurance maintained by the Association or other Owner(s).

6.3.10. Vehicles

No mobile home, bus, house car, motor home, camper, trailer, commercial vehicle, airplane, boat, unlicensed motor vehicle, snowmobile or other specialized recreational vehicle, or any inoperative vehicle shall be placed, used, operated, maintained or stored on or in the Subject Property nor parked on any vehicular area within the Subject Property except for such time as is necessary to load or unload same, or pickup or discharge passengers therefrom.

Nothing herein shall prohibit the storage of any of the aforesaid vehicles provided such storage is completely within a garage.

6.3.11. Laundry

No poles, wires, ropes, or other fixtures or appliances or portion thereof upon which laundry is hung or exposed shall be erected, placed or maintained on any Unit. No clothes, sheets, blankets, laundry of any kind or any other articles shall be hung or exposed on any part of a Unit or any part of the Common Facilities at any time.

6.3.12. Signs

No signs, billboards, notices, advertising, displays, or other attention attracting devices including, but not limited to "for sale" or "for rent" signs, shall be erected or maintained on any Unit or within any Dwelling if such is viewable from outside the Residence excepting only:

- 6.3.12.1. signs identifying the address of the Unit to the extent required by governmental entities having jurisdiction thereof;
- 6.3.12.2. small signs complying with such Rules and Regulations as the Association may adopt identifying the occupant, and home occupation, if applicable.

Any signs permitted hereunder shall comply with applicable zoning and use regulations of the Township.

6.3.13. Displays

Reasonable seasonal or holiday decorations may be temporarily displayed on Units subject to such reasonable Rules and Regulations as the Executive Board may adopt.

The display or use of items in the interior of any Dwelling that are visible from the exterior thereof shall be subject to Rules and Regulations of the Association.

6.3.14. Gardens

Any flower or vegetable garden maintained on any Unit shall be:

- 6.3.14.1. maintained free of unsightly weeds and dead plants and/or crops; and
- 6.3.14.2. maintained such that there shall be no soil erosion of the garden area; and
- 6.3.14.3. unless the same shall have been approved as an Architecturally Controlled Improvement pursuant to the terms of Section 6.2.2 of this Declaration, not be in excess of three hundred (300) square feet in size.

6.3.15. Rules and Regulations

The use of the Subject Property shall be subject to such additional Rules and Regulations as may be adopted from time to time by the Executive Board.

6.3.16. Repair or Replacement of Damaged Structures

If any structure or other improvement on a Unit is damaged or destroyed by fire or other casualty, the Owner of such Unit shall a) as soon as is practicably possible cause work to commence to secure any damaged structure, protect any damaged structure or other improvement from further damage, and clean all debris within and without the Unit resulting therefrom; and b) within thirty days, cause work to commence and thereafter to be diligently pursued until completion, to rebuild, repair and restore the damaged or destroyed structure and/or improvement(s) to the condition existing immediately prior to such damage or destruction, or to such other condition as is approved as Architecturally Controlled Improvement pursuant to the terms of Section 6.2.2 of this Declaration (collectively, "Casualty Remediation Work"). If, after a casualty, a Unit Owner fails to cause Casualty Remediation Work to be commenced and thereafter pursued diligently until completion as set forth in this Section 6.3.16, such failure shall be deemed a Non-conforming Modification subject to the provisions of Section 6.1 of this Declaration

6.4. Compliance with Laws

Neither the Association, the Executive Board (or any committee thereof), nor any officer or agent thereof shall be responsible for determining whether or not any Architecturally Controlled Improvement complies with applicable zoning ordinances, land use regulations or building codes. Each Owner shall obtain (at the Owner's expense) all necessary governmental approvals and permits for any proposed improvements and shall provide true and correct copies thereof to the Association before constructing the proposed improvement and, upon issuance thereof, certificates of occupancy. Any improvement or thing permitted by this Declaration or by approval of the Executive Board shall be subject to and limited by applicable laws, ordinances and regulations.

6.5. Handicapped Use

Nothing in the Governing Documents shall be deemed to prohibit the reasonable adaptation of any Unit or Dwelling for handicapped or special use, subject to regulations of the Township.

ARTICLE VII

SPECIAL DECLARANT RIGHTS

7.1. Right to subject Property to Easements

Declarant shall have the full power and authority to exercise Declarant's right to subject the Subject Property to Easements pursuant to the provisions of Section 3.6.6 of this Declaration.

7.2. Exercise of Rights

Declarant shall have the full power and authority to exercise Declarant's right to modify pursuant to the provisions of Section 2.1 and Section 3.7 of this Declaration.

Declarant shall have the full power and authority to exercise Declarant's right to appoint members of the Executive Board pursuant to the provisions of Section 4.6.2 of this Declaration.

7.3. Right to Use of Easements

Declarant shall not be denied the use of, and Declarant shall have the full, continuous, and uninterrupted right of use of Easements as set forth in this Declaration, including but not limited to such as set forth in Section 3.6.3 of this Declaration.

7.4. Exception for Development and Sales

Notwithstanding anything in this Declaration to the contrary, nothing herein shall prohibit the use of any portion of the Subject Property, including any Units or any other portion of the Subject Property, for the development, construction, and sales and/or leasing of the Units, or portions thereof, with or without structures thereon, and/or the sale of or contracting for construction of structures, including but not limited to, Dwellings and appurtenant structures.

No prohibition against business use, prohibition against signage, or prohibition against other uses of the Units or other portions of the Subject Property shall prohibit the seller of Units and/or residential dwellings thereon from placing, constructing, installing and maintaining such sales offices, signs, temporary structures and facilities, business activities and similar things and activities as such seller shall deem appropriate for the purposes of such sales, construction and related activities.

ARTICLE VIII

SECURED LENDERS

8.1. Rights of Secured Lenders

In order to induce Secured Lenders to make loans secured by liens upon Units or lands within the Community of Winding Oaks, subject to the provisions of §5221 of the Act, the Association shall not, without the prior written consent of at least whatever percent of first mortgagees of individual Units as is required by Financing Agencies having jurisdiction thereof and two-thirds (2/3) of Owners other than the Declarant:

- 8.1.1. by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer any of the Common Facilities owned directly or indirectly excepting, however, Conveyances to Governmental/Public Service Entities consistent with common property use are excepted;
- 8.1.2. change the method of determining the obligation, assessments, dues or other charges which may be levied against an Owner;
- 8.1.3. by act or omission, change, waive or abandon regulations or enforcement pertaining to restrictive covenants, the maintenance of the Common Elements, or the upkeep of lawns and plantings;
- 8.1.4. fail to maintain fire and extended coverage on insurable property on a basis as required by Financing Agencies; and
- 8.1.5. use hazard insurance proceeds for losses to Common Elements for other than the repayment for, replacement or reconstruction of such Common Elements.

8.2. Obligations of Association to Secured Lenders

As further inducement to Secured Lenders, subject to the provisions of the Act, the Association shall:

- 8.2.1. not make liable any mortgagee who obtains title to a Unit, pursuant to the remedies provided in the mortgage, for such Unit's unpaid assessments, installments thereof or charges which accrue prior to the acquisition of title to such Unit by the mortgagee;
- 8.2.2. allow mortgagees of Units to, jointly or singly, pay taxes or other charges against the Common Elements and pay overdue premiums on hazard insurance policies, or secure new hazard insurance policies on the lapse of a policy for such Common Elements and mortgagees making such payment shall be owed immediately reimbursement therefor from the Association;

- 8.2.3. give written notification, upon written request, to any first mortgagee, at the address designated in the request, of any default in the performance by any individual Unit mortgagor or such individual Unit mortgagor's obligations pursuant to the terms of the Governing Documents;
- 8.2.4. limit any agreement for professional management or any contract providing for services from or by the Declarant to that required by any federal agencies having jurisdiction thereof and provide for termination in accord with standards of federal agencies. Any management agreement shall remain consistent with the Governing Documents.

ARTICLE IX

GENERAL PROVISIONS

9.1. Enforcement

The Association, the Township of Swatara Township, the Declarant, or any Owner shall have the right to enforce, by any proceedings at law or in equity, either to restrain violation or to recover damages, all violations or attempts to violate any restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Governing Documents.

Failure to enforce any restrictions, covenants or agreements contained in the Governing Documents shall in no event be deemed a waiver of the rights to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto.

9.2. Severability

Invalidation of any one of the conditions, covenants or restrictions of this Declaration by judgment or court order shall not affect any other provisions, all of which shall remain in full force and effect.

9.3. Amendment

Subject to the provisions of §5219 of the Act, the conditions, covenants and restrictions of this Declaration shall run with and bind the land in perpetuity and may be changed, altered, modified or extinguished in whole or in part, at any time, by an instrument, in writing, signed by not less than the record owners of sixty seven percent (67%) of the Units within the Subject Property, which such Amendment shall be recorded in the office of the Recorder of Deeds, Dauphin County, Commonwealth of Pennsylvania.

No provisions of this Declaration pursuant to which any special Declarant rights have been reserved to a Declarant shall be amended without the express written joinder of the Declarant in such amendment.

9.4. Conflict

In the event of irreconcilable conflict among the Governing Documents, ordinances, statutes, rules and regulations, the conflict shall be resolved in favor of the requirements of the respective documents in order of their hereinafter stated priority, to wit:

- 9.4.1.1. The Act;
- 9.4.1.2. The Development Plans, as the same may be modified, as approved by Swatara Township;
- 9.4.1.3. The Development Plan , as the same may be modified, as approved by Swatara Township;
- 9.4.1.4. The Swatara Township Zoning Ordinance, as the same may be amended;
- 9.4.1.5. This Declaration;
- 9.4.1.6. Articles of Incorporation of the Association;
- 9.4.1.7. Bylaws of the Association;
- 9.4.1.8. Book of Resolutions of the Association.

Anything above to the contrary notwithstanding, in all cases the requirements of all regulatory statutes shall control.

9.5. Interpretation

Unless the context otherwise requires the use herein, 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 hereof.

IN WITNESS WHEREOF, Gerald R. Horst has executed this Declaration the day and year first above written.

Gerald R. Horst

COMMONWEALTH OF PENNSYLVANIA)

) SS.

Dauphin COUNTY)

BE IT REMEMBERED that on this, the ____ day of October, 2006 before me, the undersigned officer, personally appeared Gerald R. Horst, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission expires:

EXHIBIT "A"

Description of Subject Property

Beginning at a concrete monument on the eastern right-of-way of Cordial Lane; Thence, North 05 degrees 58 minutes 06 seconds West a distance of 434.87 feet; Thence the following six (6) courses:

1. North 84 degrees 03 minutes 18 seconds East a distance of 164.61 feet,
2. South 68 degrees 28 minutes 10 seconds East a distance of 55.66 feet,
3. North 84 degrees 08 minutes 11 seconds East a distance of 99.29 feet,
4. South 05 degrees 51 minutes 49 seconds East a distance of 100.47 feet,
5. a curve to right having a radius of 165.67 feet an arc length of 67.71, a chord bearing of South 05 degrees 50 minutes 39 seconds West a distance of 67.24 feet,
6. South 05 degrees 54 minutes 35 seconds East a distance of 92.28 feet to the eastern property line of Winding Oaks;

Thence, along said property line South 05 degrees 54 minutes 35 seconds East a distance of 140.20 feet; thence, along the southern property line of Winding Oaks and lands now or formerly of The Trustees of the Enhaut-Steelton Church of God South 82 degrees 05 minutes 05 seconds West a distance of 299.26 feet to the place of the beginning.

Containing 127,770 square feet or 2.93 acres

EXHIBIT "B"

Description of Overall Parcel

ALL THAT CERTAIN tract or parcel of land situate in the Township of Swatara, County of Dauphin, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin, said pin being located along the eastern right-of-way of Cordial Lane and being the northwestern corner of lands now or formerly of the Board of American Missions of the Lutheran Church in America; Thence, along the eastern right-of-way line of Cordial Lane, North 05 degrees, 55 minutes, 30 seconds West for a distance of 1,367.78 feet to an iron pin; Thence, along lands now or formerly of Robert B. and Mary E. Klugh, North 85 degrees, 30 minutes, 26 seconds East, for a distance of 567.03 feet to a nail in a stump; Thence, along the lands now or formerly of Harry Whited and along lands of Walter L. Winch, South 06 degrees, 34 minutes, 00 seconds East for a distance of 161.20 feet to an iron pin; Thence, continuing along the lands of Winch and along lands now or formerly of Woodrow J. Zeitlin and along lands of Joseph Breski, South 06 degrees, 03 minutes, 46 seconds East, for a distance of 473.68 feet to a point; Thence, along lands now or formerly of James Spare, South 83 degrees, 56 minutes, 14 seconds West, for a distance of 150.00 feet to a pin; Thence, along the same, South 06 degrees, 03 minutes, 46 seconds East, for a distance of 100.00 feet to a pin; Thence along the same and by a line common with the northern right-of-way of Cherry Hill Drive, South 86 degrees, 54 minutes, 35 seconds East, for a distance of 121.73 feet to a point on the western right-of-way of Keckler Street; Thence, along said western right-of-way of Keckler Street, South 05 degrees, 54 minutes, 35 seconds East, for a distance of 60.75 feet to a point; Thence, along the southern right-of-way line of Cherry Hill Drive, North 86 degrees, 54 minutes, 35 seconds West, for a distance of 121.50 feet to an iron pin; Thence, along lands now or formerly of Robert H. Kitner, and lands now or formerly of John H. Ramsburg and lands now or formerly of Wayne B. Speece, South 05 degrees, 54 minutes, 35 seconds East, for a distance of 379.01 feet to an iron pin along the northern right-of-way line of Maple Hill Road; Thence, along said northern right-of-way line of Maple Hill Road; North 84 degrees, 05 minutes, 25 seconds East, for a distance of 120.00 feet to a point on the western right-of-way line of Keckler Street; Thence, along said right-of-way line of Keckler Street, South 05 degrees, 54 minutes, 35 seconds East, for a distance of 60.00 feet to a point; Thence, along lands now or formerly of Paul S. Carls, a line being common with the southern right-of-way line of Maple Hill Road, South 84 degrees, 05 minutes, 25 seconds West for a distance of 240.00 feet; Thence, continuing along lands of Carls, South 05 degrees, 54 minutes, 35 seconds East, for a distance of 140.20 feet to an iron pin; Thence, along lands now or formerly of the Board of American Missions of the Lutheran Church in America, South 82 degrees, 05 minutes, 05 seconds West, for a distance of 300.19 feet to an iron pin, the POINT OF BEGINNING.

EXHIBIT "C"

COMMUNITY IMPROVEMENTS

Paving & Curbing:

- 1-1/2" ID-2 Wearing Course
- 4-1/2" BCBC
- 8" 2A Compact Aggregate
- 18" Concrete Curbing
- Concrete Sidewalk (Cordial Lane)
- Concrete Sidewalk (Private Streets)
- 3" bituminous sidewalk

Stormwater Management & Drainage

- 15" SLCPP
- 18" SLCPP
- 24" SLCPP
- Inlet- Type "C"
- Inlet- Type "M"
- Storm Manhole
- End Section
- R-4 Rip Rap Apron
- Swales
- Detention Basin
- Outlet Structure

Landscaping:

- Landscape Buffer Trees
- Landscape Shrubs
- Doublefile Viburnum

Recreational Facilities

- Pavilion
- Gazebo

**BYLAWS
OF
WINDING OAKS COMMUNITY ASSOCIATION, INC.**

PREAMBLE

Whereas, this corporation (hereinafter sometimes referred to as the "Association") has been formed for the purposes set forth in that certain *Declaration of Covenants, Restrictions, Easements and Establishment of Homeowners Association for Winding Oaks, a Planned Community in Swatara Township, Dauphin County, Pennsylvania* as the same may be duly amended from time to time (herein referred to as the "Declaration") of record in the office of the Recorder of Deeds in and for Dauphin County, Pennsylvania as Instrument Number 20060042877, the actions of this corporation shall at all times be consistent with and constrained by the Declaration and all of the documents referred to therein and this corporation shall be governed in accordance with the Bylaws set forth in this document, as the same may be duly amended from time to time.

**ARTICLE I
LAWS SUBJECT TO, CONFLICT**

- 1.1. Non Profit Corporation. This corporation is organized pursuant to, and subject to the provisions of the Pennsylvania Nonprofit Corporation Law of 1988 (15 Pa.C.S.A § 5102, *et seq.*), as the same is and may be amended ("NCL").
- 1.2. Planned Community Act. This corporation is the association of Unit Owners organized pursuant to § 5301 of the Pennsylvania Uniform Planned Community Act, 68 Pa.C.S.A. §5101, *et seq.*, as the same is and may be amended ("UPCA")
- 1.3. Declaration. This corporation has been formed for the purposes set forth in the Declaration.
- 1.4. Conflict. In the event of irreconcilable conflict among the Declaration, UPCA, NCL, ordinances, statutes, rules and regulations, the conflict shall be resolved in favor of the requirements of the respective documents in order of their hereinafter stated priority, to wit:
 - 1.4.1. UPCA;
 - 1.4.2. NCL
 - 1.4.3. Declaration;
 - 1.4.4. Articles of Incorporation of the Association;
 - 1.4.5. Bylaws of the Association;
 - 1.4.6. Book of Resolutions (Minutes Book) of the Association.

ARTICLE II
DEFINITIONS, POWERS

- 2.1. Except and to the extent defined in the NCL, UPCA, or Declaration, the words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as defined in the NCL, UPCA, and/or Declaration unless the context clearly indicates otherwise.
- 2.2. The Executive Board, as such term is defined in the Declaration, shall be the Board of Directors or Board as such terms are defined in the NCL. The members of the Executive Board shall be the Directors as such term is defined in the NCL.
- 2.3. The Declarant, as such term is defined in the Declaration, shall be an Other Body as such term is defined in the NCL and the Declarant shall be vested with all rights in this corporation vested in the Declarant by the terms of the Declaration.
- 2.4. The corporation shall have all powers vested in the corporation by the terms of the NCL including without limitation the provisions of 15 Pa.C.S.A § 5502; shall have all powers vested in an Association or unit owners' association by the provisions of the UPCA including without limitation the provisions of 68 Pa.C.S.A § 5302; and shall have all powers vested in the Association by the terms of the Declaration.

ARTICLE III
NAME AND LOCATION

- 3.1. Name and Organization. The name of the corporation is **WINDING OAKS COMMUNITY ASSOCIATION, INC.** (herein sometimes referred to as the "Association") and is organized and existing as a nonprofit corporation under the laws of the Commonwealth of Pennsylvania.
- 3.2. Principal Office. The principal office of the corporation shall be located at 120 North Pointe Blvd., Lancaster, PA 17601. The Association may have such other offices, and meetings of Members and the Executive Board may be held at such places within the State of Pennsylvania as may be designated by the Executive Board.
- 3.3. Registered Office. The corporation shall have and continuously maintain in the Commonwealth of Pennsylvania a registered office which may, but need not, be the same as its place of business or principal office. A change of the location of the registered office may be authorized at any time by the Executive Board. Before the change of location becomes effective, the corporation shall comply with the provisions of the NCL including without limitation the provisions of 15 Pa.C.S.A. § 5507.

ARTICLE IV
MEMBERS

- 4.1. Members. The Members of the Association shall be those Owners and only those Owners from time to time of Units in the Subject Property, subject in all respects to the terms of the Declaration including without limitation the provisions of Section 4.5 of the Declaration. Membership in the Association shall terminate upon the termination of the Member's ownership interest in a Unit in the Subject Property. No Member holding an ownership interest in a Unit in the Subject Property may be expelled from the Association for any reason.

In the case of a Member which is not a natural person, such Member shall designate, in writing filed with the Secretary of the Association, the officer, director, partner, attorney-in-fact or trust officer, which such designation may be changed by the Member in writing filed with the Secretary of the Association from time to time, the name of the natural person who shall represent the Member.

ARTICLE V
MEETINGS OF MEMBERS

- 5.1. Annual Meetings. A meeting of the Members of the Association shall be held at least once each year at the principal office of the Association or at such other suitable location within the Commonwealth of Pennsylvania as shall be designated by the Executive Board on the second Tuesday of March of each year, at 7:00 p.m., unless an alternate date and/or time is designated by the Executive Board. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the 7:00 p.m. on the first day following which is not a legal holiday, or on such alternate date and/or time as may be designated by the Executive Board. If an Annual Meeting shall not have been called and held within three months after the designated date and time, any Member may call such Annual Meeting at any time thereafter.
- 5.2. Special Meetings. Special meetings of the Members may be called at any time by the President, by the Executive Board, by the Declarant during the Development Period, or upon written request of Members who are entitled to vote ten percent (10%) of all of the votes of the membership. Special Meetings of the Members of the Association shall be held within sixty (60) days after the request therefor at the principal office of the Association or at such other suitable location within the Commonwealth of Pennsylvania as shall be designated by the Executive Board and on such date and at such time as shall be designated by the Executive Board or, upon written request of any person who has called a Special Meeting, it shall be the duty of the Secretary to fix the place, date and time of the meeting, which shall be held not more than 60 days after the receipt of the request. If the secretary shall neglect or refuse to fix the place, date and time of the meeting, the person or persons calling the meeting may do so.

- 5.3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by either hand delivery or first class, postage prepaid mailing such notice at least 10 days but not more than 60 days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify (i) the place, date and time of the meeting, and (ii) the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget or assessment changes, and any proposal to remove a Member of the Executive Board or an officer.

The notice of any Special Meeting shall state the purpose or purposes of such meeting and no business shall be transacted at such Special Meeting except as stated in the notice thereof.

- 5.4. Waiver of Notice. Waiver of notice of a meeting of the Members shall be the equivalent of proper notice. Any Member may waive, in writing, notice of any meeting of the Members, before, at, or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of notice of the date, time and place thereof, and at any Special Meeting, of all business transacted, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order or upon arrival, whichever shall last occur.

- 5.5. Quorum. -A meeting of Members of the Association duly called shall not be organized for the transaction of business unless a quorum is present. Except as otherwise specified in the Declaration for certain actions, the presence at the beginning of the meeting of Members entitled to cast, and/or of proxies entitled to cast, twenty percent (20%) of the votes of the Association shall constitute a quorum for any action except as otherwise provided in the Act, the Articles of Incorporation of the Association, the Declaration, or these Bylaws.

If the required quorum is not present or represented, the chairperson of the meeting may adjourn the meeting to another place, date and/or time not later than thirty (30) days following the adjourned meeting, subject to the same notice requirement and to the additional requirement that the notice shall state that, and the required quorum at such subsequent meeting shall be, one-half (1/2) of the required quorum at the adjourned meeting.

In the case of any meeting called for the election of members of the Executive Board, those who attend the second of such adjourned meetings, although less than a quorum as fixed in this section shall nevertheless constitute a quorum for the purpose of election of members of the Executive Board.

In the case of any meeting called for any other purpose, those who attend the second of such adjourned meetings, although less than a quorum as fixed in this section, or in the articles or Bylaws, shall nevertheless constitute a quorum for the purpose of acting upon any resolution or other matter set forth in the notice of the meeting, if written notice of such second adjourned meeting, stating that those Members who attend shall constitute a quorum

for the purpose of acting upon such resolution or other matter, is given to each Member of record entitled to vote at such second adjourned meeting at least ten days prior to the day named for the second adjourned meeting.

Notwithstanding the withdrawal of Members leaving less than a quorum in attendance the Members present at a duly called or held meeting at which a quorum was present may continue to conduct business until adjournment, but may not continue the meeting to another date, time or place, provided that any action taken which requires a vote of the Members shall be approved by at least a majority of the votes required to constitute a quorum.

- 5.6. Adjournments. Except for adjournment for lack of quorum, adjournments of any regular or special meeting may be taken, subject that:
- 5.6.1. When a meeting is adjourned or continued to another place, date or time, unless a quorum is not present at the time of announcement, written notice need not be given of the adjourned or continued meeting if the place, date and time thereof are announced at the meeting at which the adjournment or continuance is taken provided, however, that if the date of any adjourned or continued meeting is more than thirty days after the date of the preceding meeting, written notice of the place, date and time of the adjourned or continued meeting shall be given in conformity with the notice provisions of these Bylaws. At any adjourned or continued meeting, any business may be transacted which might have been transacted at the original meeting; and
- 5.6.2. Any meeting at which members of the Executive Board are to be elected shall be adjourned only from day to day, or for such longer periods not exceeding 15 days each, as the Members present entitled to cast at least a majority of the votes which all Members present and voting are entitled to cast shall direct, until such members of the Executive Board have been elected.
- 5.7. Organization. Such person as the Executive Board may have designated or, in the absence of such a designation or the person designated, the chief executive officer of the Association or, in his/her absence, such person as may be chosen by a majority vote of the Members present, in person or by proxy, shall call to order any meeting of the Members and act as chairperson of the meeting. In the absence of the Secretary of the Association, the secretary of the meeting shall be such person as the chairperson appoints.
- 5.8. Conduct of Business. The chairperson of any meeting of Members shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him/her in order.
- 5.9. Proxies and Voting. At any meeting of the Members, every Member entitled to vote may vote in person or by proxy.

Upon request of a Member, the books or records of membership shall be produced at any regular or special meeting of the Association. If at any meeting the right of a person to vote is challenged, the presiding officer shall require the books or records to be produced as evidence of the right of the person challenged to vote, and all persons who appear by the books or records to be Members entitled to vote may vote.

All proxies shall be in writing, executed in writing by the Member or by such Member's duly authorized attorney in fact and filed with the Secretary of the Association. Every proxy shall be revocable at will but the revocation of a proxy shall not be effective until notice thereof has been given to the Secretary of the Association and shall automatically cease upon termination of membership in the Association by conveyance of the Unit subject to the Declaration. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date unless it specifies a shorter term. A proxy shall not be revoked by the death or incapacity of the maker unless, before the vote is counted or the authority is exercised, written notice of such death or incapacity is given to the Secretary of the Association.

The acts at a duly organized meeting of Members present entitled to cast at least a majority of the votes which all Members present and voting are entitled to cast shall be the acts of the Members.

All voting, including the election of members of the Executive Board, but excepting where otherwise required by law, may be a voice vote; provided, however, that upon demand therefor by a Member entitled to vote or by his or her proxy, a ballot vote shall be taken.

In each election of members of the Executive Board, every Member entitled to vote shall have the right to multiply the number of votes to which such Member is entitled by the total number of members of the Executive Board to be elected in the same election by the Members, and such Member may cast the whole number of such Member's votes for one candidate or such Member may distribute them among any two or more candidates.

All elections shall be determined by a plurality of the votes cast, and except as otherwise required by law, all other matters shall be determined by a majority of the votes cast.

- 5.10. Consent of Members in Lieu of Meeting. Any action which may be taken at a meeting of the Members may be taken without a meeting, if a consent or consents in writing, setting forth the action so taken, shall be signed by all of the Members who would be entitled to vote at a meeting for such purpose and shall be filed with the Secretary of the Association.

- 5.11. Judges of Election. For any meeting at which an election of members of the Executive Board shall be held:
- 5.11.1. In advance of any meeting of Members, the Executive Board may appoint judges of election, who need not be Members, to act at such meeting or any adjournment thereof. If judges of election are not so appointed, the presiding officer of any such meeting may, and on the request of any Member shall, make such appointment at the meeting. The number of judges shall be one or three. No person who is a candidate for office shall act as a judge.
 - 5.11.2. In case any person appointed as judge fails to appear or fails or refuses to act, the vacancy may be filled by appointment made by the Executive Board in advance of the convening of the meeting, or at the meeting by the presiding officer thereof.
 - 5.11.3. The judges of election shall determine the number of Members of record and the voting power of each, the Members present at the meeting, the existence of a quorum, the authenticity, validity, and effect of proxies, receive votes or ballots, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes, determine the result, and do such acts as may be proper to conduct the election or vote with fairness to all Members. The judges of election shall perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical. If there are three judges of election, the decision, act or certificate of a majority shall be effective in all respects as the decision, act or certificate of all.
 - 5.11.4. On request of the presiding officer of the meeting, or of any Member, the judges of election shall make a report in writing of any challenge or question or matter determined by them, and execute a certificate of any fact found by them. Any report or certificate made by them shall be prima facie evidence of the facts stated therein.

ARTICLE VI

EXECUTIVE BOARD

- 6.1. Composition. The affairs of the Association shall be governed and conducted by an Executive Board comprised of three members, not less than two of which shall, at all times, be Unit Owners.

Each member of the Executive Board shall have one equal vote.

- 6.2. Term of Office. Each member of the Executive Board shall hold office until the expiration of the term for which such member was selected and until such members's successor has been selected and qualified or until such member's earlier death, resignation or removal.

The term of each member of the Executive Board shall be for a period of three years, except as follows:

- 6.2.1. The term of member(s) of the Executive Board appointed by the Declarant pursuant to the provisions of Section 4.6.2 of the Declaration or elected by Unit Owners pursuant to the provisions of Sections 4.6.2.1 or 4.6.2.2 of the Declaration shall be for the period from appointment or election until the termination of the Development Period; and
- 6.2.2. The term of members of the Executive Board elected by Unit Owners upon the termination of the Development Period shall be as follows:
 - 6.2.2.1. the term of the member of the Executive Board receiving the greatest number of votes shall be for a term from election until three years after the first Annual Meeting of the Members after termination of the Development Period; and
 - 6.2.2.2. the term of the member of the Executive Board receiving the lowest number of votes shall be for a term from election until one year after the first Annual Meeting of the Members after termination of the Development Period; and
 - 6.2.2.3. the term of all other members of the Executive Board shall be for a term from election until two years after the first Annual Meeting of the Members after termination of the Development Period.
- 6.3. Resignation and Removal. Any member of the Executive Board may resign at any time by giving written notice to the Executive Board. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Executive Board, and the acceptance of such resignation shall not be necessary to make it effective. The membership as part of the Executive Board of a member of the Executive Board who is a Unit Owner shall terminate upon such member of the Executive Board ceasing to be a Unit Owner. The membership as part of the Executive Board of a member may be terminated at any time, with or without cause, by a resolution adopted by a majority of all the Members. In the event of death, resignation or other termination of membership as part of the Executive Board, his/her successor shall be selected by by a majority of the remaining members of the Executive Board though less than a quorum, and shall serve for the balance of the unexpired term of his/her predecessor.
- 6.4. Compensation of Members of the Executive Board. Members of the Executive Board shall not receive any compensation for their services as members of the Executive Board, including, without limitation, their services as members of committees. Members of the Executive Board may, however, be reimbursed by the Association for their reasonable expenses incurred in the performance of their duties as such members of the Executive Board.. Except for willful and malicious acts by members of the Executive Board, constituting felonies or misdemeanors, all members of the Executive Board shall be indemnified for all acts done or performed in the furtherance of their duties.

- 6.5. Personal Liability of Members of the Executive Board. A member of the Executive Board shall not be personally liable, as such, for monetary damages for any action taken unless:
- 6.5.1. the member of the Executive Board has breached or failed to perform the duties of his office pursuant to law; and
 - 6.5.2. the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.
- 6.6. Meetings of the Executive Board. Meetings of the Executive Board shall be held, after not less than ten (10) days notice to each member of the Executive Board by whom it is not waived of the place, date and time of each such meeting, from time to time as no less than a majority of the number of members of the Executive Board shall determine.

Notice shall be any means of communication including without limitation verbal, facsimile transmission or hand delivery of written notice or by mailing written notice. The receipt of any notice other than provided by the mailing of a written notice shall be acknowledged in writing or be waived in writing. Notwithstanding the foregoing, attendance at a meeting (except for the limited purpose of objecting to the lack of notice) shall constitute waiver of notice. Any notice by mail shall be deemed delivered two (2) days after deposit, postage prepaid, with the United States Postal Service.

A majority of the number of members of the Executive Board shall constitute a quorum for the transaction of business by the Executive Board. Every act or decision done or made by a majority of the members of the Executive Board present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

- 6.7. Regular Meetings. Provided that such regular meetings of the Executive Board are held pursuant to a schedule established by the Board, the receipt of which such schedule if acknowledged by each member of the Executive Board no later than the start of business at the first of such regular scheduled meetings, the Executive Board may hold regular meetings at such place or places, on such date or dates, and at such time or times as shall have been established by the Executive Board without the requirement for any further notice of such regular meetings.
- 6.8. Participation in meetings by Conference Telephone. Members of the Executive Board or of any committee thereof, may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment by the means of such all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting.
- 6.9. Conduct of Business. At any meeting of the Executive Board, business shall be transacted in such order and manner as the Board may from time to time determine, and all matters shall be determined by the vote of a majority of the members of the Executive Board present, except as otherwise provided herein or required by law.

- 6.10. Action by written consent. Any action which may be taken at a meeting of the members of the Executive Board may be taken without a meeting, if a consent or consents in writing setting forth the action so taken shall be signed by all of the members of the Executive Board in office and shall be filed with the secretary of the Association.

ARTICLE VII

COMMITTEES

- 7.1. Committees. The Executive Board, by a vote of a majority of the whole Board, may from time to time designate committees, with such lawfully delegable powers and duties as it thereby confers, to serve at the pleasure of the Executive Board, and may, for those committees, elect such persons to serve as the member or members thereof, designating, if it desire, persons as alternative members who may replace any absent or disqualified member at any meeting of the committee. Unless otherwise provided by the Executive Board in designating the committee or electing its members, in the absence or disqualification of any member of any committee and any alternate member in his/her place, the member or members of the committee present at the meeting and not disqualified from voting, whether or not constituting a quorum, may by unanimous vote appoint a member of the Executive Board to act at the meeting in the place of the absent or disqualified member of the committee.
- 7.2. Conduct of Business. Except as otherwise provided herein or required by law and except as may be otherwise provided by the Executive Board in designating the committee, each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith. Adequate provision shall be made for notice to committee members of all meetings, one-third of the committee members shall constitute a quorum unless the committee shall consist of one or two members, in which event one committee member shall constitute a quorum; and all matters shall be determined by a majority vote of the committee members present. Action may be taken by any committee without a meeting if all members thereof consent thereto in writing, and the writing or writings are filed with the minutes of the proceeding of such committee.

ARTICLE VIII
POWERS AND DUTIES OF THE EXECUTIVE BOARD

- 8.1. Powers of the Executive Board. The Executive Board shall have the powers to do all things necessary or appropriate to carry out the duties and obligations imposed upon it by the Governing Documents or otherwise by law and such powers shall include, but shall not be limited to:
- 8.1.1. perform all of the duties and obligations imposed upon the Association by the Governing Documents or otherwise by law, including management of the Common Elements including the Storm Water Facilities, and the real and personal properties of the Association as set forth in the Governing Documents;
 - 8.1.2. exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of law, the Act, these Bylaws, the Articles of Incorporation, or the Declaration;
 - 8.1.3. establish rules and regulations for the use, operation, maintenance and preservation of the Common Elements;
 - 8.1.4. establish such bank depository accounts as may be necessary, including the establishment of separate escrow accounts where required, and provide for the full and complete accounting of all sums coming into the possession of the Association.
- 8.2. Duties of the Executive Board. It shall be the duty of the Executive Board to:
- 8.2.1. maintain, repair and replace as and when in the sole judgment of the Executive Board required, any and all Common Elements including the Storm Water Facilities in a manner which preserves, keeps functional, complies with all applicable Township, County, State and Federal regulations, ordinances and laws and retains the functional condition thereof;
 - 8.2.2. annually adopt budgets for the Association, which budgets shall provide for the estimated expenses for the performance of the duties, rights and obligations of the Association as set forth in the Governing Documents, and for the operation, maintenance, repair and replacement of the Common Elements, including such reserves as the Executive Board shall deem appropriate;
 - 8.2.3. establish the amounts of the assessments to provide the monies necessary to implement the budgets and the terms of payments of such assessments (including but limited to terms set forth in Section 5.10 of the Declaration);
 - 8.2.4. collect all assessments of the Association by such methods of collection as the Executive Board may prescribe;

- 8.2.5. maintain, prepare and provide financial records, statements and reports in accordance with §5316 of the Act.
- 8.2.6. cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;
- 8.2.7. maintain policies of insurance as required or authorized by Section 4.4 of the Declaration and any other insurance deemed appropriate by the Executive Board to protect the Association, the members of the Executive Board and the Members, including directors' liability and indemnity insurance, to the extent reasonably obtainable, for errors and omissions;
- 8.2.8. elect officers of the Association, including a President, Vice President, Secretary and Treasurer who shall perform those duties prescribed under the Nonprofit Corporation Law of the Commonwealth of Pennsylvania, and provide for the delegation of management authority to the extent the Executive Board, in its discretion, deems appropriate, remove any officer of the Association with or without cause, and from time to time to devolve the powers and duties of any officer upon any other person for the time being, and confer upon any officer of the Association the power to appoint, remove and suspend subordinate officers and agents;
- 8.2.9. employ such persons and entities and enter into such contracts for services, including but not limited to property management, legal counsel, accountants, consultants, and contractors as may be necessary or desirable to perform the duties and rights imposed by the Governing Documents.
- 8.2.10. institute all actions at law or in equity before courts of record or not of record as may be necessary or convenient to preserve and protect the Association and its property, including the enforcement of payment of all assessments, but not limited thereto. All such actions shall be brought and pursued in the name of the Association and all recoveries shall be for its benefit.
- 8.3. Delegation of Powers. The Executive Board may delegate, to any officer, or to such persons or agencies which provide property management services, the power to:
 - 8.3.1. collect any and all assessments of the Association;
 - 8.3.2. maintain, prepare and provide financial records, statements and reports in accordance with §5316 of the Act;
 - 8.3.3. keep a complete record of all its acts and corporate affairs and to present a statement thereof to the Members;

- 8.3.4. employ such persons and entities and enter into such contracts for services, including but not limited to legal counsel, accountants, consultants, and contractors as may be necessary to perform the duties and rights imposed upon the Executive Board;
- 8.3.5. provide Estoppel Certificates in accordance with Section 5.2 of the Declaration and certificates pursuant to Sections 5407 and 5315(h) of the Act.

ARTICLE IX

OFFICERS AND THEIR DUTIES

- 9.1. Generally. The officers of the Association, each of whom to be qualified to hold office shall be an adult natural person, shall consist of a President, one or more Vice Presidents, a Secretary, a Treasurer, and such other officers as are elected by a majority vote of the members of the Executive Board at a duly noticed meeting of the Executive Board at which a quorum shall be present. Unless for the purpose of filling a vacancy in an office, the election of officers shall be conducted at the first meeting of the Executive Board after every annual meeting of Members. Each officer shall take office upon election and hold his/her office until his/her successor is elected and qualified or until his/her earlier resignation or removal. The President shall be a member of the Executive Board. Any number of offices may be held by the same person.

Each officer shall perform his/her duties as an officer in good faith, in a manner s/he reasonably believes to be in the best interests of the Association and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. A person who so performs his/her duties shall not be liable by reason of having been an officer of the Association.

- 9.2. President. The President shall be the chief executive officer of the Association and may serve as such President only while a member of the Executive Board. Subject to the provisions of these Bylaws and to the direction of the Executive Board, s/he shall have the responsibility for the general management and control of the business and affairs of the Association and shall perform all duties and have all powers which are commonly incident to the office of chief executive or which are delegated by the Executive Board. S/He shall have power to execute all contracts, agreements and other instruments of the Association which are authorized. S/He shall have general supervision and direction of all of the other officers and agents of the Association. S/He shall be ex-officio a member of all committees and shall exercise such other general powers and duties as are usually vested in the chief executive officer of a corporation.
- 9.3. Vice President. Each Vice President shall have such powers and duties as may be delegated to him/her by the Executive Board. One Vice President shall be designated by the Board to perform the duties and exercise the powers of the President in the event of the President's absence or disability.

- 9.4. Secretary. The Secretary shall issue all authorized notices for, and shall keep minutes of, all meetings of the members and the Executive Board. S/he shall have charge of the corporate records and shall perform such other duties as the Executive Board may from time to time prescribe.
- 9.5. Treasurer. The Treasurer shall have the responsibility for maintaining the financial records of the Association and shall have custody of all monies and securities of the Association. S/He shall make such disbursements of the funds of the Association as are authorized and shall render from time to time an account of all such transactions and of the financial condition of the Association. The Treasurer shall also perform such duties as the Executive Board may from time to time prescribe.
- 9.6. Delegation of Authority. The Executive Board may from time to time delegate the power or duties of any officer to any other officers or agents.
- 9.7. Execution of Amendments. Amendments to the Declaration required or permitted by the Act to be recorded by, or on behalf of, the Association shall be prepared by or on behalf of the President of the Association, shall be executed by the President of the Association, recorded by or on behalf of the President of the Association, and certified by or on behalf of the Secretary of the Association.
- 9.8. Action with Respect to Securities of Other Corporations. Unless otherwise directed by the Executive Board, the President shall have power to vote and otherwise act on behalf of the Association, in person or by proxy, at any meeting of stockholders of or with respect to any action of stockholders of any corporation in which this Association may hold securities and otherwise to exercise any and all rights and powers which this Association may possess by reason of its ownership of securities in such other corporations.
- 9.9. Bonding. The Executive Board may secure the fidelity of the Treasurer, or of any other officer, by a bond in such sum, and with such surety or sureties, as the Executive Board may determine.
- 9.10. Resignation and Removal. Any officer may be removed from office with or without cause by the Executive Board. Any officer may resign at any time giving written notice to the Executive Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

ARTICLE X
MISCELLANEOUS

- 10.1. Maintenance of Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable costs.
- 10.2. Notices. Except as otherwise specifically provided herein or required by law, whenever written notice is required to be given to any person under the provisions of these Bylaws or the articles, it may be given to the person either personally or by sending a copy thereof by first class, priority or express mail, postage prepaid or courier service, charges prepaid to such person's address appearing on the books of the corporation or, in the case of members of the Executive Board and officers, supplied by him or her to the Association for the purpose of notice. If the notice is sent by mail or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a courier service for delivery to that person. A notice of meeting shall specify the place, date and time of the meeting and any other information required by any other provision of these Bylaws.
- A written waiver of any notice, signed by a Member, member of the Executive Board, officer, or agent, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such Member, member of the Executive Board, officer or agent. Neither the business nor the purpose of any meeting need be specified in such a waiver.
- 10.3. Facsimile Signatures. Facsimile signatures of an officer or officers of the Association may be used whenever and as authorized by the Executive Board.
- 10.4. Corporate Seal. The Executive Board may provide a suitable seal, containing the name of the Association. The Secretary shall be in charge of the seal. If and when so directed by the Executive Board or a committee thereof, duplicates of the seal may be kept and used by the Treasurer or by any Assistant Secretary or Assistant Treasurer.
- 10.5. Reliance Upon Books, Reports and Records. Each member of the Executive Board, each member of any committee designed by the Executive Board and each officer of the Association shall, in the performance of his or her duties, be fully protected in relying in good faith upon the accounts or other records of the Association, including reports made to the Association by any of its officers, by an independent certified public accountant, or by an appraiser selected with reasonable care.
- 10.6. Fiscal Year. The fiscal year of the Association shall be as fixed by the Executive Board.

10.7. Time Periods. In applying any provision of these by-laws which requires that an act be done or not done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of doing of the act shall be excluded and the day of the event shall be included.

ARTICLE XI
AMENDMENTS

11.1. Amendment. These Bylaws may be amended, repealed and/or adopted from time to time by a vote of a majority of the members of the Executive Board at a duly noticed meeting of the Executive Board at which a quorum shall be present, subject however that:

11.1.1. a majority of the Members of the Association at any duly noticed meeting of the Members at which a quorum shall be present shall have the power to change such amendment, repeal and/or adoption; and

11.1.2. the Executive Board or Other Body shall not have the authority to adopt or change a bylaw on any subject that is committed expressly to the Members by any of the provisions of the NCL including without limitation the provisions of 15 Pa.C.S.A § 5504(b); and

11.1.3. whenever the Declaration requires, for the taking of any action by the Members, a specific number or percentage of votes, the provision of the Bylaws setting forth that requirement shall not be amended or repealed by any lesser number or percentage of votes of the Members.

11.2. Amendments affecting Declarant. Until the termination of the Development Period, these Bylaws may not be amended without the express written joinder of the Declarant in such amendment.

No provisions of these Bylaws pursuant to which any special Declarant rights have been reserved to a Declarant shall not be amended at any time without the express written joinder of the Declarant in such amendment.

IN WITNESS WHEREOF, we, being all of the members of the Executive Board of **WINDING OAKS COMMUNITY ASSOCIATION, INC.**, have hereunto set our hands this _____ day of _____, 2006.

Winding Oaks

Projected 2007 Budget

and projected budget upon completion of community

General Common Expense Budget	2007		Upon Completion of Community	
	average:	24 Lots		112 Lots
		per year		per year
Management Fee	5.00 /Lot/mo	1,440.00	5.00 /Lot/mo	6,720.00
Administrative expenses		900.00		3,600.00
Insurance including:		1,000.00		1,200.00
\$1,000,000 Property/Liability				
Directors & Officers Insurance				
Accounting		500.00		500.00
Legal				500.00
Storm Water System maintenance including:				1,200.00
Liming and Fertilizing				
Seeding & Mulching or Sodding				
Water Treatment				
Rodent Protection				
Debris Removal (pipes/swales/basins)				
Private Streets and adjacent sidewalks				
Snow/Ice Treatment		500.00		1,500.00
Street Cleaning		100.00		400.00
Maintenance & Repairs				
Open Spaces Landscaping Maintenance including:		2,500.00		12,500.00
Mowing				
Edge Walks				
Weeding				
Fertilization/Herbicides/Insecticides				
Trees/Shrubs including Buffer Plantings, Street Trees				
Planting Beds				
Common areas maintenance, repairs including:				3,600.00
Entrances				
Pavilion, Gazebo				
Trails (no snow/ice removal)				
Street signs				
Retaining Walls				
Reserves for replacements ("GC" Reserves)				7,200.00
TOTAL GENERAL COMMON EXPENSES		6,940.00		32,200.00

Occupied Dwelling Controlled Facility Expenses				
Landscaping Maintenance	/home/year	650.00	/home/year	650.00
Mowing Routine & Misc				
Edge Walks				
Weeding Routine				
Fertilization/Herbicides/Insecticides				
TOTAL OCCUPIED TOWNHOUSE CONTROLLED FACILITY EXPENSES		650.00		650.00

Winding Oaks

Projected 2007 Budget

and projected budget upon completion of community

2007

Upon Completion of Community

Assessments		2007		Upon Completion of Community	
<u>Vacant</u>					
Total General Common Expense Assessment			6,940.00		32,200.00
Per Home per month	24	Homes	24.10	112	Homes 23.96
Total Assessment per Unit per month			24.10		23.96
<u>Occupied Townhouses</u>					
Total General Common Expense Assessment			6,940.00		32,200.00
Per Home per month	24	Homes	24.10	112	Homes 23.96
Occupied Townhouse Controlled Facility Assessment					
Per Home per month			650.00	54.17	650.00 54.17
Total Assessment per Unit per month			78.26		78.13

Notes to Budgets:

All budgets are based on current year dollars and are not adjusted for inflation.

Important Note: 2007 assessment amounts are based on interim budgets which do not include Association expenses for community facilities which are not complete.

10/19/2006

STANDARD AGREEMENT FOR THE SALE OF REAL ESTATE

A/S-R

This form recommended and approved for, but not restricted to use by, the members of the Pennsylvania Association of REALTORS® (PAR).

SELLER'S BUSINESS RELATIONSHIP WITH PA LICENSED BROKER

BROKER (Company) ADDRESS LICENSEE(S) BROKER IS THE AGENT FOR SELLER. OR (if checked below): Broker is NOT the Agent for Seller and is a/an: AGENT FOR BUYER TRANSACTION LICENSEE

BUYER'S BUSINESS RELATIONSHIP WITH PA LICENSED BROKER

BROKER (Company) ADDRESS LICENSEE(S) BROKER IS THE AGENT FOR BUYER. OR (if checked below): Broker is NOT the Agent for Buyer and is a/an: AGENT FOR SELLER SUBAGENT FOR SELLER TRANSACTION LICENSEE

When the same Broker is Agent for Seller and Agent for Buyer, Broker is a Dual Agent. All of Broker's licensees are also Dual Agents UNLESS there are separate Designated Agents for Buyer and Seller. If the same Licensee is designated for Seller and Buyer, the Licensee is a Dual Agent.

1 1. This Agreement, dated _____, is between _____

2 SELLER(S): _____

3 _____

4 _____, called "Seller," and

5 BUYER(S): _____

6 _____, called "Buyer."

7 2. PROPERTY (9-05) Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase:

8 ALL THAT CERTAIN lot or piece of ground with buildings and improvements thereon erected, if any, known as:

9 _____

10 _____ in the _____ of _____

11 County of _____ in the Commonwealth of Pennsylvania. Identification (e.g., Tax ID #; Parcel #; Lot, Block; Deed Book, Page, Recording Date): _____

12 3. TERMS (9-05)

13 (A) Purchase Price _____ U.S. Dollars,

14 which will be paid to Seller by Buyer as follows:

15 1. Cash or check at signing this Agreement: _____ \$ _____

16 2. Cash or check within _____ days of the execution of this Agreement: _____ \$ _____

17 3. _____ \$ _____

18 4. Cash or cashier's check at time of settlement: _____ \$ _____

19 TOTAL \$ _____

20 (B) Deposits paid by Buyer within 30 DAYS of settlement will be by cash or cashier's check. Deposits, regardless of the form of payment and the person designated as payee, will be paid in U.S. Dollars to Broker for Seller (unless otherwise stated here), _____, who will retain deposits in an escrow account until consummation or termination of this Agreement in conformity with all applicable laws and regulations. Any check tendered as deposit monies may be held uncashed pending the acceptance of this Agreement.

21 (C) Seller's written approval to be on or before: _____

22 (D) Settlement to be on _____, or before if Buyer and Seller agree.

23 (E) Settlement will occur in the county where the Property is located or in an adjacent county, during normal business hours, unless Buyer and Seller agree otherwise.

24 (F) Conveyance from Seller will be by fee simple deed of special warranty unless otherwise stated here: _____

25 (G) Payment of transfer taxes will be divided equally between Buyer and Seller unless otherwise stated here: _____

26 (H) At time of settlement, the following will be adjusted pro-rata on a daily basis between Buyer and Seller, reimbursing where applicable: current taxes (see Information Regarding Real Estate Taxes); rents; interest on mortgage assumptions; condominium fees and homeowner association fees; water and/or sewer fees, together with any other lienable municipal service. All charges will be pro-rated for the period(s) covered. Seller will pay up to and including the date of settlement and Buyer will pay for all days following settlement, unless otherwise stated here: _____

27 Buyer Initials: _____

28 A/S-R Page 1 of 10

29 Revised 9/05

30 Seller Initials: _____

COMMUNICATIONS WITH BUYER AND/OR SELLER

Wherever this Agreement contains a provision that requires or allows communication/delivery to a Buyer, that provision shall be satisfied by communication/delivery to the Broker for Buyer, if any. If there is no Broker for Buyer, those provisions may be satisfied only by communication/delivery being made directly to the Buyer, unless otherwise agreed to by the parties.

Wherever this Agreement contains a provision that requires or allows communication/delivery to a Seller, that provision shall be satisfied by communication/delivery to the Broker for Seller, if any. If there is no Broker for Seller, those provisions may be satisfied only by communication/delivery being made directly to the Seller, unless otherwise agreed to by the parties.

NOTICE REGARDING CONVICTED SEX OFFENDERS (MEGAN'S LAW)

The Pennsylvania General Assembly has passed legislation (often referred to as "Megan's Law," 42 Pa.C.S. § 9791 et. seq.) providing for community notification of the presence of certain convicted sex offenders. **Buyers are encouraged to contact the municipal police department or the Pennsylvania State Police for information relating to the presence of sex offenders near a particular property, or to check the information on the Pennsylvania State Police Web site at www.pameganslaw.state.pa.us.**

INFORMATION REGARDING REAL ESTATE TAXES (Paragraph 3: Terms)

Real Estate Tax Proration: For purposes of prorating real estate taxes, the "periods covered" by the tax bills are as follows:

Municipal Taxes: For all counties and municipalities in Pennsylvania, tax bills are for the period January 1 to December 31.

School Taxes: For all school districts, other than the Philadelphia, Pittsburgh and Scranton school districts, the period covered by the tax bill is July 1 to June 30. For the Philadelphia, Pittsburgh and Scranton school districts, tax bills are for the period January 1 to December 31.

Real Estate Assessment Notice: In Pennsylvania, taxing authorities (school districts and municipalities) and property owners may appeal the assessed value of a property at the time of sale, or at any time thereafter. A successful appeal by a taxing authority may result in a higher assessed value for the property and an increase in property taxes. Also, periodic county-wide property reassessments may change the assessed value of the property and result in a change in property tax.

NOTICE TO BUYERS SEEKING MORTGAGE FINANCING (Paragraph 6: Mortgage Contingency)

The appraised value of the Property is used in determining the maximum amount of the loan and may be different from the purchase price and/or market value.

42 **4. FIXTURES & PERSONAL PROPERTY (9-05)** 42
43 (A) INCLUDED in this sale are all existing items permanently installed in the Property, free of liens, including plumbing; heating; lighting fix- 43
44 tures (including chandeliers and ceiling fans); water treatment systems; pool and spa equipment; garage door openers and transmitters; tele- 44
45 vision antennas; unpotted shrubbery, plantings and trees; any remaining heating and cooking fuels stored on the Property at the time of set- 45
46 tlement; sump pumps; storage sheds; mailboxes; wall to wall carpeting; existing window screens, storm windows and screen/storm doors; 46
47 window covering hardware, shades and blinds; awnings; built-in air conditioners; built-in appliances; and the range/oven unless otherwise 47
48 stated. Also included: _____ 48
49 _____ 49

50 (B) LEASED items (not owned by Seller): _____ 50
51 _____ 51

52 (C) EXCLUDED fixtures and items: _____ 52
53 _____ 53

54 **5. DATES/TIME IS OF THE ESSENCE (9-05)** 54

55 (A) The settlement date and all other dates and times referred to for the performance of any of the obligations of this Agreement are of the essence 55
56 and are binding. 56

57 (B) For purposes of this Agreement, the number of days will be counted from the date of execution, excluding the day this Agreement was exe- 57
58 cuted and including the last day of the time period. The Execution Date of this Agreement is the date when Buyer and Seller have indicated 58
59 full acceptance of this Agreement by signing and/or initialing it. All changes to this Agreement should be initialed and dated. 59

60 (C) The settlement date is not extended by any other provision of this Agreement and may only be extended by mutual written agreement of the parties. 60

61 (D) Certain time periods are pre-printed in this Agreement as a convenience to the Buyer and Seller. All pre-printed time periods are negotiable 61
62 and may be changed by striking out the pre-printed text and inserting a different time period acceptable to all parties. 62

63 **6. MORTGAGE CONTINGENCY (9-05)** 63

64 WAIVED. This sale is NOT contingent on mortgage financing, although Buyer may still obtain mortgage financing. 64

65 ELECTED. 65

66 (A) This sale is contingent upon Buyer obtaining mortgage financing as follows: 66

67 First Mortgage on the Property	67 Second Mortgage on the Property
68 Loan Amount \$ _____	68 Loan Amount \$ _____
69 Minimum Term _____ years	69 Minimum Term _____ years
70 Type of mortgage _____	70 Type of mortgage _____
71 _____	71 _____
72 Mortgage lender _____	72 Mortgage lender _____
73 _____	73 _____
74 Interest rate _____%; however, Buyer agrees to accept the	74 Interest rate _____%; however, Buyer agrees to accept the
75 interest rate as may be committed by the mortgage lender, not to	75 interest rate as may be committed by the mortgage lender, not to
76 exceed a maximum interest rate of _____%.	76 exceed a maximum interest rate of _____%.
77 Discount points, loan origination, loan placement and other fees charged	77 Discount points, loan origination, loan placement and other fees charged
78 by the lender as a percentage of the mortgage loan (excluding any mort-	78 by the lender as a percentage of the mortgage loan (excluding any mort-
79 gage insurance premiums or VA funding fee) not to exceed	79 gage insurance premiums or VA funding fee) not to exceed
80 _____% (0% if not specified) of the mortgage loan.	80 _____% (0% if not specified) of the mortgage loan.

81 The interest rate(s) and fee(s) provisions in paragraph 6 (A) are satisfied if the mortgage lender(s) gives Buyer the right to guarantee the interest rate(s) 81
82 and fee(s) at or below the maximum levels stated. Buyer gives Seller the right, at Seller's sole option and as permitted by law and the mortgage 82
83 lender(s), to contribute financially, without promise of reimbursement, to the Buyer and/or the mortgage lender(s) to make the above mortgage terms 83
84 available to Buyer. 84

85 (B) Within _____ days (10 if not specified) from the Execution Date of this Agreement, Buyer will make a completed, written mortgage appli- 85
86 cation for the mortgage terms stated above to the mortgage lender(s) identified in paragraph 6 (A), if any, otherwise to a responsible mortgage 86
87 lender(s) of Buyer's choice. **Broker for Buyer, if any, otherwise Broker for Seller, is authorized to communicate with the mortgage** 87
88 **lender(s) to assist in the mortgage loan process.** 88

89 (C) **Should Buyer furnish false or incomplete information to Seller, Broker(s), or the mortgage lender(s) concerning Buyer's legal or** 89
90 **financial status, or fail to cooperate in good faith in processing the mortgage loan application, which results in the mortgage lender(s)** 90
91 **refusing to approve a mortgage loan commitment, Buyer will be in default of this Agreement.** 91

92 (D) 1. **Mortgage commitment date:** _____. If Seller does not receive a copy of Buyer's mortgage commitment(s) by this 92
93 date, **Buyer and Seller agree to extend the mortgage commitment date until Seller terminates this Agreement by written notice to Buyer.** 93
94 2. Upon receiving a mortgage commitment, Buyer will promptly deliver a copy of the commitment to Seller. 94
95 3. Seller may terminate this Agreement in writing after the mortgage commitment date, if the mortgage commitment(s): 95
96 a. Is not valid until the date of settlement, OR 96
97 b. Is conditioned upon the **sale and settlement of any other property,** OR 97
98 c. Does not satisfy all the mortgage terms as stated in paragraph 6 (A), OR 98
99 d. Contains any other condition not specified in this Agreement that is not satisfied and/or removed in writing by the mortgage lender(s) 99
100 within 7 DAYS after the **mortgage commitment date in paragraph 6 (D) (1),** other than those conditions that are customari- 100
101 ly satisfied at or near settlement, such as obtaining insurance and confirming employment status. 101

102 4. If this Agreement is terminated pursuant to paragraphs 6 (D) (1) or (3), or the mortgage loan(s) is not obtained for settlement, all deposit monies 102
103 will be returned to Buyer according to the terms of paragraph 30 and this Agreement will be VOID. Buyer will be responsible for any costs incurred 103
104 by Buyer for any inspections or certifications obtained according to the terms of this Agreement, and any costs incurred by Buyer for: (1) Title 104
105 search, title insurance and/or mechanics' lien insurance, or any fee for cancellation; (2) Flood insurance and/or fire insurance with extended cov- 105
106 erage, mine subsidence insurance, or any fee for cancellation; (3) Appraisal fees and charges paid in advance to mortgage lender(s). 106

PROPERTY & ENVIRONMENTAL INSPECTION NOTICES (Paragraph 11: Property Inspection Contingency)

Flood Plains: If the Property is located in a flood plain, Buyer may be required to carry additional insurance.

Property Boundary / Square Footage: Seller has not had the Property surveyed. Any fences, hedges, walls and other natural or constructed barriers may or may not represent the true boundary lines of the Property. Any numerical representations of square footage of the structure(s) and/or lot size are approximations only and may be inaccurate. If Buyer wishes to verify the Property's boundaries or square footage, Buyer is advised to engage a professional surveyor or obtain an independent measurement of the structure(s) and/or lot size.

Water Service: Buyer may elect to have the water service inspected by a professional water/well testing company. In addition, on-site water service systems may have to meet certain quality and/or quantity requirements set by the municipality or the mortgage lender.

Wood-Destroying Insect Infestation: Insects whose primary source of food is wood, such as termites, wood-boring beetles, carpenter ants, carpenter bees and certain other insects, can cause damage to the wood structure of a residence. Termite and Pest Control companies are available to inspect to determine whether wood-destroying insects are present. Because of the way these insects function, damage to wood may be hidden. Careful selection should be made of skilled experts in the termite/pest control field to insure proper determination of whether wood-boring insects or resultant damage is present.

Exterior Insulation and Finish Systems (EIFS): Exterior Insulation and Finish Systems — sometimes referred to as stucco or masonry — are multi-layered wall systems applied to the exterior of some homes. Poor or improper installation of EIFS may result in moisture penetrating the surface of a structure where it may cause damage to the building's frame. Leakage most frequently occurs near doors and windows, corners, the roof connection and at the lowermost edge of the exterior surface. Vulnerability to leakage depends on structure design as well as the expertise and application skills of the contractor. Damage caused by water intrusion may be both extensive and expensive to repair but may go undetected in the absence of an adequate inspection. Buyers purchasing homes with EIFS construction may seek to engage an inspector experienced in testing for EIFS-related problems who can determine the moisture content of the building's frame.

Asbestos: The heat-resistant and durable nature of asbestos makes it useful in construction. The physical properties that give asbestos its resistance to heat and decay are linked with several adverse health effects. Asbestos can easily break into microscopic fibers that remain suspended in the air for long periods of time. When inhaled, these fibers easily penetrate body tissue. Asbestos is known to cause Asbestosis and various forms of cancer. Inquiries or requests for more information about asbestos can be directed to the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460, and/or the Department of Health, Commonwealth of Pennsylvania, Division of Environmental Health, Harrisburg, PA 17120.

Electromagnetic Fields: Electromagnetic Fields (EMFs) occur around all electrical appliances and power lines. Conclusive evidence that EMFs pose health risks does not exist at present, and Pennsylvania has no laws regarding this issue.

Environmental Hazards: The U.S. Environmental Protection Agency has a list of hazardous substances, the use and disposal of which are restricted by law. Generally, if hazardous substances are found on a property, it is the property owner's responsibility to dispose of them properly. For more information and a list of hazardous substances, contact the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460, (202) 260-2090.

Wetlands: Wetlands are protected by the federal and state governments. Buyer may wish to hire an environmental engineer to investigate whether the Property is located in a wetlands area to determine if permits for plans to build, improve or develop the property would be affected or denied because of its location in a wetlands area.

Mold, Fungi and Indoor Air Quality: Indoor mold contamination and the inhalation of bioaerosols (bacteria, mold spores, pollen and viruses) have been associated with allergic responses including upper respiratory congestion, cough, mucous membrane irritation, fever, chills, muscle ache or other transient inflammation or allergy. Claims have been asserted that exposure to mold contamination and bioaerosols has led to serious infection, immunosuppression and illnesses of neuro or systemic toxicity. Sampling of indoor air quality and other methods exist to determine the presence and scope of indoor contamination. Because individuals may be affected differently, or not affected at all, by the presence of mold or other bioaerosols, Buyer may wish to engage the services of a qualified professional to undertake an assessment and/or sampling of the Property. Assessments and samplings for the presence of mold and bioaerosols can be performed by qualified industrial hygienists, engineers, laboratories and home inspection companies that offer these services. Information about indoor air quality issues is available through the U.S. Environmental Protection Agency and may be obtained by contacting IAQ INFO, P.O. Box 37133, Washington, D.C. 20013-7133, 1-800-438-4318.

- 108 (E) If the mortgage lender(s), or an insurer providing property and casualty insurance as required by the mortgage lender(s), requires repairs to the 108
 109 Property, Buyer will, upon receiving the requirements, deliver a copy of the requirements to Seller. Within 5 DAYS of receiving the copy 109
 110 of the requirements, Seller will notify Buyer whether Seller will make the required repairs at Seller's expense. 110
 111 1. If Seller makes the required repairs to the satisfaction of the mortgage lender(s) or insurer, Buyer accepts the Property and agrees to the 111
 112 RELEASE in paragraph 27 of this Agreement. 112
 113 2. If Seller will not make the required repairs, or if Seller fails to respond within the time given, Buyer will, within 5 DAYS, notify 113
 114 Seller of Buyer's choice to: 114
 115 a. Make the required repairs, at Buyer's expense, with permission and access to the Property given by Seller; permission and access may 115
 116 not be unreasonably withheld by Seller, OR 116
 117 b. Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of paragraph 117
 118 30 of this Agreement. 118
 119 (F) Seller Assist 119
 120 NOT APPLICABLE 120
 121 APPLICABLE. Seller will pay: 121
 122 \$ _____, or _____ % of Purchase Price, maximum, toward Buyer's costs as acceptable to the mortgage lender(s). 122
 123 _____ 123

FHA/VA, IF APPLICABLE

124 (G) It is expressly agreed that notwithstanding any other provisions of this contract, Buyer will not be obligated to complete the purchase of 124
 125 the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless Buyer has been given, in 125
 126 accordance with HUD/FHA or VA requirements, a written statement by the Federal Housing Commissioner, Veterans Administration, or a 126
 127 Direct Endorsement Lender setting forth the appraised value of the Property of not less than \$ _____ (the dollar amount 127
 128 to be inserted is the sales price as stated in this Agreement). Buyer will have the privilege and option of proceeding with consummation of 128
 129 the contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mort- 129
 130 gage the Department of Housing and Urban Development will insure. HUD does not warrant the value nor the condition of the Property. 130
 131 Buyer should satisfy himself/herself that the price and condition of the Property are acceptable. 131
 132 **Warning:** Section 1010 of Title 18, U.S.C., Department of Housing and Urban Development and Federal Housing Administration 132
 133 Transactions, provides, "Whoever for the purpose of . . . influencing in any way the action of such Department, makes, passes, utters or 133
 134 publishes any statement, knowing the same to be false . . . shall be fined under this title or imprisoned not more than two years, or both." 134
 135 (H) **U.S. Department of Housing and Urban Development (HUD) NOTICE TO PURCHASERS: Buyer's Acknowledgement** 135
 136 Buyer has received the HUD Notice "For Your Protection: Get a Home Inspection." Buyer understands the importance of getting 136
 137 an independent home inspection and has thought about this before signing this Agreement. Buyer understands that FHA will not 137
 138 perform a home inspection nor guarantee the price or condition of the Property. 138
 139 (I) **Certification** We the undersigned, Seller(s) and Buyer(s) party to this transaction each certify that the terms of this contract for purchase 139
 140 are true to the best of our knowledge and belief, and that any other agreement entered into by any of these parties in connection with this 140
 141 transaction is attached to this Agreement. 141
 142 142

- 143 7. **WAIVER OF CONTINGENCIES (9-05)** 143
 144 **If this Agreement is contingent on Buyer's right to inspect and/or repair the Property, or to verify insurability, environmental conditions,** 144
 145 **boundaries, certifications, zoning classification or use, or any other information regarding the Property, Buyer's failure to exercise any of** 145
 146 **Buyer's options within the times set forth in this Agreement is a WAIVER of that contingency and Buyer accepts the Property and agrees to** 146
 147 **the RELEASE in paragraph 27 of this Agreement.** 147
 148 8. **PROPERTY INSURANCE AVAILABILITY (9-05)** 148
 149 WAIVED. This Agreement is NOT contingent upon Buyer obtaining property and casualty insurance for the Property, although Buyer may 149
 150 still obtain property and casualty insurance. 150
 151 ELECTED. Contingency Period: _____ DAYS (15 if not specified) from the Execution Date of this Agreement. 151
 152 **Within the Contingency Period,** Buyer will make application for property and casualty insurance for the Property to a responsible insurer. **Broker** 152
 153 **for Buyer, if any, otherwise Broker for Seller, may communicate with the insurer to assist in the insurance process.** If Buyer cannot obtain 153
 154 property and casualty insurance for the Property on terms and conditions reasonably acceptable to Buyer, Buyer will, **within the Contingency** 154
 155 **Period:** 155
 156 (A) Accept the Property and agree to the RELEASE in paragraph 27 of this Agreement, OR 156
 157 (B) Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of paragraph 30 of this 157
 158 Agreement, OR 158
 159 (C) Enter into a mutually acceptable written agreement with Seller. 159
 160 **If Buyer and Seller do not reach a written agreement during the Contingency Period, and Buyer does not terminate this Agreement by** 160
 161 **written notice to Seller within that time, Buyer will accept the Property and agree to the RELEASE in paragraph 27 of this Agreement.** 161
 162 9. **INSPECTIONS (9-05)** 162
 163 (A) Seller will provide access to insurers' representatives and, as may be required by this Agreement, to surveyors, municipal officials, and inspec- 163
 164 tors. If Buyer is obtaining mortgage financing, Seller will provide access to the Property to appraisers and others reasonably required by mort- 164
 165 gage lender(s). Buyer may attend any inspections. 165
 166 (B) Buyer may make a pre-settlement walk-through inspection of the Property. Buyer's right to this inspection is not waived by any other provision 166
 167 of this Agreement. 167
 168 (C) Seller will have heating and all utilities (including fuel(s)) on for all inspections. 168
 169 (D) All inspectors, including home inspectors, are authorized by Buyer to provide a copy of any inspection report to Broker for Buyer. 169
 170 (E) Seller has the right, upon request, to receive without charge a copy of any inspection report from the party for whom it was prepared. 170

INFORMATION REGARDING THE HOME INSPECTION LAW 68 Pa. C.S.A. §7501, et. seq.

(Paragraph 11: Property Inspection Contingency)

Applicability: The Home Inspection Law applies to “residential real estate transfers,” defined as a sale, exchange, installment sales contract, lease with an option to buy, grant or other transfer of an interest in real property where **NOT LESS THAN ONE AND NOT MORE THAN FOUR RESIDENTIAL DWELLING UNITS** are involved. (See Information Regarding The Real Estate Seller Disclosure Law (exceptions 1-8) for a list of exceptions to this general rule.)

The following definitions are taken from the text of the Home Inspection Law

Home Inspection: A noninvasive, visual examination of some combination of the mechanical, electrical or plumbing systems or the structural and essential components of a residential dwelling designed to identify material defects in those systems and components, and performed for a fee in connection with or preparation for a proposed or possible residential real estate transfer. The term also includes any consultation regarding the property that is represented to be a home inspection or that is described by any confusingly similar term. The term does not include an examination of a single system or component of a residential dwelling such as, for example, its electrical or plumbing system or its roof. The term also does not include an examination that is limited to inspection for, or of, one or more of the following: wood-destroying insects, underground tanks and wells, septic systems, swimming pools and spas, alarm systems, air and water quality, tennis courts and playground equipment, pollutants, toxic chemicals and environmental hazards. The scope of a home inspection, the services to be performed and the systems and conditions to be inspected or excluded from inspection may be defined by a contract between the home inspector and the client.

Home inspection report: A written report on the results of a home inspection.

A home inspection report shall include:

- (1) A description of the scope of the inspection, including without limitation an identification of the structural elements, systems and subsystems covered by the report.
- (2) A description of any material defects noted during the inspection, along with any recommendation that certain experts be retained to determine the extent of the defects and any corrective action that should be taken. A “material defect” that poses an unreasonable risk to people on the property shall be conspicuously identified as such.

A home inspector shall not express either orally or in writing an estimate of the cost to repair any defect found during a home inspection, except that such an estimate may be included in a home inspection report if:

- (1) the report identifies the source of the estimate;
- (2) the estimate is stated as a range of costs; and
- (3) the report states that the parties should consider obtaining an estimate from a contractor who performs the type of repair involved.

Seller shall have the right, upon request, to receive without charge a copy of any inspection report from the party for whom it was prepared.

Home inspector: An individual who performs a home inspection.

National home inspectors association: Any national association of home inspectors that:

- (1) Is operated on a not-for-profit basis and is not operated as a franchise.
- (2) Has members in more than ten states.
- (3) Requires that a person may not become a full member unless the person has performed or participated in more than 100 home inspections and has passed a recognized or accredited examination testing knowledge of the proper procedures for conducting a home inspection.
- (4) Requires that its members comply with a code of conduct and attend continuing professional education classes as an ongoing condition of membership.

A buyer shall be entitled to rely in good faith, without independent investigation, on a written representation by a home inspector that the home inspector is a full member in good standing of a national home inspection association.

Material defect: A problem with a residential real property or any portion of it that would have a significant adverse impact on the value of the property or that involves an unreasonable risk to people on the property. The fact that a structural element, system or subsystem is near, at or beyond the end of the normal useful life of such a structural element, system or subsystem is not by itself a material defect.

INFORMATION REGARDING RADON (Paragraph 13: Status of Radon)

Radon is a natural, radioactive gas that is produced in the ground by the normal decay of uranium and radium. Studies indicate that extended exposure to high levels of radon gas can increase the risk of lung cancer. Radon can find its way into any air-space, including basements and crawl spaces and can permeate a structure. The U.S. Environmental Protection Agency (EPA) advises corrective action if the annual average exposure to radon is at or exceeds 0.02 working levels or 4 picoCuries/liter (4pCi/L). If a house has a radon problem, it usually can be cured by increased ventilation and/or by preventing radon entry. Any person who tests, mitigates or safeguards a building for radon in Pennsylvania must be certified by the Department of Environmental Protection. Information about radon and about certified testing or mitigation firms is available through Department of Environmental Protection, Bureau of Radiation Protection, 13th Floor, Rachel Carson State Office Building, P.O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON or (717) 783-3594.

172 **10. INSPECTION CONTINGENCY OPTIONS (9-05)** 173

174 **The inspection contingencies elected by Buyer in paragraphs 11-15 are controlled by the Options set forth below.** The time periods stated in
175 these Options will apply to **all** inspection contingencies in paragraphs 11-15 unless otherwise stated in this Agreement. 176

177 **Option 1. Within the Contingency Period, as stated in paragraphs 11-15, Buyer will:** 178

- 179 1. **Accept the Property** with the information stated in the report(s) and agree to the **RELEASE** in paragraph 27 of this Agreement, OR 180
- 181 2. If Buyer is not satisfied with the information stated in the report(s), **terminate this Agreement** by written notice to Seller, with all deposit 182 monies returned to Buyer according to the terms of paragraph 30 of this Agreement, OR 183
- 184 3. **Enter into a mutually acceptable written agreement** with Seller providing for any repairs or improvements to the Property and/or any 185 credit to Buyer at settlement, as acceptable to the mortgage lender(s), if any. 186

187 **If Buyer and Seller do not reach a written agreement during the specified Contingency Period, and Buyer does not terminate this** 188 **Agreement by written notice to Seller within that time, Buyer will accept the Property and agree to the RELEASE in paragraph** 189 **27 of this Agreement.** 190

191 **Option 2. Within the Contingency Period, as stated in paragraphs 11-15, Buyer will:** 192

- 193 1. **Accept the Property** with the information stated in the report(s) and agree to the **RELEASE** in paragraph 27 of this Agreement, OR 194
- 195 2. If Buyer is not satisfied with the information stated in the report(s), **present the report(s) to Seller with a Written Corrective Proposal** 196 **(“Proposal”) listing corrections and/or credits desired by Buyer.** The Proposal may, but is not required to, include the name of a prop- 197 erly licensed or qualified professional to perform the corrections requested in the Proposal, provisions for payment, including retests, and 198 a projected date for completion of the corrections. Buyer agrees that Seller will not be held liable for corrections that do not comply with 199 mortgage lender or governmental requirements if performed in a workmanlike manner according to the terms of Buyer’s Proposal, or by 200 a contractor selected by Buyer. 201

202 a. Within ____ days (7 if not specified) of receiving Buyer’s Proposal, Seller will inform Buyer in writing of Seller’s choice to: 203

- 204 (1) Satisfy the terms of Buyer’s Proposal, OR 205
- 206 (2) Credit Buyer at settlement for the costs to satisfy the terms of Buyer’s Proposal, as acceptable to the mortgage lender(s), if any, OR 207
- 208 (3) Not satisfy the terms of Buyer’s Proposal and not credit Buyer at settlement for the costs to satisfy the terms of Buyer’s Proposal. 209

210 b. If Seller agrees to satisfy the terms of Buyer’s Proposal or to credit Buyer at settlement as specified above, Buyer accepts the Property 211 and agrees to the **RELEASE** in paragraph 27 of this Agreement. 212

213 c. If Seller chooses not to satisfy the terms of Buyer’s Proposal and not to credit Buyer at settlement as specified above, or **if Seller fails** 214 **to choose any option within the time given,** Buyer will, within ____ days (5 if not specified): 215

- 216 (1) **Accept the Property** with the information stated in the report(s) and agree to the **RELEASE** in paragraph 27 of this Agreement, OR 217
- 218 (2) **Terminate this Agreement** by written notice to Seller, with all deposit monies returned to Buyer according to the terms of para- 219 graph 30 of this Agreement, OR 220
- 221 (3) **Enter into a mutually acceptable written agreement** with Seller providing for any repairs or improvements to the Property and/or 222 any credit to Buyer at settlement, as acceptable to the mortgage lender(s), if any. 223

224 **If Buyer and Seller do not reach a written agreement during the time specified in Option 2, 2. c., and Buyer does not ter-** 225 **minate this Agreement by written notice to Seller within that time, Buyer will accept the Property and agree to the** 226 **RELEASE in paragraph 27 of this Agreement.** 227

228 **11. PROPERTY INSPECTION CONTINGENCY (9-05)** (See Property and Environmental Inspection Notices) 229

230 Buyer understands that property inspections, certifications and/or investigations can be performed by professional contractors, home inspectors, 231 engineers, architects and other properly licensed or otherwise qualified professionals, and may include, but are not limited to: structural compo- 232 nents; roof; exterior windows and exterior doors; exterior siding, fascia, gutters and downspouts; swimming pools, hot tubs and spas; appliances; 233 electrical, plumbing, heating and cooling systems; water penetration; environmental hazards (e.g., mold, fungi, indoor air quality, asbestos, under- 234 ground storage tanks, etc.); electromagnetic fields; wetlands inspection; flood plain verification; property boundary/square footage verification; 235 and any other items Buyer may select. Buyer is advised to investigate easements, deed and use restrictions (including any historic preservation 236 restrictions or ordinances) that apply to the Property and to review local zoning ordinances. Other provisions of this Agreement may provide for 237 inspections, certifications and/or investigations that are not waived or altered by Buyer’s election here. 238

239 **WAIVED.** Buyer has the option to conduct property inspections, certifications and/or investigations. Buyer **WAIVES THIS OPTION** and 240 agrees to the **RELEASE** in paragraph 27 of this Agreement. 241

242 **ELECTED.** Contingency Period: ____ days (15 if not specified) from the Execution Date of this Agreement. 243

244 (A) **Within the Contingency Period,** Buyer, at Buyer’s expense, may have inspections, certifications and/or investigations completed by proper- 245 ly licensed or otherwise qualified professionals. If Buyer elects to have a home inspection of the Property, as defined in the Pennsylvania Home 246 Inspection Law (see Information Regarding the Home Inspection Law), the home inspection must be performed by a full member in good stand- 247 ing of a national home inspection association or a person supervised by a full member of a national home inspection association, in accordance 248 with the ethical standards and code of conduct or practice of that association, or by a properly licensed or registered professional engineer, or a 249 properly licensed or registered architect. This contingency does not apply to the following existing conditions and/or items: 250

251 _____ 252 _____ 253 _____ 254 _____ 255 _____

256 (B) If Buyer is not satisfied with the condition of the Property as stated in the written inspection report(s), Buyer will proceed under one of the fol- 257 lowing Options as listed in paragraph 10 **within the Contingency Period:** 258

259 **Option 1**

260 **Option 2 For the purposes of Paragraph 11 only,** Buyer agrees to accept the Property with the results of any report(s) and agrees to 261 the **RELEASE** in paragraph 27 of this Agreement if the total cost to correct the conditions stated in the report(s) is less than 262 \$_____ (\$0 if not specified) (the “Deductible Amount”). Otherwise, all provisions of paragraph 10, Option 2, shall 263 apply, except that Seller will be deemed to have satisfied the terms of Buyer’s Proposal if Seller agrees to perform corrections 264 or offer credits such that the cumulative cost of any uncorrected or uncredited condition(s) is equal to the Deductible Amount. 265

SEWAGE NOTICES (Paragraph 15: Status of Sewer)

NOTICES PURSUANT TO THE PENNSYLVANIA SEWAGE FACILITIES ACT

- NOTICE 1: THERE IS NO CURRENTLY EXISTING COMMUNITY SEWAGE SYSTEM AVAILABLE FOR THE SUBJECT PROPERTY.**
Section 7 of the Pennsylvania Sewage Facilities Act provides that no person shall install, construct, request bid proposals for construction, alter, repair or occupy any building or structure for which an individual sewage system is to be installed, without first obtaining a permit. Buyer is advised by this notice that, before signing this Agreement, Buyer should contact the local agency charged with administering the Act to determine the procedure and requirements for obtaining a permit for an individual sewage system. The local agency charged with administering the Act will be the municipality where the Property is located or that municipality working cooperatively with others.
- NOTICE 2: THIS PROPERTY IS SERVICED BY AN INDIVIDUAL SEWAGE SYSTEM INSTALLED UNDER THE TEN-ACRE PERMIT EXEMPTION PROVISIONS OF SECTION 7 OF THE PENNSYLVANIA SEWAGE FACILITIES ACT.**
(Section 7 provides that a permit may not be required before installing, constructing, awarding a contract for construction, altering, repairing or connecting to an individual sewage system where a ten-acre parcel or lot is subdivided from a parent tract after January 10, 1987). Buyer is advised that soils and site testing were not conducted and that, should the system malfunction, the owner of the Property or properties serviced by the system at the time of a malfunction may be held liable for any contamination, pollution, public health hazard or nuisance which occurs as a result.
- NOTICE 3: THIS PROPERTY IS SERVICED BY A HOLDING TANK (PERMANENT OR TEMPORARY) TO WHICH SEWAGE IS CONVEYED BY A WATER CARRYING SYSTEM AND WHICH IS DESIGNED AND CONSTRUCTED TO FACILITATE ULTIMATE DISPOSAL OF THE SEWAGE AT ANOTHER SITE.** Pursuant to the Pennsylvania Sewage Facilities Act, Seller must provide a history of the annual cost of maintaining the tank from the date of its installation or December 14, 1995, whichever is later.
- NOTICE 4: AN INDIVIDUAL SEWAGE SYSTEM HAS BEEN INSTALLED AT AN ISOLATION DISTANCE FROM A WELL THAT IS LESS THAN THE DISTANCE SPECIFIED BY REGULATION.** The regulations at 25 Pa. Code §73.13 pertaining to minimum horizontal isolation distances provide guidance. Subsection (b) of §73.13 states that the minimum horizontal isolation distance between an individual water supply or water supply system suction line and treatment tanks shall be 50 feet. Subsection (c) of §73.13 states that the horizontal isolation distance between the individual water supply or water supply system suction line and the perimeter of the absorption area shall be 100 feet.
- NOTICE 5: THIS LOT IS WITHIN AN AREA IN WHICH PERMIT LIMITATIONS ARE IN EFFECT AND IS SUBJECT TO THOSE LIMITATIONS. SEWAGE FACILITIES ARE NOT AVAILABLE FOR THIS LOT AND CONSTRUCTION OF A STRUCTURE TO BE SERVED BY SEWAGE FACILITIES MAY NOT BEGIN UNTIL THE MUNICIPALITY COMPLETES A MAJOR PLANNING REQUIREMENT PURSUANT TO THE PENNSYLVANIA SEWAGE FACILITIES ACT AND REGULATIONS PROMULGATED THEREUNDER.**

237 **12. WOOD INFESTATION INSPECTION CONTINGENCY (9-05)** 237

238 **WAIVED.** Buyer has the option to have the Property inspected for wood infestation by an inspector certified as a wood-destroying pests pesti- 238

239 cide applicator. BUYER WAIVES THIS OPTION and agrees to the RELEASE in paragraph 27 of this Agreement. 239

240 **ELECTED.** Contingency Period: ____ days (15 if not specified) from the Execution Date of this Agreement. 240

241 (A) **Within the Contingency Period,** Buyer, at Buyer's expense, may obtain a written "Wood-Destroying Insect Infestation Inspection Report" 241

242 from an inspector certified as a wood-destroying pests pesticide applicator and will deliver it and all supporting documents and drawings pro- 242

243 vided by the inspector to Seller. The report is to be made satisfactory to and in compliance with applicable laws, mortgage lender requirements, 243

244 and/or Federal Insuring and Guaranteeing Agency requirements, if any. The inspection is to be limited to all readily visible and accessible areas 244

245 of all structures on the Property except fences and the following structures, which will not be inspected: _____ 245

246 _____ 246

247 (B) If the inspection reveals active infestation(s), Buyer, at Buyer's expense, may **within the Contingency Period,** obtain a Proposal from a wood- 247

248 destroying pests pesticide applicator to treat the Property. 248

249 (C) If the inspection reveals damage from active or previous infestation(s), Buyer, at Buyer's expense, may **within the Contingency Period,** obtain 249

250 a written report from a professional contractor, home inspector or structural engineer that is limited to structural damage to the Property caused 250

251 by wood-destroying organisms and a Proposal to repair and/or treat the Property. 251

252 (D) If Buyer is not satisfied with the condition of the Property as stated in the written inspection report(s), Buyer will proceed under one of the fol- 252

253 lowing Options as listed in paragraph 10 **within the Contingency Period:** 253

254 **Option 1** 254

255 **Option 2** 255

256 **13. STATUS OF RADON (9-05)** (see Information Regarding Radon) 256

257 (A) **Seller has no knowledge** concerning the presence or absence of radon unless checked below: 257

258 1. Seller has knowledge that the Property was tested on the dates, by the methods (e.g., charcoal canister, alpha track, etc.), and with the 258

259 results of all tests indicated below: 259

260 DATE TYPE OF TEST RESULTS (picoCuries/liter or working levels) 260

261 _____ 261

262 _____ 262

263 2. Seller has knowledge that the Property underwent radon reduction measures on the date(s) and by the method(s) indicated below: 263

264 DATE RADON REDUCTION METHOD 264

265 _____ 265

266 _____ 266

267 COPIES OF ALL AVAILABLE TEST REPORTS will be delivered to Buyer with this Agreement. SELLER DOES NOT WARRANT 267

268 EITHER THE METHODS OR RESULTS OF THE TESTS. 268

269 (B) **RADON INSPECTION CONTINGENCY** 269

270 **WAIVED.** Buyer has the option to have the Property inspected for radon by a certified inspector. BUYER WAIVES THIS OPTION and 270

271 agrees to the RELEASE in paragraph 27 of this Agreement. 271

272 **ELECTED.** Contingency Period: ____ days (15 if not specified) from the Execution Date of this Agreement. 272

273 **Within the Contingency Period,** Buyer, at Buyer's expense, may obtain a radon test of the Property from a certified inspector. If Seller 273

274 performs any radon remediation, Seller will provide Buyer a certification that the remediation was performed by a properly licensed and 274

275 certified radon mitigation company. 275

276 1. If the written test report reveals the presence of radon below 0.02 working levels or 4 picoCuries/liter (4 pCi/L), Buyer accepts the 276

277 Property and agrees to the RELEASE in paragraph 27 of this Agreement. 277

278 2. If the written test report reveals the presence of radon at or exceeding 0.02 working levels or 4 picoCuries/liter (4 pCi/L), Buyer will 278

279 proceed under one of the following Options as listed in paragraph 10 **within the Contingency Period:** 279

280 **Option 1** 280

281 **Option 2** 281

282 **14. STATUS OF WATER (9-05)** 282

283 (A) Seller represents that the Property is served by: 283

284 Public Water 284

285 On-site Water 285

286 Community Water 286

287 None 287

288 _____ 288

289 (B) **WATER SERVICE INSPECTION CONTINGENCY** 289

290 **WAIVED.** Buyer has the option to have an inspection of the quality and or quantity of the water system for the Property. BUYER WAIVES 290

291 THIS OPTION and agrees to the RELEASE in paragraph 27 of this Agreement. 291

292 **ELECTED.** Contingency Period: ____ days (15 if not specified) from the Execution Date of this Agreement. 292

293 1. **Within the Contingency Period,** Buyer, at Buyer's expense, may obtain an inspection of the quality and/or quantity of the water sys- 293

294 tem from a properly licensed or otherwise qualified water/well testing company. 294

295 2. If required by the inspection company, Seller, at Seller's expense, will locate and provide access to the on-site (or individual) water 295

296 system. Seller also agrees to restore the Property, at Seller's expense, prior to settlement. 296

297 3. If Buyer is not satisfied with the condition of the water system as stated in the written inspection report(s), Buyer will proceed under 297

298 one of the following Options as listed in paragraph 10 **within the Contingency Period:** 298

299 **Option 1** 299

300 **Option 2** 300

INFORMATION REGARDING RECREATIONAL CABINS (Paragraph 19: Title, Surveys & Costs)

The following definitions and requirements are taken from the Pennsylvania Construction Code Act (35 P.S. §7210.101 et. seq.)

A Recreational Cabin is a structure which is:

- (1) Utilized principally for recreational activity;
- (2) Not utilized as a domicile or residence for any individual for any time period;
- (3) Not utilized for commercial purposes;
- (4) Not greater than two stories in height, excluding basement;
- (5) Not utilized by the owner or any other person as a place of employment;
- (6) Not a mailing address for bills and correspondence; and
- (7) Not listed as an individual's place of residence on a tax return, driver's license, car registration or voter registration.

A recreational cabin may be exempt from the provisions of the Pennsylvania Construction Code Act if:

- (1) The cabin is equipped with at least one smoke detector, one fire extinguisher and one carbon monoxide detector in both the kitchen and sleeping quarters; and
- (2) The owner of the cabin files with the municipality either:
 - (a) An affidavit on a form prescribed by the Pennsylvania Department of Labor and Industry attesting to the fact that the cabin meets the definition of a "recreational cabin" in Section 103 of the Act; or
 - (b) A valid proof of insurance for the recreational cabin, written and issued by an insurer authorized to do business in this Commonwealth, stating that the structure meets the definition of a "recreational cabin" as defined in Section 103 of the Act.

If a recreational cabin is subject to exclusion from the Pennsylvania Construction Code Act, upon transfer of ownership of the recreational cabin, written notice must be provided in the sales agreement and the deed that the recreational cabin:

- (1) Is exempt from this Act;
- (2) May not be in conformance with the uniform construction code; and
- (3) Is not subject to municipal regulation.

Failure to comply with this notice requirement shall render the sale voidable at the option of the purchaser.

INFORMATION REGARDING CONDOMINIUMS AND PLANNED COMMUNITIES (Paragraph 20: Condominium/Planned Community (Homeowner Association) Resale Notice)

Definition of a Condominium

The Uniform Condominium Act defines a "condominium" as real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Definition of a Planned Community

The Uniform Planned Community Act defines a "planned community" as real estate with respect to which a person, by virtue of ownership of an interest in any portion of the real estate, is or may become obligated by covenant, easement or agreement imposed on the owner's interest to pay any amount for real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the person. The term excludes a cooperative and a condominium, but a cooperative or condominium may be part of a planned community. For the purposes of this definition, "ownership" includes holding a leasehold interest of more than 20 years, including renewal options, in real estate. The term includes non-residential campground communities.

Exemptions from the Uniform Planned Community Act and the Uniform Condominium Act:

When a Certificate of Resale Is Not Required

The owner of a property located within a planned community is not required to furnish the buyer with a certificate of resale under the following circumstances:

- (1) The Planned Community/Condominium contains no more than 12 units, provided there is no possibility of adding real estate or subdividing units to increase the size of the planned community or condominium.
- (2) The Planned Community/Condominium is one in which all of the units are restricted exclusively to non-residential use, unless the declaration provides that the resale provisions are nevertheless to be followed.
- (3) The Planned Community/Condominium or units are located outside the Commonwealth of Pennsylvania.
- (4) The transfer of the unit is a gratuitous transfer.
- (5) The transfer of the unit is required by court order.
- (6) The transfer of the unit is by the government or a governmental agency.
- (7) The transfer of the unit is the result of foreclosure or in lieu of foreclosure.

Notices Regarding Public Offering Statements and Right to Rescission

If Seller is a Declarant of the condominium or planned community, Seller is required to furnish Buyer with a copy of the Public Offering Statement and its amendments. For condominiums, the delivery of the Public Offering Statement must be made no later than the date the buyer executes this Agreement. Buyer may cancel this Agreement within 15 days after receiving the Public Offering Statement and any amendments that materially and adversely affect Buyer. For planned communities, the Declarant must provide the Buyer with a copy of the Public Offering Statement and its amendments no later than the date the Buyer executes this Agreement. Buyer may cancel this Agreement within 7 days after receiving the Public Offering Statement and any amendments that materially and adversely affect Buyer.

302	15. STATUS OF SEWER (9-05)	302
303	(A) Seller represents that the Property is served by:	303
304	<input type="checkbox"/> Public Sewer	304
305	<input type="checkbox"/> Individual On-lot Sewage Disposal System (see Sewage Notice 1)	305
306	<input type="checkbox"/> Individual On-lot Sewage Disposal System in Proximity to Well (see Sewage Notice 1; see Sewage Notice 4, if applicable)	306
307	<input type="checkbox"/> Community Sewage Disposal System	307
308	<input type="checkbox"/> Ten-Acre Permit Exemption (see Sewage Notice 2)	308
309	<input type="checkbox"/> Holding Tank (see Sewage Notice 3)	309
310	<input type="checkbox"/> None (see Sewage Notice 1)	310
311	<input type="checkbox"/> None Available/Permit Limitations in Effect (see Sewage Notice 5)	311
312	<input type="checkbox"/> _____	312
313	(B) INDIVIDUAL ON-LOT SEWAGE DISPOSAL INSPECTION CONTINGENCY	313
314	<input type="checkbox"/> WAIVED. Buyer has the option to have an inspection of the individual on-lot sewage disposal system for the Property. BUYER	314
315	WAIVES THIS OPTION and agrees to the RELEASE in paragraph 27 of this Agreement.	315
316	<input type="checkbox"/> ELECTED. Contingency Period: _____ days (15 if not specified) from the Execution Date of this Agreement.	316
317	1. Within the Contingency Period , Buyer, at Buyer's expense, may obtain an inspection of the individual on-lot sewage disposal sys-	317
318	tem from a qualified, professional inspector.	318
319	2. If and as required by the inspection company, Seller, at Seller's expense, will locate, provide access to and empty the individual on-	319
320	lot sewage disposal system. Seller will also restore the Property, at Seller's expense, prior to settlement.	320
321	3. If the inspection report reveals defects that do not require expansion or replacement of the existing individual on-lot sewage disposal	321
322	system, Buyer will proceed under one of the following Options as listed in paragraph 10 within the Contingency Period:	322
323	<input type="checkbox"/> Option 1	323
324	<input type="checkbox"/> Option 2	324
325	4. If the inspection report reveals the need to expand or replace the existing individual on-lot sewage disposal system, Seller may,	325
326	within <u>25</u> DAYS of receiving the inspection report, submit a Written Corrective Proposal ("Proposal") to Buyer. The Proposal	326
327	will include, but not be limited to, the name of the company to perform the expansion or replacement; provisions for payment, includ-	327
328	ing retests; and a projected completion date for corrective measures. Within <u>5</u> DAYS of receiving Seller's Proposal, or if no	328
329	Proposal is provided within the time given , Buyer will notify Seller in writing of Buyer's choice to:	329
330	a. Agree to the terms of the Proposal, if any, whereupon Buyer accepts the Property and agrees to the RELEASE in paragraph 27 of	330
331	this Agreement, OR	331
332	b. Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of para-	332
333	graph 30 of this Agreement.	333
334	c. Accept the Property and the existing system and agree to the RELEASE in paragraph 27 of this Agreement, and, if required by	334
335	any mortgage lender and/or any governmental authority, correct the defects before settlement or within the time required by the	335
336	mortgage lender and/or governmental authority, at Buyer's sole expense, and with permission and access to the Property given by	336
337	Seller. Permission and access may not be unreasonably withheld by Seller. If Seller denies Buyer permission and/or access to cor-	337
338	rect the defects, Buyer may, within <u>5</u> DAYS of Seller's denial, terminate this Agreement by written notice to Seller, with all	338
339	deposit monies returned to Buyer according to the terms of paragraph 30 of this Agreement.	339
340	16. HOME WARRANTIES (9-05)	340
341	At or before settlement, either party may have the opportunity to purchase a home warranty for the Property from a third-party vendor. Buyer and	341
342	Seller understand that a home warranty for the Property does not alter any disclosure requirements of Seller, will not cover or warrant any pre-	342
343	existing defects of the Property, and will not alter, waive or extend any provisions of this Agreement regarding inspections or certifications that	343
344	Buyer has elected or waived as part of this Agreement. Buyer and Seller understand that the licensee, broker or mortgage lender who orders the	344
345	home warranty may possibly receive a fee paid by the home warranty company.	345
346	17. ZONING CLASSIFICATION & VERIFICATION OF USE CONTINGENCY (9-05)	346
347	(A) Failure of this Agreement to contain the zoning classification (except in cases where the property {and each parcel thereof, if subdividable} is	347
348	zoned solely or primarily to permit single-family dwellings) will render this Agreement voidable at Buyer's option, and, if voided, any deposits	348
349	tendered by the Buyer will be returned to the Buyer without any requirement for court action.	349
350	Zoning Classification: _____	350
351	(B) Contingency Period: _____ days (7 if not specified) from the Execution Date of this Agreement.	351
352	Within the Contingency Period , Buyer, at Buyer's expense, may verify that the present use (_____)	352
353	of the Property is permitted. In the event the present use is not permitted, Buyer will, within the Contingency Period , give Seller written	353
354	notice that the present use of the Property is not permitted and that Buyer will:	354
355	1. Accept the Property and agree to the RELEASE in paragraph 27 of this Agreement, OR	355
356	2. Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of paragraph 30 of	356
357	this Agreement.	357
358	If Buyer fails to respond within the Contingency Period or does not terminate this Agreement by written notice to Seller within that	358
359	time, Buyer will accept the Property and agree to the RELEASE in paragraph 27 of this Agreement.	359
360	18. NOTICES, ASSESSMENTS & CERTIFICATES OF OCCUPANCY (9-05)	360
361	(A) Seller represents, as of the date Seller signed this Agreement, that no public improvement, condominium or homeowner association assessments	361
362	have been made against the Property which remain unpaid, and that no notice by any government or public authority has been served upon Seller	362
363	or anyone on Seller's behalf, including notices relating to violations of zoning, housing, building, safety or fire ordinances that remain uncor-	363
364	rected, and that Seller knows of no condition that would constitute a violation of any such ordinances that remain uncorrected, unless otherwise	364
365	specified here: _____	365
366	(B) Seller knows of no other potential notices (including violations) and/or assessments except as follows: _____	366
367	_____	367

LEAD WARNING STATEMENT (FOR PROPERTIES BUILT BEFORE 1978)
(Paragraph 33: Residential Lead-Based Paint Hazard Reduction Act Notice)

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

INFORMATION REGARDING THE REAL ESTATE SELLER DISCLOSURE LAW
(Page 10: Signature Page)

The Real Estate Seller Disclosure Law requires that before an agreement of sale is signed, the seller in a residential real estate transfer must make certain disclosures regarding the property to potential buyers in a form defined by the law. A residential real estate transfer is defined as a sale, exchange, installment sales contract, lease with an option to buy, grant or other transfer of an interest in real property where **NOT LESS THAN ONE AND NOT MORE THAN FOUR RESIDENTIAL DWELLING UNITS** are involved.

The Law defines a number of exceptions where the disclosures do not have to be made:

1. Transfers that are the result of a court order.
2. Transfers to a mortgage lender that result from a buyer's default and subsequent foreclosure sales that result from default.
3. Transfers from a co-owner to one or more other co-owners.
4. Transfers made to a spouse or direct descendant.
5. Transfers between spouses that result from divorce, legal separation or property settlement.
6. Transfers by a corporation, partnership or other association to its shareholders, partners or other equity owners as part of a plan of liquidation.
7. Transfer of a property to be demolished or converted to non-residential use.
8. Transfer of unimproved real property.
9. Transfers by a fiduciary during the administration of a decedent estate, guardianship, conservatorship or trust.
10. Transfers of new construction that has never been occupied when:
 - a. The buyer has received a one-year warranty covering the construction;
 - b. The building has been inspected for compliance with the applicable building code or, if none, a nationally recognized model building code; and
 - c. A certificate of occupancy or a certificate of code compliance has been issued for the dwelling.

In addition to these exceptions, disclosures for condominiums and cooperatives are limited to the seller's particular unit(s). Disclosures regarding common areas or facilities are not required, as those elements are already addressed in the laws that govern the resale of condominium and cooperative interests.

- 369 (C) In the event any notices (including violations) and/or assessments are received after Seller has signed this Agreement and before settlement, 369
 370 Seller will provide a copy of the notices and/or assessments to Buyer and will notify Buyer in writing within 5 DAYS of receiving the 370
 371 notices and/or assessments that Seller will: 371
 372 1. Fully comply with the notices and/or assessments at Seller's expense before settlement. If Seller fully complies with the notices and/or 372
 373 assessments, Buyer accepts the Property and agrees to the RELEASE in paragraph 27 of this Agreement. OR 373
 374 2. Not comply with the notices and/or assessments. If Seller chooses not to comply with the notices and/or assessments, or **fails within the** 374
 375 **time given to notify Buyer whether Seller will comply**, Buyer will notify Seller in writing within 5 DAYS that Buyer will: 375
 376 a. Comply with the notices and/or assessments at Buyer's expense, accept the Property, and agree to the RELEASE in paragraph 27 of 376
 377 this Agreement, OR 377
 378 b. Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of paragraph 378
 379 30 of this Agreement. 379
 380 **If Buyer fails to respond within the time stated in paragraph 18 (C) (2) or fails to terminate this Agreement by written notice to** 380
 381 **Seller within that time, Buyer will accept the Property and agree to the RELEASE in paragraph 27 of this Agreement.** 381
 382 (D) If required by law, within 30 DAYS from the Execution Date of this Agreement, but in no case later than 15 days prior to settlement, Seller 382
 383 will order at Seller's expense a certification from the appropriate municipal department(s) disclosing notice of any uncorrected violations of zon- 383
 384 ing, housing, building, safety or fire ordinances and/or a certificate permitting occupancy of the Property. If Buyer receives a notice of any 384
 385 required repairs/improvements, Buyer will promptly deliver a copy of the notice to Seller. 385
 386 1. Within 5 DAYS of receiving notice from the municipality that repairs/improvements are required, Seller will notify Buyer in writ- 386
 387 ing that Seller will: 387
 388 a. Make the required repairs/improvements to the satisfaction of the municipality. If Seller makes the required repairs/improvements, 388
 389 Buyer accepts the Property and agrees to the RELEASE in paragraph 27 of this Agreement. OR 389
 390 b. Not make the required repairs/improvements. If Seller chooses not to make the required repairs/improvements, Buyer will notify 390
 391 Seller in writing within 5 DAYS that Buyer will: 391
 392 (1) Make the repairs/improvements at Buyer's expense, with permission and access to the Property given by Seller, which will not 392
 393 be unreasonably withheld, OR 393
 394 (2) Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of para- 394
 395 graph 30 of this Agreement. 395
 396 **If Buyer fails to respond within the time stated in paragraph 18 (D) (1) (b) or fails to terminate this Agreement by written notice** 396
 397 **to Seller within that time, Buyer will accept the Property and agree to the RELEASE in paragraph 27 of this Agreement, and Buyer** 397
 398 **accepts the responsibility to perform the repairs/improvements according to the terms of the notice provided by the municipality.** 398
 399 2. If Seller denies Buyer permission to make the required repairs/improvements, or does not provide Buyer access before settlement to make 399
 400 the required repairs/improvements, Buyer may, within 5 DAYS, terminate this Agreement by written notice to Seller, with all deposit 400
 401 monies returned to Buyer according to the terms of paragraph 30 of this Agreement. 401
 402 3. If repairs/improvements are required and Seller fails to provide a copy of the notice to Buyer as required in paragraph 18 (D), Seller will 402
 403 perform all repairs/improvements as required by the notice at Seller's expense. **Paragraph 18 (D) (3) will survive settlement.** 403
 404 (E) Access to a public road may require issuance of a highway occupancy permit from the Department of Transportation. 404
 405 **19. TITLE, SURVEYS & COSTS (9-05)** 405
 406 (A) The Property will be conveyed with good and marketable title as is insurable by a reputable title insurance company at the regular rates, free and 406
 407 clear of all liens, encumbrances, and easements, EXCEPTING HOWEVER the following: existing deed restrictions; historic preservation 407
 408 restrictions or ordinances; building restrictions; ordinances; easements of roads; easements visible upon the ground; easements of record; and 408
 409 privileges or rights of public service companies, if any. 409
 410 (B) Buyer will pay for the following: (1) Title search, title insurance and/or mechanics' lien insurance, or any fee for cancellation; 410
 411 (2) Flood insurance, fire insurance with extended coverage, mine subsidence insurance, or any fee for cancellation; (3) Appraisal fees and 411
 412 charges paid in advance to mortgage lender(s); (4) Buyer's customary settlement costs and accruals. 412
 413 (C) Any survey or surveys required by the title insurance company or the abstracting attorney for preparing an adequate legal description of the 413
 414 Property (or the correction thereof) will be obtained and paid for by Seller. Any survey or surveys desired by Buyer or required by the mortgage 414
 415 lender will be obtained and paid for by Buyer. 415
 416 (D) If Seller is unable to give a good and marketable title and such as is insurable by a reputable title insurance company at the regular rates, as specified 416
 417 in paragraph 19 (A), Buyer will: 417
 418 1. Accept the Property with such title as Seller can give, with no change to the purchase price, and agree to the RELEASE in paragraph 27 of this 418
 419 Agreement, OR 419
 420 2. Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of paragraph 30 of 420
 421 this Agreement. Upon termination, Seller will reimburse Buyer for any costs incurred by Buyer for any inspections or certifications obtained 421
 422 according to the terms of this Agreement, and for those items specified in paragraph 19 (B) items (1), (2), (3) and in paragraph 19 (C). 422
 423 (E) The Property is not a "recreational cabin" as defined in the Pennsylvania Construction Code Act unless otherwise stated here (see Information 423
 424 Regarding Recreational Cabins): _____ 424
 425 **20. CONDOMINIUM/PLANNED COMMUNITY (HOMEOWNER ASSOCIATION) RESALE NOTICE (9-05)** 425
 426 NOT APPLICABLE 426
 427 APPLICABLE: CONDOMINIUM. The Property is a unit of a condominium that is primarily run by a unit owners' association. §3407 of the 427
 428 Uniform Condominium Act of Pennsylvania (see Information Regarding Condominiums and Planned Communities) requires Seller to furnish 428
 429 Buyer with a Certificate of Resale and copies of the condominium declaration (other than plats and plans), the bylaws and the rules and regula- 429
 430 tions of the association. 430
 431 APPLICABLE: PLANNED COMMUNITY (HOMEOWNER ASSOCIATION). The Property is part of a planned community as defined by 431
 432 the Uniform Planned Community Act (see Information Regarding Condominiums and Planned Communities). §5407(a) of the Act requires 432
 433 Seller to furnish Buyer with a copy of the Declaration (other than plats and plans), the bylaws the rules and regulations of the association, and 433
 434 a Certificate containing the provisions set forth in §5407(a) of the Act. 434

INFORMATION REGARDING MEDIATION (Paragraph 32: Mediation)

DISPUTE RESOLUTION SYSTEM RULES AND PROCEDURES

1. **Agreement of Parties** The Rules and Procedures of the Dispute Resolution System (DRS) apply when the parties have agreed in writing to mediate under DRS. The written agreement can be achieved by a standard clause in an agreement of sale, an addendum to an agreement of sale, or through a separate written agreement.
2. **Initiation of Mediation** If a dispute exists, any party may start the mediation process by submitting a completed Request to Initiate Mediation DRS Transmittal Form (Transmittal Form) to the local Association of REALTORS® (hereafter "Administrator"). The Transmittal Form should be available through the Administrator's office. The initiating party should try to include the following information when sending the completed Transmittal Form to the Administrator:
 - a. A copy of the written agreement to mediate if there is one, OR a request by the initiating party to have the Administrator contact the other parties to the dispute to invite them to join the mediation process.
 - b. The names, addresses and telephone numbers of the parties involved in the dispute, including the name of every insurance company known to have received notice of the dispute or claim and the corresponding file or claim number.
 - c. A brief statement of the facts of the dispute and the damages or relief sought.
3. **Selection of Mediator** Within five days of receiving the completed Transmittal Form, the Administrator will send each party to the dispute a copy of the Transmittal Form and a list of qualified mediators and their fee schedules. Each party then has ten days to review the list of mediators, cross off the name of any mediator to whom the party objects, and return the list to the Administrator. The Administrator will appoint the first available mediator who is acceptable to all parties involved.

A mediator who has any financial or personal interest in the dispute or the results of the mediation cannot serve as mediator to that dispute, unless all parties are informed and give their written consent.

4. **Mediation Fees** Mediation fees will be divided equally among the parties and will be paid *before* the mediation conference. The parties will follow the payment terms contained in the mediator's fee schedule.
5. **Time and Place of Mediation Conference** Within ten days of being appointed to the dispute, the mediator will contact the parties and set the date, time and place of the mediation conference. The mediator must give at least twenty days' advance notice to all parties. The mediation conference should not be more than sixty days from the mediator's appointment to the dispute.
6. **Conduct of Mediation Conference** The parties attending the mediation conference will be expected to:
 - a. Have the authority to enter into and sign a binding settlement to the dispute.
 - b. Produce all information required for the mediator to understand the issues of the dispute. The information may include relevant written materials, descriptions of witnesses and the content of their testimony. The mediator can require the parties to deliver written materials and information before the date of the mediation conference.

The mediator presiding over the conference:

- a. Will impartially conduct an orderly settlement negotiation.
- b. Will help the parties define the matters in dispute and reach a mutually agreeable solution.
- c. Will have no authority to render an opinion, to bind the parties to his or her decision, or to force the parties to reach a settlement.

Formal rules of evidence will not apply to the mediation conference.

7. **Representation by Counsel** Any party who intends to be accompanied to the mediation conference by legal counsel will notify the mediator and the other parties of the intent at least ten days before the conference.
8. **Confidentiality** No aspect of the mediation can be relied upon or introduced as evidence in any arbitration, judicial or other proceeding. This includes, but is not limited to, any opinions or suggestions made by any party regarding a possible settlement; any admissions made during the course of the mediation; any proposals or opinions expressed by the mediator; and any responses given by any party to opinions, suggestions, or proposals.

No privilege will be affected by disclosures made in the course of the mediation.

Transcripts or recordings of the mediation will not be allowed without the prior, written consent of all parties and the mediator.

Records, reports, and other documents received or prepared by the mediator or Administrator cannot be compelled by an arbitration, judicial, or other proceeding, with the exception of an agreement that was reached in the course of mediation and signed by all the parties.

Neither the mediator nor the Administrator can be compelled to testify in any proceeding regarding information given or representations made either in the course of the mediation or in any confidential communication.

9. **Mediated Settlement** When a dispute is resolved through mediation, the mediator will put the complete agreement in writing and all parties will sign the written agreement within ten days of the conclusion of the mediation conference. Every reasonable effort will be made to sign the written agreement at the end of the conference.
10. **Judicial Proceedings and Immunity** NEITHER THE ADMINISTRATOR, THE MEDIATOR, THE NATIONAL ASSOCIATION OF REALTORS®, THE PENNSYLVANIA ASSOCIATION OF REALTORS®, NOR ANY OF ITS MEMBER BOARDS, WILL BE DEEMED NECESSARY OR INDISPENSABLE PARTIES IN ANY JUDICIAL PROCEEDINGS RELATING TO MEDIATION UNDER THESE RULES AND PROCEDURES, NOR WILL ANY OF THEM SERVING UNDER THESE PROCEDURES BE LIABLE TO ANY PARTY FOR ANY ACT, ERROR OR OMISSION IN CONNECTION WITH ANY SERVICE OR THE OPERATION OF THE HOME SELLERS/HOME BUYERS DISPUTE RESOLUTION SYSTEM.

THE FOLLOWING APPLIES TO PROPERTIES THAT ARE PART OF A CONDOMINIUM OR A PLANNED COMMUNITY.

- (A) Within 15 DAYS from the Execution Date of this Agreement, Seller, at Seller's expense, will request from the association a Certificate of Resale and any other documents necessary to enable Seller to comply with the relevant Act. The Act provides that the association is required to provide these documents within 10 days of Seller's request.
- (B) Seller will promptly deliver to Buyer all documents received from the association. Under the Act, Seller is not liable to Buyer for the failure of the association to provide the Certificate in a timely manner, nor is Seller liable to Buyer for any incorrect information provided by the association in the Certificate.
- (C) The Act provides that Buyer may declare this Agreement VOID at any time before Buyer receives the association documents and for 5 days after receipt, OR until settlement, whichever occurs first. Buyer's notice to Seller must be in writing; upon Buyer declaring this Agreement void, all deposit monies will be returned to Buyer according to the terms of paragraph 30 of this Agreement.
- (D) If the association has the right to buy the Property (right of first refusal), and the association exercises that right, Seller will reimburse Buyer for any costs incurred by Buyer for any inspections or certifications obtained according to the terms of the Agreement, and any costs incurred by Buyer for: (1) Title search, title insurance and/or mechanics' lien insurance, or any fee for cancellation; (2) Flood insurance and/or fire insurance with extended coverage, mine subsidence insurance, or any fee for cancellation; (3) Appraisal fees and charges paid in advance to mortgage lender(s).

21. MAINTENANCE & RISK OF LOSS (9-05)

- (A) Seller will maintain the Property, grounds, fixtures and personal property specifically listed in this Agreement in its present condition, normal wear and tear excepted.
- (B) If any system or appliance included in the sale of the Property fails before settlement, Seller will:
 - 1. Repair or replace the failed system or appliance before settlement, OR
 - 2. Provide prompt written notice to Buyer of Seller's decision to:
 - a. Credit Buyer at settlement for the fair market value of the failed system or appliance, as acceptable to the mortgage lender(s), if any, OR
 - b. Not repair or replace the failed system or appliance, and not credit Buyer at settlement for the fair market value of the failed system or appliance.
 - 3. If Seller does not repair or replace the failed system or appliance or agree to credit Buyer for its fair market value, or if Seller fails to notify Buyer of Seller's choice, Buyer will notify Seller in writing within 5 DAYS or before settlement, whichever is earlier, that Buyer will:
 - a. Accept the Property and agree to the RELEASE in paragraph 27 of this Agreement, OR
 - b. Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of paragraph 30 of this Agreement.
- (C) Seller bears the risk of loss from fire or other casualties until settlement. If any property included in this sale is destroyed and not replaced, Buyer will:
 - 1. Accept the Property in its then current condition together with the proceeds of any insurance recovery obtainable by Seller, OR
 - 2. Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of paragraph 30 of this Agreement.

22. COAL NOTICE (Where Applicable)

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHTS OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL SUCH COAL AND IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. (This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984.) "Buyer acknowledges that he may not be obtaining the right of protection against subsidence resulting from coal mining operations, and that the property described herein may be protected from damage due to mine subsidence by a private contract with the owners of the economic interests in the coal. This acknowledgement is made for the purpose of complying with the provisions of Section 14 of the Bituminous Mine Subsidence and the Land Conservation Act of April 27, 1966." Buyer agrees to sign the deed from Seller which deed will contain the aforesaid provision.

23. POSSESSION (9-05)

- (A) Possession is to be delivered by deed, keys and:
 - 1. Physical possession to vacant Property free of debris, with all structures broom-clean, at day and time of settlement, AND/OR
 - 2. Assignment of any existing lease(s), together with any security deposits and interest, at day and time of settlement, if Property is leased at the execution of this Agreement, unless otherwise stated in this Agreement.
- (B) Buyer will acknowledge existing lease(s) by initialing the lease(s) at the execution of this Agreement, unless otherwise specified herein.
- (C) Seller will not enter into any new leases, extensions of existing leases or additional leases for the Property without the written consent of Buyer.

24. RECORDING (9-05)

This Agreement will not be recorded in the Office of the Recorder of Deeds or in any other office or place of public record. If Buyer causes or permits this Agreement to be recorded, Seller may elect to treat such act as a breach of this Agreement.

25. ASSIGNMENT (9-05)

This Agreement is binding upon the parties, their heirs, personal representatives, guardians and successors, and to the extent assignable, on the assigns of the parties hereto. Buyer will not transfer or assign this Agreement without the written consent of Seller unless otherwise stated in this Agreement.

26. GOVERNING LAW, VENUE & PERSONAL JURISDICTION (9-05)

- (A) The validity and construction of this Agreement, and the rights and duties of the parties, will be governed in accordance with the laws of the Commonwealth of Pennsylvania.
- (B) The parties agree that any dispute, controversy or claim arising under or in connection with this Agreement or its performance by either party shall be decided exclusively by and in the state or federal courts sitting in the Commonwealth of Pennsylvania.

27. RELEASE (9-05)

Buyer releases, quit claims and forever discharges SELLER, ALL BROKERS, their LICENSEES, EMPLOYEES and any OFFICER or PARTNER of any one of them and any other PERSON, FIRM or CORPORATION who may be liable by or through them, from any and all claims, losses or demands, including, but not limited to, personal injury and property damage and all of the consequences thereof, whether known or not, which may arise from the presence of termites or other wood-boring insects, radon, lead-based paint hazards, mold, fungi or indoor air quality, environmental hazards, any defects in the individual on-lot sewage disposal system or deficiencies in the on-site water service system, or any defects or conditions on the Property. Should Seller be in default under the terms of this Agreement, or in violation of any seller disclosure law or regulation, this release does not deprive Buyer of any right to pursue any remedies that may be available under law or equity. This release will survive settlement.

505 **28. REPRESENTATIONS (9-05)** 505

506 (A) All representations, claims, advertising, promotional activities, brochures or plans of any kind made by Seller, Brokers, their licensees, employ- 506

507 ees, officers or partners are not a part of this Agreement unless expressly incorporated or stated in this Agreement. This Agreement contains the 507

508 whole agreement between Seller and Buyer, and there are no other terms, obligations, covenants, representations, statements or conditions, oral 508

509 or otherwise, of any kind whatsoever concerning this sale. This Agreement will not be altered, amended, changed or modified except in writing 509

510 executed by the parties. 510

511 (B) **Unless otherwise stated in this Agreement, Buyer has inspected the Property (including fixtures and any personal property specifically 511**

512 **listed herein) before signing this Agreement or has waived the right to do so, and agrees to purchase the Property IN ITS PRESENT 512**

513 **CONDITION. Buyer acknowledges that Brokers, their licensees, employees, officers or partners have not made an independent exam- 513**

514 **ination or determination of the structural soundness of the Property, the age or condition of the components, environmental conditions, 514**

515 **the permitted uses or of conditions existing in the locale where the Property is situated; nor have they made a mechanical inspection of 515**

516 **any of the systems contained therein.** 516

517 (C) Any repairs required by this Agreement will be completed in a workmanlike manner. 517

518 (D) Broker(s) have provided or may provide services to assist unrepresented parties in complying with this Agreement. 518

519 **29. DEFAULT (9-05)** 519

520 (A) Seller has the option of retaining all sums paid by Buyer, including the deposit monies, should Buyer: 520

521 1. Fail to make any additional payments as specified in paragraph 3, OR 521

522 2. Furnish false or incomplete information to Seller, Broker(s), or any other party identified in this Agreement concerning Buyer's legal or 522

523 financial status, OR 523

524 3. Violate or fail to fulfill and perform any other terms or conditions of this Agreement. 524

525 (B) **Unless otherwise checked in paragraph 29 (C), Seller may elect to retain those sums paid by Buyer, including deposit monies:** 525

526 1. On account of purchase price, OR 526

527 2. As monies to be applied to Seller's damages, OR 527

528 3. As liquidated damages for such breach. 528

529 (C) **SELLER IS LIMITED TO RETAINING SUMS PAID BY BUYER, INCLUDING DEPOSIT MONIES, AS LIQUIDATED DAMAGES.** 529

530 (D) If Seller retains all sums paid by Buyer, including deposit monies, as liquidated damages pursuant to paragraph 29 (B) or (C), Buyer and Seller 530

531 are released from further liability or obligation and this Agreement is VOID. 531

532 **30. TERMINATION & RETURN OF DEPOSITS (9-05)** 532

533 (A) Where Buyer terminates this Agreement pursuant to any right granted by this Agreement, all deposit monies paid on account of purchase price 533

534 will be returned to Buyer and this Agreement will be VOID. The broker holding the deposit monies may only release the deposit monies accord- 534

535 ing to the terms of a fully executed written agreement between Buyer and Seller and as permitted by the Rules and Regulations of the State Real 535

536 Estate Commission. 536

537 (B) If there is a dispute over entitlement to deposit monies, a broker is not legally permitted to determine if a breach occurred or which party is ent- 537

538 tled to deposit monies. A broker holding the deposit monies is required by the Rules and Regulations of the State Real Estate Commission to 538

539 retain the monies in escrow until the dispute is resolved. In the event of litigation over deposit monies, a broker will distribute the monies accord- 539

540 ing to the terms of a final order of court or a written agreement of the parties. Buyer and Seller agree that, if any broker or affiliated licensee is 540

541 joined in litigation regarding deposit monies, the attorneys' fees and costs of the broker(s) and licensee(s) will be paid by the party joining them. 541

542 **31. REAL ESTATE RECOVERY FUND (9-05)** 542

543 A Real Estate Recovery Fund exists to reimburse any persons who have obtained a final civil judgment against a Pennsylvania real estate licensee 543

544 owing to fraud, misrepresentation, or deceit in a real estate transaction and who have been unable to collect the judgment after exhausting all legal 544

545 and equitable remedies. For complete details about the Fund, call (717) 783-3658 or (800) 822-2113 (within Pennsylvania) and (717) 783-4854 (out- 545

546 side Pennsylvania). 546

547 **32. MEDIATION (9-05)** 547

548 (A) Unless otherwise checked in paragraph 32 (D), Buyer and Seller will submit all disputes or claims that arise from this Agreement to mediation 548

549 in accordance with the Rules and Procedures of the Home Sellers/Home Buyers Dispute Resolution System. Any agreement reached through 549

550 mediation and signed by the parties will be binding (see Information Regarding Mediation). 550

551 (B) Buyer and Seller have received, read, and understand the Rules and Procedures of the Home Sellers/Home Buyers Dispute Resolution System. 551

552 (C) Any agreement to mediate disputes or claims arising from this Agreement will survive settlement. 552

553 (D) **MEDIATION IS WAIVED.** Buyer and Seller understand that they may choose to mediate at a later date should a dispute or claim arise, 553

554 but that there will be no obligation for any party to do so. 554

555 **33. RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT NOTICE (Required for properties built before 1978) (9-05)** 555

556 **Lead-Based Paint Hazards Disclosure Requirements:** The Residential Lead-Based Paint Hazard Reduction Act requires any seller of prop- 556

557 erty built before 1978 to provide the buyer with an EPA-approved lead hazards information pamphlet titled *Protect Your Family from Lead in Your* 557

558 *Home* and to disclose to the buyer and the broker(s) the known presence of lead-based paint and/or lead-based paint hazards in or on the prop- 558

559 erty being sold, along with the basis used for determining that the hazards exist, the location of the hazards, and the condition of painted surfaces. 559

560 Any seller of a pre-1978 structure must also provide the buyer with any records or reports available to the seller regarding lead-based paint and/or 560

561 lead-based paint hazards in or about the property being sold, the common areas, or other residential dwellings in multi-family housing. Before a 561

562 buyer is obligated to purchase any housing constructed prior to 1978, the Act requires the seller to give the buyer 10 days (unless buyer and sell- 562

563 er agree in writing to another time period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint 563

564 hazards. The opportunity to conduct a risk assessment or inspection may be waived by the buyer, in writing. Neither testing nor abatement is 564

565 required of the seller. Housing built in 1978 or later is not subject to the Act. 565

566 NOT APPLICABLE. Property was built in 1978 or later. 566

567 APPLICABLE. Property was built before 1978. **Broker must attach the Lead-Based Paint Hazards Disclosure and Inspection** 567

568 **Contingency Addendum (PAR Form LPA) or another acceptable form with the information required by the Act, and provide Buyer** 568

569 **the pamphlet *Protect Your Family from Lead in Your Home*. Buyer(s) must initial below that they have received both documents:** 569

570 **➔** _____ Lead-Based Paint Hazards Disclosure and Inspection Contingency Addendum (attached as part of this Agreement). 570

571 **➔** _____ *Protect Your Family from Lead in Your Home* 571

573 **34. SPECIAL CLAUSES (1-02)** 573
 574 (A) **The following are part of this Agreement if checked:** 574
 575 Sale & Settlement of Other Property Settlement of Other Property Contingency Addendum (PAR Form SOP) 575
 576 Contingency Addendum (PAR Form SSP) Tenant-Occupied Property Addendum (PAR Form TOP) 576
 577 Sale & Settlement of Other Property Contingency _____ 577
 578 with Right to Continue Marketing _____ 578
 579 Addendum(PAR Form SSP-CM) _____ 579
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Buyer and Seller acknowledge receipt of a copy of this Agreement at the time of signing.

NOTICE TO PARTIES: WHEN SIGNED, THIS AGREEMENT IS A BINDING CONTRACT. Parties to this transaction are advised to consult an attorney before signing if they desire legal advice.

Return by facsimile transmission (FAX) of this Agreement, and any addenda and amendments, bearing the signatures of all parties, constitutes acceptance by the parties.

- Buyer has received the Consumer Notice as adopted by the State Real Estate Commission at 49 Pa. Code §35.336.
- Buyer has received a statement of Buyer's estimated closing costs before signing this Agreement.
- Buyer has read and understands the notices and explanatory information in this Agreement.
- Buyer has received a Seller's Property Disclosure Statement before signing this Agreement, if required by law (see Information Regarding the Real Estate Seller Disclosure Law).
- Buyer has received the Deposit Money Notice (for cooperative sales when Broker for Seller is holding deposit money) before signing this Agreement.

BUYER'S MAILING ADDRESS: _____

WITNESS _____ **BUYER** _____ **DATE** _____

WITNESS _____ **BUYER** _____ **DATE** _____

WITNESS _____ **BUYER** _____ **DATE** _____

Seller has received the Consumer Notice as adopted by the State Real Estate Commission at 49 Pa. Code §35.336.

Seller has received a statement of Seller's estimated closing costs before signing this Agreement.

Seller has read and understands the notices and explanatory information in this Agreement.

SELLER'S MAILING ADDRESS: _____

WITNESS _____ **SELLER** _____ **DATE** _____

WITNESS _____ **SELLER** _____ **DATE** _____

WITNESS _____ **SELLER** _____ **DATE** _____

ADDENDUM I

Seller: _____

Buyer: _____

Property: _____

Agreement of Sale Dated: _____

- I. **SUBDIVISION NOTES:** Buyer hereby agrees to comply with the applicable Final Subdivision Notes as recorded in the County Office of Recorder of Deeds.
- II. **PERMITS AND ENERGIZED UTILITIES:** Buyer and Seller agree to extend settlement date if there are delays in issuance of permits and/or the energizing of utilities into the home. If a moratorium of permitting occurs for any reason, Seller may terminate this agreement, in which case all deposit monies paid on account of purchase price will be returned promptly to buyer and this agreement will be void.
- III. **CHANGE ORDERS:** Seller shall have total discretion as to whether a change order is approved. Written change orders with cost shall be prepared by the selling agent to become part of the agreement of sale and signed by the Buyer and Seller. Change orders that are generated ten (10) business days after the agreement of sale is signed by the Seller, will incur an administrative fee of \$250.00 per item. Additional change order requirements are as follows:
 - a. Change orders shall be prepaid to Seller before changes will be made.
 - b. Administrative fee for each item generated after ten (10) business days must be prepaid to Gateway Realty, Inc.
 - c. Cost of change order(s) and Administrative fees shall not be considered down monies and are not refundable.
 - d. All change orders must be approved, and prepaid prior to thirty (30) days of settlement.
- IV. **SELECTION OF PRODUCTS PROVIDED BY VENDORS:** All selections are subject to seller approval. Selections, if any, shall be chosen within ten (10) business days of Seller signing the agreement. If selections are not completed within the ten (10) business day period, Seller has the option to complete the selections. The cost of selections made that are above the Seller allowance shall be paid directly to vendor. Selection of some products may impact the ability of Seller to meet settlement date.
- V. **INCLEMENT WEATHER CONDITIONS:** Buyer agrees that if construction of dwelling takes place during a time of year when the exterior cannot be completed, funds for uncompleted items may be held by an escrow agent agreeable to Seller and settlement shall proceed as scheduled. If required by Buyer's lender Seller agrees to escrow funds as may reasonably be required, however escrow funds shall not exceed one and one half times the actual cost of items to be completed. Buyer and Seller agree that lender's appraiser shall determine if items are completed, for which funds are held, at which time the escrow agent shall release escrow funds directly to Seller.
- VI. **GRADING AND SEEDING:** Final grading and seeding of lawn is part of the agreement. Seller shall not be responsible for proper care and watering of lawn and shrubs (if any). In the event of soil settlement around the foundation or soil displacement due to excessive rain or erosion, the Seller agrees to supply soil only for a period of three (3) months from the date of settlement. Buyer will be responsible for soil distribution and reseeded as needed. Note: If lawn was not seeded due to Inclement Weather Conditions, Seller will come back up to three (3) months from when lawn is seeded.

- VII. BOUNDARY PLANTINGS AND FENCES: Buyer agrees to delay installation of any plantings or fences within ten feet of property boundary until adjacent property(s) is graded and seeded unless written consent is received from Seller.
- VIII. EMERGENCY ESCAPE AND RESCUE OPENINGS DISCLOSURE: Basements with habitable space and every sleeping room shall have at least one operable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, emergency escape and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement (International Residential Code R310).
- A. CURRENT AND FUTURE ASSESSMENTS: Buyer understands that property taxes, water and sewer rents, sidewalk and streetlight maintenance, and other assessments (if any) are assessed by and payable to the applicable governing authorities.
- B. RELEASE OF LIENS: A bond of indemnity will be provided in place of a release of liens, prepared by the Title Company/Attorney at no charge to the Seller. If a release of liens is requested on behalf of Buyer, a \$500.00 charge shall be paid to Seller at the time of the request. The request and payment must be received thirty (30) days prior to the date of settlement.
- C. SELLER DISCRETION: The model home (if any) is only a general representation of one style of home and of the workmanship. Buyer understands that placement of all building components shall be at the Seller's discretion. **The Seller reserves the right to replace any of the materials, systems, appliances and finishes with that of like kind.**

Seller and Buyer agree that the terms of this addendum, if applicable, shall survive settlement.

Witness	Buyer	Date
Witness	Buyer	Date
Witness	Seller	Date

Please complete the following contact information below

Buyer's Name (Please print)	Buyer's Name (Please print)
Buyer's Home Phone #	Buyer's Home Phone #
Buyer's Work Phone #	Buyer's Work Phone #
Buyer's Fax #	Buyer's Fax #
Buyer's Email Address (Please print)	Buyer's Email Address (Please print)

**OPTION ADDENDUM
WINDING OAKS
HORST & SON, INC.**

Seller: _____

Buyer: _____

Property: _____

Date of Agreement: _____ House Style: _____

		BASE PRICE:		
DESCRIPTION		#	PRICE	TOTAL
ELECTRICAL				
Cable jacks (mark placement)				
Phone jacks (mark placement)				
Electrical outlet – 1 st or 2 nd floor (need placement)				
Box & switch for ceiling fan/light or ceiling fixture (need placement)				
Dimmer switch (need placement)				
Recessed light (need placement)				
FIREPLACE				
Direct vent gas fireplace per description of materials				
Blower fan				
INTERIOR				
Interior paint upgrade (std. 1 coast) includes 1 coat primer and 1 coat paint				
HEATING				
Gas line w/ 110V hookup – range				
Gas line w/ 110V hookup – dryer				
DOORS				
Deadbolt (Service door <input type="checkbox"/> Garage to house <input type="checkbox"/> Front Door <input type="checkbox"/>)				
OTHER				
			TOTAL PRICE:	

Witness

Buyer

Date

Witness

Buyer

Date

Witness

Seller

Date

PRICES ARE SUBJECT TO CHANGE WITHOUT PRIOR NOTICE Option Addendum p. 2 of 2 - Revised 12/27/05

HORST & SON, INC. Description of Materials for Winding Oaks
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1. FOUNDATION

Footers:	8"x20" 2500 P.S.I. poured concrete w/ forma drain or 4" drain pipe
Foundation walls:	10" block, 12 courses high under main area of house only
Girders:	Steel I beam and column(s)
Water control:	Parging & pitch or DECO 20 clear seal
Basement floor:	3-4" thick concrete w/ a trowel finish
Basement electric:	One (1) outlet
Daylight basement:	Additional cost if lot permits
Radon provision:	Crushed Stone base w/ forma drain around inside of footer under basement floor, which feeds into sump pit.

2. EXTERIOR WALLS

Framing:	2x6 studs – 16" on center
Sheathing:	7/16" OSB (Oriented Strand Board)
Siding:	Vinyl
Brick, Stucco, Manufactured veneer:	May be included on certain plans; refer to specific house plan

3. ROOF

Framing:	Roof trusses, engineered for each home, placed 24" on center
Sheathing:	7/16" O.S.B. (Oriented Strand Board)
Roof surface:	Thirty (30) year fiberglass shingles with ridge vent

4. INTERIOR FRAMING

Floor joists:	2x10 floor joists 16" on center
Sub-floor:	3/4" tongue & groove 4'x8' sub-floor material glued & nailed 1/4" underlayment for vinyl flooring
Partitions:	2x4 studs - 16" on center

5. FIREPLACE

Gas fireplace:	If shown on plan a fireplace is included in list price. Standard is a direct vent gas fireplace w/ brick surround and hearth.
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6. WINDOWS & DOORS

Basement windows:	32"x19" window – placement determined by grade
Windows:	Vinyl windows w/ internal grids, screens in heated, finished areas
Exterior doors:	Front door – insulated fiberglass door w/ doorbell; Glass sliding door w/ vinyl frame & screen
Interior doors:	Raised panel paint grade doors w/ latches

7. EXTERIOR TRIM

Soffit, Fascia, Trim:	Aluminum fascia & trim, vinyl soffit
Shutters:	Vinyl shutters trim per specific house plan
Spouting:	Seamless aluminum

8. INSULATION

Exterior walls:	R-19 bat
Ceiling above living area:	R-38 blown
Floor below living area:	R-19 bat

9. STAIRS

Basement: Boxed stairs made w/ yellow pine treads
2nd Floor Stairs: Boxed stairs made w/ yellow pine treads covered w/ carpet
Post & railing: Oak, colonial style. Stained post & railing, painted spindles

10. PLUMBING

Water lines: Flexible plastic
Soil lines: PVC
Water heater: Forty (40) gallon gas hot water heater
Sump: Pit
Washer/Dryer hook-up: Washer & electric dryer hookup; dryer vent included
Exterior hose bib: One (1) in rear, one (1) in garage

Whirlpool: If shown on plan a whirlpool is included in list price

11. ELECTRIC

Main panel: 200 amp service
Interior fixtures: Builder's choice; recessed lights in kitchen
Bedrooms: Box and switch for ceiling fixture
Exterior fixtures: Light at each exterior entry except overhead garage door(s)
Receptacles: Number and placement of electrical outlets per code requirements
Ground fault: One (1) in kitchen; one (1) at bathroom vanities; one (1) outside front and rear of house; one (1) in basement
Smoke detectors: Hardwired & battery backup on all floors – placement per code
Telephone/Cable: One (1) phone jack & one (1) cable jack in each bedroom; one (1) cable jack in living/great room; one (1) phone jack in kitchen

12. HEATING/COOLING

Unit: Natural gas heat w/ electric central air conditioning

13. INTERIOR FINISHES

Wall surface: Drywall, fastened w/ glue & screws
Trim: Paint grade
Paint: One (1) coat of flat latex paint sprayed on all walls & ceilings; semi gloss paint on trim & doors
Shelving: Wire closet shelves
Storage area: May be included on certain plans; refer to specific house plan; area includes insulation, drywall, and taped joints

14. FLOOR COVERING

Carpet & vinyl: \$27/sq. yd. flooring allowance at Bomberger's Flooring
Hardwood: Available as an optional upgrade

15. BATHS

Tub(s) & shower(s): Bisque one (1) piece fiberglass unit w/ shower rod
Toilets: Bisque water savers
Vanities: One (1) piece cultured marble counter top w/ molded bowls
Faucets: Chrome single lever
Mirrors: Plate glass – one (1) at each vanity
Lighting: Light at sinks
Exhaust fan: One (1) per bathroom

16. KITCHEN

Cabinetry:	Choice of standard styles
Counter top:	Laminate w/ 4" backsplash
Sink:	Stainless steel double bowl
Range:	Black front self-cleaning electric
Dishwasher:	Black front
Disposal:	1/3 horsepower
Microwave:	Over the range
Water line:	Water line to refrigerator space

17. GARAGE

Electrical:	One (1) outlet; porcelain socket & bulb for lighting
Floor:	Sloped concrete
Walls:	Finished – drywalled & painted on walls against living areas only
Overhead door:	Insulated - paneled
Door opener(s):	Included

18. OUTDOOR AREAS

Porch:	Concrete front stoop. Front porch may be included on certain plans; refer to specific house plan
Deck/Patio:	Wood, composition deck, or concrete patio – determined by Seller
Walk:	Concrete from driveway to front stoop
Driveway:	Macadam
Mailbox & post:	Cluster boxes provided by builder

19. LANDSCAPING

Lawn:	Grading & seeding
Shrubbery:	Builder package

Seller reserves the right to replace any of the materials, systems, appliances, and finishes with that of like kind.

_____	_____	_____
Witness	Buyer	Date

_____	_____	_____
Witness	Buyer	Date

_____	_____	_____
Witness	Seller	Date

Revised 3/18/2005

**HORST & SON, INC.
LIMITED WARRANTY**

BUYER: _____ **(Owners)**

PROPERTY: _____

1. ONE (1) YEAR COVERAGE

This Limited Warranty commences on the date of settlement, or the date of occupancy, whichever occurs first, and continues for a period of one (1) year from that date. **This Limited Warranty is in effect only if Builder is in receipt of entire sales price.**

2. COVERAGE PROVIDED

During the term of this warranty, and subject to the terms and conditions listed herein, the Seller warrants the home against defects in materials and workmanship in the following items:

- A. The Central Heating, Cooling, and Ventilation Systems and their Components.
- B. The Plumbing System and its Components.
- C. The Electrical System and its Components.
- D. Structural and Finish Components.
- E. Windows, Doors, and Hardware.
- F. The Roof and its Components

The Building Industry association of Lancaster County's Contractor Quality Commitment Program provides a booklet w/ approved guidelines for typical construction defect standards. (Building Industry Association 1794 Oregon Pike, Lancaster, PA 17601. 717.569.2674). These standards will be used to determine if a defect exists and the possible remedy. Should the quality Commitment Program in any way contradict this Limited Warranty the terms of this Limited Warranty shall take precedence.

3. REQUEST FOR WARRANTY SERVICE

An Owner with a Limited Warranty Complaint shall submit a clear and specific **written** request to the Builder at the address shown on this Limited Warranty. Except for an emergency, no Limited Warranty work will be performed until complaint is in writing.

4. REMEDY

Upon receipt of a written complaint the Seller will within a reasonable time examine an alleged defect to determine if this Limited Warranty covers it. A defect covered by this Warranty will be repaired, replaced, or replaced with item of like kind at Builder's expense. Builder reserves the right to charge the Owner a reasonable sum per service call for any request not covered under this Limited Warranty. Any repair or replacement shall not extend the Warranty term. The total liability of this Warranty is limited and shall not exceed the purchase price of the home.

5. CONSEQUENTIAL DAMAGES

Limited Warranty coverage does not include consequential damage or inconvenience resulting from a defect.

6. DISCOLORING

Repair or replacement of interior and exterior surfaces including driveways and sidewalks will be limited to the defective area. Seams and color variations are a normal consequence of repair.

7. RIGHT OF ACCESS

Owner must provide the Builder access to property during normal weekday business hours to perform its obligations under this Warranty. Failure to provide such access will relieve Builder of its obligations.

8. NON-TRANSFERABLE

This Limited Warranty is not transferable and will terminate if property is abandoned.

9. EXCLUSIONS

This Limited Warranty shall not extend to, include, or be applicable to:

- A. Damages or losses resulting from accidents, civil commotion, acts of God or Nature including but not limited to: windstorms, wind driven water, freezing, floods, sink holes, hail, lightning, fallen trees, earthquakes, explosions, fire, smoke, water escape, or changes in underground water table.
- B. Any condition which does not result in actual physical damage to the home including but not limited to: uninhabitability or health risk due to presence or consequence of unacceptable levels of radon gas, mold, formaldehyde, carcinogenic substances or other pollutants and contaminants, or the presence of hazardous or toxic materials.
- C. Coverage on appliances and items of equipment including but not limited to: water heaters, pumps, stoves, ranges, ovens, refrigerators, garbage disposals, dishwashers, washer and dryers, furnaces, air conditioning units, heat pumps, and other similar items is for one (1) year or the manufacturer's written warranty period, whichever is more. Seller hereby assigns any and all manufacturer's warranties to Owner.
- D. Any soil erosion/sedimentation or storm water control management systems that are approved by a governing jurisdiction.
- E. Shrinkage, cracks or movement in concrete foundation, basement walls and slab, and garage floors, which are within normal design performance criteria.
- F. Normal and usual cracks, nail pops, twisting or movement in walls, ceiling, exterior and interior trim and finished items caused by drying aging or shrinkage of building products.
- G. Existence of a dry basement or loss or damage caused by or resulting from seepage of water. Dampness or condensation due to failure of the Owner to maintain adequate ventilation.
- H. Personal property damage or bodily injury or punitive damages.
- I. Any defect, damage, or loss which is caused or aggravated by negligence of Owner or anyone other than the Builder or his employees, agents, or subcontractors.

	(Owner)	
Witness	Buyer	Date

	(Owner)	
Witness	Buyer	Date

	(Builder)	
Witness	Seller	Date

Horst & Son, Inc.
120 North Pointe Blvd. Suite 101
Lancaster, PA 17601

MOLD NOTICE AND DISCLOSURE

Winding Oaks In Swatara Township
Dauphin County, PA

What Homeowners Should Know About Mold

Mold. Lately, mold has been in the news. Mold is a type of fungus. It occurs naturally in the environment, and it is necessary for the natural decomposition of plant and other organic material. It spreads by means of microscopic spores borne on the wind, and is found everywhere life can be supported. Residential home construction is not, and cannot be, designed to exclude mold spores. If the growing conditions are right, mold can grow in your home. Most homeowners are familiar with mold growth in the form of bread mold, and mold that may grow on the bathroom tile.

In order to grow, mold requires a food source. This might be supplied by items found in the home, such as fabric, carpet or even wallpaper, or by building materials, such as drywall, wood and insulation, to name a few. Also, mold growth requires a temperate climate. The best growth occurs at temperatures between 40 and 100 degrees Fahrenheit. Finally, mold growth requires moisture. Moisture is the only mold growth factor that can be controlled in a residential setting. By minimizing moisture, a homeowner can reduce or eliminate mold growth.

Moisture in the home can have many causes. Spills, leaks, overflows, condensation, and high humidity are common sources of home moisture. Good housekeeping and home maintenance practices are essential in the effort to prevent or eliminate mold growth. If moisture is allowed to remain on the growth medium, mold can develop within 24 to 48 hours.

Consequences of Mold. All molds are not necessarily harmful, but certain strains of mold have been shown to have adverse health effects in susceptible persons. The most common effects are allergic reactions, including skin irritation, watery eyes, runny nose, coughing, sneezing, congestion, sore throat and headache. Individuals with suppressed immune systems may risk infections. Some experts contend that mold causes serious symptoms and diseases which may even be life threatening. However, experts disagree about the level of mold exposure that may cause health problems, and about the exact nature and extent of the health problems that may be caused by mold. The Center for Disease Control states that a casual link between the presence of toxic mold and serious health conditions has not been proven.

What the Homeowner can do. The homeowner can take positive steps to reduce or eliminate the occurrence of mold growth in the home, and thereby minimize any possible adverse effects that may be caused by mold. These steps include the following:

1. Before bringing items into the home, check for signs of mold; Potted plants (roots and soil), furnishings, or stored clothing and bedding material, as well as many other household goods, could already contain mold growth.
2. Regular vacuuming and cleaning will help reduce mold levels. Mild bleach solutions and most tile cleaners are effective eliminating or preventing mold growth.
3. Keep the humidity in the home low. Vent clothes dryers to the outdoors. Ventilate kitchens and bathrooms by opening the windows, by using exhaust fans, or by running the air conditioning to remove excess moisture in the air, and to facilitate evaporation of water from wet surfaces.

4. Promptly clean up spills, condensation, and other sources of moisture. Thoroughly dry the wet surface or material. Do not let water pool or stand in your home. Promptly replace any materials that cannot be thoroughly dried, such as drywall or insulation.
5. Inspect for leaks on a regular basis. Look for discoloration or wet spots. Repair any leaks promptly. Inspect condensation pans (refrigerators and air conditioners) for mold growth. Take notice of musty odors and any visible signs of mold.
6. Should mold develop, thoroughly clean the affected area with a mild solution of bleach. First, test to see if the affected material or surface is color safe. Porous materials such as fabric, upholstery or carpet should be discarded. Should the mold growth be severe, call on the services of a qualified professional cleaner.

Owners hereby acknowledge receipt of NOTICE AND DISCLOSURE regarding mold. Owners agree that Contractor will not be responsible for any damages caused by mold, or by some other agent, that may be associated with defects in construction, to include but not be limited to, property damage, personal injury, loss of income, emotional distress, loss of life, loss of use, loss of value, and adverse health effects, or any other losses or damages.

Witness	Buyer	Date
Witness	Buyer	Date
Witness	Seller	Date