

**NOTE:** The official copy is located in South Kingstown Town Hall. An unofficial copy may be obtained at Kinko's in the Emporium near URI for a modest fee.

**EXHIBIT I.**

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, CHARGES AND LIENS FOR TEFFT HILL FARM HOMEOWNERS ASSOCIATION**

This Declaration of Covenants, Conditions, Restrictions, Charges and Liens for Tefft Hill Farm Homeowners Association (hereinafter referred to as the "Declaration") is made as of January 3, 1989, by CHESTNUT HILL ASSOCIATES, a Rhode Island General Partnership, hereinafter referred to as "Declarant".

**WITNESSETH:**

Declarant intends by this Declaration to impose upon the real property described in EXHIBIT "A" attached hereto and incorporated herein by reference, mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of property within Tefft Hill Farm. Declarant desires to provide a flexible and reasonable procedure for the overall development of the property and to establish a method for the administration, maintenance, preservation, use and enjoyment of such property as is now or may hereafter be submitted to this Declaration. The Association hereby created may perform education, recreation, charitable, and other social welfare activities.

NOW, THEREFORE, Declarant hereby declares that all of the property described in EXHIBIT "A" and any additional property as may by subsequent amendment be added to and subjected to this Declaration shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, affirmative obligations, charges and liens which are for the purpose of protecting the value and desirability of and which shall run with the real property submitted to this Declaration and which shall be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, successor-in-title and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I: Definitions**

- Section 1.1.** "Area of Common Responsibility" shall mean and refer to the General Common Area and Special Use Properties.
- Section 1.2.** "Assessments" shall mean and refer to General Assessments, Special Assessments and Special Use Properties Fees.
- Section 1.3.** "Association" shall mean and refer to Tefft Hill Farm Homeowners Association, a Rhode Island nonprofit corporation, its successors and assigns.
- Section 1.4.** "Board of Directors" or "Board" shall be the elected body of the Association having its normal meaning under Rhode Island corporate law.
- Section 1.5.** "Bylaws" shall refer to the Bylaws of Tefft Hill Farm Homeowners Association attached to the Declaration as EXHIBIT B and incorporated by this reference.
- Section 1.6.** "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, including a reasonable reserve, all may be found to necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation.
- Section 1.7.** "General Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. General Common Area shall contain such properties as shown and designated as such or as "Open Space" and "100' Buffer" on a recorded plat of any portion of Tefft Hill Farm and shall be deeded to the Association by the Declarant. Such deed of

conveyance of General Common Area to be held for the common use and enjoyment of all Owners and Residents as set forth in this declaration.

- Section 1.8.** "Lot" shall mean a portion of the Properties other than the General Common Area and the lot designated as "Proposed Water Tower Lot" intended for any type of independent ownership and use as may be set out in this Declaration and shown as the 220 numbered lots on the Plat of Tefft Hill Farm filed in the Land Evidence Records of the Town of South Kingstown. Where the context indicates or requires, the term Lot includes any structure on the Lot.
- Section 1.9.** "Lot Assessment" shall mean assessments for Common Expenses provided for herein or by an Amendment hereto which shall be used for the purposes of promoting recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Lot against which the specific Lot Assessment is levied and for the purpose of maintaining the properties within Tefft Hill Farm, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized herein.
- The Lot Assessment shall be levied equally against Owners of Lots for such purposes that are authorized by this Declaration or by the Board of Directors from time to time.
- Section 1.10.** "Member" shall mean and refer to a person or entity entitled to membership in the Association as provided herein.
- Section 1.11.** "Mortgage" shall include a beneficiary or holder of a deed of trust as well as a mortgagee.
- Section 1.12.** "Mortgagee" shall include the trustor of a deed of trust as well as mortgagor.
- Section 1.13.** "Mortgagor" shall include the trustor of a deed of trust as well as mortgagor.
- Section 1.14.** "Open Space" shall mean and include all real estate designated as "Open Space" and "100' Buffer" on the Plats.
- Section 1.15.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of any Lot which is part of the Properties but excluding in all cases any party holding an interest merely as security for the performance of an obligation.
- Section 1.16.** "Plat" or "Plats" shall mean that certain plat entitled "Final Plat of Tefft Farm Location South Road South Kingstown, R.I., owned by Chestnut Hill Associates" consisting of 26 sheets and recorded on January 3, 1989 at 2:30 PM in the Land Evidence Records of the Town of South Kingstown, endorsed as final plats by the Planning Board of the Town of South Kingstown and recorded in the Land Evidence Records of the Town of South Kingstown.
- Section 1.17.** "Person" means a natural person, a corporation, a partnership, trustee, or other legal entity.
- Section 1.18.** "Properties" shall mean and refer to the real property described in EXHIBIT "A" attached hereto and shall further refer to such additional property as may hereafter be annexed by amendment to this Declaration or which is owned in fee simple by the Association.
- Section 1.19.** "Special Use Properties" shall mean and refer to General Common Area real and personal property designated by the Board of Directors as Special Use Properties. Only those Members who join, pay special fees, or otherwise comply with Special Use Properties Regulations which the Board may adopt shall have a right to use and to enjoy such Special Use Properties. The designation Special Use Properties may be removed by a vote of a majority of the members of each class present in person or by proxy, at a meeting of the Association duly called for such purpose, provided that the Board of Directors shall recommend such approval.
- Section 1.20.** "Tefft Hill Farm" shall mean the development consisting of a 220 lot residential cluster subdivision as shown on the plats to be filed in the Land Evidence Records of the Town of South Kingstown and endorsed as the final plats by the Planning Board of the Town of South Kingstown.

## ARTICLE II: Property Rights

**Section 2.1. Owner's Easement of Enjoyment.** Every Owner shall have a right easement of ingress and egress, use and enjoyment in and to the General Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a) the right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed upon the General Common Area and to impose reasonable limits on the number of guests who may use the facilities;
- b) the right of the Association to suspend an Owner's voting rights and the right to use any of the facilities for any period during which any assessment of the Association against that Owner's Lot remains unpaid, and for any infraction by any Owner of the Association's rules and regulations for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days;
- c) the right of the Declarant, with regard to the Properties which may be owned for the purpose of development, to grant easements in and to the General Common Area contained within the Properties to any public agency, authority, or utility for such purposes as benefits only the Properties or portions thereof and Owners of Lots contained therein;
- d) the right of the Association to borrow money for the purpose of improving the General Common Area, or any portion thereof, for acquiring additional General Common Area, or for construction, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the General Common Area, provided two-thirds (2/3) of each Class of members present at a meeting called for such purpose shall approve; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Declaration for the benefit of Declarant or any Owner, or the holder of any mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within Tefft Hill Farm; and
- e) the right of the Association to dedicate or transfer all or any portion of the General Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved
  - 1) by at least two-thirds (2/3) of the votes of those Class A members of the Association who are present or represented by proxy and entitled to cast a vote at a meeting duly called for such purpose, and
  - 2) by the Class B member of the Association, so long as such membership shall exist.

Article II, Section 2.1 (c) may not be amended without written consent of Declarant.

**Section 2.2. Antennas.** No exterior television or radio antennas of any kind shall be placed or allowed, or maintained upon any Lot, without the prior written consent of the Board or its designee. The Association may erect an aerial for a master antenna system should any such master system or systems be utilized by the Association and require any such exterior antenna.

**Section 2.3. Exterior Lighting.** No exterior lighting fixture (other than standard fixtures approved by the Architectural Review Committee or installed by Declarant) shall be installed within or upon any Lot without adequate and proper shielding of the fixture. No lighting fixture shall be installed that may become an annoyance or a nuisance to owners or occupants of adjacent properties. All modifications of exterior lighting must be approved in writing by the Architectural Review Committee in advance.

**Section 2.4. Delegation of Use.** Any Owner may delegate, in accordance with the Bylaws of the Association and subject to reasonable rules, regulations, and limitations as may be adopted in accordance therewith, his or her right of enjoyment to the General Common Area and facilities to the members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the occupants of any leased Lot.

**Section 2.5. Owner's Right to Ingress, Egress, and Support.** Each Owner shall have the right to ingress and egress over, upon, and across the General Common Area necessary for access to his or her Lot and shall have the right to lateral support for his or her Lot, and such rights shall be appurtenant to and pass with the title to each Lot.

**Section 2.6. Use of Lots.** Except as may be otherwise expressly provided in this Declaration, each Lot shall be used for residential purposes only as a residence for a single family related by blood, adoption, or marriage. No trade or business of any kind may be conducted on the Lot. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this covenant, so long as the lease is in compliance with reasonable rules and regulations as the Board of Directors may promulgate. Any leasee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the Bylaws, and the rules and regulations adopted hereunder.

Without prior written consent of the Association's Board of Directors, nothing shall be done or kept on any Lot or on the General Common Area or any part thereof to increase the rate of insurance on the Properties or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot or on the General Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules and regulations in the furtherance of this provision.

**Section 2.7. Landscaping, Fences and Lawn Ornaments.** No planting or gardening shall be done, and no fences, hedges, or walls and no statues or lawn ornaments shall be erected or maintained upon the General Common Area or upon any Lot, except in accordance with a plan approved by the Architectural Review Board. It is expressly acknowledged and agreed by all parties concerned that this Section is for the mutual benefit of all Owners and is necessary for the protection of all Owners.

**Section 2.8. Signs.** No sign of any kind shall be displayed to the public view on any Lot or the General Common Area without the prior written consent of the Board or its designee, except customary name and address signs and one (1) For Sale sign per Lot of not more than one and a half (1 1/2) feet by two (2) feet and set back from the street at least fifteen (15') feet. The Board, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on the General Common Area.

**Section 2.9 Rules and Regulations.** The Board of Directors may establish reasonable rules and regulations concerning the use of the General Common Area, facilities located thereon, and individual Lots. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule or requirement shall be specifically overruled, or modified by the Board or the Association in a regular or special meeting by the vote of Class "A" members holding a majority of the total votes in the Association and by the vote of the Class "B" member, so long as such membership shall exist. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected by lien and foreclosure, as provided in the Declaration and By-laws.

**Section 2.10 Declarant's Reserved Easement.** Notwithstanding any provisions contained in the Declaration to the contrary, Declarant hereby expressly reserved unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to Tefft Hill Farm for the benefit of Declarant, its successors, and assigns over, under and/or in the Properties, except Lots conveyed to purchasers, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development sale, maintenance, repair, replacement, use, and enjoyment, and/or otherwise dealing with

Tefft Hill Farm and any other property now owned or which may in the future be owned by Declarant (such other property is hereinafter referred to as Additional Property). The reserved easement shall constitute a burden on the title to the Properties except Lots conveyed to Purchaser and specifically includes, but is not limited to:

- a) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in Tefft Hill Farm; and the right to tie into any portion of Tefft Hill Farm with driveways, parking areas, and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocated, maintain, and repair any device which provides utility or similar services, including without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over the Properties; and
- b) the right to construct, install, replace, located, maintain, repair, use, and enjoy signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of Declarant, may be required, convenient, or incidental to the construction and sale by the Declarant of Lots or residences in Tefft Hill Farm or in any portion of the Additional Property.
- c) An easement and right of way for access over, upon, and across the Properties, including, without limitation the general Common Area, for the construction, installation, repair, replacement, and maintenance of roads, drainage lines, ditches and structures, utilities of any and all types, including without limitation underground electrical, telephone and gas lines as may be required for the development of Tefft Hill Farm and for additional property. This reserved easement shall specifically include the easement to dig and remove sand, loam, gravel, rocks and soil and to bury rocks, stumps, trees, and soil in the Borrow and Fill Areas shown on the Plats. Declarant may dedicate and transfer to the Town of South Kingstown roads and easements over, under and in the General Common Area for the purpose of providing access and serving additional property located outside of Tefft Hill Farm and the Properties.
- d) No rights, privileges, and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, Lots and the General Common Area, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quitclaim deed from Declarant releasing such right, privilege, or easement by express reference thereto.

This Section may not be amended without the written consent of the Declarant.

**Section 2.11. Storage and Parking.** There shall be no outside storage or parking upon any Lot of any commercial vehicle, truck (except pick-ups), tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, snowmobile, recreational vehicles or any other transportation device of any kind. No owners or tenants shall repair or restore any vehicle of any kind upon any Lot or General Common Area, except within a garage or except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after the alteration is less than the number of automobiles that could have been reasonably parked in the garage as originally constructed. The Board of Directors may provide for an area in the General Common Area in which vehicles and boats may be parked or stored in accordance with the rules and regulations promulgated by the Board of Directors.

**Section 2.12. Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Properties, except that no more than a total of two (2) dogs and such number of cats, or other normal household pets as established by the Rules and Regulations may be kept in residences subject to rules and regulations adopted by the Association through its Board of Directors, provided that such pets are not kept, bred, or maintained for any commercial purpose. The Board shall have the absolute power to prohibit a particular individual pet from being kept on the Properties, including inside residences constructed thereon.

**Section 2.13. Residential Use.** The Lots shall be used solely and exclusively for private residence purposes.

- Section 2.14. Approval by Declarant of Construction.** No buildings or structures shall be erected or reconstructed upon the Lots unless or until the grading plan of the Lot, including the grade elevations of said buildings and structures, the plot plan showing the proposed location of said buildings and structures upon said Lots and the plans, specification and details of said buildings and structures shall have been approved in writing by the Declarant, their agent, or nominee, and a true copy of said plan, specifications and details shall have been lodged permanently with the Declarant, their agent or nominee. The landscaping plan, location of fences and walls and location of driveways must also be approved by the Declarant, their agent or nominee. All dwellings having only one story shall contain not less than thirteen hundred (1,300) square feet of floor area exclusive of porches or attached garage on the ground floor. All dwellings having more than one story shall contain not less than eight hundred (800) square feet of floor area, exclusive of porches or attached garage, on the ground floor. A bonafide purchaser or mortgagee of any lots on said plat with a structure thereon at the time of such purchase or mortgage shall not be required to determine that the plans for such structures or other improvements have been so approved.
- Section 2.15. Garages.** The building plans for each of the Lots shall include a garage designed to hold at least one car, and said garage shall be built at the same time as the dwelling.
- Section 2.16. Setbacks.** No portion of any Lot on said plat, nearer to any highway than the buildings lines established by the zoning ordinance of the Town of South Kingstown shall be used for any purpose other than that of a lawn; nothing herein contained, however, shall be construed as preventing the use of such portion of said Lots for walks and drives, the planting of trees or shrubbery, the growing of flowers or ornamental plants, or for statutory fountains and similar ornamentations, approved by the Architectural Review Board, for the purpose of beautifying said premises; but no vegetables, so-called, nor grains of the ordinary garden or field variety shall be grown upon such portion thereof; and no weeds, underbrush or other unsightly growth, shall be permitted to grow or remain anywhere upon said Lots, and no unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Domestic vegetable gardens may be grown on the portion of the lot inside the building lines.
- Section 2.17. Chickens, Fowl and Live Stock.** No chickens or other fowl or live stock of any kind shall be kept or harbored on the Lots.
- Section 2.18. Firearms.** The use of firearms within the Properties is prohibited. The term firearms includes BB guns, pellet guns, and other firearms of all types, regardless of size.
- Section 2.19. Proposed Water Tower Lot.** The restrictions set forth in this Declaration shall not apply to the lot designated as "Proposed Water Tower Lot". The Proposed Water Tower Lot may be used as a site for a water tower without any restrictions. The Proposed Water Tower Lot shall not be subject to any obligation from assessments by the Association. The Proposed Water Tower Lot shall not be entitles to the use of the General Common Area.

### **ARTICLE III: Membership and Voting Rights**

- Section 3.1. Membership.** Each Owner (including Declarant) who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not separated from such ownership. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in the Bylaws. The rights and privileges of membership, including the right to vote, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote for each class of membership applicable to a particular Lot be cast for each such Lot.
- Section 3.2. Voting.** The Association shall have two (2) classes of membership, Class "A" and Class "B" as follows:
- a) Class "A". Class "A" members shall be all Owners of Lots, with the exception of the Class "B" members, if any. Class A Members shall be entitled on all issues to one (1) voted per Lot; provided, however, no voted shall be cast or counted for any Lot not subject to assessment. When more than one person or entity hold such interest in any Lot, the vote for such Lot shall be

exercised as those persons or entities themselves determine and advise to the Secretary of the Association prior to any meeting. In the absence of such advise, the Lot's vote shall be suspended in the event more than one person or entity seeks to exercise it.

Any Owner of Lots which are leased may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is received by the Secretary prior to any meeting.

b) Class "B". Class "B" member shall be the Declarant, and any successor of Declarant who takes title for the purpose of development and sale. The Class "B" members shall originally be entitled to two hundred twenty (220) votes; this number shall be decreased by one (1) vote for each Class "A" vote outstanding at any one time. The Class "B" membership shall terminate and become converted to Class "A" membership upon the happening of the earlier of the following:

- i) When the total outstanding Class "A" votes equal or exceed two hundred (200); or
- ii) January 1, 1998
- iii) When, in its discretion, the Declarant so determines and executes and records, in the Land Evidence Records of the Town of South Kingstown an instrument stating such determination.

From and after the happening of these events, whichever occurs earlier, the Class "B" members shall be deemed to Class "A" members entitled to one (1) vote for each Lot in which the interest required for membership under Section 1 hereof is held. At such time, the Declarant shall call a meeting as provided in the By-Laws for special meetings to advise the membership of the termination of Class "B" status.

Unless otherwise provided in this Declaration, or the By-Laws, the presence, in person or by proxy, at any meeting of members, entitled to cast ten (10%) percent of the voting power of each Class shall constitute a quorum at such meeting of the Association. In the event a quorum is not present, another meeting may be called, and the presence in person or by proxy, at such meeting of members entitles to cast five (5%) percent of the Class "A" voting power shall constitute a quorum at such meeting.

**Section 3.3. Board of Directors.** The affairs of the Association shall be governed by a Board of Directors. It is the intent of this Article that the right to elect the members of the Board of Directors shall pass from the Declarant (Class B Member) to the Class A Members at such time as the Class B Membership terminates as set forth in Section 2(b) of this Article.

#### **ARTICLE IV: Maintenance**

**Section 4.1. Maintenance.** The Association shall operate and maintain and keep in good repair the General Common Area and Special Use Properties. Such operation and maintenance of the General Common Area shall be funded by the General Assessments. Such operation and maintenance of the Special Use Properties shall be funded by membership fees, user charges and special fees applicable to use thereof. Maintenance shall include but not be limited to maintenance, repair and replacement, subject to any insurance then in effect, of all fauna and flora, structures, and improvements situated upon the General Common Area and Special Use Properties.

#### **ARTICLE V: Insurance and Casualty Losses**

**Section 5.1. Insurance.** The association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the General Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

The Board shall also obtain a public liability policy covering the General Common Area, the Association and its members for all damage or injury caused by the negligence of the Association or any of its members

or agents. The public liability policy shall have at least a One Million and 00/100 (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Two Million and 00/100 (\$2,000,000.00) Dollar limit per occurrence, and a Two Hundred Fifty Thousand and 00/100 (\$250,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the General Common Area shall be common expenses of the Association included in the General Assessment, as defined in Article IX, Section 9.1. The policy may contain a reasonable deductible, and the amount thereof shall be added to the fact amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the association as Trustee for the respective benefited parties, as further identified as (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- a) All policies shall be written with a company licensed to do business in Rhode Island and holding a rating of VI or better in the Financial Category as established by A.M. Best Company, Inc., if available and, if not available, the most nearly equivalent rating.
- b) All policies on the General Common Area shall be for the benefit of the Association, the Owners and their mortgagees as their interest may appear.
- c) Exclusive authority to adjust losses under policies in force on the property obtained by the Association shall be vested in the Association's Board of Directors; provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- d) In no event shall the insurance coverage obtained and maintained by the Association's board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants or their mortgagees.
- e) The Association's board of Directors shall conduct at least once every two (2) years an insurance review which shall include a replacement cost appraisal, without respect to depreciation, of all insurable improvements on the General Common Area by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Washington County, Rhode Island, area.
- f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
  - i) A waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its Manager, the Owners and their respective tenants, servants, agents and guests;
  - ii) A waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
  - iii) That no policy may be cancelled, invalidated or suspended on account of any one or more individual Owner;
  - iv) That no policy may be cancelled, invalidated or suspended on account of the conduct of any director, officer or employee of the Association or its duly authorized Manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its Manager, any Owner or Mortgagee;
  - v) That any "other insurance" clause in any policy exclude individual Owners' policies from consideration.
  - vi) That no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice.

**Section 5.2. No Partition.** Except as is permitted in the Declaration, there shall be no physical partition of the General Common Area or Special Use properties or any part thereof, nor shall any person acquiring any interest in the Properties or any part thereof seek any such judicial partition until the happening of the conditions set forth in section 5.4 of this Article in the case of damage or destruction, or unless the properties have been removed from the provisions of this Declaration. This Section shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

**Section 5.3. Disbursement of Proceeds.** Proceeds of insurance policies shall be disbursed as follows:

- a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such cost of repairs or reconstruction to the General Common Area or Special Use Properties or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners if any Lot is involved and with their mortgagee(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of a Lot and may be enforced by such mortgagee.
- b) If it is determined as provided for in Section 5.4 of this Article that the damage or destruction to the General Common Area or Special Use Properties for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 5.3(a) hereof.

**Section 5.4 Damage and Destruction.**

- a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty.
- b) Any damage or destruction to the General Common Area shall be repaired or reconstructed unless at least seventy-five (75%) percent of the total vote of both the Class "A" and Class "B" Members of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, that such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the General Common Area damage or destruction shall be repaired or reconstructed.
- c) In the event that it should be determined by the Association in the manner described above that the damage or destruction of the General Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the General Common Area by the Association in a neat and attractive condition.

**Section 5.5 Repair and Reconstruction.** If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Association may levy a special assessment as permitted in Article IX, Section 9.7 of the Declaration against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

## **ARTICLE VI: CONDEMNATION**

**Section 6.1** **Condemnation.** Whenever all or any part of the General Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the vote of at least seventy-five (75%) percent of the Class "A" Membership and of the Class "B" Membership) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the General Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) percent of the Class "A" members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the General Common Area to the extent lands are available therefore, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the General Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

## **ARTICLE VII: Annexation of Additional Property**

**Section 7.1** **Annexation Without Approval of Class "A" Membership.** As the Owner thereof, or if no the Owner, with the consent of the Owner thereof, Declarant shall have the unilateral right, privilege and option, from time to time at any time until ten (10) years from the date this Declaration is recorded in the Land Evidence Records of the Town of South Kingstown, Rhode Island, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in EXHIBIT "C" attached hereto and by reference made a part hereof, whether in fee simple or leasehold, by filing in the Land Evidence Records of the Town of South Kingstown, Rhode Island, an amendment annexing such property. Such amendment to this Declaration shall not require the vote of members. Any such annexation shall be effective upon the filing for record of such amendment.

Declarant shall have the unilateral right to transfer to any other person the said right, privilege and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in said EXHIBIT "C" attached hereto.

**Section 7.2** **Annexation With Approval of Class "A" Membership.** Subject to the written consent of the Owner thereof and of the Declarant, if the Class "B" Membership has not terminated, upon the written consent or affirmative vote of a majority of the Class "A" members, other than Declarant, of the Association present in person or by proxy at a meeting duly called for such purpose, the Association may annex real property other than that shown on EXHIBIT "C" and, following the expiration of the right in Section 7.1, the property shown on EXHIBIT "C", to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Land Evidence Records of the Town of South Kingstown, Rhode Island, a supplementary amendment in respect to the property being annexed. Any such supplementary amendment shall be signed by the President and the Secretary of the Association, and any such annexation shall be effective upon filing unless otherwise provided therein. The meeting of the Class "A" members of the Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified by the By-Laws of the Association for regular or special meetings as the case may be.

**Section 7.3** **Development Plan.** The Declarant intends to develop Tefft Hill Farm and the Properties in accordance with a Master Development Plan prepared by consultants and its planning department and placed on display in its reception and sales office, and other areas. The Declarant reserves the right to review and modify the Master Development Plan at its sole option from time to time based upon its continuing research, market surveys, and design programs. The Master Development Plan shall not bind the company, its successors and assigns to adhere to the Master Development Plan in the development of the land shown thereon.

The property described in EXHIBIT "C" when subjected to this Declaration as provided herein, and not before such time, shall become part of Tefft Hill Farm. Nothing herein shall be construed to obligate the Declarant to develop any lands other than as described in EXHIBIT "A".

#### **ARTICLE VIII: Rights and Obligations of the Association**

**Section 8.1 The Area of Common Responsibility.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Area of Common Responsibility and all improvements thereon (including furnishings and equipment related thereto), and shall keep it in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof.

**Section 8.2 Personal Property and Real Property for Common Use.** The Association through action of its Board of Directors may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board acting on behalf of the Association shall accept any real or personal property, leasehold, or other property interests within Tefft Hill Farm conveyed to it by the Declarant.

**Section 8.3 Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include suspension of the right to vote and the right to use recreational facilities. The Board shall in addition have the power to seek relief in any court for violations or to abate unreasonable disturbances and to levy fines.

**Section 8.4 Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably given to it herein or reasonably necessary to effectuate any such right or privilege.

**Section 8.5 Self-Help.** In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the General Common Area to abate or remove, using such force as may be reasonable necessary, any improvement, thing or condition which violates this Declaration, the By-Laws, the Rules and Regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner then (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

**Section 8.6 Right of Entry.** The Association shall have the right, in addition to and not in limitation of all the rights it may have, to enter on to Lots for emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the owner or occupant of the Lot.

**Section 8.7 Services.** The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Properties, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Properties or the enforcement of this Declaration and the By-Laws. The Association may, but shall not be required to, arrange as an Association expense with third parties to furnish water, trash collection, sewer service, and other common services to each Lot.

#### **ARTICLE IX: Assessments**

**Section 9.1 Purpose of Assessment.** The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and

occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the board of Directors.

**Section 9.2. Creation of Assessments.** Each Lot Owner, by acceptance of a deed therefore, whether or not it shall be expressed in such deed, covenants and agrees to pay to the Association: (a) General Assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors; (b) Special Assessments and Assessments established and collected as hereinafter provided; and (c) Special Assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration and the By-Laws. All such herein as "Delinquent Payment Fees"), interest, not to exceed the actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made.

Each Owner by acceptance of his or her deed, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to all terms and provisions of this Declaration and to pay to the Association the Assessments. Each such assessment, together with Delinquent Payment Fees, interest costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Lot Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for delinquents. Unless the Board otherwise provides, the assessments shall be paid in monthly installments.

**Section 9.3. Computation of General Assessment.** General Assessments shall be allocated equally, except as provided herein for Exempt Lots, among all Lots within the Association and shall be for expenses determined by the Board of Directors to be for the benefit of the Association as a whole. It shall be the duty of the Board at least fifteen (15) days prior to the meeting at which the budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list general expenses. The Board shall cause a copy of the budget, and the amount of the General Assessments to be levied against each Lot for the following year, to be mailed to each Lot Owner at least fifteen (15) days prior to the meeting. The budget and assessments shall become effective unless disapproved at the meeting by a vote of at least a majority of both classes of the total Association Membership or, after termination of the Class "B" membership, the majority vote of the total Association Class "A" Membership whether or not a quorum is present. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget and General Assessment or the Board fails for any reason to determine the budget and General Assessment for the succeeding year, then and until such time as a budget and General Assessment shall have been determined as provided herein, the budget and General Assessment in effect for the then current year shall continue for the succeeding year.

**Section 9.4 Maximum Annual General Assessments.** Until January 1, 1992, maximum General Assessment shall be Two Hundred Dollars (\$200.00) per Lot. The maximum annual General Assessment may be increased as follows:

- a) From and after January 1, 1992, the General Assessment may be increased without the vote or written assent of a majority of each Class of Membership entitled to vote in any fiscal year by ten (10% percent of the previous years General Assessment.
- b) From and after January 1, 1992, the maximum General Assessment may be increased above that established by the formula set forth above, by the vote or written consent of a majority of each Class of Membership entitled to vote, present in person or by proxy, at a meeting duly called for this purpose.

**Section 9.5. Capitalization of Association.** Upon the transfer of a Lot by the Declarant to an Owner, such Owner shall pay to the Association the sum of \$200.00 to be used for such purposes as determined by the Board of

Directors. This amount shall be paid in addition to the amount prorated for the then existing Annual General Assessment.

**Section 9.6. Date of Commencement of Assessments.**

- a) The Assessments provided for herein shall commence as to a Lot on the date the Lot is eligible to be conveyed to a third party by the Declarant as permitted by the subdivision Rules and Regulations of the town of South Kingstown, provided however, that lots owned by the Declarant shall be assessed at one-tenth (1/10) of the Assessment applicable to Lots. The Declarant shall, however, be assessed the full Assessment for any Lot owned by it upon which a foundation is constructed.
- b) In the case of additional Properties annexed by amendment to this Declaration, on the first day of the month following said annexation, the assessment shall be due and payable in a manner consistent with this Declaration And on a schedule as the Board of Directors may provide.
- c) The first annual General Assessment on a Lot shall be adjusted according to the number of days then remaining in that fiscal year.

**Section 9.7. Special Assessments.** In addition to the General Assessments authorized in this Article, the Association may levy a Special Assessment; provided, however, such assessment shall have the vote or written assent of at least a majority of both Classes of the association Membership, present and voting in person or by proxy at a special meeting of the membership duly called for this purpose, or after the termination of the Class "B" membership, the majority of the Class "A" membership present and voting in person or by proxy at a special meeting of the membership duly called for this purpose. The Association may also levy a Special Assessment against any Member and his or her Lot into compliance with the provisions of the Declaration, the Amendments thereto, By-Laws, and the Association Rules and Regulations. Such Special Assessment against a particular Lot may be levied by a two-thirds vote of the entire membership of the Board of Directors after notice and hearing by the Covenants Committee as provided in the Bylaws. The costs of such repairs and maintenance and attorney's fees shall be added to and become a part of the General Assessment to which such Lot is subject. Said Special Assessment against a particular Lot shall be a lien and be enforced and collected in the same manner as a General Assessment.

**Section 9.8. Lien for Assessments.** All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for

- a) liens of real estate taxes of the Town of South Kingstown and the Union Fire District or Kingston Fire District; or
- b) liens for all sums unpaid on a first Mortgage or any Mortgage to Declarant duly recorded in the Land Evidence Records of the Town of South Kingstown, and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such Land Evidence Records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

**Section 9.9. Effect of Nonpayment of Assessments:** Remedies of the Association. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge (sometimes referred to herein as "Delinquent Payment Fees") in an amount as the Board of Directors may from time to time determine. The Association shall cause a notice of delinquency to be given to any Lot Owner who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, the lien shall include the Delinquent Payment Fee, interest, not to exceed the maximum legal rate, on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts

provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board of Directors shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Lot Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as a mortgage on real estate in the State of Rhode Island containing a Statutory Power of Sale. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of all other Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Lot. No Lot Owner may waive or otherwise except liability for the Assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of any Assessments which are not the subject matter of suit in order of their coming due, and then to any unpaid installments of the Assessments which are the subject matter of suit in the order of their coming due.

**Section 9.10. Capital Budget and Contribution.** The Board of Directors shall annually prepare a capital budget which shall take in to account the number and nature of replacement assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect to both amount and timing by annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessment as provided in Section 9.3 of this Article. A copy of the capital budget shall be distributed to each Member in the same manner as the operating budget.

**Section 9.11. Subordination of the Lien to Mortgages.** The lien of the assessments, including interest, Delinquent Payment Fees, costs (including Attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage or Mortgage to Declarant upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a first Mortgage or Mortgage to Declarant shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record, Declarant as the holder of the Mortgage, or other purchaser of a Lot obtains title, his or her successors and assigns shall not be liable for the share of the common expenses or Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to Common Expenses collectible from all the Lots, Including such acquirer, his or her successors and assigns.

**Section 9.12. Exempt Lots.** The following Properties subject to this declaration shall be exempt from the Assessments created herein:

- a) any portion of the Properties transferred to or dedicated to and accepted by the Town of South Kingstown, the Kingston Fire District, or any other public authority;
- b) any portion of the Properties transferred to or dedicated to and accepted by a public utility;
- c) the General Common Area;
- d) any portion of the Properties which is designed and/or reserved for easements; and
- e) any Lots shown on the Tefft Hill Farm plats which may not be sold or transferred by the Declarant as an approved lot subdivided in accordance with the subdivision rules and regulations of the Town of South Kingstown. It is intended by this subparagraph (e) to exempt the Lots which are in a phase that has not been bonded for construction or which are in a phase that cannot be sold until a certain date as provided in the approval of the Planning Board for the Tefft Hill Farm Plats.

**Section 9.13. Assessments on Lots Owned by Declarant.**

- a) After the commencement of assessment payments as to any Lot, Declarant covenants and agrees to pay the full amount of the annual assessment for each Lot it owns on which a foundation has been constructed; notwithstanding anything contained herein to the contrary, the Declarant shall be required to pay only (10%) percent of the Assessments for Lots that it owns on which a foundation has not been constructed and which are not Exempt Lots as provided in Section 9.12 hereof.
- b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called in-kind contribution). The amount by which monetary assessments shall be decreased as a result of any in-kind contribution shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as tot the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

**Section 9.14. Special Use Properties Areas and Special Use Properties Fees.** The Board of Directors shall have the power in its discretion from time to time to grant revocable licenses to some of the Lot Owners by designating portions of the Common Area as Special Use Properties Areas. Such Special Use Properties Areas shall be subject to such restrictions, reasonable charges and conditions on the use thereof as the Board may deem appropriate and shall be maintained by the Association or, at the Board's option, by the Persons having the exclusive right to use the Special Use Properties Areas.

The Board of Directors may levy Special Use Properties Fees against the Lot Owners and their Lots for the use of the Special Use Properties and the purchase of improvements and the maintenance and repair thereof and for all other expenses related thereto. Such Special Use Properties Fees shall be an Assessment against such Lot Owners and Lots and shall be a lien on said Lots and shall be enforced and collected as provided in Section 9.9 or Article IX.

## **ARTICLE X: Architectural Standards**

**Section 10.1 Architectural Review Board.** All property which is now or may hereafter be subject tot his Declaration is subject to architectural and environmental review by the Architectural Review board (the "ARB") which shall be in accordance with this Article and the Architectural Guidelines. No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no plantings or removal of plants, trees or shrubs shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the appropriate Committee has been obtained. The ARB shall consist of a chairman who shall be appointed by the Board of Directors of the Association and who shall function as the administrative officer of the ARB, and the members of the New Construction Committee (the "NCC") and Modification Committee (the "MC") as herein set forth. All plans and specifications shall be submitted to the chairman of the ARB who shall refer the same to the appropriate committee. In those instances where exclusive jurisdiction is vested in the NCC or the MC, actions of such committee shall be given the effect of action by the ARB, including the right to promulgate Architectural Guidelines appropriate to the functioning of the such committee, and shall be administered as such by the chairman of the ARB.

**Section 10.2. New Construction Committee.** The new Construction Committee (NCC) shall have exclusive jurisdiction over all original construction on any portion of the Properties. Until all of the 22 Lots in Tefft Hill Farm have been conveyed to purchasers in the normal course of development and sale, the Declarant shall appoint the members of the NCC which shall consist of at least three (3), but no more than five (5) persons, none of whom shall be required to be Lot Owners or residents of Tefft Hill Farm. There shall be no surrender of this right prior to that time, except in a written instrument executed by the Declarant and recorded in the Land Evidence Records of the Town of South Kingstown. Upon the termination of such right of the Declarant, the Board of Directors shall appoint the members of the NCC. The NCC shall

prepare and, on behalf of the Board of Directors, shall promulgate design guidelines and application procedures. The standards and Procedures shall be those of the Association, and the NCC shall have sole and full authority to prepare and to amend the standards and procedures. It shall make both available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Properties and who shall conduct their operations strictly in accordance therewith.

**Section 10.3** **Modifications Committee.** The Modifications Committee (MC) shall consist of at least three (3) and no more than five (5) members all of whom shall be appointed by the Board of Directors. None of the members shall be required to be Lot Owners or residents of Tefft Hill Farm. The MC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing houses, garages, buildings, walls, fences, swimming pools, lawn ornaments and statues, or other structures or improvements of any nature and to existing lawns, landscaping, plants, trees or shrubs.

The MC shall promulgate detailed Standards and Procedures governing its area of responsibility and practice. In addition thereto, the following shall apply. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the Modifications Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an owner to remodel the interior of his or her residence, or to paint the interior of his or her residence any color desired.

**Section 10.4.** **Submission of Plans and Specifications.** No construction of any nature, shall be commenced, erected, placed or altered in any way until plans and specifications therefor shall have been submitted to and approved in writing by the ARB. Such plans and specifications shall be in form and shall contain such information as may be required by the ARB in the Architectural Guidelines promulgated by the ARB.

Upon approval by the ARB of plans and specifications submitted to it, a letter of approval from the ARB shall be sent to the person submitting the same and such letter shall be posted on the Lot in a conspicuous place open to public view.

A copy of the letter of approval must be presented to the Building Inspector of the Town of South Kingstown together with the application for the building permit.

In the event that the ARB shall fail to take action on any plans and specifications as herein provided within thirty (30) days after receipt thereof, such plans and specifications shall be resubmitted. If not approved within thirty (30) days of such resubmission, the same shall be deemed to have been approved as submitted, and no further action by the ARB shall be required for the applicant to begin construction. A letter of approval from the ARB shall be sent to the applicant indicating such action.

**Section 10.5.** **Architectural Guidelines.** The ARB, acting through the NCC and MC, may adopt, promulgate, amend, revoke and enforce guidelines (herein referred to as "Architectural Guidelines") for the purposes of

- 1) governing the form and content of plans and specifications to be submitted for approval;
- 2) governing the procedure for such submission of plans and specification; and
- 3) establishing policies with respect to the approval and disapproval of all proposed uses and all construction or alteration of any Lot, building, wall, fence, swimming pool, lawn ornaments and statues, or other structure on any Lot or of the lawns, landscaping, plants, trees or shrubs on any Lot.

The ARB shall make a published copy of its current Architectural Guidelines readily available to architects, builders, owners and prospective owners upon request. The ARB shall establish and promulgate Architectural Guidelines for Tefft Hill Farm and such additional Architectural Guidelines as the ARB may, in its discretion, deem necessary and appropriate for any specific portion thereof.

**Section 10.6. Violations.** If any structure or building shall be erected, placed, maintained or altered upon any Lot, or any staking, clearing, grading or other site work or planting or removal of lawns, plants, trees, or shrubs be commenced on any Lot, otherwise than in accordance with the plans and specifications approved by the ARB pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article, and without the approval required therein. If, in the opinion of the ARB, such violation shall have occurred, the ARB shall notify the Board of Directors. If the Board of Directors shall agree with the determination of the ARB with respect to the violation, then upon written notice of the violation to the Owner from the Board of Directors (which shall be deemed to have been delivered if sent by registered or certified mail, return receipt requested, postage paid), and, if the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same within ten (10) days after the mailing of the aforesaid notice of violation, the Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in Courts of Competent jurisdiction decisions of the ARB, NCC and MC as provided in Article XIV, Section 14.1 hereof.

**ARTICLE XI: Use Restrictions**

**Section 11.1. Use Restriction.** The Properties and Lots shall be use only for residential, recreational, and related purposes as may more particularly be set forth in this Declaration or amendments thereto. The Association, acting through its Board of Directors, shall have the standing and power to enforce use restrictions contained in the Declaration and Bylaws and any amendments thereto.

The Association, acting through its Board of Directors, shall have the authority to make and to enforce standards and restrictions governing the use of lots and the General Common Area, including, but not limited to, a vehicle storage area, a pathway system, swimming pools, tennis courts, community center and parking facilities, if any.

**ARTICLE XII: Mortgage Provisions**

**Section 12.1. Payment of Taxes.** First mortgagees of Lots may, jointly or singularly, pay taxes or other charges which are in default and which may have become a charge against any General Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such General Common Area. First mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

**Section 12.2. No Priority.** No provision of this Declaration of the By-Laws gives or shall be construed as giving any Lot Owner, or any other party, priority over any rights of the first mortgagee of a Lot pursuant to its mortgage in the case of a distribution to such Lot owner of insurance proceeds or condemnation awards for losses to or a taking of General Common Area.

**Section 12.3. Notice to Mortgagee.** Notwithstanding anything contained herein which might otherwise be construed to the contrary, a first mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by any Owner of a Lot, in which such mortgagee has an interest, of any obligation under this Declaration, the By-Laws, or the Article of Incorporation, which is not cured within sixty (60) days.

**Section 12.4. Management Agreement Limitations.** Notwithstanding anything contained herein which might otherwise be construed to the contrary, any agreement for professional management of Association, or any other agreement providing for services by the Declarant, may not exceed one year and must provide for termination by either party without cause and without payment of a termination fee on thirty (30) days or fewer written notice.

**ARTICLE XIII: Duration and Amendment**

**Section 13.1. Duration.** This Declaration and the covenants, condition, restriction, charges and liens contained herein shall be covenants running with the land and shall burden and bind the Properties, shall inure to the benefit of and be enforceable by the Declarant, the Association and each Owner, their respective legal representatives, heirs, successors and assigns, until January 1, 2013, after which time the Declaration shall be automatically renewed for successive periods of twenty-five (25) years, unless prior to the commencement of any such renewal period, an instrument terminating this Declaration shall be executed by the proper Association Officers and recorded in the Land Evidence Records of the Town of South Kingstown, Rhode Island, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution to such effect approved in writing by not less than two-thirds (2/3) of the Class A votes, which resolution shall have been approved within six months prior to January 1, 2013, or the end of any such twenty-five (25) year extension period.

**Section 13.2. Amendment.** This Declaration may be amended unilaterally at any time and from time to time by Declarant

- a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith;
- b) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration;
- c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration; or
- d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this declaration; provided, however, any such amendment shall not adversely affect the title on any Lot Owner's Lot unless any such Owner shall consent thereto in writing. Further, so long as the Class "B" membership exists, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a majority of the Class "A" members and the consent of the Declarant, so long as the Class "B" Membership exists.

The procedure for amendment by the Lot Owners after the Class "B" Membership terminates shall be as follows: All proposed amendments shall be submitted to a vote of the Members at a duly called meeting of the Association and any such proposed amendment shall be deemed approved if two-thirds (2/3) of the Class "A" votes cast at such meeting, person or by proxy, approve such amendment. Notice shall be given each Member at least thirty (30) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the Members as set forth above the President and Secretary of the Association shall execute an Addendum to this Declaration which shall set forth the amendment, the effective date of the amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such amendment was adopted), the date of the meeting of the Association at which such amendment was adopted, that date that notice of such meeting was given, the total number of votes necessary to adopt the amendment, the total number of votes cast in favor of such amendment, and the total number of votes cast against the amendment. Such amendment shall become effective upon recordation in the Land Evidence Records of the Town of South Kingstown. The quorum required for any action authorized to be taken by the Association under this Section 13.2 shall be as follows:

The first time any meeting of the Members of the Association is called to take action under this Section 13.2, the presence at the meeting of the Members or proxies entitled to cast twenty-five (25%) percent of the total vote of the Class "A" Membership shall constitute a quorum. If the required quorum is not present at any such meeting, a second meeting may be called subject to the

giving of proper notice and the required quorum at such subsequent meeting shall be the presence of Members or proxies entitled to cast five (5%) percent of the total vote of the Class "A" Membership.

#### **ARTICLE XIV: General Provisions**

**Section 14.1. Enforcement.** If any person, firm or corporation shall violate or attempt to violate any provision of this Declaration or the Bylaws, it shall be lawful for the Board of Directors, on behalf of the Association, the Declarant or any Lot Owner to prosecute any proceeding at law or in equity against the person, firm or corporation violating or attempting to violate the same, and either to prevent it or them from so doing or to recover damages or other amounts due for such violation.

Violation or breach of any provision of this Declaration or the Bylaws shall give the Declarant or the Association, their respective legal representatives, heirs, successors and assigns, in addition to all other remedies, the right to enter upon the Lot upon or as to which such violation or breach exist and summarily to abate and remove at the expense of the Lot Owner thereof, any improvement, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, if after then (10) days written notice of such violation it shall not have been corrected by the Lot Owner. Any such entry or abatement or removal shall not be deemed a trespass.

Any person entitled to file a legal action for the violation of this Declaration or the Bylaws shall be entitled to reasonable attorney's fees as a part of such action. The failure to enforce any rights, reservations, restriction, or conditions contained in this Declaration or the Bylaws, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior or subsequent thereto and shall not alter or affect its enforcement.

**Section 14.2. Indemnification.** The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgement, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by the, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or directors, or former officer or director, may be entitled. The Association shall as a common expense maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

**Section 14.3. Delegation of Use.** Any Owner may delegate, in accordance with the Bylaws of the Association, his or her right of enjoyment to the General Common Area and facilities to the members of his or her family, tenants, and social invitees.

**Section 14.4. Owner's Right to Support.** Each Owner shall have the right to lateral support for his or her Lot, and such right shall be appurtenant to and pass with the title to each Lot.

**Section 14.5. Easements for Utilities, Etc.** There is hereby reserved, to the Association, the power to grant blanket easements upon, across, over, and under all of the General Common Area for ingress and egress, installation, replacing, repairing, and maintaining master television and antenna systems, security, and similar systems, and all utilities, including, but not limited to, water, sewers, telephones, gas and electricity. The Board of Directors shall, upon written request, grant such easements as may be reasonably necessary for the development of any property made subject to this Declaration. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the General Common Area except as may be approved by the Board Of Directors or as provided in the Plats or as constructed pursuant to the easements reserved by the

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

**Section 14.6. Construction and Sale.** Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the General Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots owned by the Declarant and the LlubhOUSE complex, if any, which may be owned by the Association, as models and sales offices. This Section may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Section 14.6 shall terminate upon the earlier of (a) ten (10) years from the date this Declaration is recorded or (b) upon the Declarant's recording a written statement that all sales activity by it has ceased.

**Section 14.7. Gender and Grammar.** The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

**Section 14.8. Severability.** Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

**Section 14.9. Captions.** The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

**Section 14.10. Perpetuities.** If any of the covenants, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of Elizabeth, Queen of England.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 3rd day of January, 1989.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

Stephan B. Kenyon

CHESTNUT HILL ASSOCIATES

Lawrence C. LeBlanc  
General Partner

STATE OF RHODE ISLAND  
COUNTY OF WASHINGTON

In South Kingstown on the 3rd day of January, 1989, before me personally appeared LAWRENCE C. LEBLANC, General Partner of CHESTNUT HILL ASSOCIATES, to me known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument, by him executed, to be his free act and deed individually and in his said capacity, and the free act and deed of said CHESTNUT HILL ASSOCIATES.

Stephan B. Kenyon

Notary Public