

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR HILLANDALE

July 14, 1981

THIS DECLARATION, made on the date hereinafter set forth by HILLANDALE DEVELOPMENT CORPORATION, INC., a Nevada corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of the real property located in the District of Columbia and described on the legal description attached hereto and made a part hereof as Exhibit "A" and the Declarant desires to create thereon a residential community with permanent recreational facilities, open spaces, walkways and other facilities for the benefit of the Property through the granting of specific rights, privileges and easements of enjoyment which may be shared and enjoyed by all Owners of Lots located in the Property; and

WHEREAS, Declarant desires to insure the attractiveness of the individual Lots and Common Area within the Property and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of the Property and to provide for the maintenance of said parks, open spaces, walkways and other community facilities; and, to this end, desires to subject the Property together with such additions as may hereafter be made thereto to the covenants, conditions, restrictions, easements, charges and liens set forth, each and all of which is and are for the benefit of the Property and each Owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the Property and to insure the residents' enjoyment of the specific rights, privileges and easements in the Common Area, to create and organization to which should be delegated and assigned the powers of owning, maintaining and administering the Common Area and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under the laws of the District of Columbia, as a non-stock, non-profit corporation, Hillandale Homeowners Association, Inc., for the purpose of exercising the functions aforesaid with respect to the Property.

NOW, THEREFORE, Declarant hereby declares that all of the Property described on Exhibit "A" hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting th value and desirability of, and which shall (subject to the

terms and conditions of this Declaration), run with the real property and be binding on all parties having any right, title or interest in the Property described on Exhibit "A" hereto, or any part thereof, their heirs, successors and assigns, and shall be (subject to the terms and conditions of this Declaration), insure to a benefit of each Owner thereof.

## ARTICLE I

### Definitions

Section 1. "Association shall mean and refer to HILLANDALE HOMEOWNERS ASSOCIATION, INC., a District of Columbia non-stock, non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described more particularly on the legal description attached hereto and made part hereof as Exhibit "B".

Section 3. "Declarant" shall mean and refer to HILLANDALE DEVELOPMENT CORPORATION, INC., a Nevada corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purposes of development, but only to the extent that any of the rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant are specifically assigned or transferred in writing to such successors or assigns.

Section 4. "Detached Dwelling Lot" shall mean and refer to any Lot (as such term is hereinafter defined), designated as a "Detached Dwelling Lot" on Exhibit "A": hereto and such additions thereto as may hereafter be subjected to this Declaration.

Section 5. "Development Plan" shall mean the Key Plan - Exhibit No. 2 for the Hillandale Planned Unit Development, Washington, D.C., dated November 19, 1979, and revised November 20, 1979, prepared by Sasaki Associates, Washington, D.C., including all amendments thereto as may be made from time to time. A copy of the Development Plan, as amended, is on file with the Declarant.

Section 6. "First Mortgage" shall mean a mortgage (as such terms is hereinafter defined), with priority over other mortgages.

Section 7. "Holder" shall include the parties secured by any deed of trust or any beneficiary thereof.

Section 8. "Institutional Mortgage" or "Institutional

Holder" shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations and any agency or department of the United States Government or any state or municipal government.

Section 9. "Lot" shall mean and refer to any plot of land designated as a "Lot" on Exhibit "A" hereto, and such additions thereto as may hereafter be subjected to this Declaration.

Section 10. "Mortgage", as used herein, shall include a deed of trust.

Section 11. "Mortgagee" shall mean the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots and shall not be limited to institutional mortgages.

Section 12. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a free simple title to an Lot which is the part of the Property (as such terms is hereinafter defined), including contract sellers, but excluding contract purchasers and those having such interest merely as security for the performance of an obligation.

Section 13. "Property" shall mean and refer to that certain real property described in Exhibit "A" hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

## ARTICLE II

### Property Rights

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, including an easement for the use and enjoyment of the private streets and parking lots and walkways within the 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 and uniform admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days

for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or part of the 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. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded in the Office of the Recorder of Deeds of the District of Columbia;

(d) the right of the Association to limit the number of guests of members;

(e) the right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the facilities thereon;

(f) the right of the Association to allocate to individual Owners the exclusive use of portions of the Common Area which are reasonably appurtenant to and service the Lots owned by such Owners, subject to the right of the Association to promulgate rules and regulations with respect to such Common Area.

(g) the right of the Association, the Declarant, utility companies, public agencies, authorities or other Owners with respect to the easements established in Section 25 of Article VI hereof.

(h) the right of the Declarant to impose reasonable covenants and restrictions with respect to such Common Area, in addition to those set forth herein, at the time of the conveyance of such Common Area to the Association, and such covenants and restrictions are hereby incorporated by reference and made part of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

### ARTICLE III

#### Membership and Voting Rights

Section 1. Membership. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership.

Class A: There shall be two hundred sixty-eight (268) Class A memberships. Class A members shall all be Owners with the exception of the Declarant, and Class A members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determined, but in no event shall more than one (1) vote be cast by a Class A member with respect to any Lot, nor shall there be more than one (1) Class A membership appurtenant to any Lot.

Class B: Subject to the provisions of Section 3 of this Article III, there shall be eight hundred four (804) Class B memberships, all of which shall be initially held by the Declarant, who initially shall be the Class B member and shall be entitled to one (1) vote for each Class B membership which it holds provided, however, that the eight hundred four (804) Class B memberships shall automatically decrease by three (3) memberships for each Lot owned by a Class A member of the Association. Each Class B membership shall cease and become a nullity upon the happening of any of the following events, whichever occurs earliest:

(i) ninety (90) days after the total authorized and outstanding Class A memberships equal two hundred sixty eight (268); or

(ii) ten (10) years from the date of recordation of this Declaration; provided, however, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or any other cause or event whatsoever, then the aforesaid ten (10)-year period shall be extended by a period of time equal to the length of the delays or ten (10) years, whichever is less.

(iii) Upon the surrender of said Class B memberships by then holders thereof for cancellation on the books of the Association.

Upon the lapse or surrender of any of the Class B memberships as provided for in this Article, the Declarant shall thereafter remain a Class A member of the Association as to each and every lot in which the Declarant then holds the interest otherwise required for such Class A membership.

Memberships shall be appurtenant to and may not be separated from the ownership of any Lot which is subject to assessment by the Association.

Section 3. Notwithstanding any provision contained in this Declaration to the contrary, in the event the Declarant

divides the Property into more than two hundred sixty-eight (268) Lots (which term shall include assessment and taxation lots upon which dwelling may be erected), the reference to two hundred sixty-eight (268) Class "A" memberships in this Article III shall be increased by one for each such additional Lot and the reference to eight hundred four (804) Class "B" memberships shall be increased by three (3) for each such Lot. Further, in the event that Declarant so subdivides the Property into Lots in excess of two hundred sixty-eight (268), the reference in this Article III to the secession of Class "B" memberships set forth in Section 2, Subsection (1) shall not occur until ninety (90) days after the total number of authorized and outstanding Class "A" memberships equals the total of each increased number of Lots in the Property.

#### ARTICLE IV

##### Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot (including all improvements thereon), and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the person who was the Owner of such property at the time when the assessment fell due.

Section 2. 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 Property and for the improvement, maintenance, repair and replacement of the Common Area, the payment of real estate taxes and assessments, and insurance premiums and utility services for the Common Area and management fees and other management and administration expenses for the Common Area, and the Association, including, without limitation, the maintenance, repair and replacement of portions of the improvements located on the Lots as such obligation is specifically set forth in Article VII of this Declaration.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Thousand Dollars (\$3,000.00) per Lot; provided, however, that (1) such amount may be increased pursuant to the provisions of Section 4 of

this Article IV concerning special assessments and/or the provisions of Article VII hereof concerning exterior maintenance; (ii) such amount may be increased by any special allocation of expenses made pursuant to Section 3(c) of this Article IV hereof; and (iii) such amount may be increased by such additional amounts as may be deemed necessary by the holders of over fifty percent (50%) of the then outstanding Class B memberships (or the proper maintenance and operation of the Property; it being further provided, however, that the maximum annual assessment (including special assessments) for any Lots owned by Declarant and for which it holds a Class B membership shall not commence until substantial completion of the dwelling to be constructed thereon and shall not exceed twenty-five percent (25%) of the assessments for such Lot had such Lot been owned by a Class A member. As used herein, the term "substantial completion" shall mean that the dwelling has been approved for occupancy by the District of Columbia. Notwithstanding the foregoing, Declarant shall pay the full maximum annual and special assessments for Lots owned by Declarant upon which a dwelling unit has been completed and is occupied.

(a) Prior to the lapse of all of the Class B memberships as provided in Article III of this Declaration, the maximum annual assessment for all Class A memberships herein above provided for may be increased by the Board of Directors of the Association, without a voice of the membership, by the sums of (i) the percentage of increase, if any, of the Consumer Price Index for All Urban Consumers (1987 = 100) issued by the Bureau of Labor Statistics of the Washington, D.C., Metropolitan Area during the preceding year, plus (ii) the amount by which any ad valorem real estate taxes and insurance premiums payable by the Association have increased over amounts payable for the same or similar items for the previous year; provided, however, that the maximum annual assessment shall not be decreased by any decrease in the aforementioned index, plus (iii) such additional amounts as may be deemed necessary by the holders of over fifty percent (50%) of the then outstanding Class B memberships for the proper maintenance and operation of the Property.

(b) From and after the lapse of all the Class B memberships as provided in Article III of this Declaration, the maximum annual assessment and the maximum initial assessment for all Class A memberships herein above provided for may be increased above that established by the preceding paragraph (a) by a vote of the Board of Directors, as hereinafter provided, for the next succeeding year and, at the end of such year, for each succeeding year. A budget hearing, to be held before the members of the Association, shall be only called for such purpose and written notice of which shall be sent to all members at least ten (10) days in advance of such budget hearing, which notice shall set forth the purpose of such hearing, and shall contain a copy of the proposed budget.

(c) The Board of Directors may from time to time

fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association 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 upon the Common Area (or portions of the Property for which the Association is obligated or permitted to perform such actions), including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors shall have the right to specially allocate special assessments to less than all of the Lots for such Lots and/or any portion of the Common Area (such as structured parking areas), which is reasonably determined by the Board to be appurtenant to and/or service the Lots for which such special allocation is made.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4.

Except where otherwise provided to the contrary herein, written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment.

Except as otherwise specifically provided in this Declaration (including, without limitation, Section 12 of this Article IV), both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected in advance on a monthly basis, provided, however, that the Board of Directors may require that either or both of such annual and special assessments shall be collected on a quarterly or other periodic basis.

Section 7. Date of Commencement of Annual Assessments Due Dates.

The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the first conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period.



Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer for the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association with the status of assessments on the Lots shall be binding on the Association and the date of its issuance.

Section 8. Effect of Non-Payment of Assessments. Remedies of the Association. Any assessment which is not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date:

(i) the Association may, by written notice to the Owner, accelerate the balance of the annual or special assessment not yet due for that assessment or special assessment year, if any, and may require same to be paid with and in addition to such delinquent assessment; and

(ii) the assessment (which shall include the accelerated balance of the assessment for the year) shall bear interest from the date of delinquency at the "Annual Rate", as such term is hereinafter defined (or such lesser sum as VA may specify if any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is guaranteed by VA; provided, however, that unless prohibited by VA, such lesser rate shall apply only to the Lot(s) for which there is a VA guaranteed mortgage, but in no event shall any interest rate exceed the maximum rate permitted by law), and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment.

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. As used herein, the term "Annual Rate" shall refer to a fluctuating annual interest rate which is equal to the sum of two percent (2%) per annum plus the minimum interest for short-term unsecured loans charged by The Riggs National Bank of Washington, D.C., from time to time to exceptionally good credit risks. The Annual Rate shall be determined as of the date of the delinquency and shall thereafter be determined as of the last business day of each succeeding business week thereafter so long as any portion of the assessment may remain unpaid. All interest shall be calculated on a per-diem basis based upon a three hundred sixty (360)-day year.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien.

However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, 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 liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on any Lot (or the indebtedness secured thereby); recorded prior to recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

Section 10. Additional Default. Any recorded first mortgage secured on a Lot shall provide that any default by the mortgagee in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such mortgage (or the indebtedness secured thereby), but failure to include such a provision in any such mortgage shall not affect the validity or priority thereof and the protection extended to the holder of such mortgage (or the indebtedness secured thereby) by reason of Section 9 of this Article shall not be altered, modified or diminished by reason of such failure.

Section 11. Reserves for Replacements. The Association shall establish and maintain a reserve fund (or replacements of the Common Area, and those other portions of the Property for which the Association is obligated or permitted to repair, maintain, reconstruct and replace. In order to fund such reserve fund, there shall be an allocation and payment monthly to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited in any banking institution, the accounts of which are insured by any State or by an agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserves for replacements provided for herein may be expended only for the purpose of affecting the replacement of the Common Area (and those other portions of the Property for which the Association is obligated or permitted to repair, maintain, reconstruct and replace), major repairs to any equipment replacement, and for start-up expenses and operating contingencies of a non-recurring nature relating to the Common Area and those other portions of the Property for which the Association is obligated or permitted to repair, maintain, reconstruct and replace. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any member in any such reserves shall be considered an appurtenance of his Lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.

Section 12. Special Allocations of Assessments, Cluster Assessments and Limited Service Assessments.

(a) The Board of Directors may specially allocate to less than all of the Lots all or any portion of the cost of (i) maintaining, providing services to or performing any other actions that the Board of Directors and/or the Association is obligated or entitled to perform with respect to such Lots (including any improvements thereon) and/or (ii) the cost of maintaining, providing services to or performing other similar actions to any portion of the Common Area (such as structured parking areas), which is reasonably determined by the Board of Directors to be appurtenant to and/or service the Lots for which such special allocation is made. As used herein, the term "maintenance" shall also include repair, replacement and the collection of reserves.

(b) Without limiting the generality of the Board of Directors' rights set forth in Article IV, Section 12(a) above, the Board of Directors may establish different assessments for the Lots located in different Clusters (as such term is hereinafter defined) located within the Property. As used herein, the term "Cluster" shall mean and refer to all portions of the Property which are designated in this Declaration (including any supplement hereto) as being within a special Cluster area and shall include all improvements located therein. It shall be the purpose of such Cluster assessments to provide a mechanism for treating portions of the Property with common characteristics differently from other portions of the Property that do not share such common characteristics.

(c) Without limiting the generality of the right to make special allocations of assessments as provided for in Article IV, Section 12(a) above, the Board of Directors shall have the right to establish limited service assessments for services supplied to some but not all of the Owners. Such limited service assessments may include the provision of safety and security services offered to Owners on an elective basis, but may also include any other services that the Board of Directors and/or the Association may offer on an elective basis that are not otherwise funded. Such limited service assessments shall be used for services which would reasonably be expected to be delivered to a Lot (or all or a portion of the Common Area deemed by the Board of Directors to service or benefit such Lot) continuously or on a regularly recurring basis, but not for one time services or for personal services to Owners.

ARTICLE V

Covenant Control

Section 1. No building, fence, wall or other structure

shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made (including change in color) until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony or external design and location in relation to surrounding structures and topography and conformity with the design concept for the community of "Hillandale" by the Board of Directors of the Association, or by a covenant committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Design approval by this Committee or by the Board shall in no way be construed as to pass judgment on the correctness of the location, structural design, suitability of water flow or drainage, location of utilities, or other qualities of the item being reviewed. The Association shall have the right to charge a reasonable fee for reviewing each application in an amount not to exceed Fifty Dollars (\$50.00). Any such exterior addition to or change or alteration made without application first having been made and approval obtained as provided above, shall be deemed to be in violation of this covenant and may be required to be restored to the original condition at Owner's costs and expense. In any event, no such exterior addition to or change or alteration shall be made without approvals and permits therefore having first been obtained by the Owner from applicable public authorities or agencies. Notwithstanding any provision of this Declaration to the contrary, the provisions of this Article V shall be applicable to the Declarant or any part of the Property owned by the Declarant.

Section 2. Construction or alterations in accordance with the plans and specifications approved by the Covenant Committee pursuant to the provisions of this Article shall be commenced within six (6) months following the date upon which the same are approved by the Covenant Committee (whether by affirmative action or by forbearance from action, as in Section 1 of this Article provided), and shall be substantially completed within twelve (12) months following the date of commencement, or within such longer period as the Covenant Committee shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the Covenant Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviations from plans and specifications approved by the Covenant Committee. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Covenant Committee to disapprove such plans and specifications, any elements or features thereof, in the event such plans and

specifications are subsequently submitted for use in any other instance.

Section 3. Upon completion of any construction or alterations or other improvements or structure in accordance with plans and specifications approved by the Covenant Committee in accordance with the provisions of this Article, the Covenant Committee shall, at the request of the owner thereof, issue a certificate of compliance which shall be prima facie evidence that such construction, alteration or other improvements referenced in such certificate have been approved by the Covenant Committee and constructed or installed in full compliance with the provisions of this Article and with such other provisions and requirements of this Declaration as may be applicable.

Section 4. The Covenant Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted for approval and may publish such a statement of policy, standards, guidelines and/or establish such criteria relative to architectural styles or details, or other matters, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The decisions of the Covenant Committee shall be final except that any member who is aggrieved by any action or forbearance from action by the Covenant Committee may appeal the decision of the Covenant Committee to the Board of Directors and, upon the request of such member, shall be entitled to a hearing before the Board of Directors. Two-thirds (2/3) of the Board of Directors shall be required to reverse the decision of the Covenant Committee.

Section 5. Notwithstanding any provision herein to the contrary, for the period of time that the Declarant is engaged in the development of Lots, construction of homes and residences or sales of Lots and residences in the Property, the Declarant shall be a member of the Covenant Committee and shall have veto power over any decision of the Covenant Committee whatsoever. There shall be no appeal from such a veto.

## ARTICLE VI

### Use Restrictions and Easements

In addition to all other covenants contained herein, the use of the Property and each Lot therein is subject to the following:

Section 1. The Lots shall be used for residential purposes exclusively, and no building shall be erected, altered, placed or permitted to remain on such Lot other than one used as a single-family dwelling, except that a professional office may be

maintained in a dwelling, provided that such maintenance and use is limited to the person actually residing in the dwelling and, provided, further, that such office shall not be the principal office of the person maintaining the professional office, and, provided, further, that such professional office shall not adversely impact the Common Area (including, without limitation, the areas designated to serve as parking areas), and, provided, further, that such maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation. As used in this Section, the term "professional office" shall mean rooms used for office purposes by a member of any recognized profession, including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics. Nothing contained in this Article, or elsewhere in this Declaration, shall be construed to prohibit the Declarant from the use of any Lot or dwelling, or improvement thereon, for promotional or display purposes, or as "model homes", a sales office or the like.

Section 2. Other than as may be expressly provided in this Declaration, no part of the Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purposes, except Declarant may use the Property for model home sites and display and sales offices during the construction and sales period.

Section 3. Except with the prior written approval of the Board of Directors, no sign or billboard of any kind, including signs advertising the property for sale or rent, shall be displayed to the public view on any portion of the Property or any Lot, provided, however, that this Section shall not apply to signs used by the Declarant to advertise the Property during the construction and sales period.

Section 4. No noxious or offensive activity shall be carried on upon any Lot or any part of the Property, nor shall anything be done thereupon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way unreasonably interfere with the quiet enjoyment of each of the Owners of his respective dwelling unit, or which shall in any way increase the rate of insurance.

Section 5. No structure or a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any Lot at any time as a residence either temporarily or permanently. No trailer, camper, boat or similar equipment shall be permitted to remain upon any property within the Property, unless placed or maintained within an enclosed garage or carport.

Section 6. No animals, livestock or poultry of any kind

shall be raised, bred or kept on any Lot, except that no more than two (2) household pets such as dogs and cats may be kept on the Lot subject to such rules and regulations as may be adopted by the Association and provided they are not kept, bred or maintained for any commercial purposes. Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious to residents in the vicinity.

Section 7. All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, wood piles, storage areas and machinery and equipment shall be prohibited upon any Lot, unless obscured from view of adjoining Lots and streets by a fence or appropriate screen approved by the Covenant Committee. Nothing herein shall be deemed to apply to the storage on the Property by Declarant of building materials during, and for use in, the construction of the improvements of the Property.

Section 8. No exterior radio or television receiving or transmitting antennae or external apparatus shall be installed on any Lot. Normal radio and television installations wholly within a building are excepted.

Section 9. No commercial vehicles of any type shall be permitted to remain overnight on the Common Area of any Lot other than as may be used by the Declarant or utility companies in conjunction with building operations.

Section 10. No private trucks, trailers or campers and no unlicensed motor vehicles of any type shall be permitted to remain overnight on the Common Area or on any Lot.

Section 11. No boats or any type shall be permitted on the Common Area or on any Lot.

Section 12. Due to the unsightliness created and possible annoyance to other residents of Hillandale, no extensive work such as dismantling and repairing of motor vehicles, or machinery of any type and no draining of oil or automobile fluids shall be permitted outdoors on the Common Area of any Lot.

Section 13. No drying or airing of any clothing or bedding shall be permitted outdoors on the Common Area or on any Lot.

Section 14. Any and all storm doors and storm windows must comply with uniform standards as determined by the Covenant Committee or the Association.

Section 15. No Owner of a Lot shall store or maintain, nor cause to be stored or maintained, any materials, machinery, equipment, furniture, trash receptacles or other similar items

upon the Common Area, nor on any Lot in such a manner as to be visible from the Common Area or another Lot that is objectionable or detrimental to the aesthetic values of the community.

Section 16. No sound hardwood trees shall be removed from any Lot without written approval of the Association acting through its Board of Directors or duly appointed committees.

Section 17. No Owner shall violate any covenant, restriction, easement, order or other similar encumbrances that may affect the Property, including, without limitation, scenic easements, tree preservation easements, building covenants or planned unit development covenants.

Section 18. No structure, planting or other material other than driveways or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction of flow of any drainage channels.

Section 19. Garage doors and the doors of any other storage room or the like shall be maintained in a closed position whenever possible.

Section 20. No mini-bikes, motor scooters, motorcycles or other similar motor-powered vehicles shall be operated upon the Common Area.

Section 21. All Owners and occupants shall abide by the Bylaws and any rules and regulations adopted by the Association.

Section 22. There shall be no hunting, fishing, boating, or trapping on the Property or any portion thereof, and there shall be no ice skating, swimming or wading in any ponds or storm water detention facilities in the Common Area.

Section 23. Any lease agreement between the Owner and a lessee shall provide that the terms of the lease are subject in all respects to the provisions of this Declaration, and the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessees to comply with the terms of such documents shall be a default under the lease. All such leases shall be in writing and shall be for a term of not less than six (6) months.

Section 24. None of the foregoing restrictions shall be applicable to the activities of the Declarant, its officers, employees, agents or assigns, in their development, marketing and sale of Lots or other parcels within the Property.

Section 25. The following easements and rights are hereby declared or reserved:



(a) Declarant reserves the right to grant assessments, both temporary and permanent, to all public authorities and utility companies over any part of the Common Area.

(b) The rights and duties with respect to sanitary sewer and water, cable television, electricity, gas and telephone lines and facilities shall be governed by the following:

(i) Whenever water, sanitary sewer, electricity, gas, cable television or telephone connections, lines, cables or any portion thereof, are or have been installed within the Property, the Owner of any Lot, or the Association shall have the right, and are hereby granted an easement to the extent necessary therefor, to enter upon or have a utility company enter upon any portion of the Property in which said installations lie, to repair, replace and generally maintain said installations.

(ii) The right granted in Subparagraph (a) above shall be only to the extent necessary to entitle the Owner or Association serviced by said installation to its full and reasonable use and enjoyment, and provided further that anyone exercising said right shall be responsible for restoring the surface of the easement area so used to its condition prior to such use.

(iii) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, who shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

(iv) In order to allow proper access to utility meters, no gate or other fence closing device shall be locked or otherwise secured against opening in a manner which interferes with or prevents the entry upon any Lot to install, read, maintain, repair, or replace any utility meter or similar device.

(c) Each Lot within the Property is hereby declared to have an easement, not exceeding one foot (1') in width, over all adjoining portions of the Property for the purpose of accommodating any encroachment due to the design characteristics of original construction, engineering errors in original construction, settlement or shifting of the building, roof overhangs, gutters, architectural or other appendages, draining of rainwater from roofs, or any other similar cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said

encroachment, settlement or shifting provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining partitions of the Property shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

(d) There is hereby reserved unto the Declarant a blanket easement upon, across, over and under all of the Property for ingress, egress, installation, replacement, repair and maintenance of all utilities, including, but not limited to, CATV, water, sewer, drainage, gas, cable television, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary poles and other equipment on the Property and to affix and maintain electrical or telephone wires and conduits, sewer and water and drainage lines, on, above or below any residence or land owned by any Owner. The easement of ingress and egress hereby created shall allow reasonable access by authorized persons over the Common Area for purposes of entering and exiting from certain planned recreational facilities which may be located on land owned by Declarant and located adjacent to the Property (but which is not intended to be owned by the Association or deemed part of the Common Area).

(e) An easement is hereby reserved to Declarant to enter the Common Area during the period of construction and sale on the Property, and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of residences, including, without limitation, a business office, sales office, storage area, construction yards, signs, displays and model units.

(f) Declarant also reserves the right to enter into the Common Area for purposes of carrying out any obligations it might have, or assume, with respect to the curing of any defects in workmanship or materials in the Property or the improvements thereon.

(g) For a period of ten (10) years from the date of conveyance of the first Lot, the Declarant reserves a blanket easement and right on, over and under the Property to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice

of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice.

(h) Each Owner automatically grants an easement to the Association for the purpose of causing the exterior maintenance and/or other repairs and/or replacements to be made to any Lot and/or dwelling unit located on the Lot of such Owner which may be maintained by the Association in accordance with this Declaration. Such easement shall permit the Association and its agents, employees and designees access at reasonable hours for said maintenance and/or repairing and/or replacement.

(i) There shall be and is hereby reserved to the Declarant a perpetual and non-exclusive easement over all Lots, or any Common Area, for a distance of fifteen (15) feet behind the boundary of any Lot line abutting and/or parallel to a street (whether public or private) for the purpose of erecting and maintaining street intersection signs, directional signs, temporary promotional signs, entrance features and/or "theme areas", lights, stone, wood or masonry wall features and/or related landscaping.

(j) The owner of each Lot (individually a "Burdened Lot") automatically grants an easement to the Owner of the immediately adjacent Lot ("Benefited Lot") for a distance of two (2) feet behind the front boundary line of the Burdened Lot for use by the Owner of the Benefited Lot of that portion of the driveway, if any, serving the Benefited Lot that may have been constructed by the Declarant and located within said portion of the Burdened Lot.

## ARTICLE VII

### Exterior Maintenance

Section 1. The Association or its designee shall provide for the maintenance, replacement and repair for portions of the Property (except as expressly provided for herein to the contrary), in accordance with the Chart of Maintenance Responsibility described in Exhibit "B" attached hereto and made a part hereof. The Board of Directors, or its designee, shall have the right to enter upon any such Lot, and/or into or upon the improvements thereon, at reasonable hours, for the purpose of performing the maintenance, repair and replacements as provided for in this paragraph. The obligations of the Association to be performed hereunder shall be performed in a manner and with such frequency as is consistent with good property management.

(b) Except as expressly provided in the immediately preceding paragraph, each Owner shall keep each Lot owned by Him, and all improvements therein or thereon, in good

order and repair and free of debris including, but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the maintenance and repair of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Lot in the Property shall fail to maintain the Lot and/or the improvements situated thereon in accordance with this Declaration; the Board of Directors shall have the right to enter upon any such Lot or into or upon the improvements thereon to repair, maintain and restore the Lot and/or the exterior of the buildings and any other improvements erected thereon, such repair, maintenance and restoration to include, but in no way be limited to, the items of maintenance set forth in the immediately preceding paragraph as well as lawns, and the like. Without limiting the generality of the allocation rights set forth in Section 3 and 4 of Articles IV of this Declaration, all costs related to such maintenance, repair or restoration, as well as any items of maintenance, repair and/or replacement performed by the Association pursuant to the immediately preceding paragraph which are required as a result of the willful or negligent acts of the Owner of such Lot and/or its family, guests, invitees or visitors, shall all become a lien upon such Lot, and such lien may be enforced in the same manner as an annual assessment levied in accordance with Section 8 of Article IV hereof. Any such lien shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect such lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof shall extinguish any such liens to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on any Lot (or the indebtedness secured thereby); recorded prior to recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

## ARTICLE VIII

### Insurance

The Board of Directors of the Association, or its duly authorized agent, shall have the authority to and shall obtain insurance for all or any of the residential units located within the Property, unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors' satisfaction, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any such insured hazards. Such policies shall provide that insurance proceeds payable on account of loss or damage to the real property shall be

payable solely to the Owner's first mortgagee, if any, and the Association, as insurance Trustee for the Owner(s). Such insurance proceeds shall be applied to repair or restoration of the damaged property as hereinafter provided. All such insurance policies shall provide that coverage may not be cancelled by the carrier without first giving the Association and the first mortgagee, if any, ten (10) days' written notice of cancellation. All such policies shall contain, if obtainable, a waiver of the right of subrogation against any Owner, members of the Owner's family, the Association, its officers, agents and employees, as well as a waiver of the "pro-rata" clause.

The Association shall also obtain a broad form public liability policy covering all Common Areas and all damage or injury caused by the negligence of the Association or any of its agents, officers or employees in an amount of not less than One Million Dollars (\$1,000,000.00) for each occurrence and such policies shall contain a waiver of the right of subrogation against members of the Association, its officers, agents and employees.

Premiums for all insurance obtained by the Board of Directors, except policies on the individual residences, shall be a common expense. Premiums for insurance obtained by the Board of Directors on individual residences shall not be a part of the common expense, but shall be an expense of the Owner(s) of the specific residence or residences so covered and a debt owned by the owners and shall be paid within twenty (20) days after notice of such debt and shall be collectible by and any lawful procedure permitted by the laws of the District of Columbia. In addition, if said debt is not paid within twenty (20) days after notice of such debt, such amount shall automatically become a lien upon such Owner's lot and residence, and shall continue to be such a lien until fully paid. This lien shall be subordinate to the lien of any first mortgage or deed of trust and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments.

Any Owner may, if he wishes, at his own expense, carry any and all other insurance he deems advisable beyond that included in the homeowners' policy required by the Association.

In the event of damage or destruction by fire or other casualty to any property covered by insurance payable to the Association as insurance Trustee for the Owners, the Board of Directors shall, with the concurrences of a majority of the holders of first mortgages or deeds of trust against the damaged property, upon receipt of the insurance proceeds, contract or rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly existed. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provision agreed to by

said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors (or by an agent duly authorized by the Board of Directors) and a duly authorized representative of a majority of holders of the first mortgage or deeds of trust against the damaged property. The Board of Directors shall obtain bids from at least two reputable contractors, and then may negotiate with any such contractor, who may be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such building or buildings. In the event that insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to as good condition as formerly, the Board of Directors shall levy a special assessment, as provided in this Declaration against all Owner of the damaged residences in such proportion as the Board of Directors deems fair and equitable in light of the damage sustained by such residences to make up any deficiency, except that the special assessment shall be levied against all Owners, in equal proportions, to make up any deficiency for repair or rebuilding of the Common Area; subject, however, to the right of the Board of Directors to make special allocations in the manner contemplated by Sections 3(c) and 4 of Article IV of this Declaration. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgages and Owners in such proportions as the mortgagees direct.

Notwithstanding the foregoing provisions of this Section 2, it is further provided that the requirement for the maintenance of insurance on a residence shall not apply to any residence acquired by FNMA, FHLMC or VA under a mortgage foreclosure during the period of ownership by any of said agencies or entities.

## ARTICLE IX

### Party Walls

The rights and duties of the Owners of Lots with respect to party walls shall be governed by the following:

Section 1. General Rules of Law to Apply. Each wall which is constructed as a part of the original construction on the Property and any part of which is placed on the dividing line between separate Lots, shall constitute a party wall, and with respect to such wall, each of the adjoining Owners shall assume the burdens, and be subject to an easement for that portion of a party wall on his Lot, and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions, shall apply thereto.

Section 2. Sharing of Repair and Maintenance and

Destruction by Fire or other Casualty. If any such party wall is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, his agents, or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same (or cause the same to be repaired in accordance with the provisions of Article VIII) to as good condition as formerly, in proportion to their respective use of the party wall.

Section 3. Repairs of Damage Caused by One Owner. If any such party wall is damaged or destroyed through the act of one adjoining Owner or any of his agents or guests or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first such Owners shall forthwith proceed to rebuild and repair the same to as good condition as formerly, without cost to the adjoining Owner.

Section 4. Other Charges. In addition to meeting the other requirements of these restrictive covenants, and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his residence in any manner which requires the extension or other alteration of any party wall, shall first obtain the written consent of the adjoining Owner.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Dispute. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors who shall decide the dispute, and the decision of such Board of Directors shall be final and conclusive upon the parties.

## ARTICLE X

### Management

Section 1. Management Agent. The Board of Directors may employ for the Association a management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing. The Management Agent shall perform such duties and services as the Board of Directors shall authorize in writing. If the standards and regulations of FNMA and/or FHLMC prohibit self-management by

the Association and FNMA and/or FHLMC holds an interest in a first mortgage or deed of trust against any of the Lots, then no such self-management shall be undertaken by the Association without the prior written consent and approval of all of the holders of the first mortgages of record on the Lots.

Provided that any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is guaranteed by the Veterans' Administration, and, provided further, that VA standards and regulations prohibit self-management of the Association, then no such self-management shall be undertaken by the Association without the prior written consent and approval of VA.

Section 2. Duration of Management Agreement. Any management agreement entered into by the Association shall provide, inter alia, that such agreement may be terminated for cause by either party upon thirty (30) days' written notice thereof to the other party. The term of any such management agreement shall not exceed one (1) year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one (1)-year periods.

Section 3. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the common expense funds, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Area, or from any wire, pipe, drain, conduit or the like. The Association shall not be liable to any member for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Area. No diminution or abatement of assessments, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Area, or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

## ARTICLE XI

### General Provisions

Section 1. Enforcement. The Association, or any Owner, or any mortgagee of any Lot shall have the right to enforce, by any proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, liens, charges or other obligations or terms now or hereafter imposed by the provisions of this Declaration, or the Articles of Incorporation or Bylaws of the Association. Failure by the Association or by any Owner or by any mortgagee of any Lot to enforce any covenant or restrictions



herein contained or any provision of the Bylaws or Articles of Incorporation of the Association shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that except with respect to assessments and other monetary obligations which may accrue pursuant to this Declaration, any violation or breach or attempted violation or breach of any of the within covenants or restrictions or any provision of the Bylaws or Articles of Incorporation of the Association cannot be adequately remedied by action at law or exclusivity by recovery of damages. Notwithstanding any provision contained in this Declaration of any rule of law to the contrary, other than the rights of enforcement granted in this Declaration to the Association, Owners, the Declarant and mortgagee, no other party or entity shall be entitled to enforce the provisions of the Declaration either on its own behalf or through the Association, any Owner, the Declarant or any mortgagee.

Section 2. Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

Section 3. Duration and Amendment. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of the Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20)-year period by an instrument signed by not less than ninety percent (90%) of the Owners, and thereafter, by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be recorded.

Section 4. Annexation. The Declarant shall have the right, for a period of ten (10) years following the date of recordation of this Declaration, without the consent of the members of the Association, to annex and bring within the scheme of this Declaration additional land in future stages of the development as shown on the Development Plan (and amendments thereto), provided so long as a Lot is encumbered by a deed of trust or mortgage which is guaranteed by VA, then VA shall approve any annexations not in accord with said Development Plan (and amendments thereto) as approved by it. The additions authorized shall be made by filing of record Supplementary Declaration of Covenants with respect to the additional land which shall extend the scheme of the covenants and restrictions of the Declaration to such land and thereby subject such land to the effect and operation of this Declaration. Said Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any of the added

Lots and as are not inconsistent with the scheme of this Declaration. Further, except as expressly limited in this Declaration, the Declarant reserves the right, at any time and from time to time, to change, amend and/or modify the Development Plan, all as such may be deemed desirable by the Declarant in its development, sale and operation of the Property.

Section 5. VA Approvals. Provided that any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is guaranteed by the Veterans' Administration, and, provided further, that there are then Class B memberships of the Association outstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent or approval of the Veterans' Administration.

(a) make any annexation or additions other than as provided for pursuant to Section 4 of Article X of this Declaration; or

(b) abandon, partition, dedicate, subdivide, encumber, sell or transfer any of the Common Areas or community facilities directly or indirectly owned by the Association provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(c) abandon or terminate this Declaration; or

(d) modify or amend any provision of this Declaration, the Bylaws or the Articles of Incorporation of the Association; or

(e) merge or consolidate the Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Association in any other entity.

Section 6. Consents by Lenders. Any other provision of this Declaration or the Bylaws or Articles of Incorporation of the Association to the contrary notwithstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of all of the holders of the first mortgage of record on the Lots:

(a) abandon, partition, alienate, release, hypothecate, dedicate, subdivide, encumber, sell or transfer any of the Common Areas or community facilities directly or indirectly owned by the Association provided, however, that the granting of rights-of-way, easements and the like for public utilities or for

other purposes consistent with the use of the Common Area and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate this Declaration; or

(c) modify or amend any substantive provision of this Declaration, or of the Bylaws or of the Articles of Incorporation of the Association; or

(d) merge or consolidate the Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Association to any other entity; or

(e) substantially modify the method of determining and collecting assessments against an Owner of his Lot as provided in this Declaration; or

(f) waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of buildings or structures on the Lots, the exterior maintenance of buildings or structures on the Lots; the maintenance of the Common Area party walks or common fences and driveways, or the upkeep of lawns and plantings within the Property; or

(g) fail to maintain fire and extended coverage on insurable Association Common Area on property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement costs); or

(h) use hazard insurance proceeds (or losses to any Association Common Area or property for other than the repair, replacement or reconstruction of such Common Area or property.

Section 7. Additional Rights of Mortgages - Notice. The Association shall promptly notify the holder of the first mortgage on any Lot for which any assessment levied pursuant to the Declaration, or any installment thereof, becomes delinquent for a period in excess of thirty (30) days and the Association shall promptly notify the holder of the first mortgage on any Lot with respect to which any default in any other provision of this Declaration remains uncured for a period in excess of thirty (30) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any first mortgage on any Lot and the protection extended in this Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure.

No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except

after ten (10) days' written notice to the holder of the first mortgage on the Lot which is the subject matter of such suit or proceeding. If the Association undertakes "self-management", it shall promptly give written notice of such undertaking of "self-management" to all of the holders of first mortgages of record on the Lots.

Any first mortgagee of any Lot may pay any taxes, utility charges or other charge levied against the Common Areas and community facilities which are in default and which may or have become a charge or lien against any of the Common Areas and community facilities and any such first mortgages may pay any overdue premiums on any hazard insurance policy or secure a new hazard insurance coverage on the lapse of any policy, with respect to the Common Areas and community facilities. Any first mortgagee who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Association.

Section 8. Casualty Losses. In the event of substantial damage or destruction to any of the Common Areas or community facilities, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the holders of all first mortgages of record on the Lots. No provision of this Declaration or the Articles of Incorporation or the Bylaws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his Lot with respect to the distribution of such member of any insurance proceeds paid or payable on account of any damage or destruction of any of the Common Areas or community facilities.

Section 9. Condemnation or Eminent Domain. In the event any part of the Common Areas and community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Association shall give prompt written notice of any such proceeding or proposed acquisition to the holders of all first mortgages of record on the Lots. No provision of this Declaration of the Articles of Incorporation or the Bylaws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his Lot with respect to the distribution to such member of the proceeds of any condemnation or settlement relating to a taking of any of the Common Areas and community facilities.

Section 10. Charges Required by Lenders. Notwithstanding any provision to the contrary contained in the Articles of Incorporation or Bylaws of the Association or this Declaration, the Declarant shall have and hereby reserves the right to make

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\* \* \*

DISTRICT OF COLUMBIA

to wit:

I, \_\_\_\_\_, a Notary Public in and for the District of Columbia, do hereby certify that Michael L. Gulino, who is named as attorney-in-fact for Hillandale Development Corporation, Inc., the corporate party to the foregoing and annexed Declaration, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 1981, personally appeared before me in said District the said Michael L. Gulino, being personally well known to me (or satisfactorily proven) as the person named as attorney-in-fact in said Declaration for Hillandale Development Corporation, Inc., and acknowledged said Declaration to be the act and deed of said corporation, and that he delivered the same as such.

GIVEN under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

(NOTARIAL SEAL)