

THIS SUPPLEMENTARY DECLARATION OF COVENANTS AND RESTRICTIONS, hereinafter sometimes called "Special May, 1987 Supplementary Declaration", made this \_\_\_\_ day of May, 1987, by POTOMAC VALLEY PROPERTIES, INC., a corporation, hereinafter called "Declarant", party of the first part, and THE WOODS HOMEOWNERS ASSOCIATION, INC., a corporation, hereinafter called "The Association", party of the second part.

W I T N E S S E T H:

WHEREAS, by a Deed of Declaration of Conditions, Covenants, Restrictions, and Easements, dated April 9, 1976, and recorded in the office of the Clerk of the County Commission of Berkeley County, West Virginia, in Deed Book No. 297, at page 1, (hereinafter called "Deed of Declaration"), the Declarant subjected certain real property known as "Stage I, Section 2 of 'The Woods Subdivision' and 'The Woods Road'" to all of the rights, reservations, restrictions, covenants, conditions, easements, rights-of-ways, liens, charges and assessments more fully set forth in said Deed of Declaration; and

WHEREAS, said Deed of Declaration provided in Article II(a) thereof that additional lands could be annexed by the Declarant to such Subdivision with the consent of the majority of each class of members; and

WHEREAS, said Deed of Declaration provided in Article II(c) that authorized additions shall be made by filing of record a Supplementary Declaration of Covenants and Restrictions which such Supplementary Declaration may contain such complimentary additions and modifications of the Covenants and Restrictions contained in the Deed of Declaration as may be necessary to reflect the different character, if any, of the added properties, and as are not inconsistent with the scheme of the Deed of Declaration; and

WHEREAS, the Declarant desires at this time to annex

additional land and to extend the scheme of the Covenants and Restrictions of said Deed of Declaration, AS HEREINAFTER AMENDED, to said additional property as hereinafter described; and

WHEREAS, the Declarant submitted to The Association and its members a general outline plan of a possible lot development plan for sale of additional lands adjacent to The Woods Subdivision (more fully hereinafter described) in a staged manner for vacation, retirement, and primary residential purposes in conjunction with the development of a golf course and other recreational amenities with all recreational facilities to be retained and privately owned by the Declarant; and

WHEREAS, The Members of The Association, at a meeting of The Association held on November 29, 1986 for that purpose and after due and proper notice, considered the general outline plan and the proposed staged annexation of the real estate hereinafter described; and

WHEREAS, The Members of The Association at said meeting of November 29, 1986, upon proper ballot, did by a vote of three hundred forty-two (342) in favor of and twenty-two (22) against, overwhelmingly consent to the staged annexation of the real estate hereinafter described and did further grant unto The Board of Directors of The Association the authority to take whatever actions, including but not limited to, approval of final plans, details and Supplementary Declarations of Covenants as are required to give effect to such resolution and to such annexation; and

WHEREAS, the Declarant desires to establish the Supplementary Declaration terms and conditions for the lands hereinafter described and which may be annexed pursuant to this Supplementary Declaration and to extend the scheme of the

Covenants and Conditions of the Deed of Declaration, as amended by this Supplementary Declaration, to Sections 5 and 6 of The Woods Subdivision; and

WHEREAS, The Association desires to establish a public record of its consent to the annexation of the lands hereinafter described and to the terms, covenants, and conditions of this Supplementary Declaration;

NOW, THEREFORE, the Declarant declares that all of the real property, including, but not being limited to, all of the lots and roads known as Section 5 and Stage 1 of Section 6 of 'The Woods Subdivision', as more fully shown upon plats thereof prepared by P. C. DiMagno, Engineers and Surveyors, respectively dated the 30th day of March, 1987 and the 31st day of March, 1987, and respectively recorded in the office of the Clerk of the County Commission of Berkeley County, West Virginia, immediately preceding this Supplementary Declaration of Conditions, Covenants, Restrictions and Easements in Plat Cabinet No. 2, at Slides \_\_\_\_\_ and \_\_\_\_\_, which plats are hereby incorporated herein by reference, is and shall be held, transferred, sold, conveyed, and occupied subject to the Covenants, Restrictions, Easements, Charges, Assessments and Liens (sometimes referred to as "Covenants and Restrictions") set forth in that certain Declaration of Conditions, Covenants, Restrictions, and Easements heretofore executed by Potomac Valley Properties, Inc., a corporation, Declarant, dated April 9, 1976, and recorded in the office of the Clerk of the County Commission of Berkeley County, West Virginia, in Deed Book No. 297, at page 1, AS AMENDED BY THIS SUPPLEMENTARY DECLARATION, all of said easements, reservations, restrictions, covenants, conditions, rights, obligations, liens, and assessments set forth in said Deed of Declaration AS AMENDED BY THIS SUPPLEMENTARY DECLARATION, being hereby

incorporated herein by reference as if the same were set forth herein verbatim. It is expressly stated, declared, understood, covenanted and agreed that to the extent that the covenants, restrictions, easements, charges, assessments and liens set forth in the Deed of Declaration are added to, modified and amended by this Special May, 1987 Supplementary Declaration, that the terms, conditions, covenants, restrictions, easements, charges, assessments and liens set forth in this Special May, 1987 Supplementary Declaration shall control as to Section 5 and Phase 1 of Section 6 of 'The Woods Subdivision' which are hereby expressly subjected to the scheme of this Supplementary Declaration and to such other properties as may be hereafter subjected to the scheme of this Supplementary Declaration as hereinafter provided.

IN ADDITION THERETO, THE DEED OF DECLARATION IS HEREBY AMENDED AND MODIFIED IN THE FOLLOWING RESPECTS AND TO READ AS FOLLOWS:

ARTICLE II "Additions to the Property subject to this Declaration" is hereby amended by adding thereto paragraph "f" entitled PROPERTIES ADDED BY CONSENT OF A VOTE OF THE HOMEOWNERS ASSOCIATION OF NOVEMBER 29, 1986, as follows:

1(a). Notwithstanding any provisions to the contrary, all or any portion of the real property described in Exhibit "A" may, from time to time and at any time hereafter be annexed to the scheme of the Deed of Declaration as amended by the Special May, 1987 Supplementary Declaration, by Declarant or a successor without the additional consent of The Association or its members or of any mortgagees or other lien holders (other than those holding mortgages or liens on the real property being annexed) by the recordation of a Supplementary Declaration as provided for by Paragraphs f(2) and f(3).

1(b). No provision of this Special May, 1987 Supplementary Deed of Declaration shall be construed to require the Declarant or any other person or entity to annex any real property to the scheme of this Declaration as amended by or the scheme of the Special May, 1987 Supplementary Declaration, nor shall any provision to the scheme of development prohibit any real property whether or not included within the description contained in Exhibit "A" owned by the Declarant or any other person being subjected to another Declaration or scheme of development. The community contemplated by the Special May, 1987 Supplementary Declaration, including parcels of ground to be annexed hereto may include a wide diversity of residential types, including but not limited to, primary homes, retirement homes, and second home recreational residences, may include a wide diversity of housing types and styles, including but not being limited to, single family dwellings, row houses, town houses, cluster housing, condominiums and highrises, and may include a wide diversity of lot sizes, arrangements and designs.

2. METHOD OF ANNEXATION. The additions authorized by Paragraph f shall be effectuated by the recordation of a Supplementary Declaration. Such Supplementary Declaration shall be executed by the Declarant and the owners of the real property sought to be annexed to the scheme of this Deed of Declaration as amended by the Special May, 1987 Supplementary Declaration, by the recordation thereof.

3. CONTENTS OF SUPPLEMENTARY DECLARATION.

(a) The Supplementary Declaration referred to in Paragraph 2 shall describe the real property to be annexed to the scheme of the Deed of Declaration as amended by the Special May, 1987 Supplementary Declaration, and shall state that it is being made pursuant to the terms of the Deed of

Declaration and such Special May, 1987 Supplementary Declaration, for the purpose of annexing the property described in the Supplementary Declaration to the scheme of the Deed of Declaration as amended by the Special May, 1987 Supplementary Declaration and extending the jurisdiction of The Association to cover the real estate so described in such Supplementary Declaration. The Supplementary Declaration may contain such complementary additions and modifications to the Deed of Declaration and to the Special May, 1987 Supplementary Declaration, as may be necessary to reflect the different character, if any, of the real property being annexed or the various housing or community style characteristics and development approaches to which the annexed land or parts thereof may be subjected all of which may be significantly at variance with The Properties originally covered by the Deed of Declaration or the Special May, 1987 Supplementary Declaration provided, however, that any properties subjected to the Deed of Declaration and Special May, 1987 Supplementary Declaration, shall be for various residential purposes and in terms of the quality of construction of all of the improvements shall be consistent with the initial improvements.

b. Owners, upon recordation of any Supplementary Declaration, also have a right, and non-exclusive easement of enjoyment in and to the common areas within the real property so annexed in accordance with the provisions of such Supplementary Declaration and an obligation to contribute to the cost of improvement, operation and maintenance of such common areas within the annexed lands in like manner as if such common areas had been originally located within The Properties; PROVIDED, HOWEVER, the owners of any properties located within the areas described in Exhibit "A" of the Special May, 1987 Supplementary Declaration, shall not be

required to and may not be assessed for any central sewage treatment plant and collection system which may hereafter be required to be installed in Sections 1, 2, 3 and 4 of 'The Woods Subdivision'.

c. Any Supplementary Declaration recorded in accordance with the terms hereof shall be conclusive in favor of all persons who rely thereon in good faith. From and after recordation of any Supplementary Declaration in accordance with the provisions hereof and subject to the provisions of such Supplementary Declaration, the provisions hereof and subject to the provisions of such Supplementary Declaration, the real estate described therein shall be subject to provisions of the Deed of Declaration as amended by the Special May, 1987 Supplementary Declaration and all other applicable 'The Woods' property documents, the jurisdiction of The Association, the By-laws and the Articles of Association, all as amended by the Special May, 1987 Supplementary Declaration.

#### 4. GENERAL PLAN OF DEVELOPMENT.

(a) Purpose. (THE GENERAL PLAN OF DEVELOPMENT illustrated by the General Plan) Exhibit "B" is the dynamic design for the development of additional sections of 'The Woods Subdivision', as a planned residential development with Lots for sale which will be developed in conjunction with a golf course and other athletic and recreational facilities to be retained by the Declarant as a privately owned and operated business, and which will be regularly modified and amended as provided herein, during the years required to build the community. Because the GENERAL PLAN OF DEVELOPMENT is a temporary design, it shall not bind the Declarant to make the additions to The Properties which are shown on the General Plan or to improve any portion of such real estate in

accordance with the GENERAL PLAN OF DEVELOPMENT unless and until a Supplementary Declaration is filed for such real estate which subjects them or any part thereof to this Deed of Declaration and the Special May, 1987 Supplementary Declaration. Thereupon, the then Declarant shall develop such real estate so annexed in accordance with the GENERAL PLAN OF DEVELOPMENT then in effect as the same may then or thereafter be amended from time to time as provided by Subsection (b) of Paragraph f.4.

(b) AMENDMENTS. Declarant hereby reserves the right to amend the GENERAL PLAN OF DEVELOPMENT in response to changes in technological, economic, environmental or social conditions related to the development or marketing of The Properties or to changes in requirements of government agencies or financial institutions. Such amendments shall be effected by (1) giving notice of the proposed changes to The Association, and (2) securing approval of any appropriate public agencies having jurisdiction in the matter if such approval is required. Providing that the requisite notice has been given to The Association, The Association may not use its resources nor take a public position in opposition to the proposed changes.

ARTICLE III: "DEFINITIONS" is hereby amended by adding to Section 4 of Article III "Common Area" the following sentence: Common Area for all real property added and annexed pursuant to the Deed of Declaration as amended by the Special May, 1987 Supplementary Declaration shall mean all real property owned by The Association for the common use and enjoyment of the owners as reflected upon the plat or plats of The Properties subject to this Declaration, as amended, including the roads, parking areas, wells, pumping station and central water system distribution system and sewer treatment



plant and collection system and the area surrounding the same as delineated on the plat or plats of The Properties.

ARTICLE IV: PROPERTY RIGHTS IN THE COMMON PROPERTIES is hereby amended by adding thereto the following two new paragraphs to be known as Section 4(a) and Section 5(a) as follows:

Section 4(a). Parking and Highway Rights: Owners easements in the roads and parking area shall be subject to the proviso that that certain road running through The Properties formerly known as "Dupont Road" has been relocated by the Declarant and is subject to the right of certain property owners outside of The Properties, to use the same without assessment for purposes of ingress to and egress from their respective privately owned properties.

AND FURTHER, THE OWNERS EASEMENT IN THE ROADS SHALL BE SUBJECT TO A RESERVATION AND PROVISIO THAT, the Declarant, its successors and assigns shall have the right to use the streets and roads from time to time set forth and reflected upon the plat or plats of The Properties for purposes of ingress to and egress from any and all of the property set forth and reflected in Exhibit "A" to the Special May, 1987 Supplementary Declaration, which is now owned or hereafter acquired by the Declarant, all of which properties may be added to The Property which is the subject of the Deed of Declaration as amended by the Special May, 1987 Supplementary Declaration, the Declarant specifically hereby reserving unto itself, its successors and assigns, said right of ingress and egress between said surrounding properties as above described and the public roads over the streets and ways in The Properties as hereinbefore described, and said reservation with the right to use said streets and roads as herein retained by the Declarant, its successors and assigns shall be

exercised and be in effect even though said surrounding property is not annexed to or made subject to this Deed of Declaration or to the Special May, 1987 Supplementary Declaration. In the event the Declarant does not annex or subject said surrounding properties as provided herein, then and in that event, The Association shall have right to charge and assess the Declarant, its successors or assigns, who shall be liable for and shall pay, a reasonable, common, non-profit road maintenance assessment for their use of said streets and roads as hereinbefore described which said charge shall be based not only on The Association's reasonable cost of maintaining said streets and roads but also on the Declarant, its successors or assigns, amount of use of said streets and roads. Should the Declarant, its successors or assigns, abandon or release said reservation, then any road assessment allowed by this paragraph shall cease and terminate. The reservation by the Declarant herein provided for shall run to not only those properties presently owned by the Declarant and which may be annexed pursuant to the Deed of Declaration and Special May, 1987 Supplementary Declaration, but shall also apply to and is reserved for any such properties as may be annexed by the Declarant pursuant to the Special May, 1987 Supplementary Declaration, provided that the Declarant shall acquire title to any such property.

Section 5(a). The Declarant in engineering, constructing and installing the water production, treatment and distribution system and the sewage treatment and collection system has specifically and expressly sized such systems large enough to supply water to and provide sewage service for all of the existing facilities to be located upon and within the golf course area and other athletic facilities anticipated to be provided by the Declarant upon lands which are adjacent to

but not a part of 'The Woods Subdivision', and which are being developed by the Declarant as a separate, private enterprise, and the Declarant does hereby specifically RESERVE, EXCEPT AND RETAIN unto itself, its successors or assigns, the right to have said golf course area and other athletic, recreational facilities which are now are should hereafter be developed and constructed, connected to, served by and supplied with water from the water production, treatment and distribution system and to be connected and served by the central sewage collection and treatment system at and upon a bulk rate hereinafter set forth which is discounted below the non-profit gallonage rate set and provided for owners of Lots in The Properties, and in addition, and for purposes of supplying all of the Declarant's lands and properties as hereinbefore described with an adequate water supply and adequate sewage collection and treatment, the Association shall have the specific right, authority and duty to provide water to the Declarant, its successors or assigns at such discounted bulk gallonage rate. The current discounted rate provided for the Declarant for water service and based upon semi-annual meter readings shall be as follows: the first nine thousand gallons of water used at the rate of \$3.00 per thousand gallons and all water used in excess of 9,000 gallons at the rate of \$2.50 per thousand gallons. The sewer rates to be charged to the Declarant shall not exceed the non-profit rate established for Lot Owners and the Association shall have the specific authority as hereinbefore set forth to provide such sewage collection and treatment service to the Declarant at a lower bulk rate. As and when the Association increases or decreases the non-profit gallonage rate set and provided for the Owners of Lots, the Association shall increase or decrease the discounted bulk gallonage rate hereinbefore provided for by

the Declarant by the same percentage of increase or decrease in the non-profit gallonage rate set provided for Owners of Lots in the Subdivision. The Declarant, its successors or assigns, shall have the right to vote on any change of the water or sewer rates as provided in the Deed of Declaration and the Special May, 1987 Supplementary Declaration and the Declarant, its successors or assigns, in any balloting held on the change of water and/or sewerage rates shall have one (1) vote for each separately metered water and sewer location located within the aforesaid described areas. Should the above-described areas be subjected in whole or in part to the Deed of Declaration and the Special May, 1987 Supplementary Declaration, then such area or areas which are subjected to and added to The Properties subject to the Association shall have only such membership and voting rights as are set forth for other Members of the Association. PROVIDED, HOWEVER, the Declarant shall not use water from the water system for irrigating the golf course facilities.

ARTICLE 5: MEMBERSHIP AND VOTING RIGHTS is hereby amended modifying Section 2 of Article 5 "Voting Rights" to read as follows:

Section 2: VOTING RIGHTS: The Association shall have one class of voting membership. Each member, including the Declarant shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 1. When more than one (1) person holds such interests or interest in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

The Declarant is hereby specifically reserving the right to vote as provided in Section 1 of Article 5 of the Deed of

Declaration, but is hereby specifically waiving and releasing any rights to "weighted voting" as set forth in Section 2 of Article 5 of the original Deed of Declaration.

ARTICLE V: "COVENANT FOR MAINTENANCE AND ASSESSMENTS" is hereby amended in the following respects:

Section 1: Is amended by adding thereto the following sentence: "Nothing herein contained to the contrary, Properties which are subject to assessment as herein provided by reason of and under that certain Special May, 1987 Supplementary Declaration are not and shall not be subject to any special assessments for the construction and maintenance of a sewer treatment plant and collection system in Sections 1, 2, 3 and 4 of 'The Woods Subdivision'.

Section 3: Is amended by adding thereto a new paragraph to be known as Section 3(d) as follows:

Section 3(d). The initial annual rate of the annual assessments for all Lots in Section 5 and Phase 1 of Section 6 of 'The Woods Subdivision' and any other properties which may be subjected to this Deed of Declaration pursuant to and under the terms and conditions of that certain Special May, 1987 Supplementary Declaration for all matters, including but not being limited to, the general maintenance assessment, the water assessment, and the sewer assessment, shall be the same annual rates as are in effect for 'The Woods Homeowners Association, Inc., as of the dates of recordation of the Supplementary Declarations subjecting Sections 5 and 6 of 'The Woods Subdivision' and subsequent additions thereto to the effect of this Deed of Declaration as amended by the Special May, 1987 Supplementary Declaration. The Association shall operate the sewage treatment and collection system provided for in Sections 5 and Phase 1 of Section 6 of 'The Woods Subdivision' and such other Properties as are subjected to the

effect of the Deed of Declaration as amended by the Special May, 1987 Supplementary Declaration, pursuant to and in accordance with Paragraph (c) of Section 3, Article VI of the Deed of Declaration.

Section 12: Is amended by adding thereto an additional paragraph to be known as Section 12(c):

Section 12(c):

(a) All unimproved Lots owned by the Declarant within the area covered by and subject to this Deed of Declaration pursuant to and as amended by that certain Special May, 1987 Supplementary Declaration; PROVIDED, that the Class B exemption shall cease as to any individual Lot or Lots owned by the Declarant upon the date that the Declarant shall remove any such Lot or Lots from its inventory of sales Lots and converts the same to other purposes other than a Lot for sale within the subdivision, exclusive of and not including the execution of a Sales Contract by the Declarant on said Lot or Lots for a proposed sale of said Lot or Lots and cease and terminate as to all the remaining Lots owned by the Declarant on July 16, 2007.

(b) As the Declarant is to be exempt from assessments as hereinbefore provided for, the Declarant does hereby covenant and agree that until such time as its exemption terminates as hereinbefore provided for, the Declarant shall be and remain responsible on a non-profit basis for the reasonable maintenance, operation and upkeep of the Common Areas (including but not limited to the sewage treatment plant and collection system) created pursuant to the Special May, 1987 Supplementary Declaration upon and subject to the proviso that all funds and assessments as are collected by The Association while the Declarant is responsible for said maintenance and upkeep, shall be used and provided to the Declarant to aid and

defray the Declarant's cost and maintaining and upkeeping common areas and facilities. From and after the termination of the Declarant's exemption, the Declarant shall have no responsibility for maintenance and upkeep of the Common Areas in the subdivision except as a member of The Association. The operation of the sewage treatment plant and collection system will be turned over to the Association on a date to be mutually agreed to by the Association and the Declarant but in no event later than December 31, 1995.

ARTICLES VIII through and including ARTICLE XXVII are hereby revoked and cancelled insofar as said Articles apply to any of The Properties which are hereby or which hereunder may hereafter be subjected to this Supplementary Declaration (this Supplementary Declaration not changing in any respects the Restrictions, etc. for Sections 1, 2, 3 & 4 of The Woods Subdivision), and in lieu thereof the following listed Articles are hereby substituted:

ARTICLE VIII: WATER SYSTEMS AND SEWER SYSTEM

All residences, cabins, or cottages erected on a Lot shall be connected to the central water production, treatment and distribution system and no residence, cabin, cottage or living structure, may be occupied or used until such time as it is connected to the central water production, treatment and distribution system and sewer system.

All residences, cabins, or cottages erected on a Lot shall be connected to the central sewage collection and treatment system and no residences, cabins, cottages, or living structures may be occupied or used until such time as it is connected to the central sewage treatment and collection system.

ARTICLE IX: FENCING

No fencing of any type or nature, except for wood fences

shall be permitted within The Properties and no wood fences shall be of a solid or wall-like design or nature. All wood fences shall be of earth-tone or shades and shall be set back at least ten (10) feet from the front, side, and rear line of the Lots on which they are located. The Declarant reserves the right to eliminate the fencing set-back requirement on smaller Lots.

ARTICLE X: UTILITY AND DRAINAGE EASEMENT RESERVATION

The Grantor reserves unto itself and/or The Woods Homeowners Association, Inc., their successors, and/or assigns, the right to erect, install and maintain central T. V., telephone and electric service light poles, conduits, equipment, sewer, gas, water lines, drainage ditches, and structures, or to grant easements or rights-of-way therefore, with the right of ingress to and egress for the purpose of erection, installation or maintenance on, over, or under a strip of land fifteen (15) feet wide at any point along the front lines of each Lot within The Property and a strip of land ten (10) feet wide at any point along the side lines of each Lot within The Property. This easement shall be in excess of any street or road right-of-way and the fifteen (15) feet wide strip shall be measured from the edge of any road right-of-way line. In addition thereto easements for drainage facilities, walkway easements and flood plain easements as shown on the recorded plat are reserved unto the grantor and/or The Woods Homeowners Association, Inc. and/or their successors or assigns. Within all reserved easements, no structures, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of or the flow of drainage channels in easements or which may obstruct or retard the flow of water through



drainage channels in easements. The easement area of each Lot and improvement in it shall be maintained continuously by the Owner of the Lot, except those improvements for which the Homeowner's Association, a public authority or utility company is responsible.

ARTICLE XI: SLOPE CONTROL AREAS

The Grantor reserves unto itself and/or unto The Woods Homeowners Association, Inc., their successors and/or assigns, slope control areas or easements with the right of ingress and egress for the purpose of erection, installation or maintenance, on, over, or under a strip of land fifteen (15) feet wide at any point along the side, rear, or front Lot line adjacent to any road. In addition and for the sole purpose of conforming to Berkeley County, West Virginia subdivision regulations, additional width in excess of the fifteen (15) foot wide right-of-way may be used for the purpose of slope control areas; provided, however, that in no event shall slope control areas for fills or cuts exceed an additional ten (10) feet on either side of the fifteen (15) foot wide slope control easement hereinbefore mentioned and further provided that when slope control easements on any Lot exceeds the fifteen (15) foot wide slope control easements hereinbefore reserved, that said slope control easement shall be reflected upon a plat of said Lot which said plat shall be recorded with and made a part of the deed from the Declarant to the original purchaser of said Lot. Within the slope control areas, no structure, planting, or other materials shall be placed or permitted to remain or other activities undertaken which may damage or interfere with the established slope ratios, create erosion, or sliding problems, or which may change the direction or flow or drainage channels or obstruct or retard the flow of water through drainage channels. The slope

control areas of each Lot and all improvements in them shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

ARTICLE XII: OTHER EASEMENTS

(a) Easements for Encroachments: Each Lot and the property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs for all buildings constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as such encroachments stand, shall and does exist. In the event that any structure containing two or more townhouses is partially or totally destroyed and then rebuilt, the Owners of the townhouses so affected agree that minor encroachments of parts of the adjacent townhouse units or Common Areas due to construction shall be permitted, and that a valid easement for said encroachment and the maintenance thereof shall exist.

(b) There is hereby specifically reserved to the Declarant, its successors or assigns, the right, but not the duty, to construct, develop, complete and operate the project as more fully hereinbefore set forth as approved by the appropriate governmental agencies of Berkeley County, West Virginia, and to do all things necessary to accomplish said construction, development, completion and operation, including but not being limited to an easement reserved to Declarant to enter the Common Area during the period of construction and sale on The Properties or any additions to The Properties, and to maintain such facilities, perform such operations as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale of residences, et cetera, including, without limitation, a

business office, sales office, storage area, construction yards, signs and model units.

ARTICLE XIII: HOUSEHOLD PETS

Except as hereinafter provided, no animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot. Not more than two (2) dogs, cats, and other household pets, or combinations thereof, may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. Household pets shall not be permitted to run at large in The Properties.

ARTICLE XIV: PERMITTED AND/OR PROHIBITED VEHICLES

No trucks, buses, old or unsightly vehicles of any type or description may be left or abandoned on any Lot or the Common Areas and no derelict junk or abandoned motor vehicles shall be parked on any Lot or the Common Areas. All vehicles parked on any Lot or the Common Areas shall be validly and currently licensed.

ARTICLE XV: NO UNLICENSED DRIVERS

No unlicensed drivers or unlicensed motor vehicles, such as trailbikes or snowmobiles, shall be permitted within The Properties, except golf carts shall be permitted on the adjoining golf course, including crossovers, during the normal course of play, and for maintenance purposes.

ARTICLE XVI: PERMITTED BUILDING

No more than one residence shall be erected on any one Lot and any residence erected shall contain a minimum of 768 square feet on the main floor of the structure, exclusive of any basement, garage, porch or car port. The exterior of any improvement shall be completed within six (6) months from date upon which construction begins including staining. Any garage or small storage shed placed upon the Lot must conform generally in appearance and material with any dwelling on the

Lot and no shed or other out building shall be constructed prior to the inception of construction of the main dwelling. Each Lot Owner shall maintain any improvements placed on any Lot and no unsightly or dilapidated buildings, fences, or other structures shall be permitted on any Lot.

ARTICLE XVII: LIMITED RIGHT OF WAYS

No part of a Lot shall be sold or used as a right of way to any property outside The Properties except that portion thereof lying within the rights of way shown on the recorded plat or plats of The Properties and then only as hereinbefore permitted.

ARTICLE XVIII: NO DUMPING

No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other household waste of any type or nature, and no rubbish, trash, garbage, or other household wastes shall be burned or disposed of on any Lot or the Common Areas.

ARTICLE XIX: NO EXTERIOR BURNING

No bonfires or other exterior forms of fires shall be permitted on any Lot or the Common Areas except for small family controlled picnic fires.

ARTICLE XX: NO DISCHARGING OF FIREARMS

The discharge of firearms shall not be permitted within The Properties.

ARTICLE XXI: RECREATIONAL OR RESIDENTIAL USES

All of said Lots shall be used for recreational or residential purposes only and no commercial activity of any type or nature shall be permitted except upon Lots 64 and 65 of Stage 1 of Section 6, the Declarant hereby specifically reserving the right to develop, sell and/or hold Lots 64 and 65 for neighborhood retail business. The reservation and right to place neighborhood retail business upon Lot 64 and/or

65 of Phase 1 of Section 6 shall terminate for all time as to the Lot sold upon the Declarant selling any excepted Lot subject to residential restrictions. Except as hereinbefore provided, no commercial activity of any nature shall be permitted upon any Lot within The Properties. This restriction is not intended to and shall not prohibit the Declarant from having, allowing, or permitting commercial activity on any real estate that is owned adjacent to the subdivision. This restriction shall not prohibit short-term or long-term rentals of Lots in The Properties and neither this restriction nor any other restriction contained in this Declaration shall be construed to prevent or to prohibit the Declarant or any other Owner or builder, for either use as their personal residence or for purposes of profit and sale, from erecting, constructing, and building any structure permitted by these restrictions on any Lot in The Properties, nor prevent nor prohibit the Declarant from erecting, constructing or building any road or other Common Areas within The Properties.

ARTICLE XXII: BUILDING SET BACKS

No building or any part thereof shall be erected on any Lot closer than fifteen (15) feet to any outside Lot boundary line that abuts on any street, road, or right of way nor closer than ten (10) feet to any other Lot line, except upon those Lots for which no set-back is required as set forth upon the recorded plats of The Properties.

ARTICLE XXIII: NOMINAL BOUNDARY LINE ADJUSTMENT

Lots in the subdivision shall not be further subdivided in any manner except to allow for nominal boundary line adjustments.

ARTICLE XXIV: MOBILE HOMES AND TRAILERS

Mobile homes, metal homes or derivatives of either shall

not be used or placed on any Lot in any manner. No trailers, campers, camping trailers, motor homes or unlicensed vehicles shall be parked or permitted in The Properties unless stored in a permitted building.

ARTICLE XXV: EXTERIOR LIGHTING:

No dusk to dawn lights shall be permitted on any Lot, and all other exterior lighting on any Lot shall be so arranged and shaded so as not to cause glare or to cause direct reflecting of light into abutting Lots or adjacent streets. In no event shall this restriction be construed to prohibit small, appropriately located and arranged porch lights and parking area lights.

ARTICLE XXVI: GOLF COURSE EASEMENTS

The Grantor reserves unto itself, its guests, invitees, successors and/or assigns, easements to permit the doing of every act necessary and proper to the playing of golf on the golf course adjacent to the Lots which are subject to these restrictions, which said easements are hereby expressly granted, reserved and established. These acts and easements shall include, but not being limited to the recovery of golf balls from such Lots, the flight of golf balls over and upon such Lots, the use of necessary and usual equipment upon such golf course, the usual and common noise level created by the playing of the game of golf, together with all the other common and usual activity associated with the game of golf and with all the normal and usual activities associated with the operation of a country club.

ARTICLE XXVII: T.V. ANTENNAS AND SATELLITE DISHES

Well designed, attractively landscaped T. V. antennas and T. V. Satellite Antenna Dishes are permitted in The Properties until such time as a central T. V. antenna system is available to Lots either for free or upon a paid basis. After a central

T. V. antenna system is available, either for free or upon a paying service basis, to the Lots in The Properties, no T. V. antennas or T. V. Satellite Antenna Dishes or other facilities for the reception or transmission of radio or television broadcasts or other means of communication shall be erected and maintained or permitted to be erected and maintained on The Properties, and any antenna or satellite antenna dishes installed prior to the availability of the central antenna system shall be removed from the Lot upon which they are located.

ARTICLE XXVIII: CLUSTER DECLARATION

(a) The Owners of any group of Lots or Condominium Units may submit such Lots or Condominium Units to a Cluster Declaration relative to the establishment of additional maintenance areas and Cluster common Areas and to provide for a Cluster Design Review procedure, Cluster assessment, Cluster use restrictions, repair and maintenance of Lots and improvements within the Cluster, easements, reconstruction of any damaged or destroyed improvements, party walls, and other matters of common concern of the Owners of the Lots and Condominium Units agreeing to any such particular Cluster Declaration. A Cluster Declaration may also permit the annexation of additional real property to the scheme of such Cluster Declaration. The group of Lots and Condominium Units so made subject to such a Cluster Declaration is herein sometimes referred to as Cluster.

(b) Any such particular Cluster Declaration shall be binding upon and affect only Lots and Condominium Units whose Owners execute and acknowledge such particular recorded document and then only to the extent not inconsistent with the provisions of This Declaration.

(c) A Cluster Declaration may be amended only in the

manner provided for by such Cluster Declaration.

(d) Such Cluster Declaration and any amendment thereto shall become effective immediately upon proper recordation in the office of the Clerk of the County Commission of Berkeley County, West Virginia of a document complying with the requirements of this Article XXVIII. Any attempt to amend the provisions of the Cluster Declaration other than as heretofore provided shall be null and void and of no effect.

ARTICLE XXIX: NUISANCES AND NOXIOUS OR OFFENSIVE ACTIVITIES

No noxious or offensive activities shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

ARTICLE XXX: TEMPORARY RESIDENCE

No structure of a temporary character, trailer, house trailer, mobile home, mobile double wide, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

ARTICLE XXXI: ARCHITECTURAL CONTROL

For the purpose of further insuring the development of the lands which are subject to this Supplementary Declaration or amendments or additions thereto, as an area of high standards, the Declarant reserves the power to control the buildings, structures and other improvements placed on each Lot as well as to make such reasonable exceptions to the standards set forth in this Supplementary Declaration. Reference to set-backs and square footage sizes for buildings set forth in the Supplementary Declaration, as the Declarant shall deem reasonably necessary and proper to avoid hardship due to the size, shape or topography of the particular Lot. No building or other structure of any type or nature shall be



placed upon such Lots unless and until the plans and specifications therefore and plat plan have been approved in writing by the Declarant. Each such building or other structure whatever type or nature shall be placed upon the premises only in accordance with the plans and specifications and plat plans so approved. Refusal of approval of plans and specifications by such Declarant may be based upon any ground, including purely aesthetic grounds which, in the sole and uncontrolled discretion of the Declarant shall seem sufficient. No alteration in the exterior appearance of the buildings or other structures of whatever type or nature shall be made without like approval. If the Declarant shall fail to approve or disapprove of the plans and specifications within thirty (30) days after written request therefore, then such approval shall not be required; provided that no building or other structure of whatever type or nature shall be erected which violates any of the covenants herein contained. The Declarant reserves the absolute right to dedicate the authorities and responsibilities herein to the Association, and in the event of such dedication, the Association shall form an architectural control committee composed of three or more representatives appointed by the Board of Directors of the Association.

ARTICLE XXXII: SOLICITATIONS

No solicitations of any type or nature shall be permitted within The Properties except with the written permission of the Association, and the Association may make such rules and regulations as it deems reasonable and necessary to control solicitations of any type or nature and may in fact strictly prohibit any form of solicitation.

ARTICLE XXXIII: PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall

which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omission.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such

arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE XXXIV: GENERAL PROVISIONS

Section 1: Duration: The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representative, heirs, successors, and assigns, for a term of fifteen (15) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds ( $2/3$ ) of the Lots has been recorded, agreeing to change the covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken. And further provided, however, that none of the articles herein requiring connection to and use of this central water system or construction and connection to and use of a central sewage and collection system shall be abrogated or annulled without the prior written consent of the West Virginia Health Department or such other State Department or agency as shall at that time have the jurisdiction to waive such restrictive covenants.

Section 2: Enforcement: Enforcement of these covenants and restrictions shall be by any proceedings at law and in equity against any person or persons violating or attempting to violate any covenant or restrictions, either to restrain the violation or recover damages, and against the land to enforce any lien created by these covenants; and failure by

the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3: Severability: Invalidation of any one of these covenants or restrictions in whole or in part by judgment or court shall in no wise affect any other provision which shall remain in full force and effect.

Section 4: By its signature hereafter appended, the Association acknowledges and consents to the annexation of the lands hereinbefore described and to the terms, covenants and conditions of this Supplementary Declaration.

WITNESS the corporate signature and seal this \_\_\_\_ day of May, 1987.

POTOMAC VALLEY PROPERTIES, INC.  
a corporation

(CORPORATE SEAL)

By Ray S. Johnston  
Its President

THE WOODS HOMEOWNERS ASSOCIATION,  
INC., a corporation

(CORPORATE SEAL)

By [Signature]  
Its President

STATE OF WEST VIRGINIA,

COUNTY OF BERKELEY, to-wit:

I, Dana R. Clouser, a Notary Public in and for said County and State, do hereby certify that RAY S. JOHNSTON, President, who signed the name of POTOMAC VALLEY PROPERTIES, INC., a corporation, bearing date the 30 day of May, 1987, has this day acknowledged the same before me in my said County to be the act and deed of said corporation.

Given under my hand and seal this 30 day of May, 1987.

Kana R. Clawson  
Notary Public

My commission expires:

August 2, 1990

STATE OF WEST VIRGINIA,

COUNTY OF BERKELEY, to-wit:

I, Kana R. Clawson, a Notary Public in and for said County and State, do hereby certify that Irland Lisbey, President, who signed the name of THE WOODS HOMEOWNERS ASSOCIATION, INC., a corporation, bearing date the 30 day of May, 1987, has this day acknowledged the same before me in my said County to be the act and deed of said corporation.

Given under my hand this 30 day of May, 1987.

Kana R. Clawson  
Notary Public

My commission expires:

August 2, 1990

This instrument was prepared by J. Lee Van Metre, Jr., Attorney, 126 E. Burke Street, Martinsburg, WV 25401.

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JLV/nbe