

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
PIERCE BLUFFS

This Declaration of Covenants, Conditions, Restrictions and Easements for Pierce Bluffs (hereafter the "Declaration") is made this 11th day of October, 2001, by Mill Creek Enterprises, Inc., an Ohio corporation (hereafter the "Declarant"), 6715 Tippecanoe Road, Canfield, Ohio 44406.

ARTICLE I

Statement and Purpose and Imposition of Covenants

Section 1.1. Owner. The Declarant is the owner of the property in the City of Hermitage, County of Mercer, Pennsylvania, described in the attached "Exhibit A" (hereafter the "Property").

Section 1.2. Purpose. The purpose of the Declarant in making this Declaration is to create a housing subdivision and a condominium on the Property, which ensures the attractiveness of the Property, including the residences and condominium and other improvements constructed on it; to prevent any future impairment of the Property and to guard against the construction on the Property of improvements of improper or unsuitable materials or with improper quality or methods of construction; to protect and enhance the values and amenities of the Property; to provide for the operation, administration, use and maintenance of the common areas within the Property; to preserve, protect and enhance the values and amenities of the Property; and to promote the health, safety and welfare of the owners of the Property.

Section 1.3. Development and Use. Upon completion, Pierce Bluffs will consist of lots which may be developed by the construction of a single family residential dwelling. No additional lots and residences may be established on the Property by the subdivision of existing lots or residential units, or by time shares, or any other method. Additionally, upon completion, Pierce Bluffs will consist of one condominium.

Section 1.4. Imposition of Covenants. To accomplish the purposes indicated above, Declarant hereby declares that from the date of recording this Declaration forward, the Property will be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements (collectively the "Covenants"). The Covenants will run with the land and will be binding upon all persons or entities having any right, title or interest in all or any part of the Property (including Declarant) and their heirs, successors, and assigns, and their tenants, employees, guests, and invitees. These Covenants will inure to the benefit of each owner of the Property.

ARTICLE II

Definitions

The following terms, as used in this Declaration, are identified as follows:

Section 2.1. Section 2.1 is left intentionally blank.

Section 2.2. "Annual Assessment" means the assessment levied annually pursuant to Section 9.3.

Section 2.3. "Articles" or "Articles of Incorporation" means the Articles of Incorporation of Pierce Bluffs Master Association, Inc. which have been filed with the Secretary of State of

Pennsylvania, as such articles may be amended from time to time.

Section 2.4. "Assessments" means the annual, special and default assessments levied pursuant to Article IX to meet the estimated cash requirements of Pierce Bluffs Master Association, Inc.

Section 2.5. "Board of Directors" or "Board" means the Board of Directors of Pierce Bluffs Master Association, Inc., designated in this Declaration to act on behalf of Pierce Bluffs Master Association, Inc.

Section 2.6. "Building" means: (a) a building or other structure constructed in a lot; (b) or a condominium unit.

Section 2.7. "Building Site" means the building envelope or area within a lot delineating the boundaries within which a building or other improvement may be located, always subject to the prior written approval of the Design Review Committee. "Building Site" shall also mean the building envelope or area wherein a condominium unit is built.

Section 2.8. "Bylaws" means the bylaws of Pierce Bluffs Master Association, Inc., which established the methods and procedures of its operation, as such bylaws may be amended from time to time.

Section 2.9. "Common Area" means the real property described in the attached "Exhibit B", if and when conveyed by Declarant as provided in Sections 3.1 and 5.2.1 and Article XI below. "Common Area" may include Improvements, including clubhouses, swimming pools, and may also include all Improvements such as right-of-way properties for any amenities not in the property described in "Exhibit B" but which shall be considered "Common Area" property such as entry signs and associated landscaping. Pursuant to Sections 3.1 and 5.2.1 and Article XI below, Declarant, in Declarant's sole discretion, may submit all or any portion of the property described in "Exhibit B" to this Declaration.

Section 2.10. "Common Expenses" means (i) premiums for the insurance carried by Pierce Bluffs Master Association, Inc. under Article XII; (ii) all other expenses incurred by the Association in administering, serving, conserving, managing, maintaining, repairing or replacing the common area and any Improvements located on it; (iii) all expenses expressly declared to be common expenses by the Pierce Bluffs Documents; (iv) all expenses lawfully determined to be common expenses by the Board of Directors; and (v) all expenses to be allocated among the owners as provided in Article IX.

Section 2.11. "Declarant" means the Mill Creek Enterprises, Inc., an Ohio corporation, or its successors or assigns, including any Successor Declarant to the extent the rights of Declarant are assigned to the Successor Declarant, as provided in Section 20.7 below.

Section 2.12. "Default Assessment" means any assessment levied by the Association pursuant to Section 9.6 below.

Section 2.13. "Default Rate" means an annual rate of interest that is lesser of (i) two points above the prime rate charged by the Declarant's bank or (ii) the maximum rate permitted by applicable law, whichever is lower.

Section 2.14. "Design Guidelines" means the guidelines and rules published and amended and supplemented from time to time by the Design Review Committee.

Section 2.15. "Design Review Committee" or "Committee" means the committee formed pursuant to Article VI to maintain the quality and architectural harmony of Improvements in Pierce Bluffs.

Section 2.16. "Development Rights" is defined in Section 11.1 below.

Section 2.17. "Director" means a member of the Board.

Section 2.18. "Dwelling Unit" means a dwelling unit as defined as a single family house on a Lot, or a Condominium Unit.

Section 2.19. "First Mortgage" means any mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

Section 2.20. "First Mortgagee" means the holder of record of a first mortgage.

Section 2.21. "Improvement(s)" means all Buildings, temporary or permanent, clubhouses, parking areas, loading areas, fences, walls, hedges, plantings, lighting, poles, driveways, roads, ponds, lakes, swimming pools, trails, gates, signs, changes in any exterior color or shape, excavation and all other site work, including, without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" does not include turf, shrub, or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearances. "Improvement(s)" does include both original improvements and all later changes and improvements.

Section 2.22. "Lot/Unit" means parcel of land designated as a lot, or designated as the envelope or area for a condominium unit, on the Master Plan, as defined in Section 2.25 below.

Section 2.23. "Maintenance Fund" means the fund created by Assessments and fees levied pursuant to Article IX below to provide the Association with the funds required to carry out its duties under this Declaration.

Section 2.24. "Manager" means such person or entity retained by the Board of Directors to perform certain functions of the Board pursuant to this Declaration or the Bylaws.

Section 2.25. "Master Plan" means the master plan of Pierce Bluffs, as approved by the appropriate authorities of the City of Hermitage and which is recorded in the Office of Records, Mercer County, Pennsylvania.

Section 2.26. "Member" means any person or entity holding membership in the Association.

Section 2.27. "Mortgage" means any mortgage, deed of trust or other document which is recorded in the office of the Recorder of Mercer County, Pennsylvania, and which encumbers any portion of the Property or interest therein as security for the payment of a debt or obligation.

Section 2.28. "Mortgagee" means any person named as a beneficiary or mortgagee under a Mortgage, or any successor to the interest of any such person under such Mortgage.

Section 2.29. "Pierce Bluffs" means the community created by this Declaration, consisting of the Property and all of the Improvements located on the Property, and all Common Area.

Section 2.30. "Pierce Bluffs Master Association, Inc." means the Pierce Bluffs Master

Association, a Pennsylvania non-profit membership corporation, and any successor of that entity by whatever name charged with the duties and obligations of administering and funding the Common Areas under Articles V and IX.

Section 2.31. "Pierce Bluffs Documents" means the basic documents creating and governing Pierce Bluffs including, but not limited to, this Declaration, the Articles of Incorporation and Bylaws, the design guidelines, Pierce Bluffs Rules and any other procedures, rules, regulations or policies adopted under such documents by Pierce Bluffs Master Association, Inc.

Section 2.32. "Pierce Bluffs Rules" means the rules and regulations adopted by the Association as provided in Section 5.3 below.

Section 2.33. "Owner" means the owner of record (including Declarant, and including a contract seller, but excluding a contract purchaser), whether one or more persons or entities, of fee simple title to any Lot/Unit, but does not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a Mortgagee, unless and until such person or entity has acquired fee simple title pursuant to foreclosure or other proceedings.

Section 2.34. "Period of Declarant Control" means the period beginning on the date this Declaration is first recorded in the office of the Recorder of Mercer County, Pennsylvania, and ending seven years later, or until all of the Lots and/or Condominium Units described in Section 1.3 above are sold by Declarant, or reinstated or extended by agreement between Declarant and the Association, subject to whatever terms, conditions and limitations the Board of Directors may impose on the subsequent exercise by Declarant of the Special Declarant Rights. After the termination of the period of Declarant Control, if Declarant is still an Owner, Declarant will have all the rights and duties ordinarily given to Members under this Declaration.

Section 2.35. "Person" (whether or not in capitalized form) means a natural person, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or combination of the foregoing.

Section 2.36. "Plat" means the engineering survey or surveys of all or part of the Property, together with such other diagrammatic plans and information regarding the Property, and which is recorded with the Recorder of Mercer County, Pennsylvania.

Section 2.37. "Property" means and includes the property described in Exhibit A and initially subjected to this Declaration, and also refers to the property described in Exhibit B that may be incorporated in Pierce Bluffs from time to time and made subject to these Covenants pursuant to the provisions of this Declaration.

Section 2.38. "Special Assessment" means an Assessment levied pursuant to Section 9.4.

Section 2.39. "Special Declarant Rights" as defined as set forth in Section 11.1.

Section 2.40. "Successor Declarant" means any party or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as permitted by Section 20.7 and evidenced by an assignment or deed of record in the office of the Recorder of Mercer County, Pennsylvania, designating such party as a Successor Declarant, signed by the transferor and the transferee. Upon such recording, Declarant's rights and obligations under the Declaration will cease and terminate to the extent provided in such document.

Section 2.41. "Supplemental Covenants" means additional or further restrictive covenants

imposed on a portion or portions of the Property from time to time.

ARTICLE III

Pierce Bluffs

Section 3.1. Establishment of Pierce Bluffs. By this Declaration, Pierce Bluffs is established consisting Lots/Units described in Section 1.3 above. Declarant reserves the Development Right to add to this Declaration all or a portion of the Common Area described in "Exhibit B" and to incorporate therein additional Lots/Units, at Declarant's sole discretion, within Pierce Bluffs and to be governed by this Declaration.

Section 3.2. Declaration of Lot/Unit Boundaries. The boundaries of each Lot/Unit are delineated on the Plat, and each Lot/Unit is identified by the number or address noted on the Plat.

Section 3.3. Plat. The Plat will be filed for record in the office of the Recorder of Mercer County, Pennsylvania. The Plat may be filed as a whole or as a series of Plats from time to time. Any Plat filed subsequent to the first Plat will be termed a supplement to the Plat, and the numerical sequence of each supplement will be shown on it.

ARTICLE IV

Association Membership and Voting Rights

Section 4.1. Membership. Every Owner, by virtue of being an Owner, and for so long as he is an Owner, will be a member of the Association. Membership will be appurtenant to and may not be separated from ownership of any Lot/Unit. No Owner, whether one or more persons, will have more than one membership per Lot/Unit owned, but all of the persons owning each Lot/Unit, will be entitled to rights of membership and of use and enjoyment appurtenant to such ownership.

Section 4.2. Transfer of Membership. An Owner will not transfer, pledge or alienate his membership in the Association in any way except upon the sale or encumbrance of his Lot/Unit, and then only to the purchaser or Mortgagee of his Lot/Unit.

Section 4.3. Classes of Membership. Initially, the Association will have one class of voting membership, composed of all Owners, including Declarant. The Bylaws may set forth additional classifications of membership from time to time.

Section 4.4. Voting Rights. All Members will be entitled to vote on Association matters on the basis of one vote for each Lot/Unit owned, as each Lot/Unit is originally platted by Declarant. The number of votes will be determined by reference to the Plat as supplemented and as recorded by Declarant.

When more than one person holds an interest in any Lot/Unit, all such persons will be Members. The vote for such Lot/Unit may be exercised by one person or alternative persons as the Owners among themselves determine. If more than one of the multiple Owners are present at a meeting in person or by proxy, the vote allocated to their Lot/Unit may be cast only by one person holding an interest in their Lot/Unit.

Section 4.5. Appointment of Officers and Directors by Declarant. Until the expiration of the period of Declarant Control, Declarant will retain the exclusive powers to appoint and remove Directors and officers of the Association. Notwithstanding the foregoing, Declarant may voluntarily surrender

the right to appoint and remove Directors and officers of the Association before the end of the period of Declarant Control by providing notice to that effect to the Association and otherwise complying with the Bylaws.

Section 4.6. Notice of Membership. Any person, on becoming a Member, will furnish the Association with a photocopy or a certified copy of the recorded instrument or such other evidence as may be specified by the Board, vesting the person with the interest required to make him a Member. At the same time, the Member will provide the Association with the single name and address to which the Association will send any notices given pursuant to the Pierce Bluffs Documents. The Member will state in such notice the voting interest in the Association to which the Member believes he is entitled and the basis for that determination. In the event of any change in the facts reported in the original written notice, including any change of ownership, the Member will give a new written notice to the Association containing all of the information required to be covered in the original notice.

Section 4.7. Owners and Association's Addresses for Notices. All Owners of each Lot/Unit will have one and the same mailing address to be used by the Association or other Owners for notices, demands and all other communications regarding Association matters. The Owner or Owners of a Lot/Unit will furnish the address to the Association within ten (10) days after receiving title to the Lot/Unit. The registration will be in written form and signed by all of the Owners of the Lot/Unit or by such persons as are authorized by law to represent the interest of all Owners of the Lot/Unit.

If the address of the Lot/Unit is the address of the Owners, then any notice will be deemed duly given if delivered to any person occupying the Lot/Unit or sent to the Lot/Unit by any other means specified for a particular notice in any of Pierce Bluffs Documents, or if the Lot/Unit is unoccupied, if the notice is held and available for the Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors will be sent to the address of the Association or such other address as the Board may designate from time to time by a notice delivered to all Owners in accordance with this Section.

All notices given under this Declaration will be sent by personal delivery, which will be effective upon receipt; by overnight courier service, which will be effective one business day following timely deposit with a courier service; or regular, registered or certified mail, postage prepaid, which will be effective three days after deposit in the U.S. Mail.

Section 4.8. Compliance with Pierce Bluffs Documents. Each Owner will abide by and benefit from the provisions, covenants, conditions and restrictions contained in the Pierce Bluffs documents.

ARTICLE V

Powers and Duties of Pierce Bluffs Association

Section 5.1. Association Management Duties. The Board of Directors will exercise for the Association all powers, duties and authority vested in or obligated to be taken by the Association and not reserved to Declarant or the other Members by this Declaration, or the other Pierce Bluffs Documents.

Section 5.2. Common Area.

Section 5.2.1. Conveyance by Declarant. At Declarant's sole discretion, Declarant may convey to the Association, by written instrument recorded with the Recorder of Mercer County, Pennsylvania, all or a portion of the Common Area described in Exhibit B, including any Improvements located thereon and the rights and easements appurtenant to such property. Notwithstanding the foregoing, there may

be Improvements, including, but not limited to, signs, entryways, and associated landscaping, that are not on the property described in Exhibit B, but which will also be considered Common Area and shall be included in the Property originally submitted to this Declaration as "Exhibit A".

Section 5.2.2. Use of Common Area. The Common Area generally is designated by this Declaration for the common use, benefit and enjoyment of the Owners and their families, tenants, employees, guests and invitees, and such other persons as may be permitted to use the Common Area by agreement. That is, the Association, acting through the Board of Directors, may grant easements, rights-of-way, leases, and licenses through or over the Common Area without the independent approval by the Owners, subject, however, to the rights of Declarant and the Owners to use the Common Area as provided in this Declaration. Without limiting the generality of the foregoing, the Association may grant such rights to suppliers of utilities serving the Property or property adjacent to the Property, and to developers or owners of property adjacent to the Property for the purpose of accommodating minor encroachments onto the Common Area or other purposes that do not unreasonably interfere with the use and enjoyment of the Common Area by the Owners.

Section 5.2.3. The Association's Responsibility for Common Area. The Association, subject to the rights and obligations of the Owners set forth in this Declaration, will be responsible for the management and control of the Common Area and all Improvements on the Common Area, and will keep it in good, clean, and attractive condition and repair consistent with the standards of Pierce Bluffs.

Section 5.2.4. Declarant's Right to Perform for the Account of the Association. In the event the Association does not repair or maintain the Common Area, Declarant will have the right, but not the obligation, to perform such duties for the Association. In that event, Declarant will be entitled to reimbursement from the Association of all costs incurred by Declarant, such reimbursement being due within thirty (30) days after the receipt by the Association of an invoice from Declarant, itemizing the costs incurred.

Section 5.2.5. The Association's Agreements Regarding Common Area. The Association, acting through the Board of Directors, may grant easements, rights of way, leases, licenses and concessions through or over the Common Area without the independent approval by the Owners, subject, however, to the rights of Declarant and the Owners to use the Common Area as provided in this Declaration.

Section 5.3. Rules and Regulations.

Section 5.3.1. Subject to the provisions of the Pierce Bluffs Documents, the Board of Directors may adopt, amend and repeal rules and regulations, to be known as the "Pierce Bluffs Rules", governing, among other things and without limitation, the use of the Common Area. A copy of the Pierce Bluffs Rules, if any, will be distributed to any member requesting same in writing to the Association.

Section 5.3.2. Enforcement. The Board of Directors will provide for enforcement of the Pierce Bluffs Rules as set forth in the Bylaws. Without limiting the generality of the foregoing, the Board may suspend the voting rights of a Member after notice and hearing as provided in the Bylaws for an infraction of the Pierce Bluffs Rules.

Section 5.4. Delegation by the Association.

Section 5.4.1. The Association may employ or contract for the services of a Manager to act for the Association and the Board and the officers according to the powers and duties delegated to the

Manager pursuant to the Bylaws or resolution of the Board. Neither the Board nor any officer of the Association will be liable for any omission or improper exercise by a Manager of any such duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

Section 5.4.2. Committees. The Association may delegate any of its rights, duties or responsibilities to any committee or other entity that the Board may choose to form.

Section 5.4.3. Ownership of Personal Property and Real Property for Common Use. The Association through action of its Board, may acquire, hold and dispose of personal property and real property. The Board, acting on behalf of the Association, will accept any real or personal property, leasehold, easement, license, or other property interests within Pierce Bluffs and conveyed to the Association by Declarant.

Section 5.4.4. Books and Records. The Association will make available for inspection by Owners and Mortgagees, upon request, during normal business hours, current copies of Pierce Bluffs Documents and the books, records, and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials.

Section 5.4.5. Reserve Account. The Association will establish and maintain an adequate reserve fund from Annual Assessments levied pursuant to Section 9.3 below for maintenance, repair or replacement of the Common Area and Improvements located within the Common Area that must be replaced on a periodic basis and for any other facilities made available to the Association that must be replaced on a periodic basis with contribution from the Association.

Section 5.5. Section 5.5 is left intentionally blank.

Section 5.6. Successor to Declarant. The Association will succeed to all of the rights, duties and responsibilities of the Declarant under this Declaration upon termination of the period of Declarant Control.

Section 5.7. Implied Rights and Obligations. The Association will perform all of the duties and obligations imposed on it expressly by Pierce Bluffs Documents, together with every other duty or obligation reasonably to be implied from the express provisions of the Pierce Bluffs Documents or reasonably necessary to satisfy any such duty or obligation. The Association may exercise any other right or privilege (i) given to it expressly by Pierce Bluffs Documents, (ii) reasonably to be implied from the existence of another right or privilege given expressly by Pierce Bluffs Documents, or (iii) reasonably necessary to effectuate any such right or privilege.

ARTICLE VI

Design Review Committee

Section 6.1. Committee and Guidelines. There is hereby established a Design Review Committee, which will be responsible for the establishment and administration of Design Guidelines to facilitate the purposes and intent of this Declaration. No building or structure, including fences and walls, whether temporary or permanent, shall be commenced, erected, placed, moved onto or permitted to remain on the Property nor shall any building or structure be altered, modified or changed in any way which changes the exterior or the appearance thereof, nor shall any new use be commenced or made on the Property or any part thereof unless an application, plans and specifications for the proposed construction, installation or change, including the description of any proposed new use thereof, shall have been submitted to and approved in writing by the Design Review Committee.

The plans and specifications submitted to the Design Review Committee shall be in such form and shall contain such information as may be reasonably requested by the Design Review Committee. The Committee may amend, repeal and augment the Design Guidelines from time to time, in the Committee's sole discretion. The Design Guidelines will be binding on all Owners and other persons governed by this Declaration. The Design Guidelines will be on file with the Association. Any conflict between provisions of the Design Guidelines and the provisions of this Declaration shall be resolved in favor of this Declaration. The Design Guidelines may include, among other things, those restrictions and limitations set forth below:

Section 6.1.1. Procedures for making application to the Committee for Design Review approval, including the documents to be submitted and the time limits in which the Committee must act to approve or disapprove any submission.

Section 6.1.2. Time limitations for the completion, within specified periods after approval, of the Improvements for which approval is required under the Design Guidelines.

Section 6.1.3. Designation of the Building Site on a Lot/Unit, establishing the maximum developable area of the Lot/Unit.

Section 6.1.4. Minimum and maximum square foot areas of living space that may be developed on any Lot/Unit.

Section 6.1.5. Landscaping regulations, with limitations and restrictions prohibiting the removal or requiring the replacement of existing trees, the use of plants indigenous to the locale, and other practices benefitting the protection of the environment, aesthetics, and architectural harmony of Pierce Bluffs.

Section 6.1.6. General instructions for the construction, reconstruction, refinishing or alteration of any Improvement, including any plan to excavate, fill or make any other temporary or permanent change in the natural or existing surface contour or drainage or any installation of utility lines or conduits on the Property, addressing matters such as loading areas, waste storage, trash removal, equipment and material storage, grading, transformers and meters.

Section 6.2. Committee Membership. The Committee will be composed of up to three persons who need not include any Member of the Association. All of the Members of the Committee will be appointed, removed and replaced by Declarant, in its sole discretion, until the expiration of the Period of Declarant Control or such earlier time as Declarant may elect to voluntarily waive this right by notice to the Association, and at that time the Board will succeed to Declarant's right to appoint, remove, or replace the members of the Committee.

Section 6.3. Purpose and General Authority. The Committee will review, study and either approve or reject proposed Improvements on the Property, all in compliance with this Declaration and as further set forth in the Design Guidelines and such rules and regulations as the Committee may establish from time to time to govern its proceedings. No Improvement will be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor will any construction, repair or reconstruction be commenced until plans for the Improvements shall have been approved by the Committee; provided, however, that Improvements that are completely within a Building may be undertaken without such approval. All Improvements will be constructed only in accordance with approved plans.

Section 6.3.1. Committee Discretion. The Committee will exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design,

quality and type of construction, materials, color, location on the Building Site, height, grade and finished ground elevation, and the schemes and aesthetic considerations set forth in the Design Guidelines and the Pierce Bluffs Documents. The Committee, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements.

Section 6.3.2. Binding Effect. The actions of the Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, will be conclusive and binding on all interested parties.

Section 6.4. Organization and Operation of Committee.

Section 6.4.1. Term. The term of office of each member of the Committee, subject to Section 6.2, will be one year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a Committee member die, retire or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in Section 6.2.

Section 6.4.2. Chairman. So long as Declarant appoints the Committee, Declarant will appoint the chairman. At such time as the Committee is appointed by the Board of Directors, the chairman will be elected annually from among the members of the Committee by a majority vote of the members. In the absence of a chairman, the party responsible for appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, an interim chairman.

Section 6.4.3. Operations. The Committee chairman will take charge of and conduct all meetings and will provide for reasonable notice to each member of the Committee prior to any meeting. The notice will set forth the time and place of the meeting, and a notice may be waived by any member.

Section 6.4.4. Voting. The affirmative vote of a majority of the members of the Committee will govern its actions and be the act of the Committee.

Section 6.4.5. Expert Consultation. The Committee may avail itself of other technical and professional advice and consultants as it deems appropriate, and the Committee may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the Committee. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant will be equivalent to approval or disapproval by the entire Committee.

Section 6.5. Expenses. Except as provided in this section below, all expenses of the Committee will be paid by the Association and will constitute a Common Expense. The Committee will have the right to charge a reasonable fee for each application submitted to it for review, in an amount which may be established by the Committee from time to time, and such fees will be collected by the Committee and remitted to the Association to help defray the expenses of the Committee's operation.

Section 6.6. Other Requirements. Compliance with the Pierce Bluffs design review process is not a substitute for compliance with building, zoning and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction. Further, the establishment of the Design Review Committee and procedures for architectural review will not be construed as changing any rights or restrictions upon Owners to maintain and repair their Lots/Units and Improvements as otherwise required under the Pierce Bluffs Documents.

Section 6.7. Limitation of Liability. The Committee will use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. Neither the Committee nor any individual Committee member will be liable to any person for any official act of the Committee in connection with submitted plans and specifications, except to the extent the Committee or any individual Committee member acted with malice or wrongful intent. Notwithstanding that the Committee has approved plans and specifications, neither the Committee nor any of its members will be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason of such approval of the construction of the Improvements. Neither the Board, the Design Review Committee, nor any agent thereof, nor Declarant, nor any of its partners, employees, agents or consultants will be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of Pierce Bluffs Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Committee will be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the Committee's decision. The Association, however, will not be obligated to indemnify each member of the Committee to the extent any such member of the Committee is adjudged to be liable for negligence or misconduct in the performance of his duty as a member of the Committee, unless and then only to the extent that the court in which such action or suit may be brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

Section 6.8. Enforcement.

Section 6.8.1. Inspection. Any member or authorized consultant of the Design Review Committee or any authorized officer, Director, employee or agent of the Association may enter upon any Lot/Unit at any reasonable time after notice to the Owner without being deemed guilty of trespass, in order to inspect Improvements constructed or under construction on the Lot to determine whether the Improvements have been or are being built in compliance with the Pierce Bluffs Documents and the plans and specifications approved by the Design Review Committee.

Section 6.8.2. Deemed Nuisances. Every violation of these Covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against a Member will be applicable. Without limiting the generality of the foregoing, these Covenants may be enforced as provided below.

- (i) **Fines for Violations.** The Committee may adopt a schedule of fines for failure to abide by the Design Guidelines, and any rules implementing the same, including fines for failure to obtain any required approval from the Committee.
- (ii) **Removal of Non-Conforming Improvements.** The Association upon request of the Committee and after reasonable notice to the offender and, if different, to the Owner, may enter upon any Lot/Unit at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove any Improvement constructed, reconstructed, refinished, altered, or maintained in violation of these Covenants. The Owner of the Improvement will immediately reimburse the Association for all expenses incurred in connection with such removal. If the Owner fails to reimburse the Association within thirty (30) days after the Association gives the Owner notice of the expenses, the sum owed to the Association will bear interest at the Default Rate from the date of the advance by the Association through the date of reimbursement in full, and all such sums and interest will be a Default Assessment enforceable as provided in Article IX.

Section 6.9. Continuity of Construction. All Improvements commenced on the Property will be prosecuted diligently to completion and will be completed within eighteen (18) months after commencement, unless an exception is granted in writing by the Committee. If an Improvement is commenced and construction is then abandoned for more than ninety (90) days, or if construction is not completed within the required eighteen (18) month period, then after notice and opportunity for hearing as provided in the Bylaws, the Association may impose a fine of not less than \$100.00 per day (or such other reasonable amount as the Association may set) to be charged against the Owner of the Lot/Unit until construction is resumed, or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Board of Directors that such abandonment is for circumstances beyond the Owner's control. Such charges will be a Default Assessment and lien as provided in Article IX.

Section 6.10. Reconstruction of Common Area. The reconstruction by the Association after destruction by casualty or otherwise of any Common Area will not require compliance with the provisions of this Article or the Design Guidelines.

ARTICLE VII

Property Use Restrictions

Section 7.1. General Restriction. The Property will be used only for the purposes set forth in these Covenants, as permitted by the applicable ordinances of the City of Hermitage and the laws of the State of Pennsylvania and the United States, and as set forth in the Pierce Bluffs Documents or other specific recorded covenants affecting all or any part of the Property.

Section 7.2. Residential Use of Lots/Units. Each Lot/Unit may be used only for residential purposes and developed by the construction of a single family Dwelling Unit. No business or commercial Building may be erected on any Lot/Unit, and no business or commercial enterprise or other non-residential use may be conducted on any part of a Lot, of the Declarant as set forth in Article XI below. Notwithstanding the foregoing, an Owner may conduct business activities within his Dwelling Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for Pierce Bluffs; (c) the business activity does not involve door-to-door solicitation of residents of Pierce Bluffs; and (d) the business activity is consistent with the residential character of Pierce Bluffs and does not constitute a nuisance, or a hazard or offensive use, or threaten the security or safety of the residents of Pierce Bluffs. The leasing of a Dwelling Unit shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Declarant with respect to its development of Pierce Bluffs.

Section 7.3. Motorized Vehicles. No trucks, trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, trailer, boats or boat trailers or similar vehicles other than passenger automobiles or pickup or utility trucks with a capacity of one-half ton or less or any other motorized vehicles will be parked, stored or in any manner kept or placed on any portion of the Property except in an enclosed garage. This restriction, however, will not be deemed to prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or otherwise providing services to the Property or for Declarant or the other Owners.

Section 7.4. Excavation. No excavation will be made except in connection with Improvements approved as provided in these Covenants. For purposes of this Section, "excavation" means any disturbance of the surface of the land which results in a removal of earth, rock, or other substance a depth of more than 18 inches below the natural surface of the land.

Section 7.5. Electrical, Television, Natural Gas and Telephone Service. All electrical, television, natural gas and telephone service installations will be placed underground.

Section 7.6. Wells. No well from which water is produced will be dug, nor will storage tanks, reservoirs, or any installation of power, telephone or other utility lines (wire, pipe, or conduit) be made or operated anywhere on the Property except in connection with water wells and works operated by public agencies or duly certified public utility companies; provided, however, that the foregoing will not prevent the drilling of or installation of additional water wells, or gas wells, by Declarant or its assigns.

Section 7.7. Signs. No signs of any kind will be displayed to the public view on or from any portion of the Property except during the Period of Declarant Control, signs of Declarant or its affiliates or assigns (which will be approved by the Committee), or signs required by law. However, a professionally prepared "For Sale" or "For Rent" sign may be posted on any Lot/Unit.

Section 7.8. Animals and Pets. No animals, livestock, or poultry of any kind will be kept, raised, or bred on any portion of the Property, except dog, cats or other household pets (the kind and number of which may be regulated, permitted or prohibited from time to time by the Pierce Bluffs Rules).

Section 7.8.1. Containment. Household pets, such as dogs and cats, must be contained upon the Owner's Lot/Unit, and such pets may not be permitted to run at large at any time.

Section 7.8.2. Leashes. Pedestrians within the Property who are accompanied by dogs must have the dogs under the pedestrians' direct control by use of a leash.

Section 7.9. Drainage. No Owner will do or permit any work, place any landscaping or install any other Improvements or suffer the existence of any condition whatsoever which will alter or interfere with the drainage pattern for the Property, except to the extent such alteration and drainage pattern is approved in writing by the Committee or the Board of Directors, and except for rights reserved to Declarant to alter or change drainage patterns.

Section 7.10. Trash. No trash, ashes, garbage construction materials or other refuse will be thrown or dumped on any land or area within the Property. The Association will cooperate in and encourage programs to recycle trash and other refuse. There will be no burning or other disposal of refuse out of doors. Each Owner will provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles will be screened from the public view and from the wind and protected from animal and other disturbance.

Section 7.11. Construction Regulations of the Design Guidelines. All Owners and contractors will comply with the portions of the Design Guidelines regulating construction activities. Such regulations may affect, without limitation, the following: trash and debris removal; sanitary facilities; parking areas; outside storage; restoration of damaged property; conduct and behavior of builders, subcontractors and Owners' representations on the Property at any time; the conservation of landscape materials; and fire protection.

Section 7.12. Temporary Structures. No temporary structures will be permitted except as may be determined to be necessary during construction and as specifically authorized by the Committee, and except as necessary for the exercise by the Declarant of the Special Declarant Rights.

Section 7.13. Compliance with Laws. Subject to the rights of reasonable contest, each Owner will promptly comply with the provisions of all applicable laws, regulations, ordinances, and other governmental or quasi-governmental regulations with respect to all or any portion of the Property.

Without limiting the generality of the foregoing, each Owner will abide by any wildlife regulations imposed by the Association or any agency or authority having jurisdiction over the Property. Further, no Owner will dispose or allow any person under the Owner's control or direction to release, discharge or emit from the Property or dispose of any material on the Property that is designated as hazardous or toxic under any federal, state or local law, ordinances or regulations.

Section 7.14. Parking and Auto Repair. No automobiles or other vehicles will be parked in any street or upon any portion of the Property except within garages, carports, or on driveways, or designated parking areas.

Section 7.15. Abandoned, Inoperable, or Oversized Vehicles. No abandoned or inoperable vehicles of any kind will be stored or parked on any portion of the Property, except as provided below. "Abandoned or inoperable vehicle" is defined as any vehicle which has not been driven under its own propulsion for a period of three weeks or longer; provided, however, this will not include vehicles parked by Owners while on vacation or residing away from Pierce Bluffs. A written notice describing the "abandoned or inoperable vehicle" and requesting its removal may be personally served upon the Owner or posted on the unused vehicle. If such vehicle has not been removed within 72 hours after notice has been given, the Association will have the right to remove the vehicle without liability, and the expense of removal will be a Default Assessment charged and enforceable against the Owner as provided in Section 9.5. All unsightly or oversized vehicles, snow removal equipment, garden maintenance equipment, and all other unsightly equipment and machinery may be required by Declarant or the Board of Directors to be stored at a designated location or locations. "Oversized" vehicles, for purposes of this Section, will be vehicles which are too high to clear the entrance to a residential garage.

Section 7.16. Antennae. No exterior radio, television, microwave or other antenna or antenna dish or signal capture and distribution device will be permitted without the prior written consent of the Committee. A television satellite dish no larger than 39" in diameter is permitted without the prior written consent of the Committee.

Section 7.17. Outside Burning. There will be no exterior fires, except barbecues, outside fireplaces, braziers and incinerator fires contained within facilities or receptacles and in areas designated and approved by the Committee. No Owner will permit any condition upon its portion of the Property which creates a fire hazard or is in violation of fire prevention regulations.

Section 7.18. Noise. No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Property or Improvements, will be placed or used on any portion of the Property.

Section 7.19. Lighting. All exterior lighting of the Improvements and grounds on the Property will be subject to regulation by the Design Review Committee.

Section 7.20. Water/Retention Basins. Boating, swimming, fishing, wading or any use requiring entry into any body of water on the Common Area or retention basins is prohibited.

Section 7.21. Swimming Pools. No above ground swimming pools are permitted. Wading pools no more than two feet in height, installed temporarily during the summer months, are permitted in rear yards. Reasonably sized hot tubs are permitted.

Section 7.22. Mail Drop Facilities. Mail drop facilities for single family dwelling units shall be in accordance with the specifications set forth in the Design Guidelines.

Section 7.23. Obstructions. There will be no obstruction of any walkways or bike paths or interference with the free use of those walkways and paths except as may be reasonably required in connection with repairs. The Owners, their families, tenants, guests and invitees are granted non-exclusive easements to use the walkways and paths within the Property. That use will be subject to Pierce Bluffs Rules adopted by the Board from time to time.

Section 7.24. Nuisance. No obnoxious or offensive activity will be carried on within the Property, nor will anything be done or permitted which will constitute a public nuisance. No noise or other nuisance will be permitted to exist or operate upon the Property so as to be offensive or detrimental to any other part of the Property or its occupants.

Section 7.25. General Practices Prohibited. The following practices are prohibited at Pierce Bluffs:

Section 7.25.1. Allowing construction suppliers and contractors to clean their equipment other than at a location designated for that purpose by the Committee;

Section 7.25.2. Removing any rock, plant material, top soil or similar items from any property of others;

Section 7.25.3. Carrying firearms on the Property; or

Section 7.25.4. Use of surface water for construction.

Section 7.26. Use of Property During Construction. It will be expressly permissible and proper for Declarant and any Owner acting with the prior written consent of the Committee, and their respective employees, agents, independent contractors, successors, and assigns involved in the construction of Improvements on, or the providing of utility service to, the Property, or other real property owned by Declarant, to perform such activities and to maintain upon portions of the Property as they deem necessary, such facilities as may be reasonably required, convenient, necessary or incidental to such construction and development of the Property. This permission specifically includes, without limiting the generality of the foregoing, maintaining storage areas, construction yards and equipment and signs. However, no activity will be performed and no facility will be maintained on any portion of the Property in such a way as to unreasonably interfere with or disturb any purchaser or Owner of a Lot/Unit, or to unreasonably interfere with the use, enjoyment or access of such Owner or his tenants, employees, guests, or business invitees, of and to his Lot/Unit. If any Owner's use under this provision is deemed objectionable by the Design Review Committee, then the Design Review Committee, as applicable, in its sole discretion, may withdraw this permission.

Notwithstanding the foregoing, this Section will not operate to prevent the exercise of any Special Declarant Rights.

Section 7.27. Partition or Combination of Lots/Units. No part of a Lot/Unit may be partitioned or separated from any other part thereof. No Lots/Units may be combined, but the Owner of two or more contiguous Lots/Units may build one single family Dwelling Unit on the contiguous Lots/Units, upon complying with all applicable requirements of the City of Hermitage, and with all applicable Design Guidelines, including without limitation procedures for adjusting Building Sites otherwise drawn for the Lots/Units to accommodate a larger Dwelling Unit, minimum and maximum limitations of living area that may be constructed on any given number of contiguous Lots/Units, and measures necessary to preserve any easements reserved with respect to the contiguous Lots/Units.

The fact that two or more contiguous Lots/Units may be owned by one person and developed

with one single family Dwelling Unit will not affect the number of votes or the amount of Assessments allocated to the Lots/Units. If the Owner is required by the City of Hermitage or any other governmental authority or by a Mortgagee to replat the Lots/Units in order to construct Improvements on them, the number of votes and the allocation of Assessments to the Lots/Units after replatting will equal the sum of the votes and Assessments allocated to the Lots/Units, as set forth in Section 4.4 above. Each Lot/Unit will be conveyed, transferred, gifted, devised, bequeathed, encumbered or otherwise disposed of, as the case may be, with all appurtenant rights and interests created by law or by this Declaration, including the Owner's membership in The Association and the right to use the Common Area, and with the appropriate allocation of voting rights and liability for Assessments established for the Lot/Unit as provided in this Deduction.

Section 7.28. Common Area - Covenants to Apply. The provisions of this Article above, with the exception of Section 7.2., will apply to the Common Area, and the Common Area will have the benefit of the provisions of this Article.

Section 7.29. Leasing. The Owner of a Lot/Unit will have the right to lease his Lot/Unit, subject to the following conditions:

Section 7.29.1. All leases will be in writing.

Section 7.29.2. The lease shall be specifically subject to Pierce Bluffs Documents, and any failure of a tenant to comply with Pierce Bluffs Documents will be a default under the lease.

Section 7.29.3. The Owner shall be liable for any violation of Pierce Bluffs Documents committed by the Owner's tenant, without prejudice to the Owner's right to collect any sums paid by the Owner on behalf of the tenant.

Section 7.29. Enforcement. Pierce Bluffs Association may take such action as it deems advisable to enforce these Covenants as provided in this Declaration. In addition, Pierce Bluffs Association will have a right of entry on any part of the Property for the purposes of enforcing this Article, and any costs incurred by The Association in connection with such enforcement which remain unpaid 30 days after The Association has given notice of the cost to the Owner, will be subject to interest at the Default Rate from the date of the advance by The Association through the date of payment in full by the Owner, and will be treated as a Default Assessment enforceable as provided in Article IX.

ARTICLE VIII

Owners' Obligations for Maintenance

Section 8.1. Owner's Responsibility for Lot. Except as provided in Pierce Bluffs Documents or by written agreement with The Association, all maintenance of a Lot/Unit and the Improvements located on it will be the sole responsibility of the Owner of the Lot/Unit. Each Owner will maintain his Lot/Unit in accordance with the community-wide standard of Pierce Bluffs. The Association will, in the discretion of the Board, assume the maintenance responsibilities of such Owner if, in the opinion of the Board, the level and quality of maintenance being provided by such Owner does not satisfy such standard. Before assuming the maintenance responsibilities, the Board will notify the Owner in writing of its intention to do so, and if the Owner has not commenced and diligently pursued remedial action within 30 days after the mailing of such written notice, then The Association will proceed. The expenses of the maintenance by the Board will be reimbursed to The Association by the Owner within 30 days after The Association notifies the Owner of the amount due, and any sum not reimbursed within that 30 day period will bear interest at the Default Rate from the date of the expenditure until

payment in full. Such charges will be a Default Assessment enforceable as provided in Article IX.

Section 8.2. Owner's Negligence. If the need for maintenance, repair or replacement of any portion of the Common Area (including Improvements located on it) arises because of the negligent or willful act or omission of an Owner or his family member, guest, invitee or tenant, then the expenses incurred by The Association for the maintenance, repair or replacement will be a personal obligation of that Owner. If the Owner fails to repay the expenses incurred by The Association within 30 days after the notice to the Owner of the amount owed, then those expenses will bear interest at the Default Rate from the date of the advance by The Association until payment by the responsible Owner in full, and all such expenses and interest will become a Default Assessment enforceable in accordance with Article IX.

ARTICLE IX

Assessments

Section 9.1. Creation of Lien and Personal Obligation for Assessments. Declarant, for each Lot/Unit owned within the Property, hereby covenants, and each Owner of any Lot/Unit, by accepting a deed for a Lot/Unit, is deemed to covenant to pay to The Association (1) the Annual Assessments imposed by the Board of Directors as necessary to fund the Maintenance Fund and to generally carry out the functions of The Association; (2) Special Assessments for capital improvements and other purposes as stated in this Declaration; and (3) Default Assessments which may be assessed against a Lot/Unit pursuant to Pierce Bluffs Documents for the Owner's failure to perform an obligation under Pierce Bluffs Documents or because The Association has incurred an expense on behalf of the Owner under Pierce Bluffs Documents.

All Assessments, together with fines, interest, costs, and reasonable attorneys' (and legal assistants') fees, will be a charge on the land and will be a continuing lien upon the Lot/Unit against which each such Assessment is made until paid.

Each such Assessment, together with fines, interest, costs, and reasonable attorneys' (and legal assistants') fees, will also be the personal and individual obligation of the Owner of such Lot/Unit as of the time the Assessment falls due, and two or more Owners of a Lot/Unit will be jointly and severally liable for such obligations. No Owner may exempt himself from liability for any Assessments by abandonment of his Lot/Unit or by waiver of the use or enjoyment of the Common Area. Suit to recover a money judgment for unpaid Assessments and related charges as listed above may be maintained without foreclosing or waiving the Assessment lien provided in this Declaration.

For the first five calendar years commencing on January 1 and for a partial calendar year prior to said January 1, following the date of the recording of this Declaration, the Annual Assessment shall be no greater than \$240⁰⁰ per Lot/Unit, or such lesser, pro rata sum for a partial calendar year. Thereafter, the Association shall have the right to increase the Annual Assessments in any year up to ten percent (10 %) over the prior full year's Assessment. An increase of more than ten percent (10 %) shall require approval of two-thirds of the persons or proxies in attendance at a meeting held for such purpose. The Declarant agrees to pay to the Association any deficiency between the Annual Assessments for each Lot/Unit for the first five calendar years, plus any partial calendar year as referred to in this Section 9.1.

The Declarant shall not be annually assessed for any unsold Lot/Unit owned by the Declarant for the first five calendar years commencing on January 1, and for a partial calendar year prior to said January 1, following the date of recording of the Declaration.

Section 9.2. Purpose of Assessments. The Assessments levied by The Association will be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of Pierce Bluffs.

Section 9.3. Annual Assessments.

Section 9.3.1. Calculation of Annual Assessments. The Board of Directors will prepare a budget before the close of each fiscal year of The Association and submit the budget to The Association. Annual Assessments for Common Expenses will be based upon the estimated net cash flow requirements of The Association to cover items including, without limitation, the cost of routine maintenance, repair and operation of the Common Area; expenses of management; and premiums for insurance coverage as deemed desirable or necessary by The Association; snow removal, landscaping, care of grounds and common lighting within the Common Area; routine renovations within the Common Area; wages; common water and utility charges for the Common Area; legal and accounting fees; management fees; expenses and liabilities incurred by The Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and the supplementing of the reserve fund for general, routine maintenance, repairs and replacement of improvements with the Common Area on a periodic basis, as needed.

Section 9.3.2. Apportionment of Annual Assessments. Each Owner will be responsible for that Owner's share of the Common Expenses, which will be divided equally among the Lots/Units included in the Property under this Declaration from time to time. Accordingly, at any given time, an Owner's share of Common Expenses will be determined as a fraction, the numerator of which is the number of Lots/Units owned by the Owner, and the denominator of which is the number of Lots/Units then platted and incorporated in the Property.

Section 9.3.3. Collection. Annual Assessments will be collected in periodic installments as the Board may determine from time to time, but until the Board directs otherwise, they will be payable annually on or before the last day of each calendar year. The omission or failure of the Association to fix the Annual Assessments for any Assessment period will not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Association will have the right, but not the obligation, to make pro rata refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year.

Section 9.3.4. Date of Commencement of Annual Assessments. The Annual Assessments will commence as to each Lot/Unit on the first day of the month following the recording of the instrument conveying ownership of the Lot/Unit to the Owner and shall continue for each month thereafter. The Annual Assessments shall be payable as provided in Section 9.3.3 above.

Section 9.4. Special Assessments.

Section 9.4.1. Determination by Board. The Board of Directors may levy in any fiscal year one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, or, after adopting and submitting a revised budget to Pierce Bluffs Association to make up any shortfall in the current year's budget.

Section 9.4.2. Apportionment and Collection of Special Assessments. The Board will apportion Special Assessments among the Lots/Units and collect payment according to the same guidelines as set forth for Annual Assessments in Section 9.3.2.

Section 9.4.3. Notice. Notice of the amount and due dates for such Special Assessments must be sent to each Owner at least 30 days prior to the due date.

Section 9.5. Default Assessments. All monetary fines, penalties, interest or other charges or fees (excluding Annual and Special Assessments) levied against an Owner pursuant to Pierce Bluffs Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to Pierce Bluffs Documents, and any expense (including without limitation attorneys' and legal assistants' fees) incurred by the Association as a result of the failure of an Owner to abide by Pierce Bluffs Document, constitutes a Default Assessment, enforceable as provided in this Declaration below.

Section 9.6. General Remedies of The Association for Nonpayment of Assessment. Any installment of an Annual Assessment or a Special Assessment which is not paid within 30 days after its due date will be delinquent. In the event that an installment of an Annual or Special Assessment becomes delinquent, or in the event any Default Assessment is established under this Declaration, the Association, in its sole discretion, may take any or all of the following actions:

9.6.1. Assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;

9.6.2. Charge interest from the date of delinquency at the Default Rate;

9.6.3. Suspend the voting rights of the Owner during any period of delinquency;

9.6.4. Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year will be due and payable at once;

9.6.5. Bring an action at law against any Owner personally obligated to pay the delinquent Assessment charges;

9.6.6. File a statement of lien with respect of the Lot/Unit and foreclose as set forth in more detail below.

The remedies provided under this Declaration will not be exclusive, and the Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Section 9.7. Assessment Lien. Any Assessment chargeable to a Lot/Unit will constitute a lien on the Lot/Unit, effective the due date of the Assessment. To evidence the lien, the Association may, but will not be obligated to, prepare a written lien statement with respect to the Lot/Unit, setting forth the name of the Owner, the legal description of the Lot/Unit, the name of the Association, and the delinquent Assessments amounts then owing. Any such statement will be duly signed and acknowledged by the President or a Vice-President of the Association or by the Manager, and will be served upon the Owner of the Lot/Unit by mail to the address of the Lot/Unit or at such other address as the Association may have in its records for the Owner. At least 10 days after the Association mails the statement to the Owner, the Association may record the statement in the office of the Recorder of Mercer County, Pennsylvania. Thirty days following the mailing of such notice to the Owner, the Association may proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Pennsylvania. The Association will have the power to bid on a Lot/Unit at foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot/Unit.

Section 9.8. Successor's Liability for Assessment. All successors to the fee simple title of a

Lot/Unit, except as provided in Section 9.10, will be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' and legal assistants' fees against such Lot/Unit without prejudice to any such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor will not be personal and will terminate upon termination of such successor's fee simple interest in the Lot/Unit. In addition, such successor will be entitled to rely on the statement of status of Assessments by or on behalf of the Association under Section 9.12.

Section 9.9. Waiver of Homestead Exemption; Subordination of the Lien. The lien of the Assessments will be superior to and prior to any homestead exemption provided now or in the future by the laws of the State of Pennsylvania, and to all other liens and encumbrances except the following:

Section 9.9.1. Liens and encumbrances recorded before the date of the recording of this Declaration;

Section 9.9.2. Liens for real estate taxes and other governmental assessments or charges duly imposed against the Lot/Unit by a Pennsylvania governmental or political subdivision or special taxing district, or any other liens made superior by statute; and

Section 9.9.3. The lien for all sums unpaid on a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent, including any and all advances made by the First Mortgagee, even though some or all of such advances may have been made subsequent to the date of attachment of the Association's lien.

All other persons who hold a lien or encumbrance of any type not described in Sections 9.9.1 through 9.9.3 will be deemed to consent that the lien or encumbrance will be subordinate to the Association's future liens for Assessments, interest, late charges, costs, expenses and attorneys' fees, as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Section 9.10. Reallocation of Assessments Secured by Extinguished Liens. The sale or transfer of any Lot/Unit to enforce any of the liens to which the lien for Assessments is subordinate will extinguish the lien of such Assessments as to installments which became due prior to such sale or transfer. The amount of such extinguished lien may be reallocated and assessed to all Lots/Units as a Common Expense at the direction of the Board of Directors. However, no such sale or transfer will relieve the purchaser or transferee of a Lot/Unit from liability for, or the Lot/Unit from the lien of, any Assessments made after the sale or transfer.

Section 9.11. Exempt Property. The following portions of the Property will be exempt from the Assessments, charges, and liens created under this Declaration:

Section 9.11.1. Any easement or other interest in the Property dedicated and accepted by the City of Hermitage and devoted to public use;

Section 9.11.2. All utility lines and easements;

Section 9.11.3. Common Area; and,

Section 9.11.4. Any unsold Lot/Unit owned by the Declarant for the first five calendar years commencing January 1 following the recording of the Declaration.

Section 9.12. Statement of Status of Assessments. The Association will furnish to an Owner

or his designee or to any Mortgagee a statement setting forth the amount of unpaid Assessments then levied against the Lot/Unit in which the Owner, designee or Mortgagee has an interest. The Association will deliver the statement personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party within 14 business days after the registered agent of the Association receives the request by personal delivery or by certified mail, first class postage prepaid, return receipt requested. The information contained in such statement, when signed by the Treasurer of the Association or the Manager, will be conclusive upon the Association, the Board, and every Owner as to the person or persons to whom such statement is issued and who rely on it in good faith.

Section 9.13. Failure to Assess. The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice will not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner will continue to pay Annual Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

ARTICLE X

Property Rights of Owners

Section 10.1. Owners' Easements of Access and Enjoyment. Every Owner has a perpetual, nonexclusive easement for access to and from his Lot/Unit and for the use and enjoyment of the Common Area, which easement is appurtenant to and will pass with the title to every Lot/Unit, subject to the provisions set forth in this Article.

Section 10.2. Delegation of Use. Any Owner may delegate, in accordance with the Pierce Bluffs Documents, his rights of access and enjoyment described in Section 10.1 above to his tenants, employees, family, guests or invitees.

Section 10.3. Easements of Record and of Use. The Property will be subject to all easements shown on any recorded Plat and to any other easements of record and licenses as of the date of recordation of this Declaration or easements and licenses subsequently entered into in accordance with the Pierce Bluffs Documents.

Section 10.4. Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

ARTICLE XI

Special Declarant Rights and Additional Reserved Rights

Section 11.1. General Provisions. Until the expiration of the Period of Declarant Control, Declarant will have the following Special Declarant Rights:

Section 11.1.1. Completion of Improvements. The right to complete Improvements as indicated on any Plat filed with respect to the Property.

Section 11.1.2. Development Rights. The right to exercise all development rights, including without limitation the right or combination of rights hereby reserved by Declarant, as follows:

- (a) The right to create additional Lots/Units and Common Area on the Property.

- (b) The right to submit to this Declaration the Common Area with any and all improvements thereon.

Section 11.1.3. Sales Activities. The right to maintain sales and management offices, signs advertising the Project and model residences on Lots/Units owned by Declarant contained within the Property initially subject to this Declaration. The Declarant shall also have the right to authorize other builders/developers to maintain sales offices and model residences upon terms, rules, and regulations set forth by the Declarant.

Section 11.1.4. Easements. The right to use easements through the Common Area on the Property for the purpose of making improvements on the Property.

Section 11.1.5. Master Association. The right to make the Property subject to a master association.

Section 11.1.6. Association Directors and Officers. The right to appoint any officer or director of the Association, as provided in this Declaration or the Bylaws.

Section 11.2. Supplemental Provisions Regarding Declarant's Rights. Without limiting the generality of the foregoing, certain of these Special Declarant Rights are explained more fully in this Article below. Further, Declarant reserves the right to amend this Declaration and any Plat in connection with the exercise of any development right or any other Special Declarant Right, and Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in other provisions of this Declaration.

Section 11.3. Utility Easements. There is hereby created a general easement upon, across, over, in, and under the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electrical, television and a master communications system. By virtue of this easement, it will be expressly permissible and proper for the companies providing electrical, television, telephone and other communications services to install and maintain necessary equipment on the Property and to affix and maintain electrical, television, communications, and telephone wires, circuits, and conduits under the Property. Any utility company using this general easement will use its best efforts to install and maintain the utilities provided for without disturbing the uses of the Owners, the Association and Declarant; will prosecute its installation and maintenance activities as promptly and expeditiously as reasonably possible; and will restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document, either Declarant or the Association will have, and are hereby given, the right and authority to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms of this Declaration. This general easement will in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

Section 11.4. Reservation for Expansion and Construction. Declarant hereby reserves for itself and its successors and assigns and for Owners in all future phases of Pierce Bluffs a perpetual easement and right-of-way for access over, upon, and across the Property, for construction, utilities, drainage, ingress and egress, and for use of the Common Area. The location of these easements and rights-of-way may be made certain by Declarant or the Association by instruments recorded in Mercer County, Pennsylvania.

Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility and other easements, and to create other reservations, exceptions, and exclusions convenient

or necessary for the use and operation of any other property of Declarant, as long as such action does not hamper the enjoyment of Pierce Bluffs.

Section 11.5. Reservation of Easements, Exceptions, and Exclusions for Utilities, Infrastructure, and Access. Declarant reserves for itself and its successors and assigns and hereby grants to the Association, acting through the Board of Directors, the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Area, or in addition thereto, for purposes including but not limited to streets, paths, walkways, drainage, recreation areas and parking areas, and to create other reservations, exceptions, and exclusions in the interest of the Owners and the Association, in order to serve the Owners within Pierce Bluffs.

Declarant also reserves for itself and its successors and assigns and grants to the Association the concurrent right to establish from time to time by an instrument recorded in Mercer County, Pennsylvania such easements, permits or licenses over the Common Area for access by certain persons (other than Owners and Owners' families and guests) who may be permitted to use designated portions of the Common Area as contemplated under this Declaration.

Section 11.6. Maintenance Easement. An easement is hereby reserved to Declarant for itself and its successors and assigns and granted to the Association, and any member of the Board of Directors or Manager, and their respective officers, agents, employees and assigns, upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to Pierce Bluffs Documents, including the right to enter upon any Lot/Unit for the purpose of performing maintenance to the landscaping or the exterior of Improvements to such Lot/Unit, as required by Pierce Bluffs Documents.

Section 11.7. Drainage Easement. An easement is hereby reserved to Declarant for itself and its successors and assigns and granted to the Association, its officers, agents, employees, successors and assigns to enter upon, across, over, in, and under any portion of the Property for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water. Reasonable efforts will be made to use this easement so as not to disturb the uses of the Owners, the Association and Declarant, as applicable, to the extent possible; to prosecute such drainage work promptly and expeditiously; and to restore any areas affected by such work to a slightly and usable condition as soon as reasonably possible following such work. Declarant, or its officers, agents, employees, successors and assigns must inform and obtain the approval of the Board of Directors prior to undertaking such drainage work, which approval will not be unreasonably withheld.

Section 11.8. Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under, and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights will be exercised by Declarant in such way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot/Unit by that Owner or his family, tenants, employees, guests, or invitees.

Section 11.9. Easements Deemed Created. All conveyances of Lots/Units hereafter made, whether by Declarant or otherwise, will be construed to grant and reserve the easements contained in this Article, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance.

ARTICLE XII

Insurance and Fidelity Bonds

Section 12.1. Authority to Purchase. All insurance policies relating to the Common Area will be purchased by the Board of Directors or its duly authorized agent. The Board of Directors, the Manager and Declarant will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at unreasonable costs.

Section 12.2. General Insurance Provisions.

Section 12.2.1. As long as Declarant owns any Lot/Unit, Declarant will be protected by all such policies in the same manner as any other Owner. The coverage provided to Declarant under the insurance policies obtained in compliance with this Article will not be deemed to protect or be for the benefit of any general contractor engaged by Declarant, nor will such coverage be deemed to protect Declarant for (or waive any rights with respect to) warranty claims against Declarant as the developer of Pierce Bluffs.

Section 12.2.2. The deductible, if any, on any insurance policy purchased by the Board of Directors may be treated as a Common Expense payable from Annual Assessments or Special Assessments (allocable to all of the Lots/Units or to only some of the Lots/Units, if the claims for damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners), or as an item to be paid from working capital reserves established by the Board of Directors.

Section 12.3. Physical Damage Insurance on Common Area. The Association will obtain insurance for all insurable Improvements, if any, on the Common Area in an amount equal to the full replacement value (i.e., 100% of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage), which will include all building service equipment and the like, common personal property and supplies, and any fixtures or equipment within the Common Area.

Section 12.3.1. Such other risks as will customarily be covered with respect to projects similar in construction, location, and use to Pierce Bluffs.

In contracting for the insurance coverage obtained pursuant to this Section above, the Board of Directors may secure coverage which provides the following:

- (i) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to this Declaration not to do so.
- (ii) The following endorsements (or equivalent): (a) "cost of demolition"; (b) "contingent liability from operation of building laws or codes"; (c) "increased cost of construction"; and (d) "agreed amount" or elimination of co-insurance clause.

Prior to obtaining any policy of physical damage insurance or any renewal thereof, and at such other intervals as the Board of Directors may deem advisable, the Board of Directors will obtain an appraisal from a general contractor or such other source as the Board may determine of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage) subject to insurance carried by the Association, without deduction for depreciation, for the purpose of determining the amount of physical damage insurance

to be secured pursuant to this Article.

Section 12.4. Liability Insurance. The Association will obtain a comprehensive policy of public liability insurance and property damage insurance with such limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the Association, the Manager, and the respective employees, agents, and all persons acting as agents against any liability to the public or the Owners (and their guests, invitees, tenants, agents, and employees) arising in connection with the ownership, operation, maintenance, or use of the Common Area and streets and roads with Pierce Bluffs and any other areas under the control of the Association. Declarant will be included in the coverage as an additional insured in Declarant's capacity as an Owner or Director. The Owners will be included as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Area.

Section 12.4.1. The Board of Directors will review the coverage limits at least once every two years, but, generally, the Board will carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to Pierce Bluffs and in no event will such coverage be less than \$1,000,000.00 for all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits will also be obtained in an amount not less than \$2,000,000.00.

Section 12.5. Provisions Common to Physical Damage Insurance, Liability Insurance, and Fidelity Insurance. Any insurance coverage obtained by the Association under the provisions of this Article above will be subject to the following provisions and limitations:

Section 12.5.1. The named insured under any such policies will include Declarant, until all of the Lots/Units in Pierce Bluffs have been conveyed, and the Association, as attorney-in-fact for the Owners, or the authorized representative of the Association (including any trustee with whom the Association may enter into any insurance trust agreement, or any successor trustee, each of which is sometimes referred to in this Declaration as the "Insurance Trustee"), who will have exclusive authority to negotiate losses under such policies.

Section 12.5.2. Each Owner will be an insured person with respect to liability arising out of the Owner's interest in the Common Area or membership in the Association.

Section 12.5.3. In no event will the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Owners or their Mortgagees.

Section 12.5.4. The policies will provide that coverage will not be prejudiced by (i) any act or neglect of any Owner (including an Owner's family, tenants, servants, agents, invitees and guests) when such act or neglect is not within the control of the Association, or (ii) any act or neglect or failure of the Association to comply with any warranty or condition with regard to any portion of the Property over which the Association has no control.

Section 12.5.5. The policies will contain a waiver by the insurer of any right to claim by way of subrogation against Declarant, the Board of Directors, the Association, the Manager, and any Owner and their respective agents, employees, or tenants, and in the case of Owners, members of their households.

Section 12.5.6. The policies described in Sections 12.3 and 12.4 above will provide that any "no other insurance" clause will expressly exclude individual Owners' policies from its operation so that the physical damage policy or policies purchased by the Board will be deemed primary coverage, and any individual Owners' policies will be deemed excess coverage.

Section 12.6. Other Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it will deem appropriate with respect to the Association's responsibilities and duties.

Section 12.7. Insurance Obtained by Owners. Each Owner will have the right to obtain insurance for such Owner's benefit, at such Owner's expense, covering the Owner's Lot/Unit and Improvements, personal property and personal liability. However, no insurance coverage obtained by an Owner will operate to decrease the amount which the Board of Directors, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that coverage. Any such insurance obtained by an Owner will include a waiver of the particular insurance company's right of subrogation against the Association and other Owners.

ARTICLE XIII

The Association as Attorney-in-Fact

Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Improvements on the Common Area upon damage or destruction as provided in Article XIV or a complete or partial taking as provided in Article XV below. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any Owner will constitute appointment of the Association as attorney-in-fact as provided in this Article. As attorney-in-fact, the Association will have full and complete authorization, right, and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner that may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE XIV

Damage or Destruction

Section 14.1. Damage or Destruction of Common Area.

Section 14.1.1. Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Common Area, unless such damage or destruction is minor, the Association will obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Area so damaged or destroyed. "Repair and reconstruction" as used in this Article will mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

Section 14.1.2. Repair and Reconstruction. As soon as practical after obtaining estimates, the Association will diligently pursue to completion the repair and reconstruction of the damaged or destroyed Improvements. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner will be necessary. Assessments of the Association will not be abated during the period of insurance adjustments and repair and reconstruction.

Section 14.1.3. Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance will be used for the purpose of repair, replacement and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 9.4, levy, assess and

collect in advance from all Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

Section 14.1.4. Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for in Section 9.4 constitute a fund for the payment of the costs of repair and reconstruction after casualty. It will be deemed that the first money disbursed in payment for the costs of repair and reconstruction will be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance will be distributed to the Owners in proportion to the contributions each Owner made as a Special Assessment to the Association under Section 9.4, or, if no Special Assessments were made, then in proportionate shares on the basis of the allocation to the Owners of Common Expenses under Section 9.3.2., first to the Mortgagees and then to the Owners, as their interests appear.

Section 14.1.5. Decision Not to Rebuild. If, during the Period of Declarant Control, Declarant, and, at all times, Owners representing at least 67% of the votes in the Association agrees in writing not to repair and reconstruct damage to the Common Area and no alternative Improvements are authorized, then and in that event the Property will be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition, and any remaining insurance proceeds will be distributed in proportionate shares on the basis of the allocation to the Owners of the Common Expenses under Section 9.3.2, first to the Mortgagees and then to the Owners, as their interests appear.

Section 14.2. Damage or Destruction Affecting Lots/Units. In the event of damage or destruction to the Improvements located on any Lot/Unit, the Owner thereof will promptly repair and restore the damaged Improvements to their condition prior to such damage or destruction. If such repair or restoration is not commenced within 180 days from the date of such damage or destruction, or if repair and reconstruction is commenced but then abandoned for a period of more than 90 days, then the Association may, after notice and hearing as provided in the Bylaws, impose a fine accruing at the rate of \$100 per day or such other rate imposed by the Board, charged against the Owner of the Lot/Unit until repair and reconstruction is commenced, unless the Owner can prove to the satisfaction of the Association that such failure is due to circumstances beyond the Owner's control. Such fine will be a Default Assessment and enforceable against the Lot/Unit as provided in Section 9.5 above.

ARTICLE XV

Condemnation

Section 15.1. Rights of Owners. Whenever all or any part of the Common Area is taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, each Owner will be entitled to notice of the taking, but the Association will act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 15.2. Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking will be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which Improvements have been constructed, then, unless, within 60 days after such taking, Declarant, during the Period of Declarant Control, and, at all times, Owners representing at least 67% of the votes in the Association otherwise

agree, the Association will restore or replace such Improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors. If such Improvements are to be repaired or restored, the provisions in Article XIV above regarding the disbursement of funds with respect to casualty damage or destruction that is to be repaired will apply. If the taking does not involve any Improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds will be distributed in proportionate shares on the basis of the allocation to the Owners of Common Expenses under Section 9.3.2, first to the Mortgagees and then to the Owners, as their interests appear.

Section 15.3. Complete Condemnation. If all of Pierce Bluffs is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration will terminate, and the portion of the condemnation award attributable to the Common Area will be distributed as provided in Section 15.2.

ARTICLE XVI

Mortgagee Protections

Section 16.1. First Mortgagees' Rights.

Section 16.1.1. Payment of Taxes and Insurance. First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Area or Improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area. First Mortgagees making such payments will be owed immediate reimbursement from the Association.

Section 16.1.2. Cure of Delinquent Assessments. A First Mortgagee will be entitled to cure any delinquency of the Owner of the Lot/Unit encumbered by the First Mortgagee in the payment of Assessments. In that event, the eligible mortgage holder will be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

Section 16.2. Title Taken by First Mortgagee. Any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in the First Mortgage, including foreclosure of the First Mortgage, will be liable for all Assessments due and payable as of the date title to the Lot/Unit vests in the First Mortgagee under the statutes of Pennsylvania governing foreclosures. Except as may be provided under Pennsylvania law, such First Mortgagee will not be liable for any unpaid dues and charges attributable to the Lot/Unit which accrued prior to the date such title vests in the First Mortgagee.

ARTICLE XVII

Enforcement of Covenants

Section 17.1. Violations Deemed a Nuisance. Every violation of this Declaration or any other of the Pierce Bluffs Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement of the violation. In addition, all public and private remedies allowed at law or equity against anyone in violation of these Covenants will be available.

Section 17.2. Compliance. Each Owner or other occupant of any part of the Property will comply with the provisions of the Pierce Bluffs Documents as the same may be amended from time to time.

Section 17.3. Failure to Comply. Failure to comply with the Pierce Bluffs Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both.

Section 17.4. Who May Enforce. Any action to enforce the Pierce Bluffs Documents may be brought by Declarant, the Board, or the Manager in the name of the Association on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commences an action to enforce the Pierce Bluffs Documents, then the aggrieved Owner may bring such an action.

Section 17.5. Nonexclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

Section 17.6. No Waiver. The failure of the Board of Directors, Declarant, the Manager, or any aggrieved Owner to enforce the Pierce Bluffs Documents will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Pierce Bluffs Documents at any future time.

Section 17.7. No Liability. No member of the Board of Directors, the Declarant, the Manager or any Owner will be liable to any other Owner for the failure to enforce any of the Pierce Bluffs Documents at any time.

Section 17.8. Recovery of Costs. If legal assistance is obtained to enforce any of the provisions of the Pierce Bluffs Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Pierce Bluffs Documents or the restraint of violations of the Pierce Bluffs Documents, the prevailing party will be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees (and legal assistant fees) as may be incurred, or if suit is brought, as may be determined by the court.

ARTICLE XVIII

Resolution of Disputes

If any dispute or question arises between Members or between Members and the Association or relating to the interpretation, performance or nonperformance, violation, or enforcement of the Pierce Bluffs Documents, such dispute or violation may be subject, if the Board so chooses, at its sole and absolute discretion, to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

ARTICLE XIX

Duration of These Covenants and Amendment

Section 19.1. Term. This Declaration and the Supplemental Covenants will remain in effect from the date of recordation until the 21st anniversary of the date this Declaration is first recorded in the office of the Recorder of Mercer County, Pennsylvania. Thereafter these Covenants will be automatically extended for five successive periods of 10 years each, unless otherwise terminated or modified as provided below.

Section 19.2. Amendment. This Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property, upon the written consent of Owners holding 67% or more of the votes in the Association. Amendments made

pursuant to this Section will inure to the benefit of and be binding upon all Owners, their families, tenants, guests, invitees and employees, and their respective heirs, successors, and assigns. A certificate of a licensed abstract or title company showing record ownership of the Property and a certificate of the Secretary of the Association documenting votes held and voting rights exercised on the basis of such ownership records will be evidence of such ownership and voting representation for the purposes of any such amendment.

Section 19.3. Declarant's Approval. Notwithstanding the provisions of Section 19.2, no termination, extension, modification or amendment of this Declaration will be effective in any event during the Period of Declarant Control unless the written approval of Declarant is first obtained.

Section 19.4. Notice of Amendment. No amendment or revocation, including the Supplemental Covenants, of this Declaration will be effective unless a written notice of the proposed amendment is sent to every Owner reasonably in advance of any action taken or purported to be taken and such Owner has been given the opportunity to vote or give its consent thereto.

Section 19.5. Effective on Recording. Any modification, amendment or revocation will be immediately effective upon recording in Mercer County, Pennsylvania, a copy of such amendment, modification, or revocation executed and acknowledged by the necessary number of Owners (and by Declarant, as required), accompanied by a certificate of a licensed abstract or title company as to ownership, or alternatively, upon the recording in Mercer County, Pennsylvania, of a copy of the amendment, modification or revocation together with a duly authenticated certificate of the Secretary of the Association stating that the required number of consents of Owners were obtained, as evidenced by a certificate of a licensed title or abstract company or other authoritative evidence of compliance with the requirements of this Declaration regarding such matters, which will be placed on file in the office of the Association.

ARTICLE XX

Miscellaneous Provisions

Section 20.1. Severability. This Declaration, to the extent possible, will be construed or reformed so as to give validity to all of its provisions. Any provision of this Declaration found to be prohibited by law or unenforceable will be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

Section 20.2. Construction. In interpreting words in this Declaration, unless the context will otherwise provide or require, the singular will include the plural, the plural will include the singular, and the use of any gender will include all genders.

Section 20.3. Headings. The headings are included only for purposes of convenient reference, and they will not affect the meaning or interpretation of this Declaration.

Section 20.4. Waiver. No failure on the part of the Association or the Board to give notice of default or to exercise or to delay in exercising any right or remedy will operate as a waiver, except as specifically provided above in the event the Board fails to respond to certain requests. No waiver will be effective unless it is in writing and signed by the President or Vice President of the Board on behalf of the Association.

Section 20.5. Limitation of Liability. Neither the Association nor any officer or member of the Board will be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under the Pierce Bluffs Documents if the action or failure to act was made in

good faith. The Association will indemnify all of the officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles of Incorporation and Bylaws.

Section 20.6. Conflicts Between Documents. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration will control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation will control.

Section 20.7. Assignment. Subject to the requirements and limitations of the Act, Declarant may assign all or any part of the Special Declarant Rights or any of Declarant's other rights and reservations hereunder to any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale. Such successor will be identified, the particular rights being assigned will be specified, and, to the extent required, concomitant obligations will be expressly assumed by such successor, all in a written instrument duly recorded in the records of the Recorder of Mercer County, Pennsylvania.

Signed and acknowledged
in the presence of:

MILL CREEK ENTERPRISES, INC.

By: *Richard Salata*
Its: *President*

STATE OF Pennsylvania)
COUNTY OF Mercer)

SS:

Before me, a Notary Public in and for said County and State, personally appeared RICHARD SALATA, PRESIDENT of Mill Creek Enterprises, Inc., who acknowledged that he executed same as the authorized representative of Mill Creek Enterprises, Inc. and that same was his free act and deed and the free act and deed of Mill Creek Enterprises, Inc.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Mercer County, this 11th day of October, 2001.

Martha A. Bossick
NOTARY PUBLIC

Notarial Seal
Martha A. Bossick, Notary Public
Pittsburgh, Allegheny County
My Commission Expires Sept. 11, 2004
Member, Pennsylvania Association of Notaries