

Declaration of Covenants, Conditions and Restrictions

Declaration

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DECLARATION

THIS DECLARATION, made on the date hereinafter set forth by RICHMARR CONSTRUCTION CORPORATION, a Delaware corporation (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain property located in the County of Fairfax, State of Virginia, containing 17.76121 acres, as more particularly described by reference to the metes and bounds description and the plat of subdivision attached to the Deed of Dedication and Subdivision of which this Declaration is a part; and

WHEREAS, Declarant will convey the said properties subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth; and

WHEREAS, Declarant desires to create on the said property a residential community with permanent open spaces and the common facilities for the benefit of the community, and to provide for the preservation of the values and amenities of said community and such other areas as may be subject to this Declaration by Declarant, its successors or assigns, and for maintenance of said open spaces and other facilities and, to this end, desires to subject the property as hereinabove described to the covenants, restrictions, easements, conditions, charges, and liens hereinafter set forth, it being intended that the easements, covenants, restrictions, and conditions shall run with said property and shall be binding on all persons and entities having or acquiring any right, title, or interest in said real property or any part thereof, and shall inure to the benefit of each other thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities of said community to create an agency which shall be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has caused to be incorporated under the laws of the Commonwealth of Virginia as a non-stock, not-for-profit corporation, CABELL'S MILL COMMUNITY ASSOCIATION, for the purposes of exercising the functions aforesaid.

NOW, THEREFORE, Declarant, hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

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ARTICLE I: DEFINITIONS

Section 1. "Association" shall mean and refer to CABELL'S MILL COMMUNITY ASSOCIATION, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including Contract Sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association of the common use and enjoyment of the members of the Association, and being initially composed of Parcel A, Cabell's Mill, Section One, which have been conveyed

to the Association by virtue of the Deed of Dedication and Subdivision and Deed of Conveyance of which this Declaration is a part.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivisions map of the Properties with the exception of the Common Area and areas dedicated as public streets.

Section 6. "Declarant" shall mean and refer to RICHMARR CONSTRUCTION CORPORATION, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

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ARTICLE II: PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, and to limit the number of guests of members at such recreational facilities.
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (c) the right of the Association to dedicate or transfer, at any time or upon dissolution, all of any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded. Any such dedication or transfer must be consistent with the provisions of the then existing zoning ordinances of Fairfax County, Virginia.
- (d) The right of the Association to grant any public utility, with or without payment of damage to the Association, easements for the construction, reconstruction, installation, repair and/or necessary maintenance of utility lines through or over any portion of the Common Areas. The foregoing shall not be construed, however, to permit any such public utility to acquire or damage any improvement situated upon the Common Areas, or other structures or installations situated thereon which would otherwise be deemed to be part of the realty, without the payment of damages, including severance or resulting

damages, if any, to the Association, all in amounts and in a manner now or hereafter governing proceedings of the acquisition of private property for public use by condemnation in this State.

- (e) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property and to acquire property encumbered by the lien or liens of the deeds or deeds of trust security improvements on said property.
- (f) The obligation of the Association, to maintain fire and extended coverage on insurable Association common property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost), and to sue hazard insurance proceeds for the losses to any Association common property solely for the repair, replacement or reconstruction of such Association common property.

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

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ARTICLE III: MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to any and may not be separated from ownership of any Lot which is subject to assessment. The foregoing is not intended to include person of entitles who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one ownership for each Lot owned. Ownership of such Lot shall be the sole qualification for membership.

Section 2. The association shall have two classes of voting membership:

Class A. Class A members shall be all Owner with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot .

Class B. The Class B Members shall be the Declarant and shall be entitled to three(3) votes for each Lot owned. The Class B membership shall terminate on the happening of either of the following events, whichever occurs earlier.

- (a) When the Declarant no longer owns any Lots in the subdivision.
- (b) On December 31, 1985 .

- (c) In the event of annexation of additional properties, Class B membership shall be revived with respect to those lots contained in the annexed property; provided, however, that this Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:
- (d) When the total votes outstanding in the Class A membership in the annexed property equals the total votes outstanding in the Class B membership in such annexed property, or
- (dd) Four (4) years form the date of recordation of the Deed of Dedication for such annexed property.

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ARTICLE IV: COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Such assessments with respect to any particular Lot shall commence to be due upon conveyance of a Lot to an "Owner" from the Declarant, its successors and assigns. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Property against which each such assessment is made. Each such assessment together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such Property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes, situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Sixty Dollars (\$60.00) per Lot .

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above ten

percent (10%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, after consideration of the current maintenance costs and further needs of the Association.
- (d) The assessment for Lots owned by the Class B member, during the period of Class B membership shall be at a rate equal to twenty-five percent (25%) of the rate for a Lot owned by a Class A member. Provided, however that any lots owned by the Class B member, during the period of Class B membership, upon which an occupied dwelling is located, shall be subject to full assessment, the same as if owned by a Class A member.

Provided further, that as consideration for the reduced assessment on the lots owned by the Class B member, the Declarant hereby agrees to maintain the Common Area and fund all budget deficits of the Association, if any, during the period of Class B membership.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Member or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots not owned by the Declarant except for the assessments set forth in Section 10 hereinafter, and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to Lots contained within a section subjected to this Declaration on the first day of the month following the conveyance of the first Lot in that section to an Owner from the Declarant, his successors, or assigns. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot as least thirty (30)

days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (9%) per annum, and a late charge in the amount of ten percent (10%) of the assessment due will be levied, all of which shall constitute a lien against the Property of the delinquent Owner. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot .

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the first mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein; (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; (c) all properties owned by charitable or other organizations exempt from taxation by the laws of the State of Virginia . However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

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ARTICLE V: ARCHITECTURAL CONTROL

No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship, materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered in any Lot nearer to any street than the minimum building set back line unless similarly approved. The Architectural Committee is composed of Richard A. Kirstein, Marvin L. Kay and Leonard I. Abel all of 1101-17th Street, N.W. , Washington , D.C. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative, shall be entitled to any compensation or services performed pursuant to the covenants. The aforementioned persons shall serve as members of the Architectural Control Committee for so long as the Declarant owns any Lots within the Cabell's Mill development. Upon the sale of the last Lot owned by the Declarant, the aforementioned

members of the Committee shall resign, and thereafter, the Board of Directors shall appoint the members of the Architectural Control Committee. At any time after the sale of the last Lot by the Declarant, the then record Owners of a majority of the Lots shall have the power through a duly recorded written instrument to change the membership of the Committee or to withdraw from the Committee to restore to it any of its powers and duties. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the relative covenants shall be deemed to have been fully complied with.

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ARTICLE VI: PROTECTIVE COVENANTS AND RESTRICTIONS

In order to conserve the natural beauty of the subdivided property, to insure its best use and most appropriate development and to prevent the erection of poorly designed or constructed improvements, the entire area shown on the attached plat shall be subject to the protective covenants and restrictions set forth in Schedule I, which is attached thereto and made a part thereof by reference.

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ARTICLE VII: COMMON DRIVEWAYS

Section 1. Definitions.

- (a) "Common Driveways" shall be the areas within the ingress and egress easements, as shown on the plats attached to the Deeds of Dedication and Subdivision for Cabell's Mill, Section One, or as may subsequently be established by Declarant.
- (b) "Affected Lots" shall be the Lots served by a Common Driveway.

Section 2. Restrictions.

- (a) Common Driveways shall be used for the purpose of ingress and egress to the Affected Lots served by the individual Ingress and Egress Easements, for governmental and other emergency vehicle ingress and egress, and for construction and maintenance of utilities.
- (b) No act shall be performed by any Member, their tenants, guests or agents which would in any manner affect or jeopardize the free and continuous use and enjoyment of any other authorized Member in and to the Common Driveway or an Affected Lot.

- (c) There shall be no parking within a Common Driveway at any time except for delivery and/or emergency vehicles, unless all Owners of Affected Lots pertaining thereto shall agree upon other parking limitations.
- (a) Section 3. Damage or Destruction. In the event that any Common Driveway is damaged or destroyed (including deterioration from ordinary wear and tear and lapse of time):
 - (a) through the act of Member or any of his agents or guests or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Member to rebuild and repair the Common Driveway without cost to the other Owners of Affected Lots for that Driveway.
 - (b) other than through the act of member, his agents, guests or members of his family, it shall be the obligation of all Owner of Affected Lots for that Common Driveway to rebuild and repair such Common Driveway at their joint and equal expense.

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ARTICLE VIII: EASEMENTS

Section 1. There is hereby granted a blanket easement to the Association, its directors, officers, agents, and employees, to any Manager employed by or on behalf of the Association, and to all policemen, firemen, ambulance personnel, and all similar persons to enter upon the Properties in the event of emergencies, in the performance of governmental functions, and in the exercise of the functions provided by this Declaration and the Articles, By-Laws, and Rules of the Association.

Section 2. The rights accompanying the easements provided by Section 1 of this Article shall be exercised only during reasonable daylight hours and then whenever practicable only after advance notice to, and with the permission of, any Owner or tenant directly affected thereby when not an emergency situation or a governmental function.

Section 3. The Declarant, its agents, and employees shall have a right of ingress and egress over the Common Area as required for construction and development of the Properties.

Section 4. Easement for Utilities, etc. There shall be and hereby is reserved to Declarant a perpetual and nonexclusive easement over all Lots, and any Common Area for the purpose of installing, repairing, and/or maintaining utility lines of any sort, including, but not limited to, storm drains, sanitary sewers, gas lines, electric lines and/or cables, water lines, telephone lines, and the like. This easement shall automatically expire as to any Lot or parcel five (5) years after subdivision of such Lot or Parcel.

Section 5. Easements for Landscaping and Related Purposes. There shall be and hereby is reserved to the Declarant a perpetual and nonexclusive easement over all Lots and any Common Area, for a distance of fifteen (15) feet behind any Lot line which parallels a street (whether

public or private) for the purpose of erecting and maintaining street intersection signs, directions signs, temporary promotional signs, entrance features, and/or “theme areas,” light, stone, wood, or masonry wall features, and/or related landscaping.

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ARTICLE IX: POWERS AND DUTIES OF THE ASSOCIATION

Section 1. Discretionary Powers and Duties. The Association shall have the following powers and duties which may be exercised at its discretion:

- (a) To enforce any or all building restrictions which are imposed by the terms of this Declaration nor which may hereafter be imposed on any party of the Properties. Provided, that nothing contained herein shall be deemed to prevent the Owner of any Lot from enforcing any building restrictions in his own name; the right of enforcement shall not serve to prevent such changes, releases or modifications of the restrictions or reservations placed upon any part of the Properties by any party having the right to make such changes, releases or modification in the deeds, contracts, declarations or plats in which such restrictions and reservations are set forth; and the right of enforcement shall not have the effect of preventing the assignment of those rights by the proper parties wherever and whenever such rights of assignment exists. The expense and costs of any enforcement proceedings initiated by the Association shall be paid out of the general fund of the Association, as hereafter provided for;
- (b) to provide such light as the Association may deem advisable on streets and for the maintenance of any and all improvements, structures or facilities which may exist or be erected from time to time on any Common Area;
- (c) To build facilities upon land owned or controlled by the Association;
- (d) To use the Common Area and any improvements, structures, or facilities erected thereon subject to the general rules and regulations established and prescribed by the Association and subject to the establishment of charges for their use;
- (e) To mow and resow the grass and to care for, spray, trim, protect, plant and replant trees and shrubs growing on the Common Area and to pick up and remove from said property and area all loose material, rubbish, filth and accumulations of debris; and to do any other thing necessary or desirable in the judgment of the Association to keep the Common Area in neat appearance and in good order;
- (f) To exercise all rights and control over any easements which the Association any from time to time acquire, including, but not limited to, those easements specifically reserved to the Association in Article VII hereof;

- (g) To create, grant and convey easements upon, across, over and under all Association properties including, but not limited to, easements for the installation, replacement, repair and maintenance of utility lines serving lots in the subdivision;
- (h) To create subsidiary corporations;
- (i) To employ from time to time such agents, servants and laborers as the Association may deem necessary in order to exercise the powers, rights and privileges granted to it, and to make contracts; and
- (j) To promulgate such rules and regulations as needed to regulate the use of any parking areas that may be constructed or authorized on Common Area for the benefit of all Owners, which rules and regulations may include assignment of parking spaces and no restriction or prohibition on certain vehicles as provided in this Declaration.

Section 2. Mandatory Powers and Duties. The Association shall exercise the following rights, powers and duties:

- (a) To accept title to the Common Area and to hold and administer said property for the benefit and enjoyment of the owners and occupiers of lots in the subdivision. The purpose of this provision is to impose on the Association the obligation to accept title to any Common Area and to hold and maintain the same for the benefit of owners and occupants to Lots in Cabell's Mill, and
- (b) To make and enforce regulations governing the use of the Common Area.

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ARTICLE X: RIGHTS OF MORTGAGEES

All Mortgagees shall have the following rights:

Section 1. A Mortgagee, upon request, will be given write notification from the association of any default in the performance by the Owner of a Lot relating to the mortgage owned by the Mortgagee of any obligation under this Declaration or related Association documents, which is not cured within sixty (60) days.

Section 2. Any Mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, will not be liable for such Lot's unpaid dues or charges which accrue prior to the acquisition of title to the Lot by the Mortgagee.

Section 3. A Mortgagee shall have the right to examine the books and records of the Association.

Section 4. Provided that improvements have been constructed in the Common Area, and provided that a Mortgagee gives notice to the Association that it has relied on the value of the improvements in making a loan on the Properties, then such Mortgagee shall be further entitled to the following rights:

- (a) Unless all Mortgagees and three-fourth (3/4) of the Owners have given their prior written approval, the Association shall not:
 - (i) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common Area or other property owned by the Association. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association shall not be deemed a transfer within the meaning of this clause;
 - (ii) Change the method of determining assessments;
 - (iii) By act or omission change, waive or abandon the architectural controls or imposition thereof established by this Declaration;
 - (iv) Fail to maintain fire and extended coverage on insurable parts of the Common Area or other Association property on a current replacement-cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement costs, not including land value of the improvements; and
 - (v) Use hazard insurance proceeds for losses to the Common Area or other Association property for other than the repair, replacement, or reconstruction of such property.
- (b) A Mortgagee may, jointly or singly, pay taxes on other charges which are in default and which may or have become a charge against the Common Area, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage upon the lapse of a policy for such Common Area. The Mortgagee or Mortgagees making such payments shall be immediately reimbursed therefore from the Association;
- (c) The assessments imposed by the Association shall include an adequate reserve fund for maintenance, repairs, and replacements for those parts of the Common Area which may be replaced or require the maintenance on a periodic basis. Such reserves shall be payable in regular installments rather than by special assessments;
- (d) The Association shall cause the immediate repair, reconstruction or renovation of any damage to the Common Area or Association property unless a decision not to repair, reconstruct or renovate is approved by all Mortgagees;

- (e) In the event that there is a condemnation of the Common Area or other Association property, to the extent practicable, condemnation proceeds shall be used to repair or replace the property taken by condemnation; and
- (f) Should there be excess casualty insurance or condemnation proceeds after the renovation, repair, or reconstruction called for herein, such excess proceeds any be distributed equally to the Owners, apportioned equally by Lot, subject, however, to the priority of a Mortgagee with regard to the proceeds applicable to the Lot securing said Mortgagee.

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ARTICLE XI: GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. In validation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot owners. Any amendment must be recorded.

Section 4. Annexation of other additional property not provided for herein shall require the assent of two-thirds (2/3) of the Class A members and two-thirds (2/3) of the Class B members, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting, setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast two-thirds (2/3) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 5. If within five (5) years of the date of incorporation of this Association, the Declarant develops additional lands included within the approximately 123.38225 acres conveyed to the Declarant by deed recorded in Deed Book 5124 at page 194 among the land records of Fairfax County, Virginia, of which Cabell's Mill, Section One is a part, such additional lands may be annexed to said Properties without the assent of the Class A members; provided however, that the development of the additional lands described in this section shall be in accordance with a general plan submitted to the Federal Housing Administration and the Veterans Administration, should such agencies be involved. If such agencies are involved, detailed plans for the development of additional lands must be submitted to the Federal Housing Administration and the Veterans Administration prior to such development. If either the Federal Housing Administration or the Veterans Administration determines that such detailed plans are not in accordance with the general plan on file and either agency to advise the Association and the Declarant, the development of the additional lands must have the assent of two-thirds (2/3) of the Class A members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting. At this meeting, the presence of members or of proxies entitled to cast two-thirds (2/3) of all of the votes of the Class A membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. FHA/VA Approval. After initial approval of the Lots for FHA or VA financing for so long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration:

- (a) annexation of additional properties;
- (b) mergers, consolidations, and dissolution of the Association;
- (c) mortgaging or dedication of the Common Area; and
- (d) amendment of Declaration of Covenants, Conditions, and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal this ____ day of _____, 1981.

RICHMARR CONSTRUCTION COMPANY

BY: _____

STATE OF _____

DISTRICT OF _____, to-wit:

I, _____, a Notary Public in and for the County and State aforesaid do hereby certify that _____ as _____ of RICHMARR CONSTRUCTION CORPORATION, whose name is signed to the foregoing document, bearing date on the ____ day of _____, 1981, has acknowledged the same before me in my county and State aforesaid.

GIVEN under my hand and seal this ____ day of _____, 1981.

My commission expires:

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EXHIBIT 1: PROTECTIVE COVENANTS AND RESTRICTIONS

- 1. LAND USE AND BUILDING TYPE.** No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any other lot other than one detached single-family dwelling not to exceed two and one-half stories in height and a private garage for not more than two cars.
- 2. FENCES.** No stockade fence of any kind shall be erected or maintained on or along any property line, except along property lines forming the exterior boundary of the property encompassed within CABELL'S MILL. No fence of any kind shall be erected or maintained on any portion of the said premises along the front property line or from the front building line to the front lot line. No fence of any kind shall be erected or maintained in or along the rear of said premises to or from the front building line to the rear lot line or from the side of any building to the said lot line except a hedge fence, picket fence, lattice fence or wire fence.
- 3. EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved to the County of Fairfax , as shown on the recorded plat and over the rear five (5) feet of each lot, and this instrument shall in no way affect, limit or restrict same.
- 4. NUISANCES.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No commercial vehicle, whether owned by the lot owner or any other person, shall be permitted to remain on or be parked on any lot overnight.
- 5.** No trade or business of any kind shall be advertised from or transacted on the premises, except that this covenant shall not prevent a lawyer, physician, dentist, podiatrist, chiropracist, or any other member of the medical, dental or legal profession from practicing such profession from said premises, provided that such person so practicing such profession from said premises also resides therein.

6. No signs of any kind or character shall be exhibited, displayed or placed upon any portion of the above-described premises, except that the owner of any lot may place a sign not larger than ten inches by fifteen inches thereon, bearing the words "For Sale" or "To Rent" together with the name and address or the person to home inquiries regarding the sale or rent of such property are to be addressed. The owner or occupant of such premises may also place one sign upon the premises upon which is inscribed the name and profession of the occupant of the premises, but no such sign shall be larger than six inches by twelve inches. Provided however, that the Declarant shall have the right to maintain such signs on the Property as may be necessary to permit the marketing of the homes to be built upon the Property.
7. **TEMPORARY STRUCTURES.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. The foregoing covenants and restrictions shall not apply to or prohibit the erection or maintenance of a sale office or other building utilized during construction by the Declarant on the plats or parcels hereabove described ,and shall not apply to or affect any signs, used by the builder or by any firms, persons or corporation holding a mortgage or mortgages, or by any persons, firms, corporations and agents who may, will and do insure and guarantee said mortgage or mortgages, as to the plots or parcels hereinabove described.
8. **LIVESTOCK AND POULTRY.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot , except that dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.
9. **GARAGE AND REFUSE DISPOSAL.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers, all incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

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