

**DECLARATION OF COVENANTS, RESTRICTIONS,  
EASEMENTS, CHARGES AND LIENS FOR MYSTIC  
MOUNTAIN ESTATES, A FLEXIBLE PLANNED COMMUNITY**

**THIS DECLARATION**, made this \_\_\_ day of \_\_\_\_\_, 201\_\_\_, by The Southern Columbia Corporation, Inc., a Pennsylvania corporation, hereafter referred to as the "Declarant."

**WITNESSETH THAT:**

WHEREAS, Declarant is the legal owner by virtue of a deed dated March 17, 1983 and recorded in the Columbia County Recorder of Deeds Office in Record Book 315, page 1079 of real property referred to in Article II and more fully described in **Exhibit "A"** (the "Community") of this Declaration, and desires to opt-in the residential community to be known as "Mystic Mountain Estates" as a flexible planned community organized pursuant to the UPCA; and,

WHEREAS, to date, The Southern Columbia Corporation (the "TSCC") is the legal owner of all portions of Mystic Mountain that have not been conveyed to third-party purchasers; and,

WHEREAS, to date, TSCC has been responsible for maintaining all the open area and common area of Mystic Mountain; and,

WHEREAS, each lot within Mystic Mountain Estates sold to a third-party purchaser was transferred subject to a common set of Deed Covenants (the "Deed Covenant"). A copy of the Deed Covenants is set forth in Article II herein; and,

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in the Community and for the maintenance of said Common Elements, including, but not limited to the Community's Storm Water Management Facilities, Roadways, Recreation Facilities and Open Spaces, and, to this end, desires to subject the real property referred to in Article III and described in **Exhibits "A" and "B"** of this Declaration, to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each subsequent owner thereof or any portion thereof; and,

WHEREAS, Declarant, and over eighty percent of the lot owners, has deemed it desirable, for the efficient preservation of the values and amenities in the Community, to create the entity to be known as "Mystic Mountain Estates Homeowners Association" to which shall be delegated and assigned the duty and the powers of maintaining and administering the Common Elements, administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and,

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WHEREAS, Declarant has incorporated or intends to incorporate under the laws of the Commonwealth of Pennsylvania as a non-profit corporation known as "Mystic Mountain Estates Homeowners Association, Inc." for the purposes of exercising the powers, duties and functions aforesaid; and,

WHEREAS, this Declaration is intended to be a master document governing the ownership and use of all of the Lots (as defined below) and Common Facilities which collectively constitute the Property, and of the Controlled Facilities which, together with the Common Facilities, constitute the Common Elements.

WHEREAS, Declarant presented its proposal on forming a mandatory unit owners association that could assume ownership and the common areas of Mystic Mountain.

WHEREAS, over eighty (80%) of the lot owners of the Community have confirmed their desire to transition Mystic Mountain Estates from a "private community" organized and operated by Declarant to a "planned community" organized and operated pursuant to Pennsylvania *Uniform Planned Community Act* ("UPCA"), as amended, 68 Pa. C.S.A. §§ 5101, *et seq.*

WHEREAS, a copy of a "Transition and Adoption Agreement" evidencing the approval of over eighty (80%) of the lot owners of the Community to transition Mystic Mountain Estates from a "private community" organized and operated by Declarant to a "planned community" organized and operated pursuant to Pennsylvania *Uniform Planned Community Act* ("UPCA"), as amended, 68 Pa. C.S.A. §§ 5101, *et seq.* is attached hereto as **Exhibit "C."**

WHEREAS, on \_\_\_\_\_, the Locust Township Board of Supervisors approved a Confirmatory Subdivision Plan for the Creation of Planned Community Organized under the UPCA (the "Confirmatory Plans"). The Confirmatory Plans created certain common elements for the Community from lots that cannot be developed.

WHEREAS, the Confirmatory Plans include 369 residential lots that were developed or are planned for development with detached dwellings together with Common Elements (including Storm Water Management Facilities, Roadways, Recreation Facilities and Open Spaces) for the benefit of the Community.

**NOW THEREFORE**, the Declarant declares that the real property referred to in Article III hereof and more particularly described in Exhibits "A" and "B" attached hereto and forming a part hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as the "Covenants and Restrictions") hereinafter set forth. All the provisions of this Declaration shall, as to the Owners of the property, Common Elements and Lots, their heirs, successors or assigns, operate as covenants running with the land for the benefit of each other and all other property, Common Elements and Lots in the development and their respective owners and, as its interests are affected, the Municipality.

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**ARTICLE I**  
**DEFINITIONS**

Section 1.1 Definitions. The following words when used in this Declaration or any supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Act" or "UPCA" shall mean and refer to the Pennsylvania *Uniform Planned Community Act* ("UPCA"), as amended, 68 Pa. C.S.A. §§ 5101, *et seq.*
- (b) "Additional Real Estate" shall mean real estate that may be added to a planned community as a Development Right pursuant to Section 5211 of the UPCA and as set forth herein.
- (c) "Association" shall mean and refer to the "Mystic Mountain Estates Homeowners Association, Inc.", its successors and assigns, organized under Section 5301 of *the UPCA*.
- (d) "Common Elements" shall mean and refer to the Common Facilities and the Controlled Facilities.
- (e) "Common Expense Liability" shall mean and refer to the liability for common expenses allocated to each unit in Section 5.3 of this Declaration.
- (f) "Common Expenses" shall mean and refer to the expenditures made by, or the financial liabilities of, the Association, together with any allocations to reserves.
- (g) "Common Facilities" shall mean and refer to those areas of land shown on the Plat which are not within Lots, and including therein those portions of the Stormwater Management Facilities and the Recreation Facilities located in the Open Spaces and located in the Community. Said areas are depicted on the Plan in Exhibit "B", attached hereto and made a part hereof, and intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and, except as hereinbelow specified, are not dedicated for use by the general public. The Common Facilities will be conveyed by Declarant to the Association.
- (h) "Convertible Real Estate" shall mean the Lots or portions of the Common Element as shown on the HOA Plan that may be converted into Units or Limited Common Elements pursuant to Section 5211 of the *UPCA* and as set forth herein.

(i) "Development" shall mean and refer to all lands, both Lots and Common Elements, which are described in Exhibit "A" or are hereafter made subject to this Declaration.

(j) "Declarant" shall mean and refer to The Southern Columbia Corporation, Inc., its successors and assigns and any person who succeeds (under § 5304 of *the UPCA*) to any Special Declarant Rights, subject to the restrictions of § 5304 of *the UPCA*.

(k) "Deed Covenants" shall mean the deed covenants set forth in Article II of this Declaration.

(l) "Executive Board" shall mean and refer to the Executive Board of the Association, which shall manage the Association's operations in compliance with, and subject to, the provisions of *the UPCA*.

(f) "Limited Controlled Facilities" shall mean that portion of the Controlled Facilities, if any, that are part of a Lot, but managed or regulated by the Association for the exclusive use of one or more, but fewer than all of the units.

(g) "Lot" shall mean and refer to any plot intended and subdivided for residential use, shown upon the Plat, but shall not include the Common Elements as herein defined. There are presently a total of 239 Lots subject to this Declaration, consisting of Lots 1 through 239 inclusive as shown on the HOA Plan. The total number of Lots and the configuration thereof shall be subject to modification in the event that a revised Final Subdivision Plan is approved by the Municipality and properly recorded.

(h) "Member" shall mean and refer to all those owners who are members of the Association; every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be mandatory and appurtenant to and may not be separated from ownership of any Lot.

(i) "Municipality" shall mean and refer to the municipality within which the Property is located, being the Locust Township, Cleveland Township and Conyngham Township, Columbia County, Pennsylvania.

(j) "Open Areas" shall mean and refer to Open Spaces A, B, C and D as shown on the Plat.

(k) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but shall not mean or refer to any

mortgagee or subsequent holder of any mortgage, unless or until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(l) "Confirmatory Plan" shall mean and refer to the Plat which is attached hereto as Exhibit "D".

(m) "Property" shall mean and refer to all lands, both Lots and Common Elements, which are described in Exhibit "A" or are hereafter made subject to this Declaration.

(n) "Special Declarant Rights" shall mean those rights reserved for the benefit of a declarant to:

- i. complete improvements indicated on plats and plans under section 5210 of the *UPCA* (relating to plats and plans);
- ii. convert convertible real estate in a flexible planned community under section 5211 of the *UPCA* (relating to conversion and expansion of flexible planned communities);
- iii. add additional real estate to a flexible planned community under section 5211 of the *UPCA*;
- iv. withdraw withdrawable real estate from a flexible planned community under section 5212 of the *UPCA* (relating to withdrawal of withdrawable real estate);
- v. convert a unit into two or more units, common facilities or controlled facilities or into two or more units and common facilities or controlled facilities;
- vi. maintain offices, signs and models under section 5217 of the *UPCA* (relating to declarant offices, models and signs);
- vii. use easements through the common elements, common facilities or controlled facilities for the purpose of marketing and selling properties, making improvement within the planned community or within any convertible or additional real estate under section 5218 of the *UPCA* (relating to easement to facilitate completion, conversion and expansion);
- viii. appoint or remove an officer of the association or a master association or an executive board member during any period of declarant control under

section 5303 of the *UPCA* (relating to executive board members and officers).

(o) "Storm Water Management Facilities" shall mean all of the land areas and improvements thereto within the Property devoted to the purposes of detaining, retaining, and/or controlling the volume and/or rate and/or the direction of storm water (including Common Facilities located within the Open Spaces, Controlled Facilities and Limited Controlled Facilities located within certain of the Lots). The portions of the Storm Water Management Facilities located within the Common Facilities are part of the Common Facilities. The portions thereof, if any, located within one or more Lots are Controlled Facilities or Limited Controlled Facilities.

(p) "Successor Declarant" shall mean any successor and/or assignee and/or any person who succeeds (under § 5304 of the *UPCA*) to any Special Declarant Rights, subject to the restrictions of § 5304 of the *UPCA*.

(q) "Withdrawable Real Estate" shall mean real estate that may be withdrawn from a flexible planned community pursuant to Section 5212 of the *UPCA* and as set forth herein.

## ARTICLE II

### **PRE-EXISTING DEED COVENANTS**

Section 2.1 Intent. It is the intent of this Declaration to maintain, to the greatest degree possible, all restrictions set in the Deed Covenants. Should there be a conflict between any provision of this Declaration and the Deed Covenants, the Declaration shall govern.

Section 2.2 Pre-Existing Restrictions. For each Lot in the Development, certain Deed Covenants are imposed. Those Deed Covenants imposed "REAL ESTATE DEVELOPMENT, CONSTRUCTION & MANAGEMENT RESTRICTIONS" for "MYSTIC MOUNTAIN ESTATES a property of The Southern Columbia Corp."

Section 2.3 Language of Pre-Existing Restrictions. The Warranty Deed from Seller (Grantor) to each Purchaser (Grantee) of a Lot in the Development contained the following restrictive covenants:

1. Said lot shall be used exclusively for residential purposes.
2. Not more than one single family dwelling house may be erected or constructed on this lot, nor more than one building for garage or storage purposes and provided further that no building or structure of any kind shall be erected, prior to

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the erection of a dwelling house. No accessory or temporary building shall be used or occupied as living quarters. No structure shall have tarpaper, roll brick siding or similar material on outside walls. No house trailers, mobile homes, campers, tents, shacks or similar structures shall be erected or moved to or placed upon said premises. All building exteriors must be completed within six months from the date the construction commences.

3. The dwelling house shall have not less than 900 square feet of living space on the ground floor, or first floor, exclusive of porch area. No porch or projection of any building shall extend nearer than 40 feet to any road rights of way, nor nearer than 20 feet to the property line of any abutting property owner. The plans and specifications for any structure or improvement to be erected on or moved upon or to this lot, the proposed location thereof, the tree-removal, the construction material, the roofs and the exterior color schemes, as well as all remodeling, reconstruction, alterations, or additions thereto on this lot shall be subject to and shall require the approval in writing of The Southern Columbia, Corp. or its duly authorized agent before any such work is commenced. The Southern Columbia Corp. shall have the right to disapprove any plans, specifications or details submitted to it. In the event the same are not in accordance with all the provisions of the restrictions or the rules and regulations promulgated by The Southern Columbia Corp. or when (1) the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of this lot or with the adjacent buildings or structures, (2) the plans and specifications submitted are incomplete or (3) The Southern Columbia Corp. deems the plans, specifications or details or any part thereof, to be contrary to the interest, welfare or rights of all or any part of the overall development of which this lot is a part. The decision of The Southern Columbia Corp. shall be final. Neither The Southern Columbia Corp. nor its agents shall be responsible for structural deficiencies or any other defects in plans or specifications submitted, revised or approved in accordance with the foregoing provisions.

4. No outside toilet shall be allowed on the premises. No untreated waste shall be permitted. The dwelling house shall have an individual sanitary unit and the Grantee shall install a type of unit that complies in all respects with the requirements of the Department of Environmental Resources or other governing legal authority. The lot owner shall obtain authority from the appropriate legal authority prior to the installation of any sanitary system and shall further be bound by all orders or recommendations of such authority and/or authorities with regard to water supply to said lot, repair, alteration or replacement of the installed sanitation unit. No drain field or other similar system shall be allowed except where after a determination said water supply, or said sanitary system would be

required to be located in an area other than the site purchased, the Purchaser agrees to payment for cost of installing such facilities to supply water or sewer service for this site.

5. No noxious or offensive trade or activities shall be permitted on this lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No animals or fowl shall be kept or maintained on said lot except customary household pets not exceeding two in number. No signs of any kind shall be displayed on any lot without the written permission of The Southern Columbia Corp. or its successors or assigns. All lots must be kept in a tidy manner. Failure to do so will result in maintenance of said lot by The Southern Columbia Corp. in which event a proper charge for the same will be assessed and collected.

6. The Purchaser agrees to conditions for water or sewer service in accordance with the following: If at any time The Southern Columbia Corp. shall install facilities or contract with a public utility company to supply water or sewer to this lot then Grantee hereby makes application for water or sewer service in connection with the above described lot from the public utility company or other authority and agrees to be a customer of such public utility company or other authority and shall pay the rates prescribed by tariffs filed by such public utility company with the Pennsylvania Public Utility Commission or those established by such other authority.

7. The Southern Columbia Corp. for itself, its successors and licensees reserves an easement of fifteen (15) foot wide on each side of all thirty-three (33) foot wide road rights of way and a five (5) foot wide easement along the side and rear lines of each and every lot for the purpose of installing, operating and maintaining television cables, utility lines and mains thereon, together with the right to trim and/or cut or remove trees and/or brush and the right to locate guy Wires, braces and anchors wherever necessary for said installations, operations or maintenance; together with the right to install operate and maintain gas and water mains, sewer lines, culverts and drainage ditches and other services and appurtenances thereto, for the convenience of the overall development, reserving also the right to ingress and egress to such areas for any of the purposes mentioned above. If and when a sewer district is established by any municipal authority it is hereby granted the right, along with other authorized utilities, to use the herein reserved easements to install and maintain such central sewage system.

The Grantee of this lot shall have no cause of action against The Southern Columbia Corp, its successors or assigns, or licensees either at law or in equity



excepting in case of willful negligence, by reason of any damage caused said property in installing operating removing or maintaining the above mentioned installations. The Southern Columbia Corp., its successors, assigns and licensees hereby reserves all mineral rights to the subject lot and the rights for installation of Cable Vision.

8. The. Grantee hereby agrees to the following conditions and charges which shall be required to maintain those necessary community services as hereinafter described.

A. Grantee shall pay to The Southern Columbia Corp. the sum of \$625.00. per annum for the maintenance and snow removal on those roads constructed and upon which egress and ingress is permitted.

B. At such time as Grantee shall have constructed a residence upon this lot there shall be paid to The Southern Columbia Corp. the sum of \$1,175.00 per annum for the maintenance and snow removal on those roads constructed and upon which egress and ingress is permitted and for the collection and removal of refuse and for the maintenance of a Security Patrol.

C. Granter may be offered a membership in a proposed resort complex and/or other community or nearby golfing or other association at which time individual assessments and conditions will be set forth in a special agreement covering such eventualities and would be in addition to the foregoing stipulated charges.

The Southern Columbia Corp. reserves the right to adjust those basic charges set forth as items A and B at its sole discretion to maintain the quality of the services required. Nothing contained in this section shall place upon The Southern Columbia Corp. a precise requirement pertaining to the above described services nor does it accept any liability for damages arising thereunder. Further, The Southern Columbia Corp. shall not be responsible or liable for anything occurring upon the private premises as set forth in the deed description but rather the Grantee shall be responsible for his own insurance coverage thereon. It is further agreed that the charges herein set forth shall be and constitute a debt which may be collected by suit in any court of competent jurisdiction or otherwise; and that upon the conveyance of this lot, the Purchaser thereof and each and every successive owner and/or owners shall from the time of acquiring said land covenant and agree to pay all charges past and/or future as provided in, and in strict accordance with the terms and provisions hereof.

The Southern Columbia Corp. retains the right to dedicate any roads, accept municipal police service, accept municipal garbage and trash disposal and

otherwise relieve itself of obligations set forth herein at which time the required assessments shall be adjusted accordingly.

9. With regard to the agreement to pay The Southern Columbia Corp. its successors or assigns the amount set Forth in paragraph B Grantee and each successive owner of the lot authorizes and empowers any attorney of any court of record of the Commonwealth of Pennsylvania, or elsewhere, to appear for the owner of said lot and after one or more declarations filed, confess judgment against the owner as of any term for the sum then due with costs of suit and release of all errors, and without stay of execution and inquisition and extension upon any levy on real estate is hereby waived, and condemnation agreed to and the exempt of personal property from levy and sale on any execution hereon is also hereby expressly waived, and no benefit of exemption be claimed under and by virtue of any exemption law now in force or which may hereafter be passed.

10. These restrictions shall be considered as covenants running with the land, and shall bind Grantee, their heirs, executors, administrators, successors, and assigns and if Grantee. their heirs, administrators, executors, successors and assigns shall violate or attempt to violate any of the covenants or restrictions herein contained, it shall be lawful for any person or persons representing The Southern Columbia Corp. to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate such covenants or restrictions and to either prevent him or them from doing so or to recover damages for said violation.

11. FENCES - All property lines shall be kept free and open, no fences, hedges or walls shall be constructed except as permitted by The Southern Columbia Corp.

12. APPLICABILITY OF RESTRICTIONS - These restrictions apply only to the lot conveyed by this deed and may or may not in the sole discretion of The Southern Columbia Corp. apply to any other lot now or in the future owned, retained or sold by The Southern Columbia Corp.

13. ASSIGNMENT - The rights and obligations created hereunder may at any time be assigned by The Southern Columbia Corp. when The Southern Columbia Corp. no longer owns a majority of the total number of lots in or planned for the Mystic Mountain Estates subdivision, all lot owners on a one-lot, one-vote basis shall elect a three-member governing commission. The commission members shall serve four-year terms. At the time of the election, the governing commission shall assume all rights which Southern Colombia Corp. may exercise under Paragraphs 3. 5. and 11 of these restrictions.

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Section 2.4 Assignment of Rights. Declarant hereby retains all rights set forth in the above-quoted Deed Covenants until such time as its Special Declarant Rights shall expire pursuant to Section XII herein. At the time Declarant transfers its Special Declarant rights, Declarant shall assign all rights, set forth in the Deed Covenants to the Association, except those set forth in paragraph seven (7) of the Deed Covenants pertaining to mineral rights.

### ARTICLE III

#### **PROPERTY SUBJECT TO THIS DECLARATION;** **NAME OF THE COMMUNITY**

Section 3.1 Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in Locust Township, Cleveland Township and Conyngham Township, Columbia County, Pennsylvania, and is more particularly described in Exhibit "A", being "Mystic Mountain Estates, A Flexible Planned Community" as shown on the Plat, and consisting of 435 acres, more or less.

Section 3.2 Name. The name of the community to be developed within the Property is "Mystic Mountain Estates, a Flexible Planned Community."

### ARTICLE IV

#### **DESCRIPTION OF UNITS AND COMMON ELEMENTS**

Section 4.1 Boundaries. The boundaries of each unit are coterminous with the boundaries of each Lot as depicted on the Plat. For purposes of this Declaration, a "unit" is synonymous with the term "Lot". The identifying number of each unit or Lot is set forth on the HOA Plan appended hereto.

Section 4.2 Maximum Number of Lots. The maximum number of Units or Lots that may be created in the Property is 369. No individual units may be further subdivided.

Section 4.3 Description of Common Elements. A description of the Common Elements of the community (including both Common Facilities and Controlled Facilities) is contained in Article I (Definitions). There are no time-share estates created under this Declaration.

Section 4.4 A Flexible Community. The Property is a flexible planned community as such term is contemplated under *the UPCA*. In particular, Declarant reserves the option(s) to create additional units or limited common elements or both, or to convert Convertible Real Estate to units, Common Elements and/or Limited Common Elements, or to add additional real estate to the

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community, or to withdraw withdrawable real estate from the community.

## ARTICLE V

### **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION;** **PERIOD OF DECLARANT CONTROL**

Section 5.1 Membership. Every person who is an Owner (as defined in Article I) of any Lot which is subject by this Declaration to assessment by the Association shall be a member of the Association. However, in the event that a member of the Association should lease his or her Lot to another person then, and only in that event, the lessee shall be entitled to all of the privileges of membership in the Association, except that the Owner will still be responsible for payment of all assessments and will still be entitled to the vote allotted to the particular Lot in question.

Section 5.2 Allocation of Voting Rights. Each Lot is allocated one vote in the Association. The voting right allocated to each Lot is equal with respect to all Lots.

#### Section 5.3 Common Expense Liability.

- (a) The total Common Expense Liability of the Development shall be assessed against all Units and shall be made at least annually, based on a budget adopted at least annually by the Association.
  - i. **Ground Liability**: Each Unit shall be liable for a Base Common Expense Liability. The first Base Common Expense Liability shall be assessed at \$625.00, and may be changed by a majority vote of the Executive Board of the Association at the time it adopts an annual budget.
  - ii. **Use Liability**: Each Lot developed with a residential structure is allocated an equal share of the liability for Common Expenses beyond the aggregate amount of the Ground Liability assessed to all Units and the Limited Common Expense Payments chargeable to particular Units.
  - iii. **Formula for Calculation of Total Common Expense Liability**:  
(Total Assessment for Ground Liability Issued Against All Lots) +  
(Total Assessment of Use Liability Issued Against Any Developed Lot) + (Total Amount of Limited Common Expense Payments) = Total Estimate Budget.

- (b) If a Common Expense is caused by the negligence or misconduct of any owner, the Association may assess such expense exclusively against his or her Lot.
- (c) The budgets of the association shall segregate limited common expenses from general common expenses if and to the extent appropriate.

Section 5.4 Period of Declarant Control. Notwithstanding the allocation of voting rights, as set forth in Section 5.2 above, there is hereby declared to be a period of Declarant control, which shall extend from the date of the recording of a “Transition and Adoption Agreement” with the Columbia County Recorder of Deeds for a maximum of one year thereafter. During the period of Declarant control, the Declarant or persons designated by the Declarant shall appoint and remove the officers and members of the Executive Board of the Association.

(a) During the period of Declarant control, there shall be a transfer of control of the Executive Board as follows:

(i) no later than 60 days after the recording of a “Transition and Adoption Agreement” with the Columbia County Recorder of Deeds, two of the five members of the Executive Board shall be elected by Lot Owners other than the Declarant. The two Executive Board Members elected pursuant to this Section 4.3(a)(i) shall serve until the first election of the Executive Board held at the annual meeting of the Homeowner's Association following the date of the election of members of the Executive Board described in Section 4.3(a)(ii) below;

(ii) No later than one year after the date of the recording of a “Transition and Adoption Agreement” with the Columbia County Recorder of Deeds, the period of Declarant control shall terminate, and a meeting shall be held at which the three members of the Executive Board appointed by the Declarant resign and three additional members of the Executive Board shall be elected by the Lot Owners as a whole (including the Declarant as a Lot Owner) in accordance with the allocation of voting rights set forth in Section 5.2 above, in order to replace the Declarant appointed Executive Board Members who have resigned. The Executive Board Members elected pursuant to this Section 5.4(a)(ii) shall serve until the second annual meeting of the Homeowner's Association following the date of their election.

#### Section 5.5 Post Transition Voting

(a) Subsequent to the resignation of the Declarant appointed Executive Board Members pursuant to Section 5.3(a)(ii) above, all future members of the Executive Board shall be elected by the Lot Owners as a whole (including the Declarant

as a Lot Owner) in accordance with the allocation of voting rights set forth in Section 5.2 above.

(b) Except as hereinabove provided, all members of the Executive Board shall serve for three-year terms.

(c) No Board Member may serve more than two consecutive terms, but can be elected to more than two non-consecutive terms.

## ARTICLE VI

### **PROPERTY RIGHTS IN THE COMMON FACILITIES**

Section 6.1 Members' Easements of Enjoyment. Subject to the provisions of Section 6.3 of this Article VI, every member shall have a right and easement of enjoyment in and to the Common Facilities and such easement shall be appurtenant to and shall pass with the title to every Lot, and shall commence at the time of such member's acquisition of his or her lot whether or not title to the Common Facilities has been then conveyed to the Association. Such easement shall include the right of access to, ingress to and egress from the Common Facilities. Such easement shall also include the right to make reasonable passive recreational use of the Common Facilities, and the right to use drainage facilities and utilities placed within the Common Facilities and Controlled Facilities. A lessee shall have all of the rights of this Section belonging to the Owner of the Lot with the exception that they are not permitted to vote and are not required to pay any assessment since the vote and assessment remain with the Unit Owner.

Section 6.2 Title to Common Facilities. Declarant hereby covenants for itself, its successors and assigns, that it shall convey the Common Facilities by special warranty deed to the Association, free and clear of all liens and encumbrances, excepting mortgage encumbrances and mineral rights as may be provided for herein, existing building restrictions, ordinances, easements of roads, privileges or rights of public service companies as provided for herein, and any other restrictions or conditions existing of record not later than the termination of the period of Declarant control, as defined in Section 5.3 above. Notwithstanding the preceding sentence to the contrary, Declarant does not need the consent of the Association to convey the Common Facilities to the Association.

Section 6.3 Lease of Declarant Offices. For a period of not less than three (3) years from the recording of this Declaration, the Association shall lease the two easterly offices located within the Congeniality Center to Declarant for a nominal yearly rent of One (\$1.00) Dollar.

Section 6.4 Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Association in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Facilities and Controlled Facilities and, in aid thereof, to mortgage said Common Facilities, provided that the rights of such mortgagee in said Common Facilities shall be subordinate to the rights of the Owners hereunder;

(b) the right of the Association to take such steps as are reasonably necessary to protect the Common Facilities against foreclosure;

(c) the right of the Association, as may be provided in its Articles and Bylaws, to suspend the enjoyment rights to recreational open spaces of any members for any period during which any such member's assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.

(d) the right of the Association to charge reasonable admission and other fees for the use of any recreational facilities within the Common Facilities;

(e) the right of the Declarant, and of the Association, to grant and reserve easements and rights-of-way through, under, over and across the Common Facilities, for the installation, maintenance and inspection of the lines and appurtenances for access, ingress and egress, for public or private water, gas, electric, telephone, sewage, drainage, fuel oil, cable television, and other utilities; provided, however, that such easements and rights-of-way will not be contrary to either (i) the Plat, or (ii) the purposes for which the Common Facilities can be utilized under the governing ordinances of the Municipality; and the right of the Association, contingent upon the prior written approval of the Municipality, to dedicate or transfer all or any part of the Common Facilities to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication and transfer or determination as to the purposes or conditions thereof shall be effective unless an instrument executed by the president of the Association and attested to by the secretary thereof certifies that after due notice in accordance with the Articles of Incorporation and Bylaws of the Association, that two-thirds (2/3) of the Owners present, in person or in proxy, voted to approve such action; provided, however, that notwithstanding any such transfer, the Common Facilities are restricted to utilization as open space and for Storm Water Management Facilities or any other compatible use, subject to municipal approval.

(f) the free right and privilege of Declarant at all times hereafter to go upon

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the Common Facilities to construct, reconstruct, repair, renovate or correct any work heretofore or hereafter done by Declarant, its agents, servants, workmen or contractors.

(g) the free right and privilege of Declarant, its agents, servants, contractors, licensees and invitees to enter upon the Common Facilities at all times for purposes incident to the construction of the residential subdivision and the marketing of dwellings, including, without limitation, the right to complete all improvements denoted on the Plat and/or the Final Subdivision Plans, the right to maintain offices, models and signs, the right to use easements within and through the Common Facilities and Controlled Facilities, as more fully set forth hereinbelow.

(h) the absolute right of Declarant at any time until the conveyance of the last Lot to an Owner other than Declarant to modify the boundary lines of the individual Lots; provided, however, that any such change must first be approved by the Municipality.

Section 6.5 Access Easement through Additional Real Estate. Declarant shall ensure that an access easement shall be maintained to State Route No. 0042 for the benefit of the Association and all Unit Owners.

## **ARTICLE VII** **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 7.1 Continuation of the Lien Set Forth in the Deed Covenants and Personal Obligations of Assessments.

(a) Pre-Existing Deed Covenants. The obligation of all Lots Owners to pay a maintenance fee to the Declarant, as set forth in paragraph 8 of the Deed Covenant is assigned to the Association.

(b) Assessments. The Declarant, for each Lot owned by it within the Property, hereby covenants and each subsequent owner or current lot owner, of any such Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided; and (3) special assessments for maintenance, restoration or repair as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided shall be a



charge on the land and shall be a continuing lien upon the Lot against which each assessment is made, as more fully set forth in Section 5315 of *the UPCA*. Each such assessment, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

(c) Notification. The Owner of a Lot intending to sell the same shall notify the Executive Board as to his intent to sell the Lot so that the Resale Certificate required under Section 5407 of *the UPCA* may be prepared.

(d) Resale Certificate. Within ten (10) days of the receipt of such notification, the Board shall prepare a Resale Certificate which shall set forth all information required under Section 5407 of *the UPCA*. This certificate shall be mailed to the place designated by the Owner. No conveyance shall discharge the personal liability of the Owner for unpaid assessments or charges whether or not shown on such certificate. A reasonable fee shall be established from time to time for the cost of preparation of such certificate and shall be paid at the time of request for such certificate. The certificate shall be signed by an officer of the Association or by an employee of the Association's management company. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as to any purchaser or mortgagee relying thereon in good faith as of the date of its issuance, but shall not relieve the Owner of personal liability.

Section 7.2 Purpose of Assessments.

(a) The Assessments levied by the Association shall be used exclusively for the purpose of paying the Common Expenses of the Association, including promoting the recreation, health, safety and welfare of the residents of the Property and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Storm Water Management Facilities, open space and other lands within the Common Facilities, including but not limited to, the payment of taxes, insurance thereon and maintenance, repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof, and for the costs of operation of the Association.

Section 7.3 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 Facilities, including fixtures and personal property related thereto and including Storm Water Management Facilities and roadways, *provided that* any such assessment shall have the assent of two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

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Section 7.4 Special Assessment for Maintenance. The Association may make a Special Assessment for the cost associated with maintenance not anticipated in the yearly budget. Any Special Assessment shall be levied equally amongst all Lot Owners, whether those Lots are developed with a residential structure or remain vacant.

Section 7.5 Resale Capital Contributions. A capital contribution of \$2,500.00, or such other amount as may be designated by the Executive Board, shall be made to the Association by any Unit Owner transferring title to a third party. The Resale Certificate provided by the Association to the Unit Owner shall identify this Capital Contribution as an obligation of the seller.

Section 7.6 Rate of Assessment. Both annual and special assessments must be fixed as provided for herein and may be collected on a monthly or other periodic basis; provided, however, that in the event that a Common Expense is caused by the negligence or misconduct of an Owner, or tenant or invitee of an Owner, the Association may assess such expense exclusively against such Owner's Lot.

Section 7.7 Effect of Nonpayment of Assessments: Remedies of the Association.

(a) Any assessment not paid within thirty (30) days after the due date shall be subject to such late charge as may be established by the Board, and shall also bear interest from the due date at the rate of fifteen percent (15%) per annum, unless a lesser rate is required by law, but then at the maximum rate permitted. The Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the Lot, as set forth in § 5315 of *the UPCA*, or both. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Facilities or abandonment of his Lot.

(b) Each Owner on becoming an Owner of any Lot shall be deemed to covenant and agree to the enforcement of all assessments in the manner specified in this Declaration and in *the UPCA*. Each Owner agrees to pay reasonable attorney fees as established from time to time by the Board and costs incurred in the collection of any assessment against such Owner and/or his Lot, whether by suit or otherwise, or in enforcing compliance with or specific performance of the terms and conditions of this Declaration or other governing documents as against such owner and/or his or her Lot.

(c) Any assessment installment not paid within thirty (30) days after the due date shall be delinquent. Thereupon, the Association may provide notice of such delinquency and may do one or more of (a) declare the entire balance of such annual or special assessment due and payable in full; or (b) charge a late fee in an amount to be set by the Board; or (c) upon registered or certified mail notice to the Owner, suspend the right of such Owner to vote and/or to use the open space portions of the Common Facilities, except roadways, until the assessment and accrued charges are paid in full; or (d) employ other remedies available at law

or equity or, without limitation of the foregoing, including either of the following procedures:

(i) *Enforcement by Suit.* The Association may commence and maintain a suit by law against any Owner or Owners for such delinquent assessments as to which they are personally obligated. Any judgment rendered in any such action shall include the amount of the delinquency, together with late fees, interest thereon at the rate of fifteen (15%) percent per annum from the date of delinquency, costs of collection, court costs and reasonable attorneys' fees in such amount as the Board has established from time to time. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien hereinafter provided for.

(ii) *Enforcement by Lien.* Pursuant to § 5315 of the *UPCA*, there is hereby created and perfected a claim of lien, with power of sale, on each and every Lot to secure payment to the Association of any and all assessments levied against any and all Owners of such Lots pursuant to this Declaration, together with late fees, interest thereon as provided for by this Section, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees, as may from time to time be established by the Board. At any time after the occurrence of any delinquency in the payment of any such assessment, the Association, or an authorized representative thereof, may make a written demand for payment to the delinquent owner. Said demand shall state the date and amount of the delinquency. Each delinquency shall constitute a separate basis for a demand or claim or lien, but any number of defaults may be included within a single demand or claim or lien on account of prior delinquencies, and any demand, claim or lien shall be deemed to include subsequent delinquencies and amounts due on account thereof. If such delinquency is not paid within ten (10) days after delivery of such demand, the Association, or its duly authorized representative, may thereafter elect to commence foreclosure or other enforcement action in court, as set forth in § 5315 of the *UPCA*. The Board is hereby authorized to appoint any attorney or any officer or director of the Association for the purpose of conducting such proceeding.

(d) All remedies provided herein or in the *UPCA* are cumulative.

Section 7.8 Lien Priority and Divestiture. The priority of any lien for assessments authorized hereunder or by the *UPCA*, shall have such priority as against any and all other liens on a Lot, as is set forth in § 5315 of the *UPCA*. Any such lien shall be subject to divestiture only as set forth in § 5315 of the *UPCA*.

Section 7.9 Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein; all Common Facilities as defined in Article I, Section I hereof. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or

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liens.

**ARTICLE VIII**  
**EASEMENTS ON COMMON FACILITIES**

Section 8.1 Easements. The Open Spaces shall be subject to certain sanitary sewer easements, water service easements and access easements as shown on the Plat.

**ARTICLE IX**  
**MAINTENANCE OF COMMON FACILITIES AND**  
**CONTROLLED FACILITIES**

Section 9.1 Maintenance Responsibility. The maintenance of the Common Facilities and Controlled Facilities, if any, shall be the responsibility of the Association. The Common Elements shall be maintained in a structurally sound and functional condition, in compliance with all Municipality regulations. Maintenance shall include, but is not limited to, Storm Water Management Facilities and Recreation Facilities maintenance and repair, snow removal and repairs on roadway, lawn care, liability insurance, all property taxes, landscaping and planting, construction of any kind and anything else associated with the use and enjoyment of the Common Elements by the Owners.

**ARTICLE X**  
**EFFECT OF NON-MAINTENANCE OF COMMON FACILITIES AND**  
**CONTROLLED FACILITIES BY ASSOCIATION**

Section 10.1 Right of Municipality. In the event that Declarant or the Association, as applicable, fails to maintain in structurally sound and functional condition the Common Elements or causes or allows any such Common Element to be altered, removed, or to fail to function as designed and/or as required by applicable regulations and, upon prompt notification by the Municipality, fails to correct the same within the time specified in the Municipality's notice, the Municipality shall have the free right, but not the obligation, to enter upon the Common Elements and provide for the maintenance, replacement, reconstruction or repair to the Common Elements as the Municipality determines to be necessary. The Municipality, before it may exercise the above-mentioned rights, shall notify the Board of

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DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS FOR MYSTIC  
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Directors of the Association by certified mail of its intention to do so. The notice to the Board of Directors of the Association shall specifically set forth in what manner the Association has neglected the maintenance of or repair to the Common Element and shall provide the time period for correction of the same. If the Association fails to correct or repair the items listed in the notice, within thirty (30) days thereafter the Municipality may exercise its above-mentioned rights.

Section 10.2 Costs of Maintenance. The costs of the Association or the Municipality to maintain and/or repair the Common Elements shall be assessed equally as set forth in Section 5.3 herein. The assessment shall be a charge of the Lots and shall be a continuing lien upon the Lots.

Section 10.3. If Association is Abolished. In the event that the Association is abandoned or abolished, or otherwise ceases to exist, or the Association proposes to dispose of the Common Facilities as provided herein, such Common Facilities, except for the Congeniality Center, shall first be offered for dedication to the Municipality, at no cost to the Municipality, before any other steps are taken in conformity with these Covenants and Restrictions. In the event that the Association is abandoned or abolished, the title to the Congeniality Center shall revert to the Declarant.

## **ARTICLE XI**

### **GENERAL RESTRICTIONS**

Section 11.1 Compliance with Confirmatory Subdivision Plan. No use of any Lot shall be made which is contrary to the Confirmatory Subdivision Plan approved by the Municipality, as provided for in the relevant provisions of the Municipality zoning ordinance, or such changes or amendment to such plan as may from time to time be properly approved by the Municipality. Each Owner shall be bound by all provisions of such Confirmatory Subdivision Plans, whether or not recorded, including but not limited to all Notes shown thereon.

Section 11.2 Lot Size. No Lot shall be subdivided, partitioned, changed or reduced in size except that the Declarant reserves the right to itself, its successors or assigns, to modify the final plan in accordance with the proper consent and approval of the Municipality.

Section 11.3 Plans and Specifications. No construction, including excavation or site preparation, shall begin upon any Lot, residence or accessory building nor any major alterations made to the exterior of any existing building, until the plans and specifications showing size, shape, floor plans, materials, colors, location, elevations and disposition of fill shall have been submitted to and approved by the Declarant during the period of Declarant control and the Association thereafter. The intent of such approval is to insure that all structures at the Property

shall exist in general harmony and character with each other and the topography, vegetation and other features, as well as to insure that proper isolation distances are maintained between potable well site and septic fields.

Section 11.4 Restricted Uses. The following uses and improvements are prohibited or restricted unless hereinafter specifically permitted with the prior approval of the Declarant or the Association.

(a) No fence, hedge or other continuous obstruction or barrier of like nature shall be erected or maintained unless approved and agreed to by Declarant, or by the Executive Board or an Architectural Control Committee appointed by the Board. Approval shall not be unreasonably withheld, consistent with preservation of aesthetics within the community.

(b) No trailer, tent, recreational vehicle, outbuilding or structure of a temporary nature shall be used as a residence and no unused vehicle or equipment and not more than one trailer, recreational vehicle or boat shall be parked or stored on any Lot.

(c) No commercially licensed vehicle or equipment shall be parked on the Lot, except when performing work or making a delivery.

(d) No fowl or farm animals shall be raised or kept and no kennel for the breeding or boarding of dogs shall be erected or maintained on any Lot, nor shall any large animal (other than a dog) be housed, raised or otherwise maintained on any Lot.

(e) No portion of the Property shall be used or maintained as a dumping ground for rubbish, trash, new or used lumber or wood, metal scrap, garbage or other waste, except that such material may be kept on the unit or in areas of the Property designated for this purpose by the Declarant or lot owners contractor (in connection with its construction), or by the Executive Board, provided that these materials are kept in sanitary containers in a clean and sanitary condition. Unit Owners shall place these containers for collection only in the designated areas, and only on the day these refuse materials are to be collected. Empty containers shall be removed promptly after collection.

(f) No unit Owner or occupant shall leave any non-operating vehicle, any vehicle not currently registered and licensed, or any vehicle having an invalid and expired state motor vehicle inspection sticker on or about the Property, except if entirely enclosed in a garage.

(g) No tents, storage tanks or accessory buildings or structures shall be erected or permitted to remain on a Lot, except with the prior written approval of the Executive Board or an Architectural Control Committee appointed by the Board.

(h) All contractors performing work within the development must be licensed by the Commonwealth of Pennsylvania and carry commercially reasonable insurance coverage. Proof of both a valid license and insurance must be provided to the Executive Board prior to the commencement of work on any Unit or Common Area.

Section 11.5 Occupancy. No dwelling house shall be erected on any Lot which shall be designed for occupancy by more than a single family or housekeeping unit; however, this shall not prohibit quarters for domestic service or in-law suites. On any Lot only one dwelling house shall be permitted.

Section 11.6 Completion of Construction. Construction of any dwelling or other permitted building must be completed within one (1) year of the date of ground breaking. Whether or not occupied, Lots must be kept in neat and proper condition at all times with respect to mowing of grass and other or external care. Further, no materials to be buried or burned on said lot.

Section 11.7 Seeding of Right of Way. It shall be the duty of every Lot Owner abutting a road right-of-way within the Property to be responsible for the proper seeding, care and maintenance of the lands (a) lying between the portion of that Owner's property line which abuts such right-of-way and the cartway lying within such right-of-way and (b) lying within any drainage swale, drainage easement area or other drainage facility. In performing this duty, the owners shall not obstruct or make any use of such area which is detrimental to or inconsistent with the proper use of the right-of-way.

Section 11.8 Tree Maintenance. All street trees existing in and/or planted in the public street right-of-way shall be cared for and maintained in good, healthy and safe condition at all times by the Lot Owner of the part of the Lot where the tree is located. The Municipality shall have the right, but not the duty, to inspect any such tree and to require the Lot Owner, at the Lot Owner's expense, to prune, maintain and, if the tree is dead, diseased or malformed, to remove the tree and replace it with a tree of the same species or a species approved by the Municipality. All liability for any street tree on the Lot shall be on the Lot Owner of the part of the Lot where the tree is located. Without limitation, such Lot Owner shall have the duty to ensure that the tree does not create any nuisance.

Section 11.9 No Interference With Right of Way. No grading, landscaping or excavation or driveway installation shall be constructed on any Lot in a manner that burdens, damages or interferes with drainage along, across or under the road right-of-way, or which interferes with any on Lot drainage swales, pipes, berms, basins or other drainage facilities of any type. Each Lot Owner shall further protect and refrain from damaging or causing any defect in any on-lot drainage swales, pipes, berms, basin or other Storm Water Management Facilities of any type, and failure to so protect and refrain from damaging shall constitute a violation of such Lot Owner's duties to the Association and to the Municipality under and pursuant to the approved subdivision plan for the Property. Hence, each Lot Owner failing to properly protect or

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causing any damage to any such drainage facilities, after failure to correct such defect or damage within 30 days after notification by either the Association or by the Municipality of the existence of such defect or damage, shall be subject to the penalties set forth in the Pennsylvania Municipalities Planning Code for violation of a Municipal Subdivision and Land Development Ordinance. In addition, the Association shall have the right to enter upon any Lot for the purpose of effecting repairs or rebuilding of any damaged drainage facility, and to assess the cost thereof against the Owner of such Lot, and to enforce such assessment in accordance with the provisions of Article VII.

Section 11.10 Sewer/Water Isolation Distances. Each Lot owner must maintain a one hundred (100ft) foot isolation distance between any sewage field and any potable well, on the same or neighboring Lot. The owners of all adjoining Lots must be contacted prior to any Unit Owner seeking approval to locate a potable well or septic field.

Section 11.11 Restrictions Cumulative. All restrictions provided for herein shall be in addition to any restrictions contained in the Deed Covenants, municipal ordinances, rules or regulations, and in all events, in the case of conflict between such rules and regulations and the restrictions provided for herein, the more stringent of the two shall apply.

Section 11.12 Grading and Tree Removal. Each owner who intends to construct any dwelling or structure on his Lot shall prepare a grading plan therefor in conformance with all applicable soil and erosion control laws, ordinances and standards. Said plan shall be filed with Declarant. Owner shall be solely responsible for the implementation of, and shall implement, said plan. Before removing or clearing any trees, Owner shall contact and secure the approval of the Association.

Section 11.13. Open Fires. No open fires shall be permitted on any Lot.

Section 11.14. Septic Systems. Each Lot Owner must notify Executive Board of any septic system malfunction. Such notice must be in writing and be made within twenty-four hours of any malfunction, as it could affect wells on the particular lot as well as adjoining lots. Repairs must be made in a timely manner, unless otherwise agreed to by the Executive Board.

Section 11.15. Signs. No signs shall be placed on properties—i.e., ‘for sale’ signs and other temporary signs other than for identification of the residence—without the prior approval of the Board.

Section 11.15. Compliance with Municipal and State Law. All Unit Owner, and their guests and invitees, must comply with all laws enacted by the Commonwealth of Pennsylvania or the local municipality.



(a) All Unit Owners, and their guests and invitees, must adhere to the posted traffic control signs posted within the Development. The conviction of any Owners or their guest or invitee of an offense relating to a posted traffic control sign shall provide a basis for the imposition of a reasonable fine by the Association in an amount to be set in the Association's Rules & Regulations.

## ARTICLE XII

### **RETENTION OF SPECIAL DECLARANT RIGHTS; DEVELOPMENT RIGHTS**

Section 12.1 Grading Easement. Declarant retains, for a period ending two (2) years after the sale by Declarant of the last Lot, an easement to enter upon each Lot to perform any corrective grading deemed necessary or desirable by Declarant; the Association and the Municipality shall each have the same easement perpetually.

Section 12.2 Development Rights. Declarant shall have the right and reserves the option to create units, limited common elements or both within convertible real estate or to add additional real estate to or withdraw withdrawable real estate from the planned community as identified on the HOA Plan and further described herein. There are no limitations on Declarant's right to exercise its Developer Rights or Special Declarant Rights other than those expressly set forth herein.

Section 12.3 Time Limitation to Exercise Development Rights. Declarant shall have the right to convert, add or withdraw real estate, as shown and identified on the HOA Plan for a period not to exceed seven years after the recording of the this Declaration, upon which any option will lapse.

Section 12.4 Adjustment of Voting Rights and Common Expense Liability. Should any unit(s) be added or withdrawn from the Development pursuant to the Special Declarant Rights, the voting strength of all Units shall be reapportioned on a *pro rata* basis.

Section 12.5 Creation of Further Areas of Limited Common Elements. If Declarant exercises its right to further create Limited Common Elements, those areas will be for the creation of sewer and/or water wells to serve Units in a size necessary to serve that purpose. No assurance is made that new Limited Common Elements will be approximately equal to the proportion existing within other parts of the planned community or the size.

Section 12.6 Uniform Limitations on all Convertible or Additional Real Estate. All restrictions in the declaration affecting use, occupancy and alienation of units will apply to units created within any convertible or additional real estate or a statement of any differentiations that may be made as to those units.

Section 12.7 Third Party Easements. Declarant retains the sole right to subject any portion of the Community to an easement or license in favor of any real estate not included in the Property or in favor of any person who is not an Owner or occupant of a Lot in the Community, until such time as the termination of the period of Declarant control. In such event, in exercising any such right, the use and enjoyment of any Lot by the Lot Owner shall not be adversely affected by the easement rights, nor there be any adverse impact on the budget of the Association.

Section 12.8 Offices and Models. Declarant reserves the right to maintain offices and models within the Common Facilities portions of the community and/or individual Lots within the community, in connection with the management of and/or sale or rental of Lots or units owned by the Declarant. There shall be not more than two (2) model homes at any one time, each of which shall be a single family dwelling, comparable in size to the dwellings to be constructed on the individual Lots. Model homes may be placed on any Lot. Temporary sales trailers and/or construction trailers and/or equipment trailers may be placed anywhere within the Common Facilities portions of the Community, and/or within individual Lots. These rights shall be retained for so long as the Declarant retains ownership of any one or more Lots within the Community.

Section 12.9 Signs. Declarant retains the right to maintain signs in any one or more of the Lots in the Community, as well as on the Common Facilities thereof, advertising Lots or units in the Community for sale or lease.

Section 12.10 Executive Board. Until the termination of the period of Declarant control, Declarant retains the right to appoint or remove all officers of the Association and/or members of the Executive Board, subject to the limitations set forth hereinabove and in *the UPCA*.

### **ARTICLE XIII**

#### **GENERAL PROVISIONS**

Section 13.1 Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall insure to the benefit of and be enforceable by the Association, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns and the Municipality, perpetually. This Declaration, including the Plat, may be amended only by the affirmative votes (in person or by proxy) or written consent of members representing two-thirds (2/3) of the total voting power of the Association, and approved in writing by the Municipality (to the extent affecting any right of the Municipality), except as otherwise specified below or in *the*

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DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS FOR MYSTIC MOUNTAIN ESTATES, A FLEXIBLE PLANNED COMMUNITY

*UPCA*. Any amendment must be recorded in the Columbia County Recorder of Deeds office.

Section 13.2 Exceptions to General Amendment Process. Notwithstanding the provisions of Section 13.1 above, the following exceptions to the general amendment process shall apply:

- (a) unanimous consent or joinder of the Declarant shall be required for all circumstances set forth in § 5219 (d) of *the UPCA*;
- (b) amendments may be executed by Declarant under all circumstances set forth in § 5219(a)(3)(i) of *the UPCA*;
- (c) amendments may be executed by the Association under all circumstances set forth in § 5219(a)(3)(ii) of *the UPCA*;
- (d) amendments may be executed by certain unit owners under all circumstances set forth in § 5219(a)(3)(iii) of *the UPCA*.

Section 13.3 Recordation of Amendments. Every Amendment to this Declaration must be recorded in the Recorder of Deeds Office of Columbia County, Pennsylvania in order to become effective.

Section 13.4 Technical Corrections. The Executive Board may effect one or more appropriate corrective amendments without the approval of the unit Owners or the holders of liens, in accordance with the authorization and procedures set forth in § 5219(f) of *the UPCA*.

Section 13.5 Recording Data for Easements and Licenses. In addition to the recording information noted on the HOA Plans, the following recorded easements and licenses affect the Property:

- (a.) [insert descript and recording information here, if any]

Section 13.6 Indemnification of Officers, Executive Board and Committee Members. The Association shall indemnify every Executive Board member, officer and committee member, his heirs, executors and administrators, against all loss, cost and expenses, including attorney fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being, or having been, an Executive Board member, officer or committee member, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding, to be liable for gross negligence or willful misconduct. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason, or arising out of or in connection with, this indemnification provision shall be treated by the Association as common expenses.

Section 13.7 Notices. Any notice required to be sent shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as an Owner on the records of the Association at the time of such mailing.

Section 13.8 Enforcement. Enforcement of these covenants and restrictions shall be by and proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages and against the land to enforce any lien created by these covenants; and failure by the Association or Municipality or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 13.9 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions, which shall remain in full force and effect.

**IN WITNESS WHEREOF**, the said Declarant, by its duly authorized officer, upon approval on no less than eighty (80%) of the lot owners as memorialized on the attached Transition and Adoption Agreement, has executed this Declaration the day and year first set forth above.

THE SOUTHERN COLUMBIA  
CORPORATION, INC

By: \_\_\_\_\_  
Pamela Fraim Kressler,  
President,  
The Southern Columbia Corporation, Inc

## **LIST OF EXHIBITS**

Exhibit “A” — Legal Description

Exhibit “B” — HOA Plans

Exhibit “C” — Transition and Adoption Agreement

Exhibit “D” — Confirmatory Subdivision Plan

DRAFT 10.6.2012

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DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS FOR MYSTIC  
MOUNTAIN ESTATES, A FLEXIBLE PLANNED COMMUNITY