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GENERAL DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made this 8 day of June, 1987, by DICTAR ASSOCIATES II, a Maine general partnership with a place of business in Falmouth, County of Cumberland and State of Maine (herein called "Declarant").

1. DECLARATION PURPOSES:

1.1 General Purposes: Declarant is the owner of certain real property located in the towns of Falmouth and Cumberland, Cumberland County, Maine, and desires to create therein a residential community.

Declarant desires to provide for the preservation of the values and amenities in said community and desires to subject the real property described in Article 3, together with such additions as hereafter may be made thereto as provided in Article 3, 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 owner thereof and all other nearby properties owned by Declarant. Declarant also desires to establish a homeowners association as a method for the administration, maintenance, preservation, use and enjoyment of the real property described in Article 3, together with such additions as may be made thereto.

1.2 Declaration: To further the general purposes herein expressed, Declarant, for itself, its successors and assigns, hereby declares that all real property hereinafter described in Article 3 as "existing properties," and such additions to the existing properties as hereafter may be made pursuant to the provisions of Article 3, whether or not referred to in any deed of conveyances of such properties, at all times is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

2. DEFINITIONS: The following words and terms, when used in this Declaration or any supplemental declaration (unless the context indicates otherwise), shall have the following meaning:

2.1 "Association" shall mean Falmouth-On-The-Green Homeowners Association, a Maine non-profit corporation with a place of business in Falmouth, Maine.

2.2 "Board" or "Board of Directors" shall mean the duly elected Board of Directors of the Association.

2.3 "Common Expenses" shall mean the actual and estimated expenses of operating the Association, including any reasonable reserves, all as may be found to be necessary and appropriate by the Board of Directors pursuant to this Declaration and the Bylaws of the Association.

2.4 "Common Properties" shall mean and refer to any real property, and improvements or portions of improvements thereon, and any personal property or equipment conveyed to the Association.

2.5 "Design Guidelines" shall mean the Falmouth-On-The-Green Design Review Process and Design Guidelines.

2.6 "Dwelling" shall mean and refer to any residential structure or any building or any part thereof designed and intended for use and occupancy as a residence.

2.7 "Dwelling Accessory Building" shall mean a subordinate building, the use of which is incidental to the dwelling and customary in connection with that use.

2.8 "Enclosed Dwelling Area" shall mean that portion of a dwelling which is enclosed and customarily used for dwelling purposes, but shall not include open or shed porches, terraces, breezeways, garages, carports, sheds, decks or dwelling accessory buildings. Screen porches or greenhouses are enclosed dwelling areas if their roofline forms an integral part of the roofline of the main dwelling or if they are attached to a two story structure.

2.9 "Lot" shall mean and refer to the individual lots indicated on the Plan (as hereinafter defined) on which one or more dwellings are or may be constructed. In the event that any sidewalk, pathway or roadway encroaches, now or in the future, on any lot, an easement for such encroachment exists.

2.10 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title, or that estate or interest which is most nearly equivalent to a fee simple title, to any lot situated upon the Properties, but shall not mean or refer to any mortgage holder thereof unless and until such holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

2.11 "Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any supplemental declaration as provided in the provisions of Article 3 hereof.

2.12 "Single Family" shall mean one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than four (4) persons not all so related, together with his or their domestic servants, maintaining a common household in a dwelling.

2.13 "Story" shall mean that portion of a dwelling included between the surface of any floor and the surface of a floor next above, or if there is no floor above, the space between the floor and the ceiling next above but shall not include a cellar or basement.

2.14 "Structure" shall mean anything erected or constructed, the use of which requires more or less permanent location on or in the ground or attached to something having a permanent location on or in the ground. A sign or other advertising device, attached or projecting, shall be construed to be a separate structure.

3. EXISTING PROPERTIES--ADDITIONS THERETO:

3.1 Property: The real property ("Property") which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, is located in the Town of Falmouth, Cumberland County, Maine, and is more particularly described in Exhibit A attached hereto and by this reference made a part hereof as fully as though recited in this Article 3.1. The existing properties are also shown on a plan entitled Falmouth Country Club by Land Use Consultants, dated August 29, 1986 and revised through November 18, 1986, consisting of 7 sheets, of which Sheets 1 and 3 through 7 are recorded in the Cumberland County Registry of Deeds, Plan Book 159, Page 53 (hereinafter referred to as the "Plan"). All of the property subject to this Declaration is in the Town of Falmouth and is shown on Sheets 3 through 7 of the Plan. Real estate shown on the Plan but located in the Town of Cumberland is anticipated to be added to the Property by means of a Supplemental Declaration recorded pursuant to Article 3.2. No more than 95 lots shall be created on the existing properties.

3.2 Additions to Existing Properties. Declarant is or may become the owner of land adjacent to the existing properties. Declarant, its successors and assigns, shall have the right, to be exercised within 7 years from the date of recording hereof, to bring within the scheme of this Declaration in future stages of development, any part, or all, of such additional lands. The additions authorized under this subsection shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the

Covenants and Restrictions of this Declaration to such property and which shall be executed by Declarant as record owner of such property. Any such supplemental declaration may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property, and as are not inconsistent with the scheme of this Declaration. Any such additions, if made, will become subject to assessment for their just share of common expenses. In no event shall any such supplemental declaration revoke, modify or add to the covenants established by this Declaration with respect to the existing properties.

4. GENERAL RESTRICTIONS:

4.1 Land Use and Building Type, Number of Dwellings: No dwelling or structure shall be erected, re-erected or maintained except in accordance with this Declaration. No dwelling accessory building shall be used for rental purposes separate from the dwelling. Each lot shall be used for no more than one dwelling unless subdivision is approved under Article 4.24 below.

4.2 Minimum Living Area: Declarant or any successor in title may include in any deed to a lot minimum square footage requirements for any enclosed dwelling area to be constructed thereon. No plans shall be approved unless the proposed dwelling shall have the minimum square footage of enclosed dwelling area required in such deed. In case for any reason the deed does not contain such a requirement, Declarant shall disapprove plans which do not provide for a reasonable amount of enclosed dwelling area.

4.3 Building Height: No new dwelling shall be erected, which is more than 35 feet in height. No dwelling accessory building shall exceed 25 feet in height. Height shall be measured as provided in the applicable town Zoning Ordinance.

4.4 Dwelling Quality: It is the intention and purpose of these covenants to insure that all dwellings shall be of a quality of design, workmanship and materials which are compatible and harmonious with the natural setting of the area and other dwellings within the development. All dwellings shall be constructed in accordance with applicable government building, safety or other codes. Declarant shall, as part of the design and construction approval process, have the right to approve or disapprove the general contractor for any construction project.

4.5 Location of Dwellings and Structures: To assure that buildings and other structures will be located so that desirable view, privacy and breeze will be available to the largest practical number of buildings or structures built within the properties and that structures will be located with regard to the topography of each property taking into consideration the location of large trees, structures previously built or approved pursuant to this Article and other aesthetic and environmental considerations, where the contract or deed of conveyance for individual lots does not specify building set-back lines from front, rear and side lines, Declarant shall have the right to control and to decide (subject to the provisions of the pertinent land use regulations of public authorities having jurisdiction) the precise site and location of any building or structures within the properties. The location shall be determined only after reasonable opportunity is afforded the owner to recommend a specific site.

4.6 Parking: Each owner shall provide space for parking at least two (2) automobiles off the street prior to the occupancy of any dwelling thereon. Additional parking spaces may be required by Declarant as a condition to approval of the plans, but such requirement shall not exceed one additional parking space for every two beds (or bed equivalents) which the proposed dwelling can reasonably accommodate. Any construction, alteration, relocation or additional landscaping of the parking areas, or extension of paved areas to areas previously grassed, landscaped or left in a natural condition shall be submitted for approval to Declarant. Each owner shall have the right to own and operate one (1) golf cart on his lot.

4.7 Driveways: Plans and specifications for driveways, culverts, pavement edging and markers shall be approved in writing by Declarant.

4.8 Home Occupations: No home occupation or profession shall be conducted in any dwelling or accessory building. Declarant may lease or rent any lot or part of a lot owned by it.

4.9 Temporary Structures: No trailer, tent, shack or other structure, except as otherwise permitted herein, and no temporary building or structure of any kind shall be used for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling shall be in close proximity to the dwelling and in a location approved by Declarant and such buildings or structures shall be removed upon completion of construction.

4.10 Completion of Construction: Construction shall commence within one year of the date the building permit is granted by the Town of Falmouth or Cumberland. Any construction undertaken shall be continued with diligence toward the completion thereof and the exterior construction of any dwelling shall be completed within one year of the date on which construction (including excavation) commences, except that such period may be extended by reason of strikes, fires, natural disaster and other matters beyond the owner's control. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. Substantially all of the landscaping shown in plans submitted to and approved by Declarant must be completed within ninety (90) days of completion of exterior construction unless Declarant shall approve an extension of such ninety (90) day period. As a condition of approval of proposed plans for all structures, a bond may be required by Declarant which guarantees payment of the landscape contractor's estimated cost of installation to implement the plan as submitted to and approved by Declarant.

4.11 Signs: No signs or advertising devices, including but without limitation, commercial, political, informational or directional signs or devices, or for sale or for rent signs, shall be erected or maintained on the properties, except signs which comply with the requirements of Declarant's Sign Guidelines. Dwelling identification signage is limited to one sign no larger than 6" x 18" mounted on the dwelling unit, by or on the door or at or near the driveway entrance or main entrance walkway.

4.12 Trees: It is the Declarant's intention that the natural woodland and shoreland characteristics of the properties be preserved to the extent practicable. No trees measuring four (4) inches or more in diameter at breast height may be removed without written approval from Declarant, unless located within fifteen (15) feet of a dwelling or dwelling accessory building or within fifteen (15) feet of the approved site for such building. The Declarant recognizes that certain owners may desire to plant small gardens for their personal use and enjoyment. In such cases approval by Declarant for any tree cutting must be obtained by the owner. In the event of a violation hereof, a special fine of \$1000 per tree removed may be levied against the responsible owner, and Declarant shall have the right to enter upon the properties and plant a new tree of the same or a different species in approximately the same location as the tree wrongfully removed. Fines or charges pursuant to this Article 4.12 shall be collected and enforced in the same manner as assessments under Article 8.

4.13 Utility Lines: All water, gas, electrical, telephone and other electronic pipes and lines and all other utility lines within the limits of the properties shall be installed in compliance with all applicable federal, state and local requirements and with the consent of Declarant.

4.14 Maintenance of Property: All property and all improvements on the properties shall be kept and maintained by the owner thereof in clean, safe, attractive and sightly condition and in good repair.

4.15 No Noxious or Offensive Activity: No offensive or noxious activity shall be carried on upon the properties. "Offensive or Noxious" activity or behavior shall include but not be limited to a public nuisance or nuisance per se and shall also include any behavior which is inconsistent with both the reasonable pleasurable use of the properties by owners, their lessees and guests and their reasonable expectations of vacationing, year-round living, studying, working, recreating, or enjoying sports free of excessively noisy behavior grossly disrespecting the rights of others, flashing or excessively bright lights, racing vehicles, offensive displays of public sexuality, significantly loud electronic music distractions, or other similar unreasonable behavior or activity curtailing or likely to curtail the reasonable pleasure and use of the properties by others who are not participating in such offensive or noxious activity. Resort athletic events, concerts, festivals, competitions or shows primarily for the use and enjoyment of the properties by owners and their guests, conducted under permit from Declarant shall not constitute offensive or noxious activity or behavior unless such permit is withdrawn by Declarant, or its terms and conditions violated.

4.16 No Hazardous Activities: No activities shall be conducted on the properties and no improvements constructed on the properties which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the properties; and no open fires shall be lighted or permitted on the properties except within a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed fireplace.

4.17 No Unsightliness: No unsightliness shall be permitted upon the properties. Without limiting the generality of the foregoing, (a) any unsightly structures, facilities, equipment, tools, objects or conditions shall be enclosed within an approved building or appropriately screened from view, except equipment and tools when in actual use for maintenance or repairs; (b) no vehicle shall be constructed,

reconstructed, repaired or abandoned upon the properties except in an enclosed garage or work space; (c) no lumber, grass, shrub or tree clippings, plant waste, metals, bulk materials or scrap shall be kept, stored or allowed to accumulate on the properties (d) refuse, garbage and trash shall be placed and kept at all times in a covered container and such container shall be kept within an enclosed structure or appropriately screened from view; (e) hanging, drying or airing of clothing or household fabrics shall not be permitted on the properties; (f) garage doors shall not be left open for extended periods of time.

4.18 Restrictions on Animals: Usual and ordinary domestic pets may be kept on the properties, provided that dogs shall not be permitted outside of a dwelling except on a leash attended by a responsible adult.

4.19 No Annoying Lights, Sounds or Odors: No light shall be emitted from any portion of the properties which is unreasonably bright or causes unreasonable glare or does not comply with the Design Guidelines; no sound shall be emitted from any portion of the properties which is unreasonably loud or annoying including without limitation, speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively to protect any of the properties or buildings; and no odors shall be emitted from any dwelling or any portion of the properties which are noxious or offensive to others.

4.20 Rules and Regulations: In order to assure the peaceful and orderly use and enjoyment of the properties, Declarant may from time to time adopt, modify, and revoke in whole or in part, such reasonable rules, and regulations, to be called Rules and Regulations, governing the conduct of persons on said properties as it may deem necessary, including, but not limited to, Design Guidelines, Sign Guidelines, and methods and procedures for enforcing compliance with the Declaration. In addition, the Association may from time to time adopt, modify and revoke in whole or in part, such reasonable rules and regulations governing conduct of persons on said properties as it may deem necessary. Said modification and revocations shall not apply to those Rules and Regulations adopted, modified or revoked by Declarant. Such Rules and Regulations upon adoption, and every amendment, modification, and revocation thereof, shall be delivered promptly to each owner and the Association and shall be binding upon all owners. No such rules or regulations shall be established which violate the intention or provisions of this Declaration or which shall unreasonably restrict the use of the properties by the owners thereof nor shall such rules or regulations be in violation of

or modify any of the conditions of approval established by the Town of Falmouth, which conditions of approval are attached hereto as Exhibit B and incorporated herein by reference. The Rules and Regulations of Declarant shall control and supersede any rules and regulations of the Association in the event a conflict exists between the Rules and Regulations of Declarant and the Rules and Regulations of the Association.

4.21 Snow Storage: Declarant shall have the right to designate areas within the Property to push, stock or store snow.

4.22 Television Antennae: No antenna or other signal receiving system shall be constructed or maintained on the properties except such system as approved and made available by Declarant.

4.23 Deviations by Agreement with Declarant: Declarant may enter into agreements with any owner without the consent of any other owner, to deviate from any of the covenants set forth in this Article 4 for reasons of practical difficulties or particular hardships which otherwise would be suffered by such owner. Any such deviation, which shall be manifested by agreement in writing, shall not constitute a waiver of any such covenant as to other lots in the properties.

4.24 Subdivision of Property; Time Sharing, Interval Ownership: The lots shall not be subdivided other than by Declarant except by means of a written and recorded instrument indicating that such subdivision has been approved by Declarant. No unit of ownership may be subdivided to permit "Time Sharing" or other "devices" to effect interval ownership unless approved by Declarant subject to conditions which may be imposed by Declarant.

For purposes of this Article, "devices" to effect interval ownership shall include but not be limited to ownership arrangements, including uses of corporations, trusts, partnerships or tenancies in common in which four or more persons not members of a single household have acquired, by means other than will, descent, inheritance or operation of law, an ownership interest (directly or indirectly, equitable or legal) in the same dwelling and such owners have a formal or informal right-to-use agreement.

4.25 Drainage: Declarant may establish reasonable regulations and restrictions pertaining to drainage and siltation originating on construction sites and parking lots, porosity of pavement materials used on roadways and parking areas and similar provisions relating to hydrological factors on the properties.

4.26 Garbage Disposal. No garbage disposal unit shall be installed in any unit in such a way as to discharge to the central waste treatment facility maintained and operated by the Association.

4.27 Prohibition of Motorcycles. No snowmobiles or all terrain vehicles, (other than those used by Declarant for maintenance purposes), trucks over 6,000 pounds gross vehicle weight, trail bikes or motorcycles shall be permitted within the properties, except that motorcycles may be operated only on the paved roads designed for automobile traffic within the properties and snowmobiles may be operated on trails specifically designated for snowmobile use by Declarant. No boats may be stored on the properties unless completely enclosed within a building.

4.28 Lease of Lots. No lot may be leased for less than 30 days. The Association may prescribe a form of lease or lease terms to be included in any lease, and thereafter lots shall be leased only in accordance therewith.

5. ARCHITECTURAL CONTROL AND REQUIRED APPROVAL OF CONSTRUCTION OF DWELLINGS, STRUCTURES, OF CLEARING, GRADING AND RELATED MATTERS:

5.1 Approval by Declarant: No improvements of any kind, including but not limited to dwellings, swimming pools, ponds, garages, parking areas, fences, walls, tennis courts, greenhouses, drives, antennae, flag poles, lamp posts, mail boxes, curbs, and walks shall ever be erected, altered, or permitted to remain on any lands within the properties, nor shall any excavating, clearing, removal of trees, or shrubs, or landscaping be done on any lands within the properties, unless the complete plans and specifications therefor are approved in writing by Declarant prior to the commencement of such work. Declarant shall consider the materials to be used on the external features of said buildings or structures, the location with respect to topography and finished grade elevations and harmony of landscaping with the natural setting and surroundings, and shall ascertain whether the architecture conforms to the Design Guidelines.

5.2 General Requirements: Declarant shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on the properties approved by Declarant conform and harmonize with the Design Guidelines and the natural surroundings and with existing structures as to external design, bulk, rooflines, materials, color, siting, height, topography, grade and finished group elevation.

Declarant shall disapprove any plans submitted to it which are not sufficient for it to exercise the judgement required of it by these covenants.

Refusal of approval by Declarant of plans, locations or specifications may be based upon any ground, including purely aesthetic conditions which in the sole and uncontrolled discretion of Declarant shall seem sufficient.

5.3 Liability: Declarant shall not be liable in damages to any persons submitting any plans for approval, or to any owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, with regard to such plans. Any owner or any person submitting plans to Declarant for approval, by so doing, shall be deemed to have agreed and covenanted that he will not bring any action or suit to recover damages against Declarant, its officers as individuals, or its advisors, employees, or agents.

5.4 Procedures for Obtaining Required Approval: Whenever approval is required of Declarant, appropriate complete plans, specifications and stake out shall be submitted to Declarant for preliminary and final review and approval. Declarant shall give notice to the applicant of receipt of the completed application for either preliminary or final approval and shall either approve, disapprove or approve with conditions such application within thirty days after such notice. If the application is disapproved in any respect, the applicant shall be notified wherein such plans and specifications are deficient. If such plans and specifications are not approved, disapproved or approved with conditions within thirty days after notice of receipt, they shall be deemed approved. At the discretion of Declarant, a reasonable filing fee shall accompany the submission of such plans to defray administrative expenses. A copy of each approved set of plans and specifications shall be kept on file by Declarant.

5.5 Design Review Board. Declarant shall establish a Design Review Board for the following purposes:

5.5.1 Promulgation of design review guidelines and procedures.

5.5.2 Consideration of and action upon applications for approval of improvements.

5.5.3 Inspection of all construction activities on the properties, and enforcement of architectural controls and compliance with approvals.

5.5.4 Other activities necessary or convenient to carrying out this Article 5.5.

5.6 Members of Design Review Board The Design Review board members shall consist of 6 persons appointed by Declarant, of whom 2 shall be members of the Board of Directors.

5.7 Declarant Representative. The Declarant may appoint a representative to operate a planning and development office and to act for Declarant in processing and reviewing applications and enforcing compliance with the Design Guidelines and approvals thereunder.

5.8 Certain Restrictions as to Specific Lots. The following restrictions are conditions to municipal approval, and shall apply unless specifically waived or terminated by the applicable municipality: Structures on Lots 7 through 11 on Sheet 5 of the Plan shall not have basements; all habitable living space on lots 79 through 90 on Sheet 7 of the Plan shall be constructed at elevation 38 or above; building setbacks for lots 8 through 11, 58, 59, 66 through 75, 78, 79, 89 and 90, on Sheets 5, 6 and 7 of the Plan shall be as indicated thereon.

6. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION:

6.1 Membership: Prior to conveyance of any dwelling or lot on the Property, Declarant shall cause the Association to be formed. Every owner, as defined in Article 2, herein shall be a member of the Association, provided that any person or entity who holds an interest in any lot merely as a security for the performance of an obligation shall not be a member.

6.2 Voting Rights: All members shall be entitled to one (1) vote for each dwelling or lot in which they hold the interests required for membership pursuant to this Article 6. When more than one person or entity holds such an interest or interests in any dwelling or lot, all such persons or entities shall be members, and the vote for such dwelling or lot shall be exercised as they among themselves determine by majority vote, but in no event shall more than one vote be cast with respect to any such dwelling or lot.

6.3 Declarant Control: Notwithstanding the foregoing, Declarant shall have the right to appoint, remove and replace the directors of the Association until the first meeting of members following the conveyance of 75% of the lots (including lots subject to any recorded supplemental declaration) or five years from the date of recording this Declaration, whichever comes first. Declarant shall call a meeting within 120 days of such conveyance or within five years

of the recording hereof, as the case may be, for the purpose of electing directors by the members.

7. PROPERTY RIGHTS IN THE PROPERTIES AND OBLIGATION OF THE ASSOCIATION WITH RESPECT THERETO:

7.1 Conveyance of Common Properties to the Association: Declarant shall retain title to and shall not convey to the Association any properties designated as common properties or common area on the Plan until such time as Declarant has conveyed to persons other than an affiliate of Declarant seventy-five (75%) percent of the lots shown on the Plan. Within one hundred twenty (120) days after the conveyance by Declarant of seventy-five (75%) percent of said lots, Declarant shall convey said common properties to the Association. Until such time, Declarant shall hold said common properties for the benefit and enjoyment of the owners and shall levy the assessments contemplated by Article 8.1 and 8.2 against all units not owned by Declarant pursuant to the powers granted Declarant in Article 8.1 hereof. Declarant shall, prior to conveyance of the common properties to the Association, lease certain of the common properties to Falmouth Country Club, a Maine corporation having a place of business in Falmouth, Maine, for a period of 99 years. The property to be so leased shall be substantially the property designated on the Plan as "Common Area -- Falmouth Country Club" and comprises the area used or useful as a golf course. At the time of conveyance of the common properties to the Association, Declarant shall assign all of its rights and duties as Landlord under such lease to the Association, and the Association will accept such assignment and assume and agree to perform such lease. Before turning over said common areas and improvements, Developer shall place or caused to be placed all of said common amenities in good operating order and condition and said common amenities shall be in compliance with all applicable laws, conditions and regulations.

7.2 Members' Easement of Enjoyment: Subject to the provisions of this Declaration and to the incorporating documents of the Association, which is or will be the grantee of common properties, every member as defined in Article 6 herein, shall have the right and easement of enjoyment in and to the common properties in common with other owners and such easement shall be appurtenant to and shall pass with the title to every dwelling or lot; provided, however, that certain parts of the properties, consisting of the golf course and amenities shall be used only as set forth in the "Schedule of Permitted Uses - Falmouth Country Club" to be attached hereto as Exhibit C. Notwithstanding the foregoing, any duly authorized employee of the Town of Cumberland or Falmouth bearing proper

credentials or identification shall be permitted to enter at all reasonable times upon all real or personal property necessary to the operation of the private common use improvements for inspection, observation, measurement, sampling and testing related to the operation, maintenance and repair of any private common use improvements.

7.3 Obligation of the Association with Respect to Common Properties: The Association, for itself, its successors and assigns, by acceptance of a deed to a portion of the properties, subject to and with the benefit of the provisions of this Declaration, which shall be recorded in Cumberland County Registry of Deeds, hereby covenants with Declarant as follows:

7.3.1 The Association will accept conveyance of the common properties which Declarant is obligated to or may convey to it.

7.3.2 The Association will preserve and maintain for the common benefit of the owners all of the common properties which the Association hereafter shall own, or have rights to or interests in including without limitation the obligation to maintain streets and roadways which may be conveyed to the Association as common properties, pay taxes thereon, keep the same in good and sightly appearance, and comply with and enforce the provisions of this Declaration, except as provided in the Lease Agreement with the Falmouth Country Club. In the event that, by Supplemental Declaration, property is added containing a private railroad crossing, the Association's obligation to preserve and maintain the common property shall include the private railroad crossing provided, however, that any preservation and maintenance expenses, together with any insurance expenses relating to said railroad crossing, shall be shared equally by the Association and the Falmouth Country Club, as provided in said Lease Agreement.

7.3.3. The Association will maintain and operate a central waste treatment facility water system, and other utilities and services, including, but not limited to the collection of solid waste material located on the properties. The costs of maintenance and operation, including reasonable replacement reserves, shall be common expenses included in the budget of the Association determined under Paragraph 8.1.3 below, and will at all times provide for continuous maintenance, operation, management and eventual replacement or rejuvenation of system. Furthermore, said system will be run in compliance with in operational manual prepared by E. C. Jordan Company dated September 1986, as amended, a copy of which will be maintained on file with the Directors of the

Association and a copy of which is one file with the Code Enforcement Officers of the Towns of Falmouth and Cumberland. Copies of all maintenance agreements and all contracts shall be provided to the aforesaid Code Enforcement Officers together with any annual reports submitted as a result of said contracts or required by any regulatory board. To insure that there are sufficient funds to accomplish the foregoing, each lot owner upon acceptance of a deed of conveyance of an individual lot(s) from the Declarant will pay into a reserve fund established for that purpose a prorata share of the then current annual budget. Said prorata share being determined by dividing the annual budget by the number of lots in the entire development.

7.4 Conveyance of Drainage Ditches, Streets and Roadways: Declarant at any time hereafter may convey to the Association as common property any drainage ditches, streets and roadways and other properties owned by Declarant located within or abutting upon the existing properties and any additions thereto. Declarant shall have the obligation of maintaining any such properties which may become common properties prior to the conveyance thereof to the Association.

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

7.5.1 Rights of Declarant, its successors and assigns as herein reserved.

7.5.2 Rights of the Association which is the grantee of common properties, including, but not limited to the right of the Association to charge reasonable admission and other fees for the use of the Common Properties or to suspend the enjoyment rights of any member by reason of unpaid assessments or violations hereof or of rules and regulations, all as provided herein.

7.6 Rights Reserved by the Declarant: Declarant, for itself, its successors and assigns, reserves for the benefit of Declarant or any properties of Declarant or any successor or assign of Declarant, which need not include the Properties, the following rights in any properties transferred to the Association or the owners:

7.6.1 Unless expressly waived by Declarant, Declarant reserves exclusively unto itself, its successors and assigns, a perpetual, alienable and releasable utility easement and right in, on, over and under the properties to erect, maintain, operate and use poles, wires, cables, switches, computers, receptacles, satellite transmission earth stations,

conduits, directional and informational signs, drainage ways, sewers, irrigation lines, wells, antennas, receivers, garbage collection facilities, pumping stations, tanks, water mains and other suitable equipment including microwave and satellite stations for the conveyance, transmission or use of video, voice, facsimile and data communications, electricity, gas, sewer, water, drainage or other public convenience, utilities and communication facilities on, in or through those portions of the properties as may be reasonably required for utility line purposes; provided, however, that:

- (a) no utility easement shall run across any portion of the properties which is covered by an existing building or across any area for which written approvals to construct a building thereon have been obtained within the past year from Declarant;
- (b) such easement or installation of utilities therein or thereon shall be maintained in as attractive a state as is reasonably feasible;
- (c) Declarant, without obligation, reserves the right to transfer any such utilities and easements, in whole or in part, which it owns to the Association, at which time the Association shall be responsible for and shall have the obligations to operate and maintain such utility easements;
- (d) Declarant, without obligation, reserves the right to transfer such utilities and utility easements and easements of access to such utility and utility easements, in whole or in part, to another entity, whether public or private, which shall undertake to provide such utility service.

No utility, communications, public convenience or transportation facility described in this Article may be installed or operated unless such facility is approved by Declarant. Declarant or service providers approved by Declarant may charge reasonable fees for the provision of such utility, communications, public convenience or transportation facilities or services.

These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Any material disturbance to the grounds of any owner or common properties caused by such utility installation

shall be repaired and said grounds returned to a reasonable reconstruction of their prior condition by Declarant or prompt and reasonable remuneration for such repair shall be made to such owner or association of owners by Declarant. Declarant further reserves the right to itself, its successors and assigns the right to locate the waterlines, pumping stations, siltation basins and tanks within the properties in any common properties, or on any lot, with the permission of the owner thereof.

7.6.2. An easement is reserved for surface drainage in and along the streets and such other locations as are shown on any plat marked "drainage easement" or otherwise designated for such intended purpose.

7.6.3 An easement is reserved for the purposes stated in Paragraph 7.6.1 with respect to areas within platted streets and roadways. Declarant, its successors, assigns, employees and licensees shall have the unobstructed use at all times of all streets and roadways.

7.6.4 The right to construct and maintain on the common properties, paths and trails for recreational use by owners or Declarant.

7.6.5 The right to connect with and use of utility lines, wires, pipes and conduits located on the properties for construction and sales purposes, provided that Declarant shall be responsible for the cost of service so used.

7.6.6 The right to use common properties for ingress and egress and for the storage of construction materials and equipment used in the construction of dwellings or other improvements on the properties or any adjacent real property.

7.6.7 The right to operate a sales office and have prospective purchasers and others visit that office and use the common properties for ingress, egress and parking.

7.6.8 The right to install and maintain signs and lighting for sales and promotional purposes.

7.6.9 No Affirmative Obligation Unless Stated:
ANY RESERVATION OR RIGHT OF DECLARANT, WHICH IS STATED IN OR IMPLIED FROM THESE COVENANTS SHALL NOT GIVE RISE TO ANY AFFIRMATIVE OBLIGATION OR DUTY ON THE PART OF DECLARANT UNLESS EXPRESSLY STATED IN THESE COVENANTS.

7.7 Eminent Domain

7.7.1 If a lot is acquired by eminent domain or part of a lot is acquired by eminent domain leaving the owner with a remnant that may not practically or lawfully be used for any purpose permitted by the Declaration, the award must include compensation to the owner for the lot and its membership interest in the Association. Upon acquisition, unless the decree otherwise provides, that lot's membership interests in the Association are automatically reallocated to the remaining lots in proportion to the respective interests of those lots before the taking. Any remnant of a lot remaining after a part of a lot is taken under this subsection is thereafter a common element.

7.7.2 Except as provided in subsection (a), if part of a lot is acquired by eminent domain, the award must compensate the owner for the reduction in value of the lot.

7.7.3 If part of the property is acquired by eminent domain, the portion of the award attributed to the common property taken must be paid to the Association. Any portion of the award attributable to the acquisition of common property whose use is restricted to certain lots must be equally divided among the owners of the lots to which that common property was restricted at the time of acquisition.

7.7.4 The court decree must be recorded in the Cumberland County Registry of Deeds.

7.8 Lots Subject to Rights of Entry. Each lot is subject to the right of the Association or its agents to enter thereon at all reasonable times and, in the case of an emergency, without notice, for the purpose of performing maintenance or repairs or for carrying out any of the rights or duties of the Association.

8. COVENANT FOR MAINTENANCE ASSESSMENTS:

8.1 Assessments By Declarant and The Association

8.1.1 Creation of the Lien and Personal Obligation of Assessments: Each owner of a unit, by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed) shall be deemed to covenant for himself, his heirs, representatives, successors and assigns, to pay Declarant, prior to conveyance of the common areas to the Association, or the Association, following such conveyance, assessments and charges as provided herein. All such assessments and charges shall be fixed, established and

collected from time to time as hereinafter provided. All such assessments and charges, together with such interest thereon and cost of collection thereof, as hereinafter provided shall be a charge on the land or dwelling with respect to which such assessments and charges are made and shall be a lien against such land or dwelling. Each such assessment and charge, together with the interest thereon and costs of collection thereof, also shall be the personal obligation of the member who is the owner of such assessed lot at the time when the assessment fell due.

8.1.2 Purpose of the Assessment: The assessments may be levied against the lots for the purpose of promoting the recreation, health, safety, and welfare of the residents of the properties, and in particular for the improvements and maintenance of properties, services and facilities devoted to such purpose and related to the use and enjoyment of the common properties and of the members including, but not limited to, discharge of the obligations of the Declarant or the Association as imposed by this Declaration and to establish necessary reserves as determined by the Declarant or the Board of Directors of the Association, the right to correct conditions on individual lots, which in the determination of either the Declarant or the Board of Directors of the Association impact negatively on the common areas, payment of taxes, if any, upon the common properties, assessed to the Association and repair, replacement and additions thereto, for repair and maintenance of streets, roadways, drainage facilities, subsurface disposal system, water system any other common utility, private railroad crossing in the Town of Cumberland (such expenses relating thereto to be shared by the Association and the Falmouth Country Club as provided in said Lease Agreement), the collection of solid waste refuse and for the cost of labor, equipment, materials, management and supervision thereof; provided, however, that nothing in this Article 8.1.2 shall impose on Declarant or the Association a duty to perform any services or supply any materials not required elsewhere herein. The amount of the reserves so established by the Association shall be sufficient to replace the subsurface disposal system at the end of its expected useful life as estimated in said operational manual prepared by E.C. Jordan Company.

8.1.3 Computation of Operating Budget and Assessment: It shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated costs of operating the Association during the coming year. In determining assessments, the Board may take into account the benefit to specific lots or classifications of lots of particular

expenditures. The Board shall cause the budget and the assessments to be levied against each unit for the following year, to be delivered to each member at least twenty-one (21) days prior to the meeting. The budget and assessments shall be deemed ratified and approved unless disapproved at the annual meeting by a vote of sixty percent (60%) of the total Association membership. In the event the budget is disapproved, the budget last approved by the members shall be continued until such time as the members approve a subsequent budget proposed by the Board.

The Board shall determine the total amount required, including the operational items such as insurance, repairs, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior years and capital improvements approved by the Board. The total annual requirements and any supplemental requirements shall be allocated between, assessed to and paid by the Members as follows:

Except as provided above, each lot shall be assessed, and the owner or owners thereof shall pay, a portion of said requirements, the numerator of which shall be one (1) and the denominator of which shall be equal to the number of lots on the properties subject to this Declaration. The Declarant's obligation for such assessments on unsold lots subject to this Declaration will be limited to the difference between the actual operating costs of the Association, including reserves, and the assessments levied on owners other than Declarant. In no event, however, will the Declarant be required to make a deficiency contribution in an amount greater than it would otherwise be liable for if it were paying assessments on unsold lots. The sum due the Association from each individual owner shall constitute an assessment of the Board of Directors and unpaid assessments shall constitute liens on the individual lots, subject to foreclosure as hereinafter provided.

8.1.4. Due Dates; Duties of the Board of Directors: All assessments shall be payable monthly in advance on the first day of each month as ordered by the Board. The Board shall fix the date of commencement and the amount of the assessment against each lot and shall prepare a roster of the lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member. Upon the written request of a Member or his mortgagee, the Board shall promptly furnish such Member or his mortgagee with a written statement of the unpaid charges due from such Member.

8.1.5 Revised and Emergency Assessments: If at any time prior to or during the course of any fiscal year the Board shall deem the amount of the assessments to be inadequate by reason of a revision in its estimate of either expenses or other income, the Board shall prepare and cause to be delivered to the members a revised estimated annual budget for the balance of such fiscal year and shall call a meeting of the members to ratify such budget in the same manner as for an annual budget. After ratification, monthly assessments shall be determined and paid on the basis of such revision.

The Board may, upon finding that an emergency exists which requires immediate assessment of the members, make an emergency assessment not to exceed an amount equal to the then current monthly assessment for each unit, which shall be due and payable when communicated to the members.

8.1.6 Notice of Meetings: Written notice of any meeting called for the purpose of taking any action authorized under Section 8.1.3 or 8.1.5 of this Article 8 shall be sent to all members not less than twenty-one (21) days in advance of the meeting. Upon written request of any institutional holder of a first mortgage, that holder shall be entitled to written notice of any such meeting and shall be permitted to designate a representative to attend and observe the meeting.

8.2 Effect of Non-Payment of Assessment or Other Charges; the Personal Obligation of the Owner; the Lien; Remedies: If any assessment or any other charges payable pursuant to this Declaration are not paid on the date when due as provided herein, then such assessments and charges shall become delinquent and shall, together with interest thereon and cost of collection thereof as provided hereinafter, thereupon become a continuing lien upon the property against which such assessments are made and shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives, successors and assigns. Such lien shall be prior to all other liens except: (a) tax or assessment liens on the lot by the taxing subdivision of any governmental authority, including but not limited to State, County, Town and School District taxing agencies; and (b) all sums unpaid on any first mortgage of record encumbering the lot. The personal obligation of the then owner to pay such assessment or charges shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If any assessment or charges are not paid within thirty days after the delinquent date, the assessments or charges shall bear interest from the date of delinquency at the rate of 18% per annum and Declarant or the Association,

whichever is applicable, may bring an action at law against the person personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment or charges the costs of preparing and filing the complaint in such action, and in the event a judgement is obtained, such judgement shall include interest on the assessment or charges as above provided and a reasonable attorney's fee to be fixed by the court, together with the costs of the action.

9. RESTRICTED ZONES:

9.1 Drainage Easements. Areas marked on the Plan as "Drainage Easements" are set aside for drainage purposes. Declarant or the Association shall have the right to enter such areas and maintain them as elements of the overall drainage system of the properties. Owners may landscape such areas within their lots subject to the approval of Declarant.

9.2 Grading and Maintenance Easements. Areas marked on the Plan as "Grading and Maintenance Easements" are restricted from construction and may be landscaped by the Lot Owner only with the approved of Declarant. Declarant or the Association shall have the right to enter on such areas and maintain them, including removal of existing landscaping and regrading.

9.3 Restricted Landscape Zone. All land within 30 feet of the edge of road right of ways as shown on the Plan is designated "Restricted Landscape Zone." All landscaping within this zone must be approved by Declarant. Lot owners shall be responsible for maintenance of landscaping on their lots within this zone; Declarant or the Association may perform such maintenance if in its judgment the Owner has failed to do so properly, and may assess the Owner for its expenses in connection therewith; provided, however, that this provision shall not be deemed to require Declarant or the Association to perform such maintenance.

9.4 Residential Landscape Zone. The area within the construction limit line for any dwelling construction on a lot shall be designated "Residential Landscape Zone." Ornamental and decorative landscaping shall be permitted in this zone, subject to Declarant's approval.

9.5 Open Space Zone. Property within lots and not included in the Residential or Restricted Landscape Zones is designated "Open Space Zone." Natural vegetation, subject to good forestry management practices, are to be the landscaping in this zone. Each lot owner shall maintain this area of his lot as provided in the Design Review Guidelines.

10. Mortgages of Units; Rights of Mortgagees

10.1 Right to Mortgage. Each lot owner shall have the right to mortgage or encumber his own respective lot. A lot owner who mortgages his lot shall notify the Board of Directors in writing of the name and address of his mortgagee(s) and shall file a conformed copy of the note and mortgage with the Board.

10.2 Mortgage Foreclosure. Any mortgagee of a lot holding a recorded first mortgage on a lot that obtains title to the lot pursuant to the remedies provided in the mortgage, or through a completed foreclosure of the mortgage, or through deed (or assignment) in lieu of foreclosure, shall take the lot free of such claims and liens for unpaid assessments for common expenses, interest and costs levied against such lot which accrue prior to the acquisition of title to such lot by the mortgagee, other than the proportionate share of the common expenses which become due and payable from and after the date on which the mortgagee shall acquire title to the lot through a completed foreclosure or deed (or assignment) in lieu of foreclosure.

10.3 Notices to Eligible Mortgage Holder. The Association shall send written notice by prepaid United States mail to each Eligible Mortgage Holder of the following proposed actions either within a reasonable period prior to the taking of any of such proposed actions or at the time that notice thereof is given to owners unless another time is specified herein: (1) any condemnation loss or any casualty loss which affects a material portion of the properties or any lot on which there is a first mortgage held by such Eligible Mortgage Holder; (2) notice of any default or delinquency in the payment of assessments for common expenses or any other charges owed by an owner of a lot subject to a mortgage held of record by such an Eligible Mortgage Holder, or any other default in the performance or payment by such an owner of any obligation under this Declaration, the Bylaws or any rules and regulations of the Association, which delinquency or other default continues for a period of sixty (60) days, to the Eligible Mortgage Holder of the mortgage to which such owner's lot is subject; (3) any lapse, cancellation or material modification of any insurance policy or fidelity bond required to be maintained under the Declaration or Bylaws by the Association; (4) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders as specified in Article 10.4 of this Article. Upon written request of any Eligible Mortgage Holder, the Association will provide an audited financial statement of the Association for the preceding fiscal year. "Eligible Mortgage Holder" means the holder of record of a recorded first mortgage on a lot which has delivered written

notice to the Association stating its name and address, the name and address of the owner of the lot, the identifying number of the lot, and that such mortgage is a recorded first mortgage.

10.4 Mortgagee Approval Rights. For purposes of this Article 10.4, where approval by a stated percentage of Eligible Mortgage Holders is required, such approval shall be based upon one (1) vote for each lot on which a mortgage is held. Any repair, replacement or restoration of the properties, after a partial condemnation or damage due to an insurable hazard, shall be performed as provided in this Declaration or Bylaws, unless other action is approved by at least fifty-one (51%) percent of Eligible Mortgage Holders. Any election to terminate the legal status of the properties pursuant to this Declaration after substantial destruction or a substantial taking in condemnation of the properties shall require the approval of at least fifty-one (51%) percent of all Eligible Mortgage Holders. Any abandonment or termination of the legal status of the properties by act or omission for reasons other than said substantial destruction or taking shall require the prior written approval of at least sixty-seven (67%) percent of Eligible Mortgage Holders. Any abandonment, partition, subdivision, encumbrance, sale or transfer of any of the common elements (except for granting easements for utilities or other public purposes consistent with the intended use of the common elements) by act or omission shall require the prior written approval of at least fifty-one (51%) percent of the Eligible Mortgage Holders.

The written consent or approval of at least fifty-one (51%) percent of the Eligible Mortgage Holders of properties affected by such amendments shall be required to add or amend any material provisions of this Declaration or the Bylaws which establish, provide for, govern or regulate any of the following matters: (i) Voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the common property; (iv) insurance or fidelity bonds; (v) rights to use of the common property; (vi) responsibility for maintenance and repair of the common property or the addition, annexation or contraction of the property or the addition, annexation or withdrawal of property to or from the property except as provided herein; (viii) the interests in the common property; (ix) convertibility of lots into common property or of common property into lots; (x) lease of lots; (xi) imposition of any restriction on a lot owner's right to sell, transfer, or otherwise convey his lot; (xii) a decision by the Association to establish self-management when professional management had previously been required by an Eligible Mortgage Holder; (xiii) any provisions which are for

the express benefit of mortgagees, Eligible Mortgage Holders or insurers or guarantors; (xiv) boundaries of any lot; (xv) restoration or repair of the property after hazard damage or partial condemnation in a manner other than that specified in this Declaration or Bylaws, or (xvi) any action to terminate the legal status of the properties. Any addition or amendment to the Declaration or Bylaws shall not be considered material if it is for the purpose of correcting technical errors.

An Eligible Mortgage Holder who receives a written request to approve any additions or amendments which do not constitute either a material change to the Declaration or Bylaws or any amendment described in the preceding paragraph hereof who does not deliver to the requesting party a negative response within thirty (30) days after the giving of notice shall be deemed to have approved such request in writing.

10.5 Rights of First Refusal. Notwithstanding anything to the contrary elsewhere contained in the Declaration, the Bylaws or the rules and regulations, in the event that the owners in the future adopt any lot, such right of first refusal shall not affect, impair or apply to the right of any mortgagee to: (1) foreclose or take title to the lot pursuant to the remedies provided in the mortgage, (2) accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor, or (3) sell or lease a lot acquired by the procedures hereinabove set forth.

11. Amendment

Except in cases of amendments to this Declaration that may be unilaterally executed and recorded by the Declarant under Articles 3.2 and 14.4, and subject to the other provisions of this Declaration and the Bylaws, this Declaration, and the Plans may be amended as follows:

A. Before Any Conveyance. Prior to the conveyance of any lot by the Declarant to a unit owner other than a security for an obligation, the Declarant shall have the right to amend and reamend this Declaration in any manner that the Declarant may deem appropriate.

B. After First Conveyance. After the first conveyance of a lot by a Declarant, the terms of the following subparagraphs shall apply to the amendment of this Declaration:

(1) Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Board of Directors in which a proposed amendment is considered, and shall be served upon all owners in the

manner provided for service of notices and upon Eligible Mortgage Holders in the manner provided.

(2) Resolution. An amendment may be proposed by either the Board of Directors or by owners holding in the aggregate no less than twenty percent (20%) of the votes in the Association. No resolution of the Board of Directors adopting a proposed amendment shall be effective unless it has been adopted at a meeting of the Association duly called and held in accordance with the Bylaws of the affirmative vote of at least sixty-seven percent (67%) in voting interest of the owners and then executed and recorded as provided in paragraph B(5) of this Article.

(3) Agreement. In the alternative, an amendment may be made by an agreement signed by the record owners of the lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated in the manner required for the execution of a deed and acknowledged by at least one of them, and such amendment shall be effective when recorded.

(4) Certain Amendments. Notwithstanding the foregoing provisions of this Article, except as otherwise provided in this Declaration, no amendment may increase the number of lots or change the boundaries of any lot, or the uses to which any lot is restricted without the consent of the owners and the consent of the Eligible Mortgage Holders representing or holding mortgages on lots having at least sixty-seven percent (67%) of the votes in the Association. No amendment of this Declaration shall make any change which would in any way affect any of the rights, privileges, powers and options of the Declarant, its successors or assigns, unless the Declarant or its successors or assigns shall join in the execution of such amendment.

(5) Execution and Recording. A copy of each amendment shall be attached to or included with a certificate, certifying that the amendment was duly adopted, which certificate shall be executed and acknowledged by such officer or officers of the Association and/or member or members of the Board of Directors designated for that purpose in the Bylaws. The amendment shall be effective when such certificate and copy of the amendment are recorded.

(6) Notice and Challenge. No action to challenge the validity of an amendment to this Declaration adopted by the Association pursuant to this Article may be brought more than one year after such amendment is recorded. After each amendment to this Declaration adopted pursuant to this Article has been recorded, notice thereof shall be sent to

all owners and to all Eligible Mortgage Holders at the address last furnished to the Board of Directors, but failure to send such notices shall not affect the validity of such amendment. The Association shall make copies of the Declaration and all amendments thereto available for inspection at reasonable times upon reasonable request for such inspection.

12. GENERAL PROVISIONS:

12.1 Duration: The covenants and restrictions set forth in this Declaration shall run with and bind the land, for the benefit of all property owned by Declarant and shall inure to the benefit of and be enforceable by Declarant, the Association or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of 20 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by the then owners of 80% of the lots has been recorded agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement of change shall be effective unless made and recorded three years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety days in advance of any action taken. Notwithstanding the foregoing provisions, any conditions or approvals imposed by the Towns of Cumberland and Falmouth may be changed only with the consent of the appropriate municipal body.

12.2 Notices: Any notice sent or required to be sent to any owner under the provisions of this Declaration shall be deemed to have been properly given when mailed, postage prepaid, to the last known address of the person who appears as an owner on the records of Declarant or the Association at the time of mailing. Each owner shall have the affirmative duty and obligation to inform Declarant or the Association, whichever is applicable, in writing of any change of ownership of the properties, the owner's current address, and any failure of the owner to receive any information from Declarant or the Association at the correct address of the owner.

12.3 Enforcement: Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction. Such action may be either to restrain violation or to recover damages, or against the land, to enforce any lien created by these covenants. Failure by Declarant, the Association or any owner to enforce any covenant or restriction herein contained in no event shall be deemed a waiver of the right to do so hereafter.

12.4 Modification: By recorded supplemental declaration, Declarant may modify any of the provisions of this Declaration or any Supplemental Declaration for the purpose of clarifying any such provisions, provided no such modification shall change the substantive provisions of any such document or materially alter the rights of any owner established by any such document.

12.5 Severability: Invalidation of any one of these covenants or restrictions by judgement or court order in no way shall affect any other provisions, which shall remain in full force and effect.

12.6 Arbitration: All claims, disputes and other matters in question between Declarant on the one hand, and the Association or any owners, on the other, arising out of, or relating to this Declaration or the breach thereof, except for claims which specific provision is made herein for enforcement by court proceedings, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and the judgement may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

Notice of the demand for arbitration shall be filed in writing with the other parties and with the American Arbitration Association. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

12.7 Construction: Whenever the singular number is used, the same shall include the plural shall include the singular and the masculine, feminine and neuter genders shall include each other, as the context may require.

12.8 Beneficiaries of Easements, Rights and Privileges: The easements, licenses, rights and privileges established, created and granted by this Declaration shall be for the benefit of, and restricted solely to, the Association and the owners; and any owner may also grant the benefit of such easement, license, right or privilege to his tenants and guests and their immediate families for the duration of their tenancies or visits, subject in the case of the common

properties to the Rules and Regulations of the Board, but the same is not intended to create nor shall it be construed as creating any rights in or for the benefit of the general public.

12.9 Termination

12.9.1 Upon termination of this Declaration pursuant to Article 12.1, title to all the real estate vests in the owners as tenants in common in proportion to their respective interests as provided in Article 12.9.4 and liens on the lots shift accordingly. While the tenancy in common exists, each owner and the lot owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the lot.

12.9.2 Following termination, the proceeds of any sale of real estate, together with the assets of the Association, are held by the Association as trustee for the owners and holders of liens on the lots as their interests may appear.

12.9.3 Following termination, creditors of the Association holding liens on the lots, which were recorded before termination, may enforce those liens in the same manner as any lien holder. All other creditors of the Association are to be treated as if they had perfected liens on the lots immediately before termination.

12.9.4 The respective interests of owners referred to in Articles 12.9.1, 2 and 3 are as follows:

- (a) Except as provided in the paragraph (b), the respective interests of owners are the fair market values of their lots, immediately before the termination, as determined by one or more independent appraisers selected by the Association. The decision of the independent appraisers must be distributed to the owners and becomes final unless disapproved within 30 days after distribution by owners of lots to which 25 percent of the votes in the Association are allocated. The proportion of any owner's interest to that of all owners is determined by dividing the fair market value of that owner's lot by the total fair market values of all the lots.
- (b) If any lot is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made,

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the interests of all owners are their respective common expense liabilities immediately before the termination.

12.9.5 Foreclosure or enforcement of alien or encumbrance against the entire property does not terminate, of itself, the Declaration.

12.10 Declarants Rights: Declarant may at any time or from time to time delegate some or all of its rights under this declaration to the Association by a written instrument recorded in the Cumberland County Registry of Deeds. If Declarant ceases to exist or for any reason becomes legally unable to exercise its rights and duties hereunder, such rights and duties may be exercised by the Association.

IN WITNESS WHEREOF, the foregoing instrument has been executed and its corporate seal thereunto affixed on the day and year first above written by the officers of the undersigned thereunto duly authorized.

WITNESS:

DICTAR ASSOCIATES II
a Maine general partnership

Gloria J. Herald

By: Richard E. Dobson
Its General Partner

STATE OF MAINE
CUMBERLAND, SS.

Richard E. Dobson
June 8, 1987

Personally appeared before me the above-named Richard E. Dobson, general partner of Dictar Associates II and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said partnership.

Before me,

Gloria J. Herald
Notary Public
~~Attorney-at-Law~~

SEAL

Gloria J. Herald

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DICTAR ASSOCIATES II
FALMOUTH COUNTRY CLUB

Exhibit A - Property Description (Falmouth, Maine)

A certain lot or parcel of land situated in the Town of Falmouth, County of Cumberland and State of Maine, and being all of the real estate and interests therein as depicted upon plans entitled "Falmouth Country Club, Winn Road, Falmouth/Cumberland, Maine" by Land Use Consultants dated September 19, 1986 and recorded in the Cumberland County Registry of Deeds in Plan Book 159, Page 53, Sheets 3, 4, 5, 6 and 7.

FALMOUTH COUNTRY CLUB
Conditions of Final Subdivision Approval

1. The development is to be constructed in substantial compliance with the plans, maps, diagrams, specifications and textual submissions presented to the Board by the applicant.
2. The General Declaration of Covenants and Restrictions as submitted to and approved by the Town Attorney and which is on file in the Code Enforcement Office be recorded in the Cumberland County Registry of Deeds together with the Subdivision Plan.
3. The Developer, prior to the commencement of construction shall secure the approval of the Maine Department of Transportation and, if necessary the Falmouth Town Council for the lowering the posted speed limit on the Winn Road adjoining the project to 35 miles per hour, for the location of golf cart and pedestrian crossing and any related improvements within the public right of way of Winn Road, and for the installation of sewer lines and appurtenant facilities under or across Winn Road.
4. Prior to commencing construction, on the residential lots, the developer shall deliver to the Code Officer a signed agreement between the Developer and the Portland Water District committing the District to supply water to the development in accordance with one of the alternative water supply plans as set forth in the Water Supply Study of the West Falmouth/Winn Road Area by the Portland Water District, dated May, 1986.
5. In the event that offsite groundwater quality is adversely affected to the extent that State or Federal groundwater quality standards are exceeded for any pollutants as a result of the installation and operation of the proposed subsurface disposal systems, the developer or the homeowners association, if it has at that time been organized and has control pursuant to the General Declaration of Covenants and Restrictions to be recorded with the Subdivision Plans, shall institute corrective action in accordance with the groundwater impact Contingency Plan submitted to the Planning Board and on file with the Code Enforcement Officer.
6. An irrevocable letter of credit shall be issued in the name of the Town of Falmouth in the amount of \$1,179,157.00 to cover the cost of roads, utilities, storm drainage, and other common improvements, the final language of which shall be approved by the Town Attorney. The mylar is to be held by the Code Officer until such time as said letter of credit is executed.

7. A waiver of the sidewalk requirement is granted subject to the developer providing a paved shoulder with striping on one side of all roadways to serve as a combination walking and bicycle path.
8. The subsurface wastewater disposal system and sewer system are to be maintained and operated strictly in accordance with the Operations Manual submitted to the Planning Board and on file with the Code Enforcement Officer.
9. Final engineering plans, specifications, and designs for the project are to be submitted to and approved by the Town Engineer.
10. The developer shall deliver to the Code Enforcement Officer and Town Engineer a complete set of as-built plans for the project showing all easements over and across all common areas.
11. All conditions of approval imposed by the Maine D.E.P. shall be met prior to the commencement of construction on residential lots.
12. The mitigation plan shall be amended to include semi-annual testing of the private wells shown on plan, subject to the approval of such testing by the well owners. The results of all such test are to be sent to the Department of Environmental Protection and the Falmouth Code Enforcement Officer for public inspection and to the well owners.
13. Prior to the transfer of control to the homeowners association, the developer shall establish to the Planning Board that the requirements of Section C of Appendix 7 of the Subdivision Ordinance have been met.

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EXHIBIT C

SCHEDULE OF PERMITTED USES

All recreational uses permitted by the applicable zoning ordinances of the Towns of Falmouth and Cumberland, Maine, which do not involve motorized vehicles, and which do not unreasonably interfere with golfing and related activities on the premises known as the Falmouth Country Club (the "Club"). Such uses shall include, but not be limited to, jogging, skiing and hiking in those areas designated by the Club. Said rights of usage shall be further defined in Rules and Regulations For Common Usage to be entered into by Landlord and Tenant. The Club shall reserve the right to impose such reasonable rules and regulations upon such recreational use as shall be deemed necessary by it to preserve and protect the golf course facility.

RECEIVED
RECORDED REGISTRY OF DEEDS

1987 JUN 19 AM 10:28

CUMBERLAND COUNTY

James J. Walsh