

Map Parcel No.:  
58-36-5-2 thru 58-36-5-6

Prepared by: Chadwick, Washington  
Moriarty, Elmore & Bunn, P.C.  
201 Concourse Blvd., Suite 101  
Glen Allen, VA 23059

**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR COACH HOMES OF KINLOCH  
GOOCHLAND COUNTY, VIRGINIA**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR COACH HOMES OF KINLOCH is made this 14th day of October, 2004, by Boone Homes, Inc., A Virginia stock corporation, its successors or assigns (hereinafter referred to as "Declarant").

RECITALS

Declarant is the owner of the real property (the "Properties") described in Exhibit "A" attached hereto and incorporated herein by reference. All of the real property described in Exhibit "A" is subject to the Declaration of Covenants, Conditions and Restrictions for Kinloch recorded on April 25, 2003 in the Clerk's Office of the Circuit Court of Goochland County, Virginia as Instrument #030002438 (hereinafter, "Kinloch Declaration"). Declarant intends by this Declaration to impose upon the Properties mutually beneficial restrictions, which are subordinate to the Kinloch Declaration, under a general plan of improvement for the benefit of all owners of real property within the Properties. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subject to this Declaration.

Declarant may become the owner of the real property described in Exhibit "B" attached hereto and incorporated herein by reference. If it becomes the owner of the real property described in Exhibit "B", the Declarant may, by execution and recordation of Supplemental Declaration(s) as more fully described herein, subject such property to this Declaration.

DECLARATIONS

Declarant hereby declares that all of the property described in Exhibit "A", which is subject to the Kinloch Declaration, shall also be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subject to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owners thereof. The recitals are incorporated herein and made a part hereof.

ARTICLE I

KINLOCH PROPERTY OWNERS' ASSOCIATION, INC. DECLARATION

Section 1. Applicability of Kinloch Property Owners' Association, Inc. Declaration. Title to the Properties shall be subject to the Declaration of Covenants, Conditions and Restrictions for Kinloch, made by Kinloch Development Corporation recorded in the Office of the Clerk of Circuit Court of the County of Goochland, Virginia on April 25, 2003, as Instrument #030002438, as amended (the "Kinloch Declaration"). The Kinloch Declaration imposes a comprehensive scheme of restrictions upon all property in Kinloch, including the Properties, which restrictions include architectural controls and building standards designed to ensure a uniform high quality of construction and aesthetic appearance. The Kinloch Declaration has created an architectural control authority, approval from which is required for all building, exterior design and landscaping plans. The Kinloch Declaration creates an association ("The Kinloch Property Owners Association, Inc.") to govern Kinloch and to maintain and operate the Common Area (as defined in the Kinloch Declaration). The Properties shall constitute the Coach Homes

*Southwest Little Service  
305 Antler Pond Dr  
Pouhatan Va 23139*

Virginia, in the Office of the Clerk of  
the Circuit Court for Goochland County:  
I certify that the document to which  
this authentication is affixed is a  
true copy of the original document  
and that I am the custodian thereof.  
2-23-05 Teste: Lee G. Turner, Clerk  
Date \_\_\_ by Robert F. Williams, C.

of Kinloch. All Lot Owners shall be Class A members of The Kinloch Property Owners Association, Inc. by virtue of their ownership of a Lot in Kinloch and shall be entitled to one vote for each Lot owned.

Section 2. Assessment by Kinloch Property Owners Association, Inc. Kinloch Property Owners Association, Inc. has the authority to enforce the provisions of the Kinloch Declaration and to impose assessments on all owners of property within Kinloch (including all of the Lots in the Coach Homes of Kinloch) for the purpose of maintaining and operating the Kinloch Common Areas. The payment of assessments shall be secured by a lien on every Lot. The lien of Kinloch Property Owners Association, Inc. for such assessments shall be subordinate only to the liens for real estate taxes and the liens of first Mortgages on Lots as provided in the Kinloch Declaration. The assessment imposed by Coach Homes of Kinloch Homeowners Association, Inc. with respect to Common Expenses shall be subject and subordinate to the lien in favor of Kinloch Property Owners Association, Inc. for Base Assessments and other assessments imposed by the Kinloch Declaration.

Section 3. Use of Private Amenities. Neither membership in Kinloch Property Owners Association, Inc. or the Association nor ownership of a Lot shall confer any ownership interest in or right to use any private amenities including, without limitation, the Kinloch Golf Club. Rights to use any private amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective private amenities, including, without limitation, eligibility for the duration of use rights, categories of use and extent of use privileges, a number of users, and also shall have the right to reserve use rights and to terminate use rights altogether.

Section 4. No Representations or Warranties for Private Amenities. No representations or warranties have been or are made by the Declarant or any other person with regard to the continuing ownership or operation of any private amenities, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment to this Declaration executed by the Declarant. Further, the ownership or operational duties of and as to any private amenities may change at any time and from time to time by virtue of, without limitation, (a) the sale to or assumption of operations by an independent entity, (b), conversion of the membership structure to an "equity" club or similar arrangement whereby the members of any private amenities or an entity owned or controlled thereby become the owner(s) and/or operator(s) of any private amenities, or (c) the conveyance of any private amenities to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of Kinloch Property Owners Association, Inc., the Association, or any Owner shall be required to effectuate such a transfer or conversion.

Section 5. Construction of the Kinloch Declaration. The restrictions, rules and regulations imposed on Lots as set forth herein and the easements reserved herein shall be in addition to, and not in contravention of, the rules, regulations and restrictions imposed on the Lots by the Kinloch Declaration or the easements reserved therein. The restrictions imposed hereby and by the Kinloch Declaration are intended to be cumulative; provided, however, that in the event of any conflict between these restrictions and the restrictions imposed by the Kinloch Declaration, the more restrictive of the respective restrictions shall apply.

## ARTICLE II DEFINITIONS

Section 1. Architectural Review Board" shall mean and refer to the architectural review board for the Kinloch Property Owners' Association, Inc., as established in the Kinloch Declaration and referred to as the "ARB".

Section 2. "Area of Common Responsibility" shall mean and refer to those areas of responsibility, if any, which by the terms of this Declaration, or other applicable covenants, or by contract or agreement, become the responsibility of Association, including, but not limited to, the responsibility for maintenance repair and/or replacement.

Section 3. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Coach Homes of Kinloch Homeowners' Association, Inc., as filed with the Secretary of the State Corporation Commission of the Commonwealth of Virginia.

Section 4. "Association" shall mean and refer to Coach Homes of Kinloch Homeowners' Association, Inc., a Virginia nonprofit nonstock corporation, its successors or assigns.

Section 5. "Base Assessment" shall mean and refer to assessments levied equally against all Lots in the Properties to fund Common Expenses.

Section 6. "Board of Directors" or "Board" shall mean and refer to the elected body of the Association having its normal meaning under Virginia corporate law.

Section 7. "Builder" shall mean and refer to any record owner of a Lot who has acquired the Lot for construction of a dwelling on the Lot which is intended to be conveyed to an Owner.

Section 8. "Bylaws" shall mean and refer to the Bylaws of Coach Homes of Kinloch Homeowners' Association, Inc., as they may be amended from time to time.

Section 9. "Class "B" Control Period" shall mean and refer to the period of time during which the Class "B" member is entitled to appoint a majority of the members of the Board of Directors, as provided in the Bylaws, and may also be referred to as the "Declarant Control Period."

Section 10. "Clerk's Office" shall mean and refer to the Clerk's office of the Circuit Court for the County of Goochland, Virginia.

Section 11. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Lot Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association, but shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction or installation of infrastructure, original capital improvements, or other original construction costs unless approved by a majority of the total Class "A" votes of the Association. As further set forth in this Declaration, Common Expenses shall not be used for any maintenance, repair or replacement of any Lot owned by the Declarant, its successors or assigns.

Section 12. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors.

Section 13. "Declarant" shall mean and refer to Boone Homes, Inc., a Virginia stock corporation. Declarant may designate a successor declarant or declarants to take and hold some or all of its respective rights, powers, privileges and obligations as Declarant under this Declaration by written instrument recorded in the Clerk's Office.

Section 14. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions of Coach Homes of Kinloch, as recorded in the Clerk's Office of the Circuit Court of Goochland County, Virginia, as amended.

Section 15. "Development Property" shall mean and refer to the property described in Exhibit "A" of this Declaration, as amended, and all or a portion of the property described on Exhibit "B" of this Declaration, as amended, which Declarant may acquire and subject to this Declaration. Inclusion of property in Exhibit "B" of this Declaration, as amended, shall not, under any circumstances, obligate Declarant to acquire or subject such property to this Declaration, nor shall the exclusion or absence of property described on Exhibit "B" of this Declaration, as amended, from the Development Property bar its later annexation in accordance with Article I hereof.

Section 16. "Improved Lot" shall mean and refer to a Lot on which a residence has been substantially completed and for which an occupancy use permit or certificate of occupancy has been issued by the County of Goochland. All other Lots are defined as "Unimproved Lots".

Section 17. "Kinloch Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Kinloch recorded on April 23, 2003 in the Clerk's Office of the Circuit Court of Goochland County, Virginia as Instrument #030002438, as amended.

Section 18. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision plat of the Properties, other than the streets or roads.

Section 19. "Majority" shall mean and refer to the number greater than half of any total.

Section 20. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 21. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 22. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 23. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 24. "Owner" shall mean and refer to the record owner, whether one (1) or more persons, of any Lot, including builders and contract sellers, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 25. "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Section 26. "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto, and any property described in Exhibit "B" attached hereto which is acquired and subjected to this Declaration in accordance with the terms herein.

Section 27. "Special Assessment" shall mean and refer to assessments levied in accordance with Article VII, Section 4 hereof.

Section 28. "Supplemental Declaration" shall mean and refer to that written instrument utilized by the Declarant, pursuant to Article XI of this Declaration, to subject additional property to this Declaration.

#### ARTICLE III

#### ASSOCIATION FUNCTION: MEMBERSHIP AND VOTING RIGHTS

Section 1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of those portions of the Lots specified in Article IV, Section 1 hereof. The Association shall be the primary entity responsible for enforcement of this Declaration and the Bylaws. The Association shall perform its functions in accordance with this Declaration, the Bylaws, the Articles of Incorporation and Virginia law.

Section 2. Managing Agent. The Board of Directors shall employ a professional Managing Agent for the Association at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize, to assist the Association with its responsibilities.

Section 3. Membership. Every Owner, as defined in Article II, Section 24 hereof, shall be deemed to have a membership in the Association. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot owned. In the event a Lot is owned by more than one (1) Person, all such co-owners shall be entitled to the privileges of membership, subject to the restrictions on voting set forth in this Article and in the

Bylaws, and all such co-owners shall be jointly and severally obligated to perform the responsibilities of Owners hereunder. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the Bylaws. The membership rights of a Lot owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. The foregoing does not include persons or entities, which hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessments.

Section 4. Voting. The Association shall have two classes of Membership, Class "A" and Class "B".

(a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any, Class "A" Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership under Section 1 hereof; there shall be only one vote per Lot.

(b) Class "B". The Class "B" Member shall be the Declarant and be entitled to three (3) votes for each Lot owned. The rights of the Class "B" Member are specified elsewhere in the Declaration and the Bylaws. The Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in the Bylaws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board of Directors and any committee as provided in the Bylaws. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period pursuant to the Bylaws; or
- (ii) when, in its discretion, the Declarant so determines.

#### ARTICLE IV MAINTENANCE AND MISCELLANEOUS

Section 1. Association Responsibility Not Related to the Exterior of Homes Located On The Lots. The Association shall maintain and keep in good repair (unless necessitated by the negligence, misuse or neglect of an Owner, in which case such cost shall be charged to such Owner) all of the following, the cost of which shall be charged to all Owners as a Common Expense: (a) the Association shall have the obligation to keep walks from the driveways to the front entrance of the residence and the driveways free and clear of ice and snow; (b) the Lots including, without limitation, the lawns, including mowing and reseeding, trees, shrubs and landscaping, and irrigation systems located on Lots; (c) landscaping on any public utility easement within the Properties (subject to the terms of any easement agreement relating thereto); and (d) such portions of any additional property within the Area of Common Responsibility as may be dictated by this Declaration or by a contract or agreement for maintenance thereof by the Association.

Section 2. Association and Owner Responsibility Related to the Exterior of Homes Located On The Lots and Maintenance Chart. Unless necessitated by the negligence, misuse or neglect of an Owner, in which case such cost shall be charged to such Owner, the Association shall be responsible for the exterior of the homes located on the Lots, the cost of which shall be charged to all Owners as a Common Expense, in accordance with, and limited to, the following: a) the Association shall be responsible for the maintenance, repair and the replacement of the roof shingles, roofing paper, and flashing; b) the Association shall be responsible for the maintenance, repair, replacement, and painting of the siding, cornice, shutters and building trim, but shall not be responsible for the maintenance, repair or replacement of windows (including window frames and sills) or doors (including door frames and thresholds); c) the Association shall be responsible for painting of windows, doors, door frames, threshold, concrete siding, architectural trim, columns, and railings; d) the Association shall be responsible for the cleaning of the gutters once per year and the reattachment of the gutters; e) the Owner shall be responsible for the maintenance, repair replacement of the window unit, glass, muntins, etc., door, door frame and thresholds; g) the Owner shall be responsible for the maintenance, repair and replacement of all portions of any heating and air conditioning systems, plumbing, electrical, telephone, cable television and all other utility systems, including any exterior lighting; ) the Owner shall be responsible for concrete repair and replacement. If it is determined that damage to concrete was due

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to the application of rock salt or other unapproved de-icers, the concrete may be replaced by the Association and the total cost shall be assessed to the Owner; and i) the Owner shall be responsible for all damage to his dwelling resulting from insect (including, but not limited to termite) infestation, and for any inspections, treatment, and the obtaining of protective coverage from termite damage.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

There are hereby reserved to the Association blanket easements over the Properties as necessary to enable the Association to fulfill responsibilities under this Section. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own, except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Lots, subject to the right of the Association to seek reimbursement from other persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration or other agreements. In the event the need for maintenance or repair to be provided by the Association, pursuant to Section 1 and 2 of Article IV of the Declaration above, is caused through the willful or negligent act or omission of an Owner, his family, guests, tenants or invitees, the costs of such maintenance or repair shall be charged to the Lot Owner as an assessment and charge upon the land in addition to the annual and special assessments.

The division of maintenance obligations between the Lot Owners and the Association may be further gleaned from the Chart of Maintenance Responsibilities which is attached hereto as Exhibit "C".

Section 3. Owner's Responsibility. Unless identified in Article IV, Sections 1 and 2 of the Declaration as the Association's responsibility, each Owner shall be responsible for the maintenance, repair and replacement, at his or her own expense, of all portions of the Lot, including all portions of the homes located on the Lot. Each Owner shall promptly report to the Board or managing agent in writing any defect or need for repairs for which the Association is responsible as set forth in Sections 1 and 2 hereof. Failure to do so in a prompt and timely manner may result in the cost of the maintenance to be charged to the Lot Owner, which charge may be treated as an assessment against such owner's Lot for the purpose of Section 55-516 of the Virginia Property Owners' Association Act, Section 55-508 et seq. of the Code of Virginia, 1950, as amended, regarding liens. Such charges also shall be the personal obligation of the Owner.

All maintenance required by this section shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants.

Section 4. Association Not Obligated for Declarant Owned Lots. Notwithstanding the foregoing provisions of this Article, the Association shall not be obligated through Common Expenses, or any other source, for the maintenance, repair or replacement responsibility for any Lot, including any dwelling located thereon, which is owned by the Declarant, its successors or assigns.

Section 5. Trash and recycling. The Association shall provide to all Lots, as a Common Expense, trash and recycling in a manner determined by the Board of Directors.

Section 6. Declarant's Right to Conduct Grading of Lots. The Declarant shall have the absolute right to change the grades (including the addition or deletion of dirt) on any Lot after conveyance of said Lot, or a Lot under contract to a purchaser, to accommodate grading of any adjacent vacant Lot owned by the Declarant. This would allow the Declarant to install driveways and/or turnarounds and/or proper drainage on said adjacent Lot owned by the Declarant. It is the intentions of this reservation that the Declarant shall have the right to alter grades on conveyed Lots to facilitate construction of homes by the Declarant.

ARTICLE V  
INSURANCE

Section 1. Insurance.

In addition to the other insurance required by this Section, the Board shall obtain as a Common Expense, if and to the extent required by law: workers' compensation insurance, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds.

The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than one sixth (1/6) of the annual Base Assessments on all Lots, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

Premiums for all insurance required by this Article shall be a Common Expenses, which shall be included in the Base Assessment, subject to any other covenants or agreements relating thereto. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in subsection (b) below. Such insurance shall be governed by the following provisions:

(a) All policies shall be written with a company authorized to do business in Virginia which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available;

(b) All insurance required by this Article shall be for the benefit of the Association and its Members and shall be written in the name of the Association as trustee for the benefited parties;

(c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto;

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees;

(e) All property insurance policies shall have an inflation guard endorsement, if reasonably available, and, if the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the greater metropolitan area of the City of Richmond, Virginia area; and

(f) The Association's Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, officers, employees and manager, the Owners and occupants of Lots, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of any one or more individual Owners;

(iv) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of any curable defect or violation without prior demand in writing delivered to the Association to cure the defect or violation and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(v) a statement that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) a statement that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

Section 2. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket "all-risk" property insurance on the Lot(s) and structures constructed. Each Owner shall provide evidence of such coverage to the Association. With respect to the policy contemplated in this provision: a) the Association shall be a named insured; b) the policy shall guarantee replacement cost; and c) the policy shall adjust to inflation.

Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his or her Lot, the Board may impose requirements regarding the standards for rebuilding or reconstructing structures on the Lot.

The Association shall not be liable, under any circumstances, for any failure by an Owner to provide the Association with evidence of coverage as contemplated by this Section.

#### ARTICLE VI RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Appearance. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for those portions of the Lots specified in Article IV, Section 1 hereof and shall keep these areas in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and condition hereof and consistent with the Community-Wide Standard.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, sell, convey, lease and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

Section 3. Rules and Regulations. Sanctions for violations of this Declaration, the Bylaws, or rules and regulations of the Association may include reasonable monetary charges and/or the suspension of the right to vote. The Board also shall have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the Bylaws of the Association.

The Association, through the Board, by contract or other agreement, shall have the right, but not the obligation, to enforce County ordinances, if applicable, and may permit the County of Goochland, Virginia to enforce ordinances on the Properties for the benefit of the Association and its Members.

Section 4. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege and/or the



proper administration of the Association.

**ARTICLE VII  
ASSESSMENTS**

Section 1. Creation of Assessments. There are hereby created assessments for Association expenses, as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth in Section 8 of this Article. There shall be two types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association which shall be levied on all Lots in accordance with this Article; and (b) Special Assessments as described in Section 4 below. Each Owner of an Improved Lot, other than the Declarant, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest (at a rate equal to the greater of twelve percent (12%) per annum, or the legal rate of interest as defined in Section 6.1-330.53 of the Code of Virginia, as the same may be amended from time to time), as computed from the date of delinquency first occurs, late charges, costs, costs of collection and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, costs of collection and reasonable attorneys' fees also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, and, in the event of a transfer of title, his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors and shall be due and payable in advance.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment to the Association of any assessments therein stated to have been paid. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

The Association shall be entitled to collect all fees and costs of collection, including reasonable attorneys' fees, and every Owner by accepting a deed to property in the Association, whether so expressed in the deed or not, covenants and agrees to pay the same. The obligation to pay assessments is a separate and independent covenant on the part of each Owner, and no Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein, including, by way of illustration and no limitation, by abandonment of the Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 2. Non-Payment and Remedies. The Board of Directors shall take such prompt action as may be necessary to collect any assessment for common expenses or any installment thereof due from any Lot Owner which remains unpaid beyond the due date. The Board of Directors shall have the authority to establish the date on which any payment(s) is late and deemed to be in default. Upon a default by a Lot Owner, the delinquent Lot Owner, in addition to all other charges, including interest, costs and attorneys' fees, shall also be liable for a late fee in an amount to be established by the Board of Directors. If payment of the total assessments, or of any installment thereof, including special assessments, is not made on or before the date of default, the entire balance of assessments due on the account for the Lot for the remainder of the fiscal year shall be accelerated and due in full. Upon default, the Board may in its discretion, turn the account over to legal counsel.

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If turned over to counsel, all costs and reasonable attorneys' fees actually incurred by the Association from the inception of counsel's involvement with the account through resolution, if any, regardless of whether litigation has been initiated to enforce payment of the delinquent assessments, shall be added to the delinquent account. If payment in full of the amounts then due is not received by legal counsel or the Association within ten (10) days after the notice of legal action has been sent, a Memorandum of Lien may be filed against the Lot Owner's Lot and may include: any and all applicable late fees, interest, costs, reasonable attorneys' fees actually incurred and accelerated assessment amounts through the end of the fiscal year. The attorneys' fees and costs secured by the Memorandum of Lien shall be separate and independent of any costs and attorneys' fees actually incurred by the Association in any effort by the Association taken personally against a delinquent Lot Owner to enforce payment of any past due assessments.

Non-receipt or lack of notice claimed by the delinquent Owner shall not prevent the Association from filing a lien within the statutory deadline. Upon default, the Association may, in its discretion, file a civil suit against the delinquent Lot Owner, and the Association may initiate any available foreclosure remedy to enforce payment of the debt.

If an account remains delinquent after the filing of a lien or civil suit, legal counsel for the Association shall take other appropriate legal action to collect the amounts due unless directed otherwise by the Board of Directors. If the Association receives from any Lot Owner, in any accounting year, two or more checks returned for insufficient funds for payment of assessments or other charges, the Board may require all future payments to be made by certified check, cashier's check or money order for the remainder of the fiscal year. The Association is not restricted by any election of remedies and may simultaneously proceed with legal action against a delinquent Owner's property, including foreclosure, and the delinquent Owner personally, as well as initiate any restrictions against a Lot Owner as may be authorized by the Board in accordance with the Declaration and Bylaws.

Any payment that is received by legal counsel or the Association and which does not pay the Lot Owner's account balance with the Association in full, shall be credited first to the oldest debt in each category described below until each category is paid in full, in the following order:

1) Charges for the actual costs and reasonable attorneys' fees incurred by the Association subsequent to the delinquent account being turned over to legal counsel for the prosecution of an action to enforce payment of the debt, regardless of the results of litigation or whether litigation has been initiated against the delinquent Lot Owner;

2) all returned check charges;

3) all late fees;

4) interest;

5) unpaid installments of the Base Assessments or special assessments which are not the subject matter of suit in the order of their coming due; and

6) unpaid installments of the Base Assessment or special assessments which are the subject matter of suit in the order of their coming due.

In the event of a delinquency by a Lot Owner, the Board of Directors may reject any offer of partial payment and demand payment in full of all amounts owed to the Association. Acceptance of any partial payments or any waiver by the Board granted specifically to any Lot Owner's assessment account of any of the fees and costs established herein or in the Bylaws or any Rule and Regulation, shall be, on a case by case basis, if at all, and in no way shall it constitute a waiver of the Board's authority to enforce payment of all amounts owed in accordance with this Declaration, including turnover of the Association's legal counsel for collection.

For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may: (i) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of the Declarant; or (ii) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Properties. The Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by any of the improvements maintained by the Association shall be given in connection with such loan. The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

Section 3. Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared, as provided in Section 6 of this Article. The budget may also include, at the Board's discretion, any amounts necessary to furnish all equipment, material, labor and other items necessary to provide waste and recycling collection or any other services for each Lot on a community-wide basis.

The Base Assessments to be levied against each Lot for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including reserves, which are attributable to all Lots. All Lot Owners shall pay equally for the Common Expenses and reserves which are attributable to all Lots. However, the Board of Directors may establish varying levels of assessments for all Lot Owners who own a particular type of Housing Plan. The Declarant anticipates that initially up to five different Housing Plans will be made available to Owners and that the Housing Plans vary in architectural style and size which will result in a variance in the Association's obligations with respect to maintenance, repair and replacement for each type of Housing Plan. Declarant reserves the unilateral right to add more Housing Plans, at its sole discretion. Thus, when establishing the Base Assessment to be levied against each Lot, the Board will also determine the Association's expenses related to its obligations with respect to each particular Housing Plan and then establish an appropriate rate for the Owners for each Housing Plan which shall then be reflected in the Base Assessment for each Owner.

Notwithstanding the above, the Board may, in its sole discretion, reduce the Base Assessments by taking into account:

- (a) other sources of funds available to the Association; and
- (b) assessments to be levied upon additional Lots reasonably anticipated to become subject to assessment during the fiscal year.

The Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting Base Assessments for any fiscal year by payment of a subsidy (in addition to any amount paid by Declarant under Section 1 above); provided, any such subsidy shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Base Assessment to be levied against each Lot for the following year to be delivered to each Owner prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Association by at least a majority of the total Class "A" vote in the Association, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the membership as provided for special meetings in the Association's Bylaws, which petition must be presented to the Board within ten (10) days of delivery of the notice of assessments.

Notwithstanding the foregoing, however, in the event the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 4. Special Assessments.

(a) Entire Membership. The Board of Directors may levy Special Assessments from time to time pursuant to Section 55-514 of the Virginia Property Owners' Association Act, Section 55-508 et seq. of the Code of Virginia, 1950, as amended. Special Assessments shall be levied against the entire membership in such manner as the Board determines equitable. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(b) Less Than All Members. The Board of Directors may levy a Special Assessment against any Member individually and against such Member's Lot to reimburse the Association for costs incurred in bringing a Member and his or her Lot into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the Bylaws, or the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the member and an opportunity for a hearing.

Section 5. Lien for Assessment. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value, unless otherwise provided for by the Virginia Property Owners' Association Act, Section 55-508 et seq. of the Code of Virginia, 1950, as amended.

Prior to recording a memorandum of lien, a written notice shall be sent to the Owner by certified mail, at the Owner's last known address, informing the Owner that a memorandum of lien will be recorded in the Circuit Court Clerk's Office of the County of Goochland, Virginia. This notice shall be sent at least ten (10) days before the actual filing date of the memorandum of lien. Such lien, when delinquent, may be enforced by suit, judgment, and/or judicial or nonjudicial foreclosure in accordance with Virginia law, as amended.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 6. Reserve Budget and Capital Contribution. Prior to the sale of the first lot on the Property and at the times thereafter, the Board of Directors shall prepare and develop, based on the advice of an outside professional management and/or engineering consultant, a reserve budget and reserve fund to assure the maintenance of the lots and the exterior of the homes located on Lots, in accordance with Article IV of this Declaration. The Board may fix the required capital contribution in an amount sufficient to permit meeting the projected need of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Sections 1 and 3 of this Article.

Section 7. Date of Commencement of Assessments. The obligation to pay the assessments provided for herein shall commence at closing upon conveyance of an Improved Lot to a person or party other than the Declarant, its successors or assigns.

Section 8. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges and costs (including attorney's fees) provided for herein, shall be prior to all other subsequent liens and encumbrances except: (i) real estate tax liens on that Lot; (ii) liens and encumbrances recorded prior to the recordation of the Declaration and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of said lien. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, unless otherwise provided for by law. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgage holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by Association chargeable to such Lot which became due to such acquisition of title, unless otherwise provided for by law. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquired, its successors and assigns.

Section 9. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

Section 10. Capitalization of Association. Upon acquisition of record title to a Lot by the first purchaser thereof other than the Declarant, or a Builder, the purchaser shall contribute to the working capital of the Association an amount equal to one-sixth (1/6) of the then annual Base Assessment per Lot for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment levied on the Lot and shall not be considered an advance payment of any portion thereof. This amount shall be deposited into the Association's general operating fund and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

Section 11. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessment and Special Assessments:

(a) all Property dedicated to and accepted by any governmental authority or public utility, including without limitation, public streets, if any; and

(b) all Lots owned by the Declarant, or its successors and assigns.

Section 12. Annual Audit. An audit of the accounts of the Association shall be made annually in the manner as the Board of Directors may decide, provided, however, that after having received the Board's audit at the annual meeting, the Lot Owners, by a majority vote, may require that the accounts of the Association be audited as a Common Expense by a public accountant. Upon written request of any holder of a first mortgage, such holder shall be entitled to receive a copy of the annual audited financial statement within sixty (60) days after the end of each fiscal year.

#### ARTICLE VIII USE RESTRICTIONS

The Properties shall be used only for residential recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business or sales offices for the Declarant or the Association) as may more particularly be set forth in this Declaration and amendments hereto. This Declaration specifically incorporates by reference herein the Use Restrictions set forth in Article XII "Use Restrictions - General", Section 1-33 of the Kinloch Declaration. The Association, acting through its Board of Directors, shall have standing and the power to enforce such use restrictions.

The Association, acting through its Board of Directors, shall have authority to make and to enforce

standards and restrictions governing the use of the Properties, in addition to those contained herein to the extent not in consistent with the Kinloch Declaration and Guidelines. Such regulations and use restrictions shall be binding upon all Owners, occupants, tenants, guests, invitees and licensees, if any, until and unless overruled, canceled or modified in a regular or special meeting of the Association by the vote of the Members representing at least two-thirds (2/3) of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership shall exist and so long as there is no conflict with the Kinloch Declaration and the Guidelines for Kinloch.

**ARTICLE IX**  
**GENERAL PROVISIONS**

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 2. Amendment. Prior to the conveyance of the first Lot, Declarant may unilaterally amend this Declaration. After such conveyance, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is: (a) to effect technical deletions, additions and revisions to the Declaration but which do not alter the substantive rights of those Owners or Mortgagees; (b) necessary to bring any provision hereof into compliance with any applicable government statutes, rule or regulation, or judicial determination; (c) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (d) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Company Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots; (e) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots; or (f) necessary to annex any additional property into the Association; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. So long as it still owns property described in Exhibits "A" for development as part of the Properties, the Declarant may unilaterally amend this Declaration for any other purpose. Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing sixty-six and two-thirds percent (66 2/3%) of the total Class "A" votes in the Association, and the written consent of the Class "B" Member, so long as such membership exists. In addition, the approval requirements set forth in Article X hereof shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Clerk's Office. If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right of privilege. Any procedural challenge to any amendment to this Declaration must be filed in the Clerk's Office of the Circuit Court of the County of Goochland no later than one year from the date such amendment was recorded amongst the land records of the County of Goochland, Virginia.

Section 3. Indemnification. The Association shall indemnify every officer, director and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member.

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The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer director or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Easements for Utilities, Etc. There is hereby reserved unto Declarant even after title has passed to a third party, so long as the Declarant owns any property: (a) which is described in Exhibit "A" of this Declaration; (b) subject to annexation; or (c) which is hereinafter subjected to this Declaration, the Association, and the designees of each (which may include, without limitation, County of Goochland, Virginia, and any utility), blanket easements upon, across, over and under all of the Properties for the purpose of replacing, repairing and maintaining cable television systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Properties.

Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

Section 5. Easements for River and Pond Maintenance and Flood Water. Declarant reserves for itself and its successors, assigns and designees the non-exclusive right and easement, but not the obligation, to enter upon the rivers, ponds, streams and wetlands located within the Area of Common Responsibility to fulfill its maintenance responsibility as provided in this Declaration. Declarant's rights and easements provided in this Section 5 shall be transferred to the Association at such time as Declarant shall cease to own property subject to the Declaration, or such earlier time as Declarant may decide, in its sole discretion and transfer such rights by a written instrument.

The Declarant, the Association and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of any of the rivers, ponds, streams or wetlands to the extent reasonably necessary to exercise their rights and responsibilities under this Section. There is further reserved herein and hereby, for the benefit of Declarant, the Association and their designees, a perpetual, non-exclusive right and easement of access and encroachment over Lots (but not the dwellings thereon) adjacent to or within fifty (50) feet of river banks, ponds and streams within the Properties, in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Properties; (b) to fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the ponds, streams and wetlands within the Area of Common Responsibility; (c) to maintain and landscape the slopes and banks pertaining to such rivers, ponds, streams and wetlands; and (d) to enter upon and across such portions of the Properties for the purpose of exercising its or their rights under this Section.

Section 6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 7. Right of Entry/Easement of Access. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons, to perform maintenance pursuant to Article IV hereof, and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, any Supplemental

Declaration and the rules of the Association; provided nothing herein shall authorize any person to enter any dwelling or other building constructed on a Lot without permission of the Owner unless reasonably believed to be necessary to avoid an imminent threat of personal injury or personal damage. This right may be exercised by the Association's Board of Directors, any agent or employee of the Association acting with the authorization of the Board of Directors, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

Section 8. Perpetuities. No portion of the covenants, conditions, restrictions or other provisions of this Declaration shall be deemed void, unenforceable or unlawful due to the Rule Against Perpetuities.

Section 9. Compliance. Every Owner and occupant of any Lot shall comply with all lawful provisions of this Declaration, the Bylaws, and the rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association acting through its Board of Directors, or, in a proper case, by any aggrieved Lot Owner or Owners. In addition, the Association may avail itself of any and all remedies provided in this Declaration or the Bylaws. All rights, remedies and privileges granted to the Association pursuant to any terms, provision, covenant or condition of this Declaration, the Bylaws or state law shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by this Declaration or at law or in equity. The Association shall also be entitled to receive its costs and attorneys' fees in any action brought against an Owner and/or occupant.

Section 10. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Lot, such Owner shall give the Board of Directors at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. Until such written notice is received by the Board of Directors, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Lot hereunder, including payment of assessments, notwithstanding the transfer of title to the Lot.

Section 11. Use of the Words "Coach Homes of Kinloch" or "Coach Homes of Kinloch Homeowners' Association, Inc." No Person, Owner, Resident, or Member shall use the words "Coach Homes of Kinloch" or "Coach Homes of Kinloch Homeowner" Association, Inc." or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Owners may use the terms in printed or promotional matter where such term or terms are used solely to specify that the particular property is located within Coach Homes of Kinloch, in which case Owners shall be entitled to use the words "Coach Homes of Kinloch" and "Coach Homes of Kinloch Homeowners' Association, Inc."

Section 12. Security. Coach Homes of Kinloch Homeowners' Association, Inc. may, but is not obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, HOWEVER, AND NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, THE DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE NEW CONSTRUCTION AND MODIFICATIONS COMMITTEES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE NEW CONSTRUCTION OR MODIFICATIONS COMMITTEES MAY NOT BE COMPROMISED OR



CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT, AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY LOT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, THE DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

ARTICLE X  
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgagee on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the street address of the Lot to which its Mortgage relates, therefore becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed on a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Declaration, or Bylaws relating to such Lot or the Owner or occupant thereof which is not cured within sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

Section 2. Actions Requiring Approval of Eligible Mortgage Holders. To the extent possible under Virginia law:

(a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of Voting Members representing sixty-seven percent (67%) of the total Association vote and the approval of the Eligible Holders of the first Mortgages on Lots to which at least fifty-one

percent (51%) of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

(c) Any election to terminate the Association under circumstances other than substantial destruction or a substantial taking in condemnation shall require the consent of Voting Members representing at least sixty-seven percent (67%) of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of the Eligible Holders of first Mortgages on Lots to which at least sixty-seven percent (67%) of the votes of Lots subject to a Mortgage are allocated.

(d) Any material amendment to this Declaration, Bylaws, or Articles of Incorporation of the Association shall require the consent of Members representing at least sixty-seven percent (67%) of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of Eligible Holders of first Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to a Mortgage held by an Eligible Holder are allocated. An amendment which changes the provisions for any of the following shall be considered material:

- (i) voting rights;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) responsibility for maintenance and repair of the Properties;
- (iv) boundaries of any Lot;
- (v) expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association;
- (vi) insurance or fidelity bonds;
- (vii) leasing of Lots;
- (viii) imposition of any right of first refusal or similar restriction of the right of any owner to sell, transfer, or otherwise convey his or her Lot;
- (ix) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (x) any provisions included in this Declaration, the Bylaws or the Articles of Incorporation which are for the express benefit of holders, guarantors or insurers of first Mortgages on Lots.

Section 3. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Lot in a case of distribution to such Owner of insurance proceeds.

Section 4. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 5. Applicability of Article X. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Bylaws, or Virginia law or any of the acts set out in this Article.

Section 6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE XI  
ANNEXATION OF ADDITIONAL PROPERTY

Section 1. Annexation Without Approval of Class "A" Membership. To the extent Declarant acquires the applicable real property, Declarant shall have the unilateral right, privilege, and option from time to time and at any time to annex any property described in Exhibit "B" of the Declaration, whether such property is now owned or subsequently owned by the Declarant (or any successor) which is subject to the Kinloch Declaration.

Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Section 1 above of this Article, and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

Declarant's right of annexation shall survive termination of its Class "B" membership status.

Section 2. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners thereof and obligating such Owners to pay the costs incurred by the Association through Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the Owner(s) of such property, if other than the Declarant.

Section 3. No Obligation. The Declarant is under no obligation, pursuant to this Article, to add common area or recreational facilities and subject the same to this Declaration, regardless of annexation of additional property for development.

Section 4. Amendment. This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, as amended, or susceptible to being subject to this Declaration.

ARTICLE XII  
DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein or in the Bylaws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Clerk's Office.

Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant and any builder designated by Declarant to maintain and carry on upon portions of the Properties, such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to business offices, signs, model units, and sales offices, and the Declarant and such designated builder(s) shall have easements for access to and use of such facilities.

Nothing contained in this Declaration, or the Articles of Incorporation or Bylaws shall be deemed to impose upon the Declarant any obligations of any nature to build, construct or provide any buildings or other improvements except to the extent required by law.

So long as Declarant continues to have rights under this Declaration, no Person shall record any declaration

of covenants, conditions and restrictions or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto. Any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions or declarations of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) ten 10 years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 14 th day of October, 2004

BOONE HOMES, INC., a Virginia stock corporation

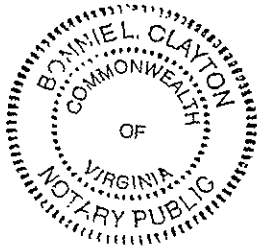
By: [Signature]  
President

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Roanoke, to-wit:

I, Bonnie L. Clayton, a Notary Public in and for the jurisdiction aforesaid, so certify that the foregoing Declaration of Covenants, Conditions and Restrictions for Coach Homes of Kinloch was executed and acknowledged before me this 14<sup>th</sup> day of October, 2004 on behalf of such company.

My Commission expires: 12-31-06

[Signature]  
Notary Public



04 0005689

EXHIBIT A  
SUBMITTED LAND

ALL that certain lot, piece or parcel of land lying in the Dover District of Goochland County, Virginia, together with all improvements thereon and appurtenances thereunto belonging, designated as Lots 2, 3, 4, 5 and 6, Section 5A of Kinloch as shown on the subdivision plat prepared by Balzer and Associates, Inc., dated February 9, 2004, entitled "Kinloch Section 5A", a copy of which is recorded in the Clerk's Office, Circuit Court, Goochland County, Virginia on June 17, 2004, as instrument number 040003321 (the "Property").

BEING the same real estate conveyed to Boone Homes, Inc., a Virginia corporation, by deed from Kinloch Development Corporation, a Virginia corporation dated October 7, 2004, recorded in the Clerk's Office, Circuit Court, Goochland County, Virginia, as instrument number 040005688.

04 0005688

**Exhibit B**  
**Real Property Which May Be Submitted To This Declaration**  
**By The Execution And Recordation Of a Supplemental Declaration**

Any real property which is subject to the Kinloch Declaration and acquired by the Declarant.

04 0005689

**EXHIBIT "C"**  
**CHART OF MAINTENANCE RESPONSIBILITIES**

EXHIBIT "C" CHART OF	MAINTENANCE RESPONSIBILITIES FOR	COACH HOMES OF KINLOCH HOMEOWNERS' ASSOCIATION, INC.
I	II	III
ITEMS	ASSOCIATION RESPONSIBILITY	CERTAIN OTHER COMPONENTS UNDER LOT OWNER'S RESPONSIBILITY WITHOUT RESPECT TO OWNERSHIP OF THE COMPONENT
Plumbing and related systems and components	Lawn sprinkler system	All in all regards, for items serving only one Lot.
Electrical and related systems and components thereof, excluding appliances, fixtures & lights serving only one Lot	Lawn sprinkler system	All in all regards, for items serving only one Lot.
Heating and Cooling Systems and components thereof	-	All in all regards for systems serving only one Lot.
Parking Spaces	-	All in all regards
Grounds, including all paved areas and other improvements thereon lying outside the main walls of the building and all underground utility systems	All.	Maintenance of plants, flower beds, and improvements approved by the Association and installed by the Unit Owner on patios or common elements.
Building, exterior roof, exterior vertical walls, foundation, skyrising	All in all regards.	Maintenance, repair and replacement of all glass.
Driveways	All in all regards, including snow and ice removal as the Board of Directors determines to be necessary.	Routine sweeping and removal of debris on the driveway appurtenant to Lot.
Windows and Storm Windows	Exterior painting.	Maintenance, repair and replacement of all except exterior painting.
Bay Windows	Exterior painting.	Maintenance, repair and replacement of all except exterior painting.
Doors, main entry to units	Exterior painting.	Maintenance, repair and replacement of all except exterior painting.
Balcony or patio doors (including sliding glass doors)	Exterior painting.	Maintenance, repair and replacement of all except exterior painting.
Balconies, patios, decks & railings (if any)	All in all regards.	
Screens (Balcony or patio doors and windows)	-	Maintenance, repair and replacement of all.
Fireplaces and fireplace flues	-	All in all regards.
Fences and Hedges	All hedges to the extent not enclosed by a fence. All fences built by the Declarant.	
Lawns	Typical lawn maintenance not including landscaping. Maintenance to include front yards, side yards and back yards to the extent not enclosed, or paved or otherwise altered and sprinkler systems.	Maintenance of plantings and improvements approved by the Association and installed by the Lot Owner.
Front stoops and steps	All in all regards.	
Sidewalks	All in all regards, including snow and ice removal as the Board of Directors determines to be necessary.	

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INSTRUMENT #040005689  
RECORDED IN THE CLERK'S OFFICE OF  
GOOCHLAND COUNTY ON  
OCTOBER 15, 2004 AT 03:36PM  
LEE G. TURNER, CLERK

RECORDED BY: CWC

