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 Butler County Recorder MEPCRAMBER

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

**SHADOW CREEK ESTATES
 Planned Residential Development
 Township of Cranberry
 County of Butler
 Commonwealth of Pennsylvania**

THIS DECLARATION is made this 11th day of May, 2004, by SHADOW CREEK DEVELOPMENT ASSOCIATES, LP, a Pennsylvania limited partnership, as the owner in fee simple of the real estate herein described.

WITNESSETH:

ARTICLE 1

SUBMISSION

Section 1.1 Declarant; Property; County. Shadow Creek Development Associates, LP (the "Declarant") has made the Real Estate described in Exhibit "A" attached hereto, located in Cranberry Township, Butler County, Pennsylvania, subject to the following covenants, conditions, reservations and restrictions. It is the intent of the Declarant that the Real Estate subject to this Declaration shall constitute a "planned community," as that term is defined in the Pennsylvania Uniform Planned Community Act, 68 Pa.C.S. §§ 5101, et seq. (the "Act"); however, only those portions of the Act that are specified in 68 Pa.C.S §5102(a)(2) shall apply to this planned community.

ARTICLE 2

DEFINED TERMS

Section 2.1 Terms Defined. All capitalized terms used herein shall have ascribed to them the following meanings, unless otherwise defined herein.

- (a) "Act" means the Pennsylvania Uniform Planned Community Act, 68 Pa.C.S. §§ 5101, et seq.
- (b) "Association" means Shadow Creek Estates Homeowners' Association.
- (c) "Board of Directors" means the Board of Directors of the Association.

(d) "Building(s)" means any building(s) constructed or erected on the Real Estate.

(e) "Declarant" means the Declarant described in Section 1.1 above and all successors to any of Declarant's rights.

(f) "Declaration" means this document, as the same may be amended from time to time.

(g) "Open Space(s)" means the Open Space(s) as shown on the Plan(s) and all buildings and structures erected thereon and improvements thereto, including but not limited to identification signs for the planned community.

(h) "Plan(s)" means the plan(s) recorded, or to be recorded, subdividing the Real Estate and made a part hereof, as the same may be amended from time to time.

(i) "Real Estate" means the real estate described in Exhibit "A".

(j) "Lot" means a lot as described in the Plan(s).

(k) "Lot Owner" means the owner in fee simple of any Lot, but shall not include the Declarant (except that the Declarant shall be a Lot Owner with respect to any Lot owned by the Declarant after the termination of Declarant control in accordance with Article 13), any Builder taking title to any Lot or any person or persons purchasing a Lot under contract (until such contract is fully performed and legal title conveyed of record).

(l) "Common Expenses" means the expenditures made by or financial liabilities of the Association, together with any allocations to reserves, including but not limited to the expense of owning and maintaining the Open Spaces, any applicable taxes attributable thereto, drainage and storm water detention facilities within or appurtenant to the Real Estate, and all common community services required or desired for the general use and benefit of all Lot Owners.

(m) "Builder" means the individual and/or entity whose primary professional business is constructing the residential dwellings and structures in the Plan.

(n) "Community Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Plan. Such standard may be more specifically determined by the Board of Directors and/or the Declarant.

ARTICLE 3

EASEMENTS

Section 3.1 Easements. Declarant hereby creates the following easements:

(a) Easement for Sales Offices, Management Offices and Models. Declarant shall have the right to maintain sales offices, management offices and models on the Real Estate and to relocate such models, management offices and sales offices from time to time anywhere on the Real Estate. Declarant reserves the right to place models, management offices and sales offices on any portion of the Open Spaces in such manner, of such size and in such locations as Declarant deems appropriate.

(b) Easement for Advertising Signs. Declarant shall have the right to maintain on the Real Estate such advertising signs as Declarant in its sole discretion may deem appropriate, provided that such signs comply with applicable governmental requirements. Declarant may from time to time relocate such advertising signs. All advertising signs shall be erected in accordance with all applicable Cranberry Township ordinances.

Section 3.2 Utility Easements. The Real Estate shall be, and hereby is, made subject to easements in favor of the Declarant, appropriate utility and service companies and governmental agencies or authorities for such utility and service line and equipment as may be necessary or desirable to serve any portion of the Real Estate. The easements created in this Section 3.2 shall include, without limitation, rights of governmental agencies or authorities, to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits, equipment, ducts and vents, over, under, through, along and on the Lots, street rights-of-way and Open Spaces. Notwithstanding the foregoing provision of this Section 3.2, unless approved in writing by the Lot Owner or Lot Owners affected thereby, any such easement through a Lot shall be located in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Lot by the Declarant, or as shown on the Plans, or so as not to materially interfere with the use or occupancy of the Lot or any Building by its occupants.

Section 3.3 Easement for Access to Real Estate. Declarant reserves a non-exclusive perpetual right of access and easement on, over and under those portions of the Open Spaces for the purpose of pedestrian and vehicular ingress, egress and regress to all or any part of the Real Estate, including the right to modify the location of improvements to the Open Spaces to facilitate such ingress, egress and regress, including without limitation the removal of obstructions to the exercise of such rights of ingress, egress and regress, and the grading or regarding of landscaped areas of the Open Spaces.

Section 3.4 Declarant's Easement to Correct Drainage. Declarant reserves an easement on, over and under those portions of the Open Spaces for the purpose of maintaining and correcting drainage of surface water in order to maintain a reasonable standard of health, safety and appearance. The easement created by this Section 3.4 expressly includes the right to cut any trees, bushes or shrubbery, to grade the soil, or to take any other action reasonably necessary to achieve this purpose, following which the Declarant shall restore the affected property as closely to its original condition as possible.

Section 3.5 Declarant's Easement for Development of Real Estate. Declarant reserves an easement on, over and under those portions of the Open Spaces for all purposes relating to the construction, development, leasing and sale of improvements on the Real Estate. This easement shall include, without limitation, the right of vehicular and pedestrian ingress and egress, the right to park motor vehicles and to engage in construction and marketing activities of any nature whatsoever, including the movement and storage of building materials and equipment, the conduct of sales, leasing and management activities, the maintenance of models and offices and the erection and maintenance of directions and promotional signs.

Section 3.6 Termination of Easements. The easements created by Sections 3.1, 3.3, 3.4 and 3.5 hereof shall terminate upon the conveyance of all of the Lots to the ultimate Lot Owners (i.e., excluding any conveyances to Builders).

Section 3.7 Easement for Use of Common Spaces.

(a) Grant of Easement. Each Lot Owner and each person lawfully residing on the Real Estate is hereby granted a non-exclusive perpetual right and easement of access to and enjoyment in common with others of the Open Spaces.

(b) Extent of Easement. The rights and easements of access and enjoyment created hereby shall be subject to the right of the Association to adopt rules and regulations governing the use of the Open Spaces.

Section 3.8 Storm Water Detention Facility. The Association shall maintain and keep in good working order the Storm Water Detention Facility.

ARTICLE 4

USE RESTRICTIONS

Section 4.1 Use and Occupancy of Lots & Buildings. The occupancy and use of the Lots and Buildings shall be subject to the following restrictions:

(a) Residential Use. No part of the Real Estate shall be used for other than housing and the related common purposes for which the planned residential development was designed. Each Lot or any two or more adjoining Lots used together shall be used as a residence for a single family or such other uses permitted by this Declaration and for no other purposes. If zoning regulations permit professional activities to be conducted within the Lots, application may be made by a Lot Owner to the Declarant for approval to commence such permitted use of his Lot. Each such application shall be considered by the Declarant on an individual basis. Once the Declarant has given its approval to a particular use of a Lot, it may not revoke such approval so long as the nature and scope of the approved use remains unchanged. No Building or structure intended for or adapted to business purposes, and no apartment house, double house, lodging house, rooming house, hospital, sanatorium or doctor's office or other multiple-family dwelling shall be erected, placed, permitted, or maintained on any Lot in the Real Estate, or on any part thereof. No improvement or structure whatever, other than a private dwelling house, patio walls, in-ground swimming pool and customary outbuilding, garage, servants' quarters or guest house may be erected, placed or maintained on any Lot in the Real Estate. No Lot Owner shall permit his Lot to be used or occupied for any prohibited purpose.

(b) Fences. No fences on any Lot may extend beyond the front of any dwelling. No fences may extend beyond the side building setback line for any Lots adjoining any side streets. All fence materials and types and colors of fences must be approved in writing by Declarant before the installation of any fence. No Lot Owner may install chain link fences on any Lot.

(c) Commercial Activities. Except as set forth in Subsection (a) above, no industry, business, trade, occupation or profession of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted on any part of the Real Estate; provided, however, that nothing contained in this Subsection shall be construed to prevent or prohibit a Lot Owner from maintaining his personal professional library, keeping his personal business or professional records or accounts, handling his personal business or professional telephone calls or conferring with business or professional associates, clients or customers, in his Lot.

(d) Pets. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot or in the Open Spaces, except household pets in reasonable numbers for the pleasure and use of the occupants, subject to Rules and Regulations adopted by the Declarant, which Rules or Regulations may exclude any kind of pet by type or category, provided that permitted household pets are not kept, bred or maintained for any commercial purposes. All dogs shall at all times whenever they are outside a Lot be confined on a leash held by a responsible person.

(e) Signs. No sign of any character shall be erected, placed, permitted, maintained or displayed upon any Lot except "For Rent" or "For Sale" signs, referring only to the Lot on which displayed, not to exceed six (6) square feet in size, and one sign to a Lot. No sign of any character shall be erected, placed, permitted, maintained or displayed in any Open Space or Common Areas other than identification signs for the

planned community, and any sign placed in violation thereof may be removed by the Declarant or any Lot Owner.

(f) Commercial and Other Vehicles. No commercial vehicles, construction, or like equipment or mobile trailers, stationary trailers, boats, boat trailers, recreational vehicles, motor homes, campers or motorcycles of any kind shall be stored or parked on any Lot in the Real Estate or on the Open Spaces except while parked in a garage completely enclosed, nor parked on any residential street in the Real Estate except while engaged in transporting to or from a residence in the Real Estate. Parking is permitted in driveways provided the vehicle is operational. Vehicles shall be subject to such reasonable rules and regulations as the Declarant or the Association may adopt. The Association may permit visitors or guests to park overnight in driveways and may promulgate reasonable rules regulation such parking to ensure that such privilege is not abused.

(g) Nuisances. No clotheslines or drying yards shall be permitted unless concealed by hedges, lattice work or screening acceptable to the Declarant. No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. No Lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or noxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding Lots. In the event that any Lot Owner shall fail or refuse to keep his Lot free from weeds, underbrush, or refuse piles or other unsightly growths or objects, then the Declarant may enter upon such Lot and remove the same at the expense of the Lot Owner, which entry shall not be deemed a trespass, and in the event of such a removal a lien shall arise and be created in favor of the Declarant and against such Lot for the full amount chargeable to such Lot, and such amount shall be due and payable within thirty (30) days after demand is made therefor.

(h) Obstruction of Easements. No Lot Owner shall do any work or any other act which would impair any easement or hereditament without the consent of the Declarant or Association, whichever may be affected thereby.

(i) Accessory Structures. No tent, carport or satellite dish exceeding one meter in diameter shall be used, constructed or erected upon any Lots. Any storage shed constructed upon any Lot shall be placed only in the rear yard and shall be approved in writing by and shall be made of a material acceptable to the Declarant, but no metal shed shall be approved.

(j) Driveway Access. Driveway access to all Lots shall only be from internal streets situated within the Real Estate and the planned residential development provided for herein. No driveway access to any Lot shall be permitted from any external streets or roadways that are not wholly contained within the Real Estate and the planned residential development

(k) Street Trees. Unless determined by the Declarant to not be physically or aesthetically feasible or acceptable and in accordance with the Approving Resolution #2003-10 adopted February 6th 2003 and per the Final Drawings dated September 8th 2003, every Lot shall have a minimum of three (3) "street trees", which shall be trees in the front of the Lot between thirteen feet (13') between the sidewalk and seventeen feet (17') from the back of the curb (and on the sides as well for street corner Lots). The street trees shall be of species and diameters as shown on the Plans. All individuals owning Lots with street trees shall have covenants provided in the individual deeds for such Lots requiring the owner or owners of such Lots to perpetually protect the street trees contained therein and to prohibit the logging or felling of such healthy, live trees therein and requiring the owners to replace any such street trees therein which may die with a tree of identical species (or another species permitted by the Plans may be substituted with the Declarant's consent) and diameter as required by the Plans.

(l) Protection of Trees. The trees contained in the Open Spaces and in any landscape buffer shown on the Plan are perpetually protected, and the logging or felling of healthy, live trees thereof is specifically prohibited. The Association shall be responsible for replacing any trees in any such areas which may die.

(m) Recreational Structures. No recreational structures, playground sets, swing sets and the like shall be erected or placed in any area other than the rear yard of any Lot and must be placed so as not to cross any rear or side setback building lines.

Section 4.2. Use of Open Spaces. The use of the Open Spaces shall be subject to the following restrictions:

(a) Obstruction of Open Spaces. There shall be no obstruction of the Open Spaces nor shall anything be stored in the Open Spaces without the prior consent of the Board of Directors except as herein expressly provided. Without limiting the generality of the foregoing, no clothes, sheets, blankets, laundry or other articles of any kind shall be hung out or exposed on any part of the Open Spaces. The Open Spaces shall be kept free and clear of rubbish, debris and other unsightly materials. No benches, chairs or other personal property shall be left on, nor shall any playing, lounging, parking of baby carriages, playpens, bicycles, wagons, toys or vehicles be permitted on, any part of the Open Spaces without the prior consent of, and subject to any regulations of, the Board of Directors. The Open Spaces shall be perpetually preserved as Open Spaces and shall not be permitted to be utilized for residential or commercial purposes. In addition, no construction or encroachment upon the Open Spaces shall be permitted except as provided by the Board of Directors and consistent with the Plans as approved by the Township of Cranberry.

(b) Encroachments on Open Spaces. No Lot Owner shall make any installation that extends beyond the physical limits of the Lot Owner's Lot into the Open Spaces.

(c) Nuisances. No noxious or offensive activity shall be carried on in any Lot or in the Open Spaces, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Lot Owners or

occupants, or which interferes with the peaceful possession or proper use of any of the Lots or of the Open Spaces.

(d) Insurance Risk; Compliance with Law; Waste. Nothing shall be done or kept in the Open Spaces that will increase the rate of insurance thereon, or contents thereof, without the prior written consent of the Association. No Lot Owner shall permit anything to be done or kept in his Lot nor in the Open Spaces which will violate any law, statute, ordinance or regulation of any governmental body or which will result in the cancellation of any insurance maintained by the Association. No waste shall be committed in the Open Spaces.

(e) Rules and Regulations. Reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Open Spaces may be promulgated from time to time by the Association, subject to the right of the Association to change such Rules and Regulations. Copies of the then current Rules and Regulations and amendments thereto shall be furnished to all Lot Owners by the Association promptly after the adoption of such Rules and Regulations or any amendments thereto.

(f) Stormwater Detention Facilities. The Declarant shall provide to the Township of Cranberry appropriate, permanent easements which in the Township's discretion are adequate for purposes of access for inspection and/or maintenance to all stormwater detention facilities. Said easements shall be established prior to any sales of Lots. The Association shall maintain all stormwater detention facilities in good condition and repair free of debris and obstructions.

(g) Vegetation. No Lot shall have any vegetation encroaching on the sidewalk abutting any such Lot. Any trees or other vegetation hanging over the sidewalk abutting any Lot must be trimmed to a height of no less than seven (7) feet.

(h) Identification Sign The Association shall at all times maintain the identification signs for the planned community located in the Open Spaces in good condition and repair.

Section 4.3 Construction and Occupancy. When the construction of any Building is once begun, work thereon must be prosecuted diligently and must be completed within a reasonable time, and no debris incidental to construction work on one Lot may be placed on any other Lot.

(a) Outbuildings. No outbuildings, garages, sheds, tents, trailers, or temporary Buildings of any kind shall be erected, constructed, permitted, or maintained on any Lot prior to commencement of the erection of a residence, as is permitted hereby, and no outbuildings, garages, sheds, tents, trailers, basements, or temporary Buildings shall be used for permanent or temporary residence purposes; provided, however, that this paragraph shall not be deemed or construed to prevent the use of a temporary construction shed during the period of actual construction of any structure on any Lot in the Real Estate, nor the use of adequate sanitary toilet facilities for workmen which shall be provided during such construction.

(b) Occupancy of Buildings. No Building erected upon any Lot shall be occupied in any manner while in the course of construction, nor at any time prior to its being fully completed, as herein required, and a Township occupancy permit issued. Nor shall any Building, when completed, be in any manner occupied until made to comply with the approved plans, the requirements herein, and all other covenants, conditions, reservations, and restrictions herein set forth.

(c) Water and Sewer. All homes within the Plan shall be part of the Cranberry Township water and sewage Systems and shall be tapped into said systems. No Building shall be occupied until said water and sewage systems are installed and operational. All Lot Owners shall be responsible for payment of any and all initial tap-in or other initial hook up fees and costs.

(d) Construction Debris. No debris incidental to construction work, whether initial or temporary construction, on one Lot may be placed on another Lot. All debris must be removed by the time of completion of the work to which it is incidental.

(e) Construction Equipment. Inactive construction equipment or construction vehicles may not be stored in the open where they can be seen from any occupied residence in any phase of the Plan once fifty percent (50%) of the residences in such phase have been occupied. Construction equipment that is in daily use shall not be considered "inactive".

Section 4.4 Mining. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of the Real Estate, nor shall any oil, natural gas, petroleum, asphaltum, or hydrocarbon products or minerals of any kind be produced or extracted therefrom.

Section 4.5 Maintenance Responsibilities. Each Lot Owner shall maintain his or her Lot and all the landscaping, structures, parking areas, sidewalks, and other improvements within the boundaries of the Lot. Unless otherwise specifically provided herein or in other instruments, creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and maintenance, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard in the Plan and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association as hereafter set forth. If any Lot Owner fails properly to perform his or her maintenance responsibility, upon notice given, (except in the event of emergency) the Association may enter the Lot and any Building on the Lot and perform such maintenance at the expense of the Lot Owner, and any such entry shall not be deemed a trespass. Any expense incurred by the Association in connection therewith shall be enforceable by the Association as an assessment and shall be a lien on the Lot in accordance with Section 8.2.

The Association shall have no responsibility for the maintenance or repair of any Lot. The Open Spaces shall be maintained and repaired by the Association, all in accordance with the provisions of Section 5307 of the Act, except as expressly set forth to the contrary herein.

ARTICLE 5

ARCHITECTURAL CONTROL

Section 5.1. Declarant's Right to Control Improvements. For the purpose of further insuring the development of the Real Estate as an area of high standards, the Declarant reserves the power to control the Buildings, structures, and other improvements placed on each Lot, as well as to make such exceptions to these covenants, conditions, reservations and restrictions as the Declarant shall deem necessary and proper.

Section 5.2. Minimum Standards. Notwithstanding the foregoing right to approve building plans, the following minimum standards shall apply to Buildings on the Lots in the Real Estate:

(a) No one-story, one and one-half story or two-story or higher Buildings shall be constructed with a combined total area of less than 2,600 square feet, exclusive of garage, basement and open porches.

(b) The exterior Building materials shall extend to grade level, and no building shall have an unfinished exposed foundation of concrete or concrete block.

(c) All lawns must be either seeded or sodded for the entire front area, both sides and rear of the residence, said seeding or sodding to be done upon completion of the residence on any Lot or the next immediate growing season thereafter, whichever first occurs. All Lots shall be either seeded or sodded for the entire front, both sides and rear of the house; provided, however, the Declarant may approve properly landscaped areas of chips, bark or other similar materials within the areas which would otherwise be seeded or sodded. Each newly constructed house shall have a combined minimum amount of landscaping equal to Six Thousand Dollars (\$6,000.00), to include but not be limited to trees, shrubs, bushes, evergreens and ground cover in the bedding areas to be located abutting the front and/or sides of the house.

(d) All driveways must be constructed with concrete contemporaneously with the Building and street trees planted upon occupancy of the residence on any lot, or as soon as reasonably practicable thereafter in the event that adverse weather conditions interfere with such construction and planting, but in no event later than three (3) months after occupancy. Off-driveway parking pads or areas are prohibited.

(e) The owner of any Lot on which a Building has been constructed shall erect, install and maintain, at a location thereon designated by the Developer, (i) a post and lamp, and (ii) a post and mailbox, all being of a kind and type designated by the Declarant.

(f) The owner of any Lot on which a Building has been constructed shall also construct a sidewalk parallel to the curb of the street(s) bounding said Lot, the edge of which sidewalk shall be six feet (6') from the edge of the curb, and which sidewalk shall be four feet (4') in width, four inches (4") thick, constructed of poured, untainted concrete, broom finished with smooth edges. If the owner of any Lot does not construct

a sidewalk contemporaneously with the construction of a Building on said Lot, the Declarant shall have the right to do so at the sole cost and expense of the owner of the Lot.

(g) All Buildings shall have integral or attached garages, unless otherwise approved by Declarant.

(h) All dwellings must have roof overhangs. All roof overhangs must extend no less than eight (8) inches from the face of any dwelling.

(i) The Building's exterior shall be constructed with a minimum of Seventy-five (75%) percent brick and/or stone. Of which, the front of the Building's exterior shall be comprised of One Hundred (100%) percent brick and/or stone. Any material other than brick or stone to be used for the face of any structure (e.g., wood, aluminum or other siding material) must be pre-approved in writing by the Declarant before being installed on any dwelling or structure.

(j) No swimming pools may be installed on any Lot other than in-ground swimming pools.

(k) No satellite signal reception dishes larger than one meter in diameter shall be installed or placed on any Lot, and no such dishes shall be located in the front yard or on the front of any Building or any side of a Building that faces a side street.

(l) No outbuildings, sheds or similar structures shall be erected unless they shall be constructed of materials similar and matching to the residential dwelling structure on any Lot; provided, however, that no outbuildings, sheds or similar structures shall be erected unless and until at least fifty percent (50%) of the Lots in the phase of the Plan in which the Lot is situated have been sold by the Declarant.

Section 5.3. Subdivision of Lots. None of the Lots shall at any time be divided into as many as two building sites, and no building site shall be less in area than the area of the smallest Lot on the Plans. A single Lot, together with contiguous portions of one or more Lots, may be used for one building site. All Lots shall comply with all applicable Cranberry Township subdivision ordinances and regulations.

ARTICLE 6

SETBACKS AND BUILDING LINES

Section 6.1. Building Defined. For the purpose of this Article, Building shall also mean the main residence, the garage, and related outbuildings and all projections thereof such as bay, bow, or oriel windows, exterior chimneys, covered porches, porticos, loggias, and the like, but shall not include the eaves of such structures, open pergolas, uncovered porches, open terraces, stoops, steps, or balustrades, the sides of which do not extend more than three (3') feet above the level of the ground floor of the main Building.

Section 6.2. Setback and Building Distances. If the recorded Plan indicates setback requirements, no structure shall be erected nearer to any road right-of-way,

side lot line, or rear lot line than as indicated on the Plan. If the recorded Plan does not indicate setback requirements, no structure shall be erected nearer than forty feet (40') to the road right-of-way, no structure shall be erected nearer than fifteen feet (15') to any side lot line, and no building shall be erected nearer than thirty feet (30') from the rear lot line, except as may otherwise be indicated on the recorded Plan. Notwithstanding anything to the contrary herein, the Declarant shall have the right to permit reasonable modifications of the setback requirements, with the prior approval of Cranberry Township, where in its sole discretion strict enforcement of these setback provisions would work a hardship.

Section 6.3 Walls and Fences. Walls and fences may be erected and hedges grown but only between the rear Lot line and a point not beyond the front building setback line and, on any Lots adjoining side streets, beyond the side building setback line, and shall be no higher than four and one-half feet (4½') (except for split-rail fences, the supporting posts of which may be five feet (5') so long as the top rail does not exceed five feet (5')).

ARTICLE 7

SHADOW CREEK ESTATES HOMEOWNERS' ASSOCIATION

Section 7.1 Membership. For the purpose of ownership and maintenance of Open Spaces and all common community services of every kind and nature required or desired within the Real Estate for the general use and benefit of all Lot Owners, each and every Lot Owner, in accepting a deed or contract for any Lot in the Real Estate, agrees to and shall be a member of and be subject to the obligations and duly enacted bylaws and rules and regulations of Shadow Creek Estates Homeowners' Association, a nonprofit corporation. With respect to the affairs of the Association, upon the transfer of Declarant's control of the Association in accordance with Article 13, all Lot Owners and the Declarant shall have one vote for each Lot owned by such Lot Owners or the Declarant.

Section 7.2. Succession. Upon the transfer of Declarant's control of the Association in accordance with Article 13, the Association shall succeed to the position of the Declarant with respect to the provisions of these covenants, conditions, reservations and restrictions, and the term "Declarant" herein shall then mean the "Association".

Section 7.3. Powers of the Association. The Association shall have the following powers:

- (a) To adopt and amend bylaws and rules and regulations.
- (b) To adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from Lot Owners.
- (c) To hire and terminate managing agents and other employees, agents and independent contractors.

- (d) To institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Lot Owners on matters affecting the Association or the Real Estate.
- (e) To make contracts or incur liabilities.
- (f) To regulate the use, maintenance, repair, replacement and modification of the Open Spaces.
- (g) To cause additional improvements to be made to the Open Spaces; provided, however, that any exercise of such power which would materially impair the quiet enjoyment of a Lot shall require the prior written approval of the affected Lot Owner.
- (h) To acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, but the Open Spaces may be conveyed or subjected to a security interest only in accordance with the provisions of §5318 of the Act; provided, however, that any exercise of such power which would materially impair the quiet enjoyment of a Lot shall require the prior written approval of the affected Lot Owner.
- (i) To grant easements, leases, licenses and concessions through or over the Open Spaces; provided, however, that any exercise of such power which would materially impair the quiet enjoyment of a Lot shall require the prior written approval of the affected Lot Owner.
- (j) To impose and receive payments, fees or charges for the use, rental or operation of the Open Spaces.
- (k) To impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of this Declaration and the bylaws and rules and regulations of the Association.
- (l) To impose reasonable charges for the preparation and recording of amendments to this Declaration, and for resale certificates required by the Act.
- (m) To provide for the indemnification of its officers and executive board and to maintain directors' and officers' liability insurance.
- (n) To exercise any other powers conferred by the Act, this Declaration or the bylaws of the Association.
- (o) To exercise all other powers that may be exercised in the Commonwealth of Pennsylvania by legal entities of the same type as the Association.
- (p) To exercise any other powers necessary and proper for the governance and operation of the Association.

Section 7.4. Board of Directors. Not later than the termination of any period of Declarant control in accordance with Article 13, the Lot Owners shall elect a Board of Directors of at least three (3) members, at least a majority of whom shall be Lot Owners. The Board of Directors shall elect the officers. The members of the Board of Directors

and the officers shall take office upon election. The Board of Directors shall not have power to determine the qualifications, powers and duties or terms of office of the members of the Board of Directors, but it may fill vacancies in its membership for the unexpired portion of any term. The Lot Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at any meeting of the Lot Owners at which a quorum is present, may remove any member of the Board of Directors with or without cause, other than a member appointed by the Declarant.

Section 7.5. Bylaws. The bylaws of the Association shall provide for all of the following:

- (a) The number of members of the Board of Directors and the titles of the officers of the Association.
- (b) Election by the Board of Directors of a president, treasurer, secretary and any other officers of the Association the bylaws specify.
- (c) The qualifications, powers and duties, terms of office and manner of electing and removing members of the Board of Directors and officers and filling vacancies.
- (d) Which, if any, of its powers the Board of Directors or officers may delegate to other persons or to a managing agent.
- (e) Which of its officers may prepare, execute, certify and record amendments to this Declaration on behalf of the Association.
- (f) The method of amending the bylaws.

Subject to the provisions of this Declaration and the Act, the bylaws may provide for any other matters that the Association deems necessary and appropriate.

Section 7.6 Powers of the Board of Directors to Enforce. The Board of Directors shall have the power to enforce the above restrictions and the Rules and Regulations on behalf of the Association as it may deem to be reasonably necessary or desirable, and shall have the right to bring actions at law or in equity to enforce any matter contained in this Declaration

ARTICLE 8

BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT

Section 8.1. Budgets; Capital Expenditures. The Board of Directors shall adopt a budget for revenues, expenditures and reserves at least annually. It shall be the duty of the Board of Directors, at least sixty (60) days before the beginning of each fiscal year to prepare and deliver to all Lot Owners copies of each budget approved by the Board of Directors and notice of any capital expenditure approved by the Board of Directors promptly after such approval. The Lot Owners, by affirmative vote of Two-Thirds (2/3) of all Lot Owners (including Lots owned by Declarant), pursuant to procedures applicable to voting by members of the Association as set forth in the bylaws of the Association, may reject any budget or capital expenditure approved by the

Board of Directors within thirty (30) days after approval. Notwithstanding the foregoing, in the event the proposed budget is disapproved or the Board of Directors fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined, the budget in effect for the immediately preceding year shall continue for the current year.

Section 8.2. Quarterly Assessments. All Common Expense assessments made in order to meet the requirements of the Association's annual budget shall be deemed to be adopted and assessed on a quarterly basis (rather than on an annual basis payable in quarterly installments) and shall be due and payable in advance on the first day of the quarter. Special assessments shall be due and payable in one or more quarterly payments, in advance, on the first day of each quarter, as determined by the Board of Directors. The Association shall have a lien on each Lot for any Common Expense assessments levied against that Lot or fines imposed against that Lot Owner from the time the assessment or fine becomes due. Fees, charges, late charges, fines and interest charged under Sections 7.3(j), 7.3(k) and 7.3(l) and reasonable costs and expenses of the Association, including legal fees, incurred in connection with collection of any sums due to the Association by a Lot Owner or enforcement of the provisions of this Declaration or the bylaws, rules or regulations of the Association against a Lot Owner are enforceable as assessments under this Section 8.2. Assessments shall be payable in advance for the current quarter (pro-rated as of the date of closing) and for the next succeeding quarter following the date of closing, due and payable in advance at the settlement of any conveyance of any Lot by the Declarant to any ultimate user (i.e., not a Builder); provided, however, that no assessments shall be chargeable to any Builder for any time frame that the Builder holds title to the Lot.

Section 8.3. Limitation on Expenditures. All expenses, charges and costs of the maintenance, repair or replacement of the Open Spaces, and any other expenses, charges or costs which the Association may incur or expend pursuant hereto, shall be approved by the Board of Directors, and a written memorandum thereof prepared and signed by the Treasurer of the Association. There shall be no structural alterations, capital additions to, or capital improvements on the Open Spaces (other than for purposes of repairing, replacing and restoring portions of the Open Spaces) requiring an expenditure in excess of Ten Thousand Dollars (\$10,000) without the prior approval of Two-Thirds (2/3) of the Lot Owners entitled to cast votes.

Section 8.4. Reserve. Each annual budget for quarterly assessments of Common Expenses shall include an amount reasonably considered by the Board of Directors to be sufficient as a reserve for replacements and contingencies. To initiate such reserve, the Declarant shall collect from each of its grantees, at time of settlement, an amount equal to one-fourth (1/4th) of the first annual budget allocable to the Lot purchased by such grantee and shall remit such amount to the Association. Extraordinary expenditures not originally included in the annual budget that may become necessary during the year may be charged first against such reserve, as the Board of Directors shall determine. In addition, the Association shall have the right to segregate all or any portion of the reserve for any specific replacement or contingency upon such conditions as the Board of Directors deems appropriate.

Section 8.5. Association Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with §5407 of the Act (relating to resales of Lots). All financial and other records shall be made reasonably available for examination by any Lot Owner and authorized agents. Within 180 days after the close of its fiscal year, the Association shall prepare annual financial statements consisting of at least a balance sheet and a statement of revenues and expenses for the Association. The cost of preparing the financial statements shall be a Common Expense. Each Lot Owner shall be entitled to receive from the Association, within thirty (30) days after submitting a written request to the Association, a copy of the annual financial statements and, if such financial statements are audited, reviewed or compiled by an independent certified public accountant or independent public accountant, a copy of the independent accountant's report on the financial statements. The Association may charge a fee not to exceed the cost of producing copies of records other than the financial statement.

Section 8.6. Further Assessments. If any annual budget proves inadequate for any reason, including nonpayment of any Lot Owner's quarterly assessments, or any nonrecurring Common Expense or any Common Expense not set forth in the annual budget as adopted, the Board of Directors may at any time levy further quarterly assessments according to each Lot Owner's membership in the Association. Such further quarterly assessments shall be payable over such period of time as the Board of Directors may determine. The Board of Directors shall serve notice of such further assessments on all Lot Owners by a statement in writing giving the amount and reasons therefor, and such further quarterly assessments shall become effective as determined by the Board of Directors.

Section 8.7. Surplus. Any amounts accumulated from assessments for Common Expenses and income from the operation of the Open Spaces in excess of the amount required for actual Common Expenses and reserves for future Common Expenses shall be credited to each Lot Owner in proportion to the share of Common Expenses payable by each such Lot Owner. These credits shall be applied to the next quarterly assessments of Common Expenses due from each Lot Owner under the current fiscal year's budget, and thereafter, until exhausted.

Section 8.8. Acceleration. If a Lot Owner is in default in the payment of the aforesaid charges or quarterly assessments for sixty (60) days, the Board of Directors may, in addition to all other remedies set forth in this Declaration, accelerate all other quarterly assessments to become due for the fiscal year in which such default occurs.

Section 8.9. Allocation. All Common Expense assessments, special assessments and further assessments shall be pro rated among the Lot Owners by dividing the amount of such assessments by the number of Lots in the Plan, without regard to the size of any individual Lot nor conditioned upon a Building being erected upon any individual Lot.

Section 8.10. Interest and Charges. All sums assessed by the Association against any Lot Owner that remain unpaid shall bear interest thereon at the then maximum legal rate (but not more than fifteen (15%) percent per annum) from the thirtieth (30th) day following the due date for payment. Any delinquent Owner shall also

be obligated to reimburse (i) all expenses of the Association, including reasonable attorney's fees, incurred in the collection of the delinquent assessments by legal proceedings or otherwise; (ii) any amounts paid by the Association for taxes or on account of superior liens or otherwise to protect its liens, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessments and shall be collectible as such, subject to Section 8.2 above.

Section 8.11. Independent Covenant. The obligation to pay assessments is a separate and independent covenant on the part of each Lot Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or the Board of Directors to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements or from any other action it takes.

Section 8.12. Confession of Judgment. IN ORDER TO EXPEDITE THE ASSOCIATION'S COLLECTION OF ANY DELINQUENT ASSESSMENT, EACH LOT OWNER (BY THE ACCEPTANCE OF THE DEED TO HIS/HER LOT) SHALL BE DEEMED TO HAVE APPOINTED ANY ATTORNEY LICENSED TO PRACTICE IN THE COURTS OF THE COMMONWEALTH OF PENNSYLVANIA THE ATTORNEY-IN-FACT FOR SUCH LOT OWNER TO CONFESS JUDGMENT AGAINST SUCH LOT OWNER IN ANY COURT OF COMPETENT JURISDICTION IN PENNSYLVANIA, FOR ANY SUCH UNPAID ASSESSMENT(S) AND ANY OTHER INTEREST, FEES OR LATE CHARGES, PLUS REASONABLE ATTORNEYS' FEES AND EXPENSES, WHICH APPOINTMENT (BEING FOR SECURITY) SHALL BE IRREVOCABLE; AND FOR SO DOING A COPY OF THIS ARTICLE AND SAID DEED, BOTH VERIFIED BY AFFIDAVIT, SHALL BE A SUFFICIENT WARRANT. THE AUTHORITY GRANTED HEREIN TO CONFESS JUDGMENT SHALL NOT BE EXHAUSTED BY ANY EXERCISE THEREOF BUT SHALL CONTINUE FROM TIME TO TIME AND AT ALL TIMES UNTIL THE DECLARATION SHALL BE TERMINATED.

Section 8.13. Implementation. The Association shall adopt in its By-Laws such additional or other procedures and requirements as it deems necessary and desirable to implement the provisions of this Article 8, and to otherwise provide for the efficient fiscal operation and management of the Open Spaces.

Section 8.14. Declarant Subsidy. During the Declarant's control of the Association, the Declarant may annually elect either to pay regular assessments on all of its unsold Lots, or to pay to the Association the difference between the amount of assessments collected on all other Lots subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year. For budgeting purposes, the Declarant shall make a tentative election for each fiscal year at least sixty (60) days prior to the start of such fiscal year and the Declarant shall pay on such basis during the year. A final election for each fiscal year shall be made within thirty (30) days after the close of such fiscal year and, in the event such election is changed, any excess payments made by the Declarant during the year may, at the discretion of the Declarant be treated as a contribution, an advance against future assessments due from Declarant, or a loan. Unless the Declarant otherwise notifies the Board of Directors in writing within the required time period, the Declarant shall be deemed to

have elected to continue paying on the same basis as during the immediately preceding fiscal year. The Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials or a combination of these.

Section 8.15 Capital Improvement Fee Upon Resale. In accordance with and subject to Section 5302 (12) of the Act, upon the resale and transfer of a Lot by any owner other than Declarant, a contribution shall be made by on behalf of the purchaser to the Capital Improvement fund of the Association in an amount equal to one-fourth (1/4th) of the annual Assessments for that Lot for that year as determined by the Board of Directors. This amount shall be in addition to, and not in lieu of, the Assessments otherwise levied on the Lot and shall not be considered an advance payment of any portion thereof. Funds so collected and deposited in the Association's Capital Improvement fund shall be maintained by the Association in a separate capital account and may be expended only for new Common Elements (Open Space) or replacement of existing Common Elements (Open Space) and may not be expended for operation, maintenance or other purposes. The contribution to the Capital Improvement fund shall be collected at the closing on any resale of a Lot and shall constitute a lien against the Lot until collected and paid over to the Association.

ARTICLE 9

INSURANCE

Section 9.1. Insurance to be Carried by the Association. The Association shall obtain no later than at the time of conveyance of the first Lot to a Lot Owner, and shall thereafter maintain, to the extent reasonably available, all of the following:

(a) Property insurance on the Open Spaces, insuring against all common risks of direct physical loss. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the actual cash value of the insured property, exclusive of land, excavations, foundations and other items normally excluded from property policies.

(b) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board of Directors covering all occurrences commonly insured against for death, bodily injury and property damage, arising out of or in connection with the use, ownership or maintenance of the common elements.

If such insurance is not maintained by the Association, the Association shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Lot Owners.

Section 9.2. Other Insurance Carried by the Association. The Association may carry any other insurance the Board of Directors may deem appropriate to protect the Association.

Section 9.3. Policy Terms. Insurance policies carried under Section 9.1 shall provide all of the following:

- (a) Each Lot Owner is an insured person under the policy with respect to liability arising out of his membership in the Association.
- (b) The insurer waives its right to subrogation under the policy against any Lot Owner or member of the Lot Owner's household.
- (c) No act or omission by any Lot Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.
- (d) If at the time of a loss under the policy there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy is primary insurance not contributing with the other insurance.
- (e) The insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Lot Owner, mortgagee or beneficiary under a deed of trust. The insurance may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Lot Owner and each mortgagee or beneficiary under a deed of trust, to whom a certificate or memorandum of insurance has been issued.

Section 9.4. Proceeds From Property Insurance. Any loss covered by the property policy under Section 9.1(a) shall be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Lot Owners and lienholders as their interests may appear. Subject to the provisions of Section 9.5, the proceeds shall be disbursed first for the repair or restoration of the damage to the Open Spaces.

Section 9.5. Disposition of Insurance Proceeds. Any portion of the Open Spaces which is damaged or destroyed shall be repaired or replaced promptly by the Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance or eighty percent (80%) of the Lot Owners vote not to rebuild. The cost of repair or replacement of those portions of the Open Spaces in excess of insurance proceeds and reserves shall be a common expense.

Section 9.6. Lot Owner's Insurance. Each Lot Owner shall insure the Lot Owner's Lot and all Buildings erected thereon. The Lot Owner shall cause the insurer to issue certificates or memoranda of insurance to the Association. The insurance may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association. The Lot Owner shall promptly repair or replace any Buildings erected on the Lot Owner's Lot that is damaged or destroyed unless repair or replacement would be illegal under any state or local health or safety statute.

Section 9.7. Waiver of Subrogation. Each Lot Owner and the Association hereby waives and releases any and all claims which he or it may have against any other Lot Owner, the Association, the Board of Directors and members thereof, the

Declarant, and their respective employees and agents, for damage to the Open Spaces, or to any personal property located in the Open Spaces, caused by fire or other casualty or any act or omission of any such party, to the extent that such damages is covered by fire or other form of hazard insurance. If the act or omission of a Lot Owner, or of a member of his family, a household pet, guest, occupant or visitor of such Lot Owner, shall cause damage to the Open Spaces, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then such Lot Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Board of Directors, to the extent such payment is not waived or released under the preceding sentence. Any release or waiver shall be valid only if such release or waiver does not affect the right of the insured under the applicable insurance policy to recover thereunder. The Lot Owners and the Association, with regard to the insurance carried by each of them, shall use their best efforts to see that their insurance carriers agree that such release or waiver does not affect their rights to recover.

Section 9.8 Costs of Insurance. Premiums for all insurance obtained or maintained by the Association, fees and expenses of the insurance trustee, if any, and the cost of any appraisal that the Board of Directors deems advisable to obtain in connection with any insurance shall be Common Expenses.

ARTICLE 10

LIMITED LIABILITY AND INDEMNIFICATION

Section 10.1. Limited Liability of the Board of Directors. The Board of Directors, and its members in their capacity as members, officers and employees, provided that they act in good faith, in a manner they reasonably believe to be in the best interests of the Association, and with care, including reasonable inquiry, skill and diligence as a person of ordinary prudence would use under similar circumstances:

(a) Shall not be liable for the failure of any service to be obtained by the Association and paid for by the Association, or for injury or damage to person or property caused by the elements or by another Lot Owner or person on the Real Estate;

(b) Shall not be liable to the Lot Owners as a result of the performance of the Board of Directors' duties for any mistake of judgment, negligence or otherwise;

(c) Shall have no personal liability in contract to a Lot Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Board of Directors or the Association in the performance of the duties of the Board of Directors;

(d) Shall not be liable to a Lot Owner, or such Lot Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Lot Owner or his tenants, employees, agents, customers or guests in a Lot, or in or on the Open Spaces;

(e) Shall have no personal liability in tort to a Lot Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them; and

(f) Shall have no personal liability arising out of the use, misuse or condition of any Building or the Open Spaces, or which might in any other way be assessed against or imputed to the members of the Board of Directors as a result of or by virtue of their performance of their duties.

In performing any duties, the Board of Directors, and its members in their capacity as members, officers and employees, shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by (1) one or more other officers or employees of the Association whom the officer or member of the Board of Directors reasonably believes to be reliable and competent in the matters presented, (2) counsel, public accountants or other persons as to matters which the officer or member of the Board of Directors reasonably believes to be within the professional or expert competence of that person, or (3) a committee of the Board of directors upon which the officer or member of the Board of Directors does not serve, designated in accordance with law, as to matters within its designated authority, which committee the officer or member of the Board of Directors reasonably believes to merit confidence.

Section 10.2. Indemnification Against Third Party Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or complete action, suit, or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Board of Directors or the Association) by reason of the fact that he is or was the Declarant (except to the extent otherwise provided by §5311 of the Act) or a member of the Board of Directors, or an officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless such person is found not to have acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, he had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by an adverse judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person acted in bad faith or a reckless or grossly negligent manner or that the person did not act in a manner which he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 10.3. Indemnification Against Association Action. The Association shall indemnify the Declarant (except to the extent otherwise provided by §5311 of the Act) or any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, by or in the right of the Board of Directors or the Association, by reason

of the fact that he is or was a member of the Board of Directors, an officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

Section 10.4. Determination. To the extent that the Declarant, a member of the Board of Directors, or an officer, employee, or agent of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 10.2 or 10.3 hereof, or in defense of any claim, issue, or matter therein in which he was not indemnified, then he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith. Any other indemnifications under Sections 10.2 or 10.3 hereof shall be made by the Association only upon a determination that indemnification is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Sections 10.2 or 10.3 hereof. Such determination shall be made either (i) by the Board of Directors by a majority vote of a quorum consisting of all members who were not parties to such action, suit or proceeding, or (ii) by independent legal counsel (not the Association's legal counsel) in a written opinion, or (iii) by the Lot Owners at any meeting duly called for such purpose.

Section 10.5. Advance. Expenses incurred in defending a civil or criminal action, suit or proceeding as contemplated in this Article shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon a majority vote of the Board of Directors and upon receipt of an undertaking by or on behalf of the indemnified person to repay such amount or amounts unless it is ultimately determined that he is not entitled to be indemnified by the Association as authorized by this Article.

Section 10.6. Scope of Indemnification. The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, bylaws, agreements, vote of disinterested Lot Owners or members of the Board of Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to all present and future members of the Board of Directors, officers, employees, and agents of the Association, and shall continue as to a person who has ceased to be a member of the Board of Directors or an officer, employee or agent, shall inure to the benefit of

the heirs and personal representatives of all such persons, and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

Section 10.7. Insurance. The Association shall purchase and maintain insurance on behalf of the Declarant and any person who was or is a member of the Board of Directors, an officer, employee, or agent of the Association, or who was or is serving at the request of the Association as a trustee, director, officer, employee, or agent of another corporation, entity, or enterprise (whether for profit or not for profit), against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the laws of the Commonwealth of Pennsylvania, as the same may be hereafter amended or modified.

Section 10.8. Payments and Premiums. All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article shall constitute expenses of the Association and shall be Common Expenses.

ARTICLE 11

EFFECT AND ENFORCEMENT

Section 11.1. Reservations and Restrictions to Run with Land. All of the covenants, conditions, restrictions, reservations, and servitudes set forth herein shall run with the land and each Lot Owner, by accepting a deed to any Lot, accepts the same subject to such covenants, restrictions, reservations, and servitudes and agrees for himself, his heirs, administrators, and assigns to be bound by each of such covenants, conditions, restrictions, reservations, and servitudes jointly, separately, and severally.

Section 11.2. Remedies for Violations. For a violation or a breach of any of these covenants, conditions, reservations and restrictions, the Declarant or any person claiming by, through, or under the Declarant, and the Lot Owners, or any of them severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach of any of them. In addition to the foregoing right, the Declarant shall have the right, whenever there shall have been built on any Lot any structure which is in violation of these restrictions, to enter upon the Lot where such violation of these covenants, conditions, reservations and restrictions exists and summarily abate or remove the same at the expense of the Lot Owner, and any such entry and abatement or removal shall not be deemed a trespass.

(a) Should the Declarant or any Lot Owner employ counsel to enforce any of the foregoing covenants, conditions, reservations, or restrictions, by reason of such breach, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the Lot Owner, and the Declarant or Lot Owner enforcing same shall have a lien upon such Lot or Lots to secure payment of all such accounts.

(b) Should the Lot Owner fail, neglect, or refuse to satisfy and discharge any lien arising hereunder within thirty (30) days, the Declarant or Lot Owner in whose favor said lien has arisen, their respective heirs, successors and assigns, shall have the right

to interest on such liens at the rate of eight (8%) percent per annum or the maximum allowed by law, whichever is less, and shall be entitled to receive all costs of collection, including a reasonable attorney's fee.

(c) The breach of any of the foregoing covenants, conditions, reservations or restrictions shall not defeat or render invalid the lien of any mortgage made in good faith for value as to any Lot or Lots or portions of Lots, but these covenants, conditions, reservations, and restrictions shall be binding upon and effective against any such mortgagee or owner thereof whose title thereto or whose grantor's title is or was acquired by foreclosure or deed in lieu of foreclosure.

(d) No delay or omission on the part of the Declarant or the Lot Owners in exercising any rights, power, or remedy herein provided, in the event of any breach of the covenants, conditions, reservations, or restrictions herein contained, shall be construed as a waiver thereof or acquiescence therein, and no right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Declarant for or on account of its failure to bring any action on account of any breach of these covenants, conditions, reservations, or restrictions, or for imposing restrictions herein which may be unenforceable by the Declarant.

Section 11.3. Severability. Each and every one of the covenants, conditions, reservations, and restrictions contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of such covenants, conditions, reservations, or restrictions shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the covenants, conditions, reservations, and restrictions not so declared to be void, but all of the remaining covenants, conditions, reservations, and restrictions not so expressly held to be void shall continue unimpaired and in full force and effect.

Section 11.4. Rule Against Perpetuities. In the event the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event such terms shall be reduced to a period of time which shall not violate the rule against perpetuities as set forth in the laws of the Commonwealth of Pennsylvania.

Section 11.5. Public Rights. The Real Estate shall be subject to any and all rights and privileges which the Township of Cranberry (the "Township") or the County of Butler, Pennsylvania, may have acquired through dedication or the filing or recording of maps or plats of such premises, as authorized by law, and provided further, that no covenants, conditions, reservations, or restrictions, or acts performed, shall be in conflict with any Township or County Zoning Ordinance or Law.

Section 11.6 Third Party Beneficiary. It is expressly intended by the Declarant and each Lot Owner that the Township shall be a beneficiary of the covenants, restrictions, reservations and servitudes set forth herein. The Declarant and each Lot Owner further acknowledge that by this express intention to benefit the Township, the Township shall be a party entitled to enforce all covenants, restrictions, reservations and servitudes contained herein, which entitlement on the part of the Township shall

include the ability to exercise any and all remedies available at law and in equity for the enforcement of same. This Section in no way obligates the Township to enforce the covenants, restrictions, reservations and servitudes described herein, or abrogates the Township's rights under the Municipalities Planning Code or other applicable laws of the Commonwealth of Pennsylvania.

Section 11.7 Gender, Etc. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context indicates is appropriate.

ARTICLE 12

DURATION OF COVENANTS, RESTRICTIONS, RESERVATIONS AND SERVITUDES

Section 12.1. Duration. All of the covenants, conditions, reservations, and restrictions set forth herein shall continue and remain in full force and effect at all times as against all Lot Owners, regardless of how title was acquired by any Lot Owner, until commencement of the calendar year 2023, and thereafter be of no further legal or equitable effect on the Real Estate or any Lot Owner; provided, however, that these covenants, conditions, reservations, and restrictions shall be automatically extended for a period of ten (10) years, and thereafter in successive ten-year periods, unless on or before the end of one of such extension periods eighty percent (80%) of the Lot Owners shall by written instrument duly recorded declare a termination of the same. Although these covenants, conditions, reservations, and restrictions may expire as herein provided, any and all reversions or liens for breach of these covenants, conditions, reservations, or restrictions committed or suffered prior to such expiration shall be absolute.

ARTICLE 13

DECLARANT'S RIGHTS

Section 13.1. Control.

(a) Subject to Section 13.1(b), for a period of five (5) years from the date of the first conveyance by the Declarant of any Lot in the Plan to a Lot Owner, the Declarant shall have sole power and authority to appoint and remove the officers and members of the Board of Directors of the Association, unless the Declarant earlier voluntarily surrenders the right to appoint and remove the officers and members of the Board of Directors. Notwithstanding the foregoing sentence, the period of Declarant control of the Association shall terminate no later than the earlier of (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Lots to Lot Owners, or (ii) two (2) years after the Declarant has ceased to offer Lots for sale in the ordinary course of business.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots to Lot Owners, at least one member and not less than twenty-five percent (25%) of the members of the Board of Directors shall be elected by the Lot Owners. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots to Lot Owners, not less than thirty-three percent (33%) of the members of the Board of Directors shall be elected by the Lot Owners.

Section 13.2. Conveyance of Open Spaces to Association. Upon transfer of Declarant's control of the Association in accordance with Section 13.1(a), the Declarant shall grant and convey to the Association title to the Open Spaces by special warranty deed for a consideration of One Dollar (\$1.00), free and clear of all liens and taxes. All costs of deed preparation and recording shall be borne by the Declarant. Notwithstanding the foregoing, Declarant shall not convey the Open Spaces to the Association until all improvements to the Open Spaces as may be required by the Plans or Cranberry Township pursuant to any development approvals have been completed by Declarant. This obligation to convey title to the Open Spaces shall be binding upon any successor in interest to the rights of the Declarant hereunder. Prior to transfer of Declarant's control of the Association, Declarant shall cause the Association to maintain the Open Spaces in good condition and repair and to obtain and maintain insurance for the Open Spaces in accordance with this Declaration.

ARTICLE 14

AMENDMENT OF DECLARATION

Section 14.1. Amendment Generally. This Declaration may be amended only in accordance with the express provisions of this Declaration.

Section 14.2. Amendment by Lot Owners. This Declaration may be amended by affirmative vote of Two-Thirds (2/3) of all Lot Owners (including Lots owned by Declarant), pursuant to procedures applicable to voting by members of the Association as set forth in its By-Laws, except that no amendments effecting or relating to the Open Spaces shall be made prior to January 1, 2020.

Section 14.3. Rights of Declarant. Notwithstanding any provision herein contained to the contrary, no change, modification or amendment that affects the rights, privileges or obligations of the Declarant shall be effective without the prior written consent of the Declarant.

Section 14.4. Other Amendments. If any amendment is necessary in the judgment of the Declarant to cure any ambiguity or to correct or supplement any provisions of this Declaration or the Plan which is defective or inconsistent with any other provision hereof or thereof, or to change, correct or supplement anything appearing or failing to appear in the Plan which is incorrect, defective or similarly inconsistent, or if such amendment is necessary to conform to the then current requirements of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with respect to planned residential developments, the Declarant may, at any time and from time to time, effect such amendment without the approval of

the Lot Owners or their mortgagees, upon receipt by the Declarant of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of this sentence, together with a like opinion from an independent registered architect or licensed professional engineer in the case of any such amendment to the Plan. Each such amendment shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, execution and acknowledgement by one or more general partners of the Declarant.

IN WITNESS WHEREOF, the said Shadow Creek Development Associates, LP, has caused its name to be signed to these presents on the day and year first above written.

SHADOW CREEK DEVELOPMENT
ASSOCIATES, a Pennsylvania Limited
Partnership

WITNESS:

By: SHADOW CREEK DEVELOPMENT
ASSOCIATES, LLC, a Pennsylvania
Limited Liability Company, its General
Partner



By: 
Donald B. Rodgers, Authorized Member

STATE OF PENNSYLVANIA)
COUNTY OF Allegheny) SS:

On this, the 11th day of MAY, 2004, before me, the undersigned Notary Public, personally appeared the above named Donald B. Rodgers, known to me to be the Authorized Member of Shadow Creek Development Associates, LLC, the limited liability company which executed the foregoing instrument, who acknowledged that he did sign said instrument for and on behalf of said limited liability company and limited partnership, being thereunto duly authorized by said limited liability company and limited partnership; that the same is his free act and deed and the free act and deed of said limited liability company and limited partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Harold J. Yanko, Notary Public
City Of Pittsburgh, Allegheny County
My Commission Expires July 15, 2007
Member, Pennsylvania Association Of Notaries

Harold J. Yanko
Notary Public



I hereby CERTIFY
that this document is
recorded in the
Recorder's Office
of Butler County,
Pennsylvania

Michele M. Muntello
Michele M. Muntello - Recorder of Deeds

EXHIBIT "A"

ALL that certain parcel of ground situate in the Township of Cranberry, County of Butler and Commonwealth of Pennsylvania, known as the Shadow Creek Plan of Lots, as shown in the Plan of Subdivision – Shadow Creek Plan of Lots recorded at Instrument No. 200406250020965 in the Office of the Recorder of Deeds of Butler County, Pennsylvania.



Ron Henshaw
Manager, Code Administration

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