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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Mystic Harbour

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION made this 20<sup>th</sup> day of AUGUST, 1987, by Mystic Harbour Corporation, a Maryland corporation, hereinafter referred to as "Declarant."

WITNESSETH

WHEREAS, Declarant is the owner of all that land and premises located on the southeast side of Route 611 in the Tenth Election District of Worcester County, Maryland, as shown on the subdivision plat entitled "Mystic Harbour Section One" prepared by Frank G. Lynch, Jr. and Associates, dated December 4, 1986, revised on July 10, 1987 and recorded among the Land Records of Worcester County at Liber W.C.L. No. 112, folio 59-61, and the subdivision plat entitled "Mystic Harbour Section Two," prepared by Frank G. Lynch, Jr. and Associates, dated January 31, 1987, revised through July 10, 1987 and recorded among the Land Records of Worcester County at Liber W.C.L. No. 113, folio 30-36 (the land shown on those two subdivision plats is hereinafter defined as "Parcel One", and those two subdivision plats are hereinafter referred to collectively as the "Phase One Plat"), TOGETHER WITH the buildings and other improvements thereupon erected, made or being and all rights, alleys, ways, waters, privileges, appurtenances, and advantages to the same belonging, or anywise appertaining (which land, improvements, and appurtenant rights are herein called "Phase One").

WHEREAS, Declarant desires to subject Phase One, and reserves the right to subject additional Property, to the covenants, terms, and conditions hereinafter set forth in order to insure that the Common Areas will be used, improved, maintained, operated, and repaired in a proper manner and in accordance with Worcester County requirements, and to provide for distribution among the Record Owners of the costs of maintaining, operating, repairing, and improving the Common Areas.

NOW, THEREFORE, THIS DECLARATION WITNESSETH, Declarant hereby declares that the Property shall be held, conveyed, encumbered, sold, leased, rented, used, occupied, and improved subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges, and liens hereinafter set forth, all of which are for the purpose of enhancing the value and desirability of the Property and shall be deemed to run with and bind the land, and all Record Owners, tenants, and other occupants thereof, and inure to the benefit of and be enforceable by Declarant and Association, their respective successors and assigns, and, in addition, any person hereafter acquiring or owning any interest in the Property, including particularly each Record Owner, as from time to time determined.

ARTICLE IDEFINITIONS

As used in this Declaration, the following terms shall have the meanings herein ascribed thereto, except to the extent otherwise expressly provided, or otherwise resulting from necessary implication. The terms herein defined are:

- (1) "Association" shall mean and refer to Mystic Harbour Homeowners Association, Inc., its successors and assigns.
- (2) "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- (3) The term "Common Areas" shall mean and refer to all areas of the Property, other than the Lots, owned or leased by the Association (e.g., the Open Space), or otherwise available to the Association, for the common use, benefit and enjoyment of the Record Owners (e.g., the Reserved Areas, but only for so long as the Association and its Members have the right to use and enjoy such Reserved Areas). The Common Areas to be owned in fee simple by the Association at the time of the conveyance of the first Lot are the Original Open Space areas.

(4) "Declarant" shall mean and refer to Mystic Harbour Corporation, a Maryland corporation, its successors, and any assignee to whom the Declarant specifically assigns in writing all or part of its rights as Declarant under this Declaration, provided that no such successor or assignee shall be deemed to be the Declarant unless such successor or assignee shall have acquired record title to more than three (3) undeveloped Lots for the purpose of improvement of each such Lot by the installation thereon of one or more residential dwellings.

(5) "Eligible Holder" shall mean and refer to each Mortgagee who (a) holds a First Mortgage on a Lot, and (b) has given the Association written notice, pursuant to Article XVI of the By-laws, that it desires to receive written notice from the Association of any action requiring the consent of a specified percentage (such as a majority, 66-2/3% or 100%) of the Eligible Holders or of all Mortgagees.

(6) "Lot" or "Lots" shall mean, refer to, and include one or more of the two hundred one (201) building lots shown on the Phase One Plat, together with any lots added to the Property by the Declarant pursuant to Article XII herein.

(7) "Material Change" shall have the meaning ascribed thereto in Article XIII(5) hereof.

(8) "Member" shall mean and refer to each Record Owner of one or more Lots now or hereafter created or established on the Property. Whenever in this Declaration any action is required to be taken by a specified percentage of "each class of the then Members" of the Association, such action shall be required to be taken separately by the specified percentage of the votes of the then Class A Members, as that term is defined in Article V(2) herein, and by the specified percentage of the votes of the then Class B Members, as that term is defined in Article V(2) herein. Whenever in this Declaration any action is required to be taken by a specified percentage "of the then Members" of the Association, such action shall be required to be taken by the specified percentage of the votes of the then total Members of the Association.

(9) "Mortgage" shall mean and refer to a mortgage, deed of trust or other conveyance in the nature of a mortgage; and "Mortgagee" shall mean and refer to the grantee named in a Mortgage or other conveyance in the nature of a Mortgage, the beneficiary or creditor secured under any deed of trust, and the heirs, personal representatives, successors and assigns of such grantee, beneficiary or creditor. "First Mortgage" shall mean, refer to and include a Mortgage with priority over all other Mortgages.

(10) "Open Space" shall mean and refer to the Original Open Space, and each additional area designated by the Declarant as "Open Space" when (a) additional areas are added to the Property pursuant to Article XII hereof, or (b) the Declarant elects to convey one or more of the Reserved Areas to the Association.

(11) "Original Open Space" shall mean and refer to all those three (3) areas designated on the plat entitled "Mystic Harbour Section One", as "Outlot A", "Outlot B", and "Outlot C", and consisting in total of 1.25 acres, more or less.

(12) "Parcel One" shall mean and refer to (a) all that land in the Tenth Election District of Worcester County shown on the above described plat entitled "Mystic Harbour Section One", which land consists of 14.74 acres, more or less, and (b) all that land in the Tenth Election District of Worcester County shown on the above described plat entitled "Mystic Harbour Section Two", which land consists of 33.68 acres, more or less.

(13) "Parcel Two" shall mean and refer to all that land in the Tenth Election District of Worcester County described in Exhibit A attached hereto.

(14) "Plat" shall mean and refer to the Phase One Plat, together with any additional plats which the Declarant elects to record among the Land Records of Worcester County in order to add additional lands to the Property pursuant to the provisions of Article XII hereof.

(15) "Property" shall mean and refer to Phase One and any property hereafter subjected to the covenants, conditions and restrictions of this Declaration pursuant to Article XII hereof.

(16) "Record Owner" shall mean and refer to the person, firm, corporation, trustee, or legal entity, or the combination thereof, including contract sellers, holding record title to a Lot on the Property, as said Lot is now or may from time to time here after be created or established, either in his, her or its own name, or as joint tenants, tenants in common, tenants by the entirety, or tenancy in co-partnership, if the Lot is held in such real property tenancy or partnership relationship. If more than one person, firm, corporation, trustee or other legal entity, or any combination thereof, holds the record title to any one Lot, whether in a real property tenancy, partnership relationship or otherwise, all of same, as a unit, and not otherwise, shall be deemed a single Record Owner and shall be or become a single Member of the Association by virtue of ownership of such Lot. The term "Record Owner", however, shall not include any contract purchaser, nor the owner of any redeemable ground rent issuing out of any Lot, nor shall it include any Mortgagee named in any Mortgage covering any Lot, designed solely for the purpose of securing performance of an obligation or payment of a debt.

(17) "Recreational Area" shall mean and refer to the land described on Exhibit B attached hereto.

(18) "Recreational Facilities" shall mean and refer to the Recreational Area and all improvements made thereto from time to time, including but not limited to, the tennis courts, swimming pools and clubhouse.

(19) "Reserved Area" shall mean and refer to each of those six (6) areas designated on the plat entitled "Mystic Harbour Section Two" as "Outlot A", "Outlot B", "Outlot C", "Outlot D", "Outlot E" and "Outlot F", and consisting of 0.88, 0.06, 0.21, 0.27, 1.86 and 0.89 acres, more or less, respectively, together with each additional area designated by the Developer as a "Reserved Area" when additional lands are added to the Property pursuant to Article XII hereof.

(20) "Secondary Financing Agency" shall mean and refer to the Federal Housing Administration ("FHA"), Veterans Administration ("VA"), Federal National Mortgage Association ("FNMA") and Federal Home Loan Mortgage Corporation ("FHLMC"), and any successor of any such agency.

(21) "Subsequent Phase" shall mean and refer to each phase hereafter added to the Property subject to this Declaration pursuant to Article XII hereof.

(22) "Tract" shall mean and refer to all of the land located within Parcel One and Parcel Two.

## ARTICLE II

### PROPERTY SUBJECT TO DECLARATION

The real property which is and shall be held, conveyed, encumbered, sold, leased, rented, used, occupied, and improved subject to the terms and provisions of this Declaration is the Property.

## ARTICLE III

### COMMON AREAS

(1) Conveyance of Original Open Space. Declarant shall grant and convey to the Association, and the latter shall take and accept from the former, a fee simple interest in the Original Open Space, all, however, subject to the covenants, conditions, and restrictions hereinafter set forth, which are hereby imposed upon the Original Open Space for the benefit of Declarant, Association, and Record Owners, their respective heirs, personal representatives, successors and assigns, and, in addition, subject to the following: Declarant hereby reserves unto and for itself (including any successors and assigns hereafter constituting the Declarant) the following:

(a) The beds, in fee, of Anchor Way Drive, Bay Vista Lane, Coastal Drive, Cutlass Drive, Deep Channel Drive, Dockside Drive, East Wind Drive, Fisherman's Drive, Keel Drive, Midship Drive, Mystic Harbour Boulevard, Sunset Drive, and Whale Drive, as shown on the Plat, for future conveyance to Worcester County, Maryland. An easement for the use and enjoyment of each of said streets, together with the water, sanitary sewer, and storm water drainage lines, mains, facilities, and installations constructed, installed, maintained or operated thereunder is hereby granted to the Association and the Record Owners, their respective heirs, personal representatives, successors, and assigns, until such time as said streets shall be deeded to Worcester County; and

(b) The right (i) to discharge surface water on the Original Open Space in accordance with the natural flow thereof, or under any drainage or storm water management plan approved by Worcester County, Maryland, (ii) to construct, install, use, operate, inspect, maintain, repair, and replace storm water management and sediment control facilities thereon or therein, (iii) to construct, install, use, operate, inspect, maintain, repair, and replace on, over or under the Original Open Space, pipes, mains, conduits, drains, lines, and other facilities for water, sanitary sewer, storm water drainage, gas, electric, telephone, television transmittal, and other utilities to provide adequate utility and other services to any Lot, and (iv) to enter upon said Original Open Space for such purposes and for the purpose of making openings and excavations therein, provided the ground and any paved areas be restored and left in good condition.

(2) Conveyance and use of Reserved Areas. In addition, the Declarant hereby reserves unto and for itself (including any successors and assigns hereafter constituting the Declarant) the Reserved Areas. Declarant may, but is not obligated to, convey the Reserved Areas to the Association or to Worcester County, the Worcester County Sanitary District or any other governmental or quasi-governmental entity. Prior to any such conveyance, each Member shall have the right to use and enjoy the Reserved Areas for recreational purposes, subject, however, to the rights of the Declarant (i) to construct, install, use, operate, inspect, maintain, repair, and replace on, over or under the Reserved Areas, pipes, mains, conduits, drains, lines, well-houses, lift stations, and other facilities, for water, sanitary sewer, storm water drainage, gas, electric, telephone, television transmittal, and other utilities to provide adequate utility and other services to any Lot and (ii) to enter upon said Reserved Areas for such purposes and for the purpose of making openings and excavations therein.

(3) Easements to M. H. Utilities Corporation. The Declarant hereby grants unto M. H. Utilities Corporation, its successors and assigns, an easement for the construction, installation, use, operation, inspection, maintenance, repair and replacement of all water, sanitary sewer, and storm water drainage lines, mains, facilities, and installations heretofore or hereafter constructed, installed, maintained or operated in, under or through the Property by M. H. Utilities Corporation, its successors and assigns.

(4) Use of Common Areas. The Common Areas shall be deemed common use areas, property, and facilities, for the use, benefit, and enjoyment, in common, of each present and future Member of the Association, who, by necessity, is a Record Owner of a Lot. Said Common Areas shall be retained in their natural state and no structure or improvement of any kind shall be erected, placed or maintained thereon by the Association or the Members, except and provided as follows:

(a) Structures or improvements designed exclusively for community or recreational use, such as swings, slides, and other playground equipment, tennis courts, swimming pools, clubhouses, bus stop facilities, including shelters and seating facilities, benches, chairs, and other seating facilities, fences and walls, walkways, roads, driveways, parking areas, grading, planting, and electric wiring and standards to provide illumination may be constructed, installed, maintained, and operated by the Association in and on the Common Areas for the use, comfort, and enjoyment of Members of the Association, for the establishment, retention, and preservation of the natural growth or topography of the area, or for aesthetic reasons;

(b) The Association may construct, install, maintain, and operate on, over and under the various Common Areas all facilities and utilities of the kind and nature which the Declarant and M. H. Utilities Corporation are entitled to construct, install, maintain, and operate on, over and under such Common Areas pursuant to Articles III(1), (2) and (3) hereof; and

(c) The structures, improvements, facilities, and utilities constructed, installed, maintained and/or operated by the Association pursuant to Articles III (4)(a) and (b) above shall not be constructed, installed, maintained or operated in any manner which interferes with any of the rights reserved by the Declarant or granted to M. H. Utilities Corporation pursuant to Articles III (1), (2) and (3) above.

(5) Prohibition of Nuisances. Neither the Association nor its Members shall carry on any noxious or offensive activity upon the aforesaid Common Areas, or do anything thereon which is or is likely to become an annoyance or nuisance to the neighborhood.

(6) Maintenance and Improvement of Common Areas. The Association shall improve, develop, supervise, manage, operate, examine, inspect, care for, preserve, repair, replace, restore, and maintain the aforesaid Common Areas (including the Reserved Areas), as from time to time improved, together with any items of personal property placed or installed thereon, all at its own cost and expense, and shall levy against each Member of the Association by assessment, as provided in Article VI hereof, a proportionate share of the aggregate cost and expense required for the care, maintenance, and improvement of said Common Areas.

(7) Enforceability. The right of each Member of the Association to use the aforesaid Common Areas shall be subject to the terms, conditions, and provisions set forth in this Declaration and, further, shall be subject to any rule or regulation now or hereafter adopted by the Association for the safety, care, maintenance, good order, and cleanliness of said Common Areas. All of said terms, conditions, provisions, rules, and regulations shall inure to the benefit of and be enforceable by the Association and Declarant, or either thereof, their respective successors and assigns, against any Member of the Association, or any other person, violating or attempting to violate the same, or any thereof, either by action at law for damages or suit in equity to enjoin a breach or violation, or enforce performance of any term, condition, provision, rule or regulation. Further, the Association and Declarant shall each have the right summarily to abate or remove any breach or violation by any Member at the cost and expense of such Member; provided that if such abatement or removal requires altering or demolishing any item of construction, judicial proceedings shall be instituted prior to executing any such alteration or demolition.

(8) Maintenance of Lots and Dwellings. Each Record Owner shall be responsible for maintaining his dwelling and Lot, including any landscaping thereon, but excluding any lawns and other grass covered areas, in a neat, orderly, sanitary, and well-maintained condition. The Association shall be responsible for the mowing of all lawns and other grass-covered areas on the Property, including all such areas on each Lot. The Association shall have the right to enter upon each Lot as needed to facilitate the performance of any of its maintenance responsibilities under this Declaration, provided that the Association shall restore the ground and any improvements damaged or disturbed as a result of such entry.

#### ARTICLE IV

##### RECORD OWNERS AND PROPERTY RIGHTS

(1) Rights and Privileges of Record Owners. Declarant shall hold, and hereafter grant and convey, the Lots subject to the covenants, conditions, and restrictions hereinafter set forth, which are hereby imposed upon said Lots for the benefit of Declarant, Association, and Record Owners, their respective heirs, personal representatives, successors, and assigns, to the end and intent that each Record Owner of a Lot shall have and hold his Lot subject to the following: Each Record Owner, in common with all other Record Owners, shall have the right and privilege to use and enjoy the Common



Areas for the purposes for which designed. Such right and privilege, which shall be appurtenant to and pass with the title to the Lot of each Record Owner, shall include particularly, but not by way of limitation, use and enjoyment of all Common Areas provided for the use, benefit, and enjoyment of the Record Owners, subject, however, to the right of the Association to suspend the voting rights and rights to use of any Common Areas or Recreational Facilities by a Record Owner for any period in which any assessment against his Lot remains unpaid (provided the owner of the Recreational Facilities consents to any such suspension of the right to use such Recreational Facilities) and, for a period not to exceed sixty (60) days, for any infraction of published rules and regulations of the Association.

(2) Delegation of Rights. Any Record Owner may delegate, in accordance with rules and regulations as stated in the By-Laws of the Association, his right of enjoyment of the Common Areas with any facilities thereon, to the members of his family, his tenants or contract purchasers who reside on the Property.

(3) Compliance with Rules, Regulations and Restrictions. Each Record Owner shall fully and faithfully comply with the covenants, agreements, and restrictions imposed by this Declaration on the use and enjoyment of the Common Areas and with the rules, regulations, and restrictions applicable to use of the Common Areas, as such rules, regulations, and restrictions are from time to time adopted by Association for the safety, care, maintenance, good order, and cleanliness of said Common Areas.

(4) Dedications and Transfers of Common Areas. The aforesaid rights, privileges, and easements of the Record Owners are at all times subject to the right of the Association to dedicate, or transfer all or any part of its interest in the Common Areas, or to grant any easement, right-of-way, license, permit, lease or similar interest in the Common Areas, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members; provided, however, no such dedication, transfer, or grant of any easement, right-of-way, license, permit, lease or similar interest, shall be effective unless an instrument, signed by Members holding at least two-thirds (2/3) of the votes appurtenant to each class of membership in the Association (the votes of each class being computed separately), agreeing to such dedication or transfer has been recorded among the Land Records of Worcester County, Maryland.

(5) Declarant's Right to Amend Declaration. The Record Owner of each Lot on the Property shall take and hold legal title to said Lot SUBJECT to the reserved right, power and authority of Declarant to modify, revise, amend or change in any appropriate manner of public record, any of the terms or provisions of this Declaration without the consent of the Record Owners. This reserved right, power and authority vested in Declarant (a) may be exercised IF AND ONLY IF a Secondary Financing Agency shall require such action as a condition precedent to the approval by such agency of the Property, or of one or more Lots thereon, for mortgage financing purposes; (b) shall be subject to the provisions of Articles XIII (4) and (5) hereof; and (c) shall expire automatically, simultaneously and coincident with the issuance of the aforesaid approval by at least three of the four Secondary Financing Agencies or ten (10) years after the date of recordation hereof, whichever shall sooner occur.

#### ARTICLE V

##### MEMBERSHIP AND VOTING RIGHTS

(1) Membership. The Record Owner of each Lot shall be a Member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

(2) Voting Rights. The Association shall have two classes of voting membership:

Class A. Except for Declarant, who shall be a Class B Member, a Class A Member shall be a Record Owner holding title to one or more Lots laid out on the Property. Each Class A Member in good standing shall be entitled to one vote per Lot, for each Lot owned by him, in all proceedings in which action shall be taken by Members of the Association.

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Class B. A Class B Member shall be the Declarant. The Class B Member shall be entitled to the number of votes equal to the product obtained by multiplying (i) three times (ii) the amount by which 850 exceeds the number of lots then owned of record by Record Owners other than the Declarant, in all proceedings in which action shall be taken by Members of the Association. (For example, prior to the first conveyance of any Lot by the Declarant, the Declarant shall hold 2,550 votes  $[3 \times (850 - 0)]$  and immediately after the first conveyance, the Declarant shall hold 2,547 votes  $[3 \times (850 - 1)]$ .)

If more than one person, firm, corporation, trustee or other legal entity, or any combination thereof, as a Class A Member, or Class B Member, hold the record title to any Lot, all of same, as a unit, and not otherwise, shall be deemed a single Class A or Class B Member of the Association, as the case may be. The vote of any Class A Member or Class B Member comprised of two or more persons, firms, corporations, trustees or other legal entities, or any combination thereof, shall be cast in the manner provided for in the Articles of Incorporation of the Association, or as the several constituents may determine, but in no event shall all such constituents cast more than one vote per Lot, if a Class A Member, or more than three votes per Lot, if a Class B Member, for each Lot owned by them.

(3) Membership Conversion. The Class B membership in the Association shall cease and be converted to Class A membership in the Association ten (10) years after the date of recordation hereof, or at such earlier time as the total number of votes held by Class A Members equals or exceeds the total number of votes held by Class B Members.

#### ARTICLE VI

##### COVENANT FOR ASSESSMENTS

(1) Authorization of Annual and Special Assessments. The Declarant, for each Lot owned by it within the Property, hereby covenants, and each Record Owner, by acceptance of the deed hereafter conveying any such Lot to him, whether or not so expressed in such deed, shall be deemed to have covenanted and agreed to pay to the Association: (i) annual assessments; and (ii) special assessments; such annual and special assessments to be established and collected as hereinafter provided. Each such annual or special assessment, together with interest, costs and reasonable attorneys' fees which may be imposed thereon, shall constitute a lien upon each of the Lots against which such assessment is made. Each such assessment, together with any interest, costs and reasonable attorneys' fees imposed thereon, shall also be the personal obligation of the Record Owner holding title to any Lot at the time when the assessment fell due or was first payable. The personal obligation for any delinquent assessment, however, shall not pass to the Record Owner's successor or successors in title unless expressly assumed by such successor or successors.

(2) Association's Use of Assessments. Assessments levied by the Association shall be used exclusively for the following purposes: promotion of the recreation, health, safety, and welfare of the residents in or on the Property; improvement, operation, care, and maintenance of the Common Areas, including casualty, liability, and other insurance deemed necessary therefor; and payment of all public charges and assessments applicable to the Common Areas, except to the extent that such public charges and assessments may be levied against any Lot laid out on the Property so that same is payable directly by the Record Owner thereof, as, or in the same manner as, real property taxes assessed or assessable against the Lot.

(3) Annual Assessments. Annual assessments shall be fixed and limited as follows:

(a) Prior to the annual assessment period commencing January 1, 1988, the maximum annual assessment which may be imposed without the approval of the Members of the Association pursuant to Article VI(3)(c) hereof shall be Four Hundred Fifty Dollars (\$450.00) per Lot. The Board of Directors of the Association may fix the annual assessment against the Members at an amount less than or equal to the maximum.

(b) From and after the annual assessment period commencing January 1, 1988, the maximum annual assessment per Lot which may be imposed

without the approval of the Members of the Association pursuant to Article VI(3)(c) hereof shall be increased each year by ten percent (10%) above the maximum annual assessment per Lot for the previous annual assessment period. The Board of Directors of the Association may fix the annual assessment against the Members at an amount less than or equal to the maximum.

(c) The annual assessment may be increased above the maximum amount specified in Article VI(3)(a) or (b) hereof, as applicable, only with the approval of Members holding a majority of the votes appurtenant to each class of membership in the Association (each class voting separately).

(d) Neither the Declarant, nor any Lot to which it holds the record title, shall be exempt from the imposition of an annual assessment hereunder, but, notwithstanding anything elsewhere set forth herein: The annual assessment or charge made against each Lot to which the Declarant holds record title shall equal twenty-five percent (25%) of the annual assessment or charge made against each Lot owned by a Record Owner other than Declarant, to the end and intent that Declarant shall pay twenty-five percent (25%) of the per Lot annual assessment established under this Article VI(3). Nevertheless, if the Association incurs an Operating Deficit (as hereinafter defined) during any fiscal year in which the Declarant is, at any time during such fiscal year, the Record Owner of more than three (3) Lots, the Declarant shall pay to the Association, in addition to the amount required pursuant to the preceding sentence, an amount equal to the lesser of (i) the amount of the Operating Deficit incurred by the Association with respect to such fiscal year, or (ii) the product of (A) seventy-five percent (75%) of the annual assessment levied against each Lot owned by a Record Owner other than the Declarant (i.e., seventy-five percent (75%) of the per Lot annual assessment established under this Article VI(3)) times (B) the number of Lots of which the Declarant is the Record Owner during such fiscal year, provided that if record title to any such Lot is conveyed by the Declarant during such fiscal year, such product shall be reduced pro rata to reflect the portion of such fiscal year during which record title to such Lot is owned by a Record Owner other than the Declarant (the amount determined pursuant to this sentence is herein called the "Guaranteed Amount"). The Declarant shall pay the Guaranteed Amount to the Association within thirty (30) days after the Association delivers to the Declarant the annual financial statement of the Association for such fiscal year, prepared in accordance with generally accepted accounting principles, together with a statement specifying the Guaranteed Amount payable by the Declarant and showing in detail how the Guaranteed Amount was calculated. The term "Operating Deficit" means, with respect to any fiscal year (the "subject fiscal year") the amount, if any, by which (i) the operating expenses of the Association with respect to the subject fiscal year (not including any expenses deemed "capital expenses" under generally accepted accounting principles), exceed (ii) the sum of (A) the operating revenues of the Association with respect to the subject fiscal year (including, without limitation, the proceeds of the annual assessment and all interest earned on funds invested by the Association); and (B) any cash balance remaining (as of January 1 of the subject fiscal year) from operating surpluses accrued in prior fiscal years.

(4) Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment for the purpose of defraying, in whole or in part, the cost (a) of any construction, reconstruction, repair or replacement of any capital improvement located on the Common Areas, including fixtures and personal property related thereto, or (b) of otherwise accomplishing the purposes set forth in Article VI(2) hereof, provided that any such assessment shall first be approved by Members holding a majority of the votes appurtenant to each class of membership in the Association (each class voting separately).

(5) Collection of Assessments. (a) Except as provided in Article VI(3)(d) herein, both annual and special assessments must be fixed at a uniform rate for all Lots and same may be collected annually, or on a monthly or quarterly installment basis (in advance), at the discretion of the Board of Directors, which shall establish the due date of each such payment.

(b) The first annual assessment shall not begin to accrue until the first day of the first fiscal year, and the first monthly or quarterly

installment shall be prorated to said date. No annual assessment shall begin to accrue with respect to Lots in any Subsequent Phase until the date said Subsequent Phase is added to the Property, and the first monthly or quarterly installment payable with respect to each Lot in said Subsequent Phase shall be prorated to said date.

(c) Any special assessment levied under the provisions of Section 4 of this Article VI shall be due and payable fifteen (15) days after the date of levy of such assessment and notice thereof to the Record Owners, or at such other time or times as may be provided by the Board of Directors in making the assessment.

(d) If any annual or special assessment is payable in installments, then upon default in the payment of any such installment on its due date, and the continuation of such default for fifteen (15) days after written notice of such default from the Board of Directors to the defaulting Record Owner, the entire unpaid principal balance thereof may, at the option of the Board of Directors, be accelerated, so that said entire assessment shall forthwith be due and payable.

(6) Annual Assessment Periods. The fiscal year of the Association shall consist of twelve (12) calendar months, commencing on January 1; except that the first fiscal year shall commence on the earlier of (a) a date to be determined by the Board of Directors, or (b) the sixtieth (60th) day following the first conveyance by the Declarant of the record title to any Lot to a Record Owner other than Declarant, and shall end on December 31, 1987. On or about the thirtieth (30th) day prior to the commencement of each annual assessment period, the Board of Directors shall finally determine the annual assessment (subject to the consent of the Members if and to the extent required by Article VI(3) hereof); and on or about the fifteenth (15th) day prior to the commencement of the annual assessment period, the Board of Directors shall formally levy against each Record Owner his share thereof, by noting the assessment and levy on the books of the Association and submitting a written billing to each Record Owner for the sum due by him. The failure or delay of the Board of Directors to determine any annual assessment or notify the Record Owners of their respective shares thereof as and when provided above shall not in any manner constitute a waiver or release of any Record Owner's obligation to pay his share of the annual assessment whenever the requisite determination and notification thereof eventually occurs. In the absence of (a) an annual determination of the annual assessment or (b) notification thereof to the Record Owners, each Record Owner shall continue to pay the monthly or quarterly installments due by him during the last annual assessment period for which an annual assessment has been determined and notice thereof has been given, all subject to acceleration or modification by the Board of Directors.

(7) Certification of Payment of Assessments. The Association shall, upon demand in writing for the benefit of a specific person named therein, and for a reasonable charge, furnish a certificate within fifteen (15) days signed by an officer of the Association setting forth whether or not the assessments and charges on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments and charges on a Lot is binding upon the Association as of the date of its issuance. Failure of the Association to furnish such certificate in timely fashion shall be deemed conclusive proof to the party requesting same and fully binding upon the Association that said assessments and charges are fully paid and current. This provision shall not affect the authority of the Association to enforce its rights against the then Record Owner for any assessments and charges due and unpaid but shall remove the effect thereof as a lien on the specified Lot if title is transferred of public record within sixty (60) days following such written demand.

(8) Late Payments. (a) Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date, computed at the highest rate allowed by law, provided, however, that if no maximum rate is established by law, said interest shall be computed at eighteen percent (18%) per annum. The Association may bring an action at law against the Record Owner personally obligated to pay the same, or foreclose the lien against the Lot subject to the assessment, and in either event, the Association shall be entitled to receive interest computed as provided above, actual costs of

collection and reasonable attorney's fees, as well as the amount of the unpaid assessment. No Record Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

(b) In foreclosing the lien against the Lot subject to the assessment, the following shall apply (except as otherwise required by law): If there be any default in the payment of any assessment, annual or special, and such default shall continue for a period of thirty (30) days, the Association shall have the immediate right to enforce collection of the assessment through foreclosure in the same manner, and subject to the same requirements, as the foreclosure of mortgages or deeds of trust on real property in the State of Maryland, containing a power of sale or an assent to a decree. By the acceptance of any title to, or ownership of a Lot, the Record Owner shall be deemed to have expressly: (i) authorized enforcement and foreclosure of the lien of the assessment by the Association, in the same manner, and subject to the same requirements, as the foreclosure of mortgages on real property in this State, containing a power of sale or an assent to a decree; (ii) assented to the passage of a decree for the sale of his Lot after the continuance of his default for more than thirty (30) days; and (iii) covenanted, agreed and declared that, after the continuance of his default in payment of the assessment for more than thirty (30) days, William A. Agee, as agent for the Association, or any substituted natural person designated as the agent of the Association for such purpose by the recordation by the Association of a Deed of Appointment among the Land Records of Worcester County, shall have the absolute power, right and privilege to sell the Lot of the defaulting Record Owner in accordance with the Public General Laws of the State of Maryland and the Maryland Rules of Procedure relating to foreclosure of mortgages, as such Laws and Rules are from time to time amended and supplemented; provided, however, that no action may be brought to enforce the lien except after ten (10) days' written notice to the defaulting Record Owner, given by certified or registered mail, return receipt requested, at the address of Record Owner shown on the roster or books of the Association. Upon any sale hereunder of a Lot of a defaulting Record Owner, the proceeds shall be applied as follows: first, to the payment of expenses incident to such sale, including a commission to the party making the sale; second, to the payment of all claims of the Association against the defaulting Record Owner or the Lot, whether the same shall have matured or not; and third, the surplus, if any, to said defaulting Record Owner, or to whomever may be entitled to the same. It is expressly understood that, at any such sale, the Association may be a purchaser of the Lot, free and clear of any right or equity of redemption of the defaulting Record Owner, such right and equity being deemed expressly waived and released. The Association shall have the right both to institute suit for collection of the unpaid assessment and to enforce the lien of such assessment against the Lot of the defaulting Record Owner, provided there be but one satisfaction of the claim.

(c) The foregoing enumeration of the rights of the Association is made in furtherance, and not in limitation, of the rights and remedies conferred by law upon the Association to collect the assessments, annual or special, and to enforce any lien against the Lot of a defaulting Record Owner, and is not intended, by mention of any particular right or remedy, to limit or restrict the Association, which shall have all powers and rights necessary or convenient for collection of the assessments due it.

(9) Priority of Liens. The lien of the assessments and charges provided for herein shall be subordinate to general and special assessments for real estate taxes on the Lot and the lien of any Mortgage covering the Lot, duly recorded prior to the recordation of a statement of lien covering one or more past due assessments against such Lot, or after receipt from the Association of a certificate issued under Article VI(7) hereof, and shall be subordinate to any lien imposed against the Lot pursuant to that certain Agreement of Lien between M.H. Utilities Corporation and the Declarant, dated AUGUST 20, 1987, and recorded among the Land Records of Worcester County at Liber W.C.L. No. 1352, folio 39. No sale or transfer of a Lot shall relieve the transferee Record Owner of such Lot (a) from liability for any assessments thereafter becoming due or (b) from the lien thereof.

## ARTICLE VII

ARCHITECTURAL CONTROL

(1) General Architectural Restrictions. No Record Owner, except the Declarant, shall construct, reconstruct, install or reinstall any building, porch, deck, fence, sign, tank, game facility, driveway, walkway, exterior lighting or other structure of any kind on any Lot, or make any addition thereto (including awnings and screenings) or any change or alteration therein (including any retreatment by painting or otherwise of any exterior part thereof) until plans and specifications, in duplicate, showing the nature, kind, shape, height, colors, materials, locations, and approximate cost of such building, porch, deck, fence, sign, tank, game facility, driveway, walkway, lighting, other structure, addition, change or alteration shall have been submitted to and approved in writing by the Board of Directors, or an architectural control committee comprised of three (3) or more Members appointed by the Board, which shall have the absolute right to refuse to approve any such plans and specifications which it deems unsuitable or undesirable, whether based on aesthetic or other reasons. In so passing upon such plans and specifications, the Board of Directors or architectural control committee shall have the right to take into consideration the use and suitability of the proposed building, porch, deck, fence, sign, tank, game facility, driveway, walkway, lighting, other structure, addition, change or alteration, the location thereof, the materials of which it is to be built or made, and the color and design thereof, with relation to the site upon which it is proposed to erect or keep the same, harmony with its surroundings, and the effect on the outlook from adjacent or neighboring Lots. If the Board of Directors or its designated architectural control committee fails to approve or disapprove any building, porch, deck, fence, sign, tank, game facility, driveway, walkway, lighting or other structure, or any addition thereto, or change or alteration therein, within thirty (30) days after the plans and specifications therefor, in duplicate, have been submitted to it by the Record Owner, approval will be conclusively presumed so that no further approval will be required for the foregoing and the Record Owner shall be deemed to have fully complied with this Article.

(2) Rebuilding Following Casualty. Notwithstanding the provisions of Article VII(1) above:

(a) If any building, porch, deck, fence, sign, tank, game facility, driveway, walkway, exterior lighting, other structure, addition, change or alteration is damaged or destroyed by fire or other casualty, such damaged or destroyed improvement may be rebuilt without the approval of the Board of Directors or architectural control committee, as applicable, provided that such damaged or destroyed improvement is rebuilt substantially in accordance with the plans and specifications used in the original construction of such damaged or destroyed improvement, which substantiality requirement shall be deemed satisfied in the case of a damaged or destroyed manufactured home if the damaged or destroyed manufactured home is replaced by a manufactured home having a floor area not more than ten percent (10%) larger than the floor area of the damaged or destroyed manufactured home and a height not more than two (2) feet higher than the height of the damaged or destroyed manufactured home (measured, following the installation of the replacement manufactured home, with reference to mean low water).

(b) If any building, porch, deck, fence, sign, tank, game facility, driveway, walkway, exterior lighting, other structure, addition, change or alteration is damaged or destroyed by fire or other casualty, and such damaged or destroyed improvement is not rebuilt substantially in accordance with the plans and specifications used in the original construction of such damaged or destroyed improvement, the Record Owner thereof (unless such Record Owner is the Declarant) shall not rebuild the damaged or destroyed improvement until plans and specifications, in duplicate, showing the nature, kind, shape, height, colors, materials, locations and approximate cost of the replacement structure shall have been submitted to and approved in writing by the Board of Directors or architectural control committee, which shall have the right to refuse to approve any such plans and specifications only if it reasonably determines that such replacement structure is not in substantial conformity with the design or architectural treatment of the other dwellings within the Property (regardless of the method of construction planned for the replacement structure).

(c) If any dispute between a Record Owner, on the one hand, and the Association, the Board of Directors, the architectural control committee or another Record Owner, on the other hand, arises with respect to the interpretation or application of this Article VII(2) at any time after the termination of the Class B membership in the Association, such dispute shall be submitted to binding arbitration in accordance with the Construction Industry Arbitration Rules (or successor rules) of the American Arbitration Association or any successor thereof. This agreement to arbitrate and any award resulting therefrom shall be specifically enforceable in the courts under the laws of Maryland.

#### ARTICLE VIII

##### RULES AND REGULATIONS

(1) Land Use. Each Lot shall be used for residential purposes only, except as provided as follows, if permitted within the zoning laws applicable to the Property: The Declarant shall have the right to use any Lots, and any improvements thereon, it may own from time to time as sales, rental, and management offices and model units and for such other uses as the Declarant may deem appropriate for the development, marketing (including sales and rentals), and management of any dwellings now or hereafter located upon the Tract, and in furtherance thereof, the Declarant may, among other things, install one or more construction and/or sales offices upon any such Lot. The Declarant shall also have the right to erect upon any Lots it may own from time to time, and upon the Common Areas, such advertising and directional signs and other materials as the Declarant shall deem appropriate for the development, marketing and management of any dwellings now or hereafter located upon the Tract.

(2) Setbacks. No building, tank, game facility or other structure of any kind, or any part thereof, shall be located on any Lot closer to the front lot line or to the side lot line than the recorded minimum building setback lines. For the purposes of the covenant contained in this Article VIII(2), eaves, steps, open porches, bay windows, and chimneys shall be considered as a part of a building or structure.

(3) Lot Subdivision. No Lot shall be subdivided into two or more lots, except as provided in Article IX(1) of this Declaration.

(4) Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which is or is likely to become an annoyance or nuisance to the neighborhood.

(5) Temporary Structures. No structure of a temporary character, shack, garage, barn or other outbuilding permitted to be erected on any Lot shall at any time be used as a residence, either temporarily or permanently.

(6) Parking. No commercial or inoperable vehicle of any kind, and no boat or recreational trailer, shall be parked or stored on any Lot, except that (a) a small boat or canoe, not exceeding twelve feet (12') in length, may be stored in the crawl space, if any, located under the dwelling on any Lot, and (b) the Declarant may park and/or store on any Lots it may own from time to time such commercial vehicles as it deems appropriate for the development, marketing and management of any dwellings now or hereafter located upon the Tract. For the purposes hereof, a vehicle shall be deemed inoperable unless it contains all parts and equipment, including properly inflated tires and current license plates, in such good condition and repair as may be necessary for any person to drive the same on a public highway. No vehicle of any kind, nor any boat or recreational trailer, shall be parked or stored (x) on any street in the Property so long as such street is owned by the Declarant, except as expressly permitted by the Declarant, (y) on any Reserved Area, except as expressly permitted by the Declarant, or (z) on any Open Space, except as expressly permitted by the Association.

(7) Signs. No sign, advertisement or other informational material of any kind shall be erected, displayed or maintained on any Lot, except as permitted by Article VIII(1) hereof or as expressly authorized by the Board of Directors or the architectural control committee.

(8) Animals, Livestock and Poultry. No animals, livestock or poultry of any kind, including pigeons, shall be raised, bred or kept on any Lot, except that up to two (2) household pets, including dogs, cats and birds, and an unlimited number of fish, may be raised and kept, provided that no such household pet or fish shall be raised, bred or kept for any commercial purpose.

(9) Trash. Every outdoor receptacle for ashes, trash, rubbish, or garbage shall be screened or so placed and kept as not to be visible from any street on the Property at any time, except during refuse collections. Except as provided in this Article VIII(9), no trash, ashes, garbage, or other refuse shall be dumped or stored on any Lot or Common Area, or be left on the shoreline of any waterway on the Property. No burning of wood, leaves, trash, garbage or household refuse shall be permitted.

(10) Antennas. No outside or exterior antenna of any kind (including, without limitation, any satellite dish) for use with radio or television shall be installed or maintained on any Lot or Common Area, or on any building or other structure located on any Lot or Common Area, whether or not being a part thereof and whether or not being detachable therefrom.

(11) Swimming Pools. No swimming pool of any kind shall be constructed, installed or maintained on any Lot, either above or below ground.

(12) Leases. Each Lot and the structure(s) thereon may be leased for such term and under such conditions as the Record Owner thereof may desire, except that (a) no Lot or structure thereon may be leased for less than thirty (30) days, and (b) each lease (i) shall be in writing, (ii) shall be subject to this Declaration, to the Articles of Incorporation and Bylaws of the Association, and to any rules and regulations adopted by the Board of Directors pursuant to Article XV of the By-laws, as each such document may be amended from time to time (collectively, the "Association Documents"), (iii) shall provide that any breach or violation of any Association Document by the tenant shall constitute a default under the lease, and (iv) shall provide that the tenant (as well as the landlord) shall be directly liable to, and subject to enforcement action(s) by, the Association for any breach or violation by the tenant of any Association Document. The Record Owner of any leased Lot or structure shall promptly deliver to the Board of Directors a copy of the form of lease used, and a copy of each amendment which is made thereto from time to time. The Association, through the Board of Directors, shall be entitled, but not obligated, to exercise the default remedies of any Record Owner, as the landlord under any such lease, and upon any breach or violation by the tenant of any Association Document, the Board of Directors, after notice to the Record Owner and tenant of such breach or violation, and the failure of such Record Owner and tenant to correct the same within a reasonable time thereafter, shall be entitled, but not obligated, to summarily evict the tenant from the leased premises, subject to any applicable laws governing the speedy recovery of possession of lands or tenements in redress of a breach or violation of a lease.

(13) Fuel Tanks. Every tank for the storage of fuel installed on any Lot shall be either buried below the surface of the ground or screened by fencing or shrubbery.

(14) Clothes Lines. All outdoor clothes poles and clothes lines and similar equipment shall be so placed or screened by shrubbery as not to be visible from any street on the Property.

(15) Trees. No one, other than the Declarant, shall remove a tree of more than six(6) inches in diameter from any Lot without the prior written consent of the Board of Directors.

#### ARTICLE IX

##### DECLARANT'S RIGHTS FREELY TO DEVELOP THE PROPERTY

(1) Resubdivision. Each Record Owner, by acceptance of a deed for his Lot, whether or not it shall be so expressed in such deed, shall be deemed to have covenanted and agreed (i) that Declarant shall have no obligation to build or install any improvement on any of the Common Areas or any other land within the Property; and (ii) that Declarant shall have the right to



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resubdivide the Property in accordance with Worcester County, Maryland regulations, provided that if one or more Secondary Financing Agencies have theretofore approved the Property, or one or more Lots thereon, for mortgage financing under any program other than a spot loan program, each such Secondary Financing Agency which has theretofore granted such approval shall have determined that the resubdivision is in accordance with the general plan theretofore approved by it.

(2) License of Name "Mystic Harbour". The Declarant hereby grants to the Record Owners and the Association (collectively, the "Licensees") a non-exclusive license to use the term "Mystic Harbour" solely to identify the homeowners association hereby established. The Licensees shall not sell, assign or sub-license the use of said term to any other party. The term "Mystic Harbour" may be used or licensed or both, under any terms acceptable to the Declarant, by the Declarant at any time and for any purpose. The Licensees have no right against the Declarant to complain of any such use or license, regardless of the proximity or similarity of use of the term "Mystic Harbour" or any version(s) or variation(s) thereof by the Declarant or its direct or indirect licensees.

#### ARTICLE X

##### INSURANCE

(1) Types. The Association shall at all times keep all buildings and improvements now or hereafter owned or leased by, or otherwise available for the use of, the Association and situated on or within the Common Areas, to the extent insurable, insured against loss or damage by fire, flood and other hazards, to the extent required by the By-laws. The Association shall also maintain liability insurance.

(2) Carriers and Amounts. All insurance required by this Article X shall be with such carriers and in such amounts as may be specified in the By-laws of the Association or determined by the Board of Directors pursuant to the By-laws.

#### ARTICLE XI

##### CONDEMNATION, DESTRUCTION OR DISSOLUTION

(1) Condemnation. The Association, immediately upon obtaining knowledge of the threat of the institution or the institution of any proceeding for the condemnation of the Common Areas (other than Reserved Areas then owned by the Declarant) or any portion thereof, shall notify all Members of the pendency thereof. Each Member hereby assigns, transfers, and sets over unto the Association all compensation, rights of action, the entire proceeds of any award and any claim for damages for any such Common Areas taken or damaged under the power of eminent domain or by condemnation or by sale in lieu thereof. The Association may, at its option, commence, appear in, and prosecute, in its own name, any action or proceeding with respect to such Common Areas, or make any compromise or settlement in connection with such condemnation, taking under the power of eminent domain or sale in lieu thereof. After deducting therefrom all of its expenses, including attorneys' fees, in connection with the negotiation, litigation and consummation of such condemnation or taking or sale in lieu thereof, the Association may elect to apply the net proceeds of the award to the restoration or rebuilding of such Common Areas. Any net proceeds not so applied shall be retained by, and used for any proper purpose of, the Association.

(2) Destruction. (a) In case of loss or damage to the Common Areas or improvements thereon owned by the Association by fire or other casualty, the Association may settle and adjust any claim under its insurance policies which insure against such risks and deduct therefrom costs and expenses of collection (including attorney's fees and expenses), and collect and receipt for any such insurance money. Any and all insurance proceeds received by the Association by reason of any damage or destruction of the Common Areas or improvements thereon shall be used for the cost of the rebuilding or restoration of the Common Areas and such improvements, except that if any excess of such proceeds over the cost of such rebuilding or restoration remains, the Association shall notify all Members, who shall vote regarding

the use or application of the excess proceeds. If the Members fail to vote regarding such use or application, the excess proceeds shall be retained by, and used for any proper purpose of, the Association.

(b) If the net insurance proceeds shall be insufficient to pay the entire cost of restoration, the Association shall notify all Members, who then shall vote regarding whether to authorize a special assessment for the purpose of making up the deficiency, prior to commencement of the restoration. If the Members fail to authorize such a special assessment, then the Association shall not be obligated to commence restoration.

(c) The term "net insurance proceeds" shall mean insurance money paid to the Association on account of damage or destruction of or to any part of the Common Areas or improvements thereon under the policies of insurance provided for herein, less the costs incurred in connection with the adjustment of the loss and collection thereof, including attorney's fees.

(3) Dissolution. Upon any dissolution of the Association, after discharge of all corporate liabilities, the Board of Directors shall dispose of the assets of the Association by dedication thereof to any appropriate public agency to be used for purposes similar to those for which the Association was formed. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned, if practicable, to any nonprofit corporation, association, trust or other organization as shall at the time qualify as an organization or organizations exempt from taxation under Section 501(c) or 528 of the Internal Revenue Code of 1954, as amended from time to time, or the corresponding provision of any future United States Revenue laws, as the Board of Directors may determine, preferably to a semi-public agency, to be used in furthering, facilitating or effectuating purposes similar to those for which the Association was formed.

## ARTICLE XII

### AUTHORITY FOR EXPANSION OF THE HOMEOWNERS ASSOCIATION

(1) Authority to Expand. The Declarant hereby expressly reserves, for a period of ten (10) years from and after the date of recordation hereof, the right to expand and add to the Property by subjecting to the covenants, terms, and conditions of this Declaration, in one or more Subsequent Phases, all or any portion of Parcel 2. When any such Subsequent Phase is added to the Property, the Declarant may, in its sole discretion, designate some portions of the land so added as Lots, some portions of such land as Open Space, some portions of such land as Reserved Areas, and some portions of such land as other types of Common Areas. Whether or not any street beds so added are designated as Reserved Areas, the Declarant may reserve the right to convey such street beds, and any utilities lying thereunder, to Worcester County, Maryland or any other governmental authority. Immediately upon the addition of any such lot to the Property, the lot shall become a Lot subject to the covenants, conditions and restrictions of this Declaration, and the Record Owner of such Lot shall become a Member of the Association and shall be entitled to all the rights, and subject to all the obligations, of a Member.

(2) Reservation of Easements. In addition to the above specified land, the property to be subjected to the covenants, terms, and conditions of this Declaration as part of each Subsequent Phase may include, in the Declarant's sole discretion, any structures, fixtures, and other improvements erected upon or within the land contained within said phase, and any rights, ways, easements, privileges, and appurtenances thereunto belonging, or in anywise appertaining. Each Subsequent Phase may be added to the Property subject to the rights, rights-of-way, covenants, conditions, restrictions, setbacks, and easements deemed necessary or advisable in the sole discretion of the Declarant to facilitate the orderly development, or the construction, operation, and maintenance, of the Property or the remaining property of the Declarant, whether or not located within Parcel 2, or the convenience or services of the Association; and, in particular, but not in limitation of the foregoing, the Declarant shall have the right to reserve, at or prior to the time each Subsequent Phase is added to the Property, such easements and rights-of-way on, over, under and across such Subsequent Phase as are deemed necessary or advisable in the sole discretion of the Declarant for

(a) vehicular and pedestrian access between (i) the remaining property of the Declarant, whether or not included within Parcel 2, on the one hand, and (ii) any public road or other property which borders upon the Property, on the other hand, (b) vehicular parking for the benefit of any remaining property of the Declarant, whether or not included within Parcel 2, and (c) the construction, installation, use, operation and maintenance (including, but not limited to, inspection, cleaning, repair, and replacement) of water, sanitary sewer, storm water drainage, telephone, electric, gas, cable TV, and other utility lines, mains, facilities, and installations deemed necessary or advisable in the sole discretion of the Declarant to serve any remaining property of the Declarant, whether or not included within Parcel 2. Each such right, right-of-way, covenant, condition, restriction, setback and easement shall run with and bind each Lot contained in the Property, the Association and all Record Owners and occupants of such Lots, and their respective heirs, personal representatives, successors, and assigns, forever, unless the recorded document establishing such right, right-of-way, covenant, condition, restriction, setback or easement specifically provides otherwise.

(3) Construction of Improvements. Subject to the limitations of Article XII(5) hereof:

(a) Any Lot added to the Property as part of a Subsequent Phase may be unimproved, or may contain improvements which are being constructed or installed or have been completed at the time of such addition, and the Declarant shall be under no obligation to the Association or its members to improve any such Lot or to complete any improvements then being constructed or installed.

(b) The lands added by the Developer to the Property as Common Areas may contain improvements of the type now or then located on the Common Areas within Phase One, and such other types of Common Areas, such as wetlands areas, swimming pools, tennis courts, clubhouses, water storage tanks, water treatment plants, sewage treatment plants, and other recreational and utility facilities as the Declarant, in its sole discretion, may deem appropriate.

(c) The improvements, if any, which are constructed or installed in any Subsequent Phase by the Declarant shall be constructed or installed in accordance with such drawings and specifications as the Declarant, in its sole discretion, may deem appropriate;

(d) the Declarant is not required to add any Subsequent Phase to the Property, and the Subsequent Phases, if any, which are added to the Property may be added in any sequence chosen by the Declarant;

(e) the total number of Lots added to the Property in Subsequent Phases shall not exceed six hundred forty-nine (649) (i.e., the total number of Lots in all phases of the Property shall not exceed eight hundred fifty (850)); and

(f) The Declarant is not required to construct or install any recreational improvements upon Parcel 2 or to convey any portion of Parcel 2 to the Association, and any portion of Parcel 2 upon which the Declarant constructs or installs recreational improvements may be retained by the Declarant, added to the Property, conveyed to the Association or otherwise disposed of by the Declarant, subject only to the provisions of Article XIV hereof.

(4) Conveyances to the Association. The Association shall accept from the Declarant any and all Common Areas, Reserved Areas, and/or Recreational Facilities which the Declarant elects to convey to the Association for no consideration in accordance with the requirements of this Article XII(4). Except for the conveyance of the Original Open Space to the Association pursuant to Article III(1) hereof, the Declarant shall not be obligated to convey any Common Area, Reserved Area or Recreational Facility to the Association, whether for consideration or no consideration, but the Association shall not be obligated to accept the conveyance of any Common Area, Reserved Area or Recreational Facility from the Developer unless the conveyance of such property complies with the requirements of this Article XII(4), which requirements are as follows:

(a) The property interest so conveyed may be a fee simple interest, an easement, or such other property interest as the Declarant, in its sole discretion, may elect to convey.

(b) Neither the Association nor its Members shall be required to pay any consideration for such conveyance, but the Association will be responsible for the operation, maintenance, repair and replacement of any Common Areas, Reserved Areas and/or Recreational Facilities so conveyed (as more fully described in Article III(6) hereof), and for the payment of all real estate taxes levied against the Association's interest in such Common Areas, Reserved Areas and/or Recreational Facilities, and the expenses of such operation, maintenance, repair, replacement and taxes shall be assessed against the Members pursuant to Article VI hereof.

(c) Any Common Areas, Reserved Areas or Recreational Facilities so conveyed shall be conveyed free of liens, other than liens for unpaid taxes which are not then due and payable.

(d) Any Common Areas, Reserved Areas or Recreational Facilities so conveyed shall be conveyed subject to (i) the covenants, conditions and restrictions of this Declaration, including, without limitation, the covenants, conditions and restrictions set forth in Articles III, IV and XII(2) hereof, and (ii) any additional covenants, conditions and restrictions which the Declarant deems appropriate. All such covenants, conditions and restrictions shall run with the land and shall bind the Association, its Members and their respective heirs, personal representatives, successors and assigns, unless the document creating any such covenant, condition or restriction expressly provides otherwise.

(5) Quality of Construction. All improvements that are constructed or installed within any Subsequent Phase shall be consistent, in terms of quality of construction, but not necessarily in terms of the type of improvements, with comparable improvements, if any, constructed or installed by the Declarant in Phase One.

(6) Expansion Documents. Subject to the foregoing, expansion of the Property shall be effected by the Declarant (without need for the approval of any Record Owner or Mortgagee) by recordation in the Land Records of Worcester County of the following: (i) a plat (whether an amendment of or supplement to the Plat, or otherwise) showing the Lots, Open Spaces, Reserved Areas and other Common Areas located on the Property then being added, and (ii) an amendment to the Declaration describing the Property then being added. In such Declaration amendment, the Declarant may (a) identify, and define the boundaries of, each Lot, Open Space, Reserved Area or other Common Area included within said Subsequent Phase, and (b) include such other provisions as are required or permitted by this Declaration.

(7) Development of Non-added Land. If all or any part of Parcel Two is not added to the Property, such non-added property may be developed in any manner and to any density that the Declarant, in its sole discretion, may deem appropriate.

#### ARTICLE XIII

##### GENERAL PROVISIONS

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

(2) Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions of this Declaration, which shall remain in full force and effect.

(3) Term, Amendment, Termination. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall

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be automatically extended for successive terms of ten (10) years each, unless terminated prior to the end of any such term, effective as of the end of such term, by an instrument signed by Members holding at least seventy-five percent (75%) of the votes appurtenant to each class of membership in the Association (the votes of each class being computed separately). However, this Declaration may be amended at any time within twenty (20) years from the date of recordation hereof by an instrument signed by Members holding at least ninety percent (90%) of the votes appurtenant to each class of membership in the Association (the votes of each class being computed separately), and thereafter by an instrument signed by Members holding at least seventy-five (75%) of the votes appurtenant to each class of membership in the Association (the votes of each class being computed separately). Any such instrument shall be recorded among the Land Records of Worcester County. However, this Declaration may not be amended so as to modify, impair or revoke any right or privilege reserved for the benefit of the Declarant, or so as to impose on the Declarant any obligation which is not also imposed on all Record Owners, without the prior written consent of the Declarant and no such amendment shall take effect until an appropriate written instrument executed by the Declarant is recorded in the Land Records of Worcester County.

(4) Veto by FHA or VA. As long as there are Class B Members, the following actions may be vetoed by the FHA or the VA, if such agency has previously approved the Property, or one or more Lots thereon, for mortgage financing purposes: annexation of additional properties (except for the expansion of the Property pursuant to Article XII hereof); mergers and consolidations; mortgaging of Common Areas; dissolution; and amendment or termination of this Declaration (except for the expansion of the Property pursuant to Article XII hereof).

(5) Approval by Eligible Holders. (a) Any amendment to this Declaration, to the Articles of Incorporation or By-laws of the Association, or to the Plats, involving any "Material Change", as said term is defined below, shall require the affirmative vote of a majority of the Eligible Holders, each such Eligible Holder to have a number of votes equal to the number of Lots upon which it holds First Mortgages. The term "Material Change" shall include a change to any of the following:

- (i) voting rights;
- (ii) assessments, assessment liens, or subordination of assessment liens;
- (iii) reserves for maintenance, repair, and replacement of Common Areas;
- (iv) responsibility for maintenance and repairs;
- (v) reallocation of interests in the Common Areas, or rights to their use (except for the conveyance by the Declarant of any Reserved Area to the Association, or to Worcester County, the Worcester County Sanitary District or any other governmental or quasi-governmental entity);
- (vi) boundaries of any Lot;
- (vii) convertibility of Lots into Common Areas or vice versa;
- (viii) expansion or contraction of the Property, or the addition, annexation or withdrawal of property to or from the Property (except for the expansion of the Property pursuant to Article XII hereof);
- (ix) insurance or fidelity bonds;
- (x) leasing of Lots and the improvements thereon;
- (xi) imposition of any restrictions on a Record Owner's right to sell or transfer his or her Lot and the improvements thereon;
- (xii) a decision by the Association to establish self management when professional management had been required previously by any Eligible Holder;

(xiii) restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration or the By-laws;

(xiv) any action to terminate this Declaration, or to dissolve the Association, after substantial destruction or condemnation of the Property occurs; and

(xv) any provisions that expressly benefit mortgage holders, insurers or guarantors.

A "Material Change" shall also include any other change judged to be material by any Eligible Holder; provided that if a proposed amendment does not involve any change described in items (i) through (xv) above, each Eligible Holder who fails to submit to the Association a written response to the proposed amendment written thirty (30) days after the Eligible Holder is given written notice of the proposed amendment shall be deemed to have judged all changes resulting from the proposed amendment to be immaterial, and to have cast an affirmative vote with respect to the proposed amendment.

(b) This Declaration may not be terminated, and the Association may not be dissolved, for reasons other than substantial destruction or condemnation of the Property, without the affirmative vote of at least two-thirds (2/3) of the Eligible Holders, each such Eligible Holder to have a number of votes equal to the number of Lots upon which it holds First Mortgages.

#### ARTICLE XIV

##### RIGHT OF FIRST REFUSAL

(1) Exercise of Right. If the Declarant elects to convey any part or all of the Recreational Facilities to any person or entity other than the Association, the Declarant shall first send the Association two originals of a contract (executed by the Declarant) for the sale of such part or all of the Recreational Facilities. The Association shall have the right, within sixty (60) days after the receipt of such contract, to purchase such part or all of the Recreational Facilities on the terms and conditions set forth in such contract. In the event the Association elects to accept the offer embodied in the contract, the Association must do so by executing one original of the contract and returning it to the Declarant within the sixty (60) day period.

(2) Sale Following Non-Exercise of Right. If the Association does not accept the offer embodied in such contract within the sixty (60) day period, the Declarant shall be entitled, for one year after the expiration of such sixty (60) day period, to sell such part or all of the Recreational Facilities to any third party on terms no less favorable to the Declarant than those set forth in the contract offered by the Declarant to the Association.

IN WITNESS WHEREOF, Declarant has hereunto set its hand and seal on the day and year first above written.

ATTEST:

MYSTIC HARBOUR CORPORATION

Will A. Gage  
Secretary

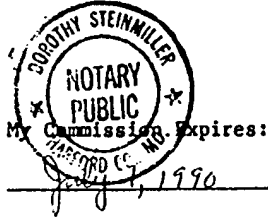
By: Andrey Koplansky  
President



STATE OF MARYLAND )  
                     *Harford* ) to wit:  
 COUNTY OF ~~WORCESTER~~ )

I HEREBY CERTIFY that on this *18th* day of *August*, 1987, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared *Andrzej Kopieński*, who acknowledged himself to be the President of MYSTIC HARBOUR CORPORATION, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing in my presence the name of the corporation by himself as President.

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



*Dorothy Steinmiller*  
 Notary Public

## EXHIBIT A

## LEGAL DESCRIPTION

RESERVED LANDS OF MYSTIC HARBOUR CORPORATION AND M. H. UTILITIES

TENTH ELECTION DISTRICT

WORCESTER COUNTY, MARYLAND

BEGINNING AT A POINT on the easterly line of Maryland Route 611, said point bears S. 43°25'50" W. - 404.99 feet to a found concrete monument on the easterly line of said Maryland Route 611, said concrete monument being the northwest corner of the lands of Ruth M. Hageman, deed reference: Liber F.W.H. 205, folio 83; thence with said easterly line of Maryland Route 611 the three following courses: N. 43°25'50" E. - 1,124.07 feet to a point; thence by and with a curve, said curve being concave to the westerly and having a radius of 3,025.00 feet and an arc length of 597.28 feet to a point; thence N. 32°07'03" E. - 630.92 feet to a found concrete monument; thence along the lands now or formerly owned by William Snyder, deed reference: Liber F.W.H. 198, folio 324, S. 67°00'22" E. - 1,008.44 feet to a found concrete monument; thence along the lands now or formerly owned by Kerbin and Murray, Trustees, by deed reference: Liber F.W.H. 406, folio 333, S. 67°00'22" E. - 635.56 feet to a railroad iron found; thence along the lands now or formerly owned by Edward O. Brex, deed reference: Liber F.W.H. 145, folio 285, S. 67°00'22" E. - 644.17 feet to a concrete monument found; thence along the lands of Earl W. Brittingham, deed reference: Liber F.W.H. 470, folio 679, S. 59°02'13" E. - 2,350.23 feet more or less to an unmarked point on the shoreline of Sinepuxent Bay, said point bears S. 59°02'13" E. - 86.48 feet from a creosote post found; thence by and with the shoreline of Sinepuxent Bay in a generally southwesterly direction, S. 49°52'45" W. - 3,434.37 feet to an unmarked point on the westerly shoreline of Sinepuxent Bay; thence along the lands now or formerly owned by Route 611 Limited Partnership, deed reference: Liber F.W.H. 642, folio 562, the two following courses: N. 48°34'16" W. - 2,312.17 feet to a Mill Stone found, said point bears N. 48°34'16" W. - 2,178.17 feet from a concrete monument found; thence S. 43°10'00" W. - 1,556.91 feet to a concrete monument, said point bears S. 43°10'00" W. - 401.89 feet from a concrete monument found, said point being further described as being on the northeasterly line of Airport Road, said road being platted and described in deed: Liber F.W.H. 130, folio 367; thence along said northeasterly line of Airport Road, N. 40°00'00" W. - 889.20 feet to a concrete monument; thence along the lands of Ruth M. Hageman, deed reference: Liber F.W.H. 205, folio 83, N. 43°56'53" E. - 1,147.67 feet to a concrete monument; thence along the generally easterly outline of Section One of Mystic Harbour Subdivision the nine following courses: N. 23°52'33" E. - 2.89 feet to a point; thence S. 66°07'27" E. - 369.10 feet to a point; thence with a curve concave to the northerly, having a radius of 1,102.57 feet and an arc length of 149.41 feet, to a point; thence N. 16°06'42" E. - 70.00 feet to a point; thence with a curve concave to the northerly, having a radius of 1,032.57 feet and an arc length of 139.92 feet to a point; thence N. 66°07'27" W. - 64.05 feet to a point; thence with a curve concave to the easterly, having a radius of 20.00 feet and an arc length of 31.42 feet to a point; thence N. 23°52'33" E. - 82.69 feet to a point; thence with a curve concave to the northeasterly, having a radius of 1,736.91 feet and an arc length of 275.746 feet to a point; thence along the outline of Section Two of Mystic Harbour Subdivision the thirty-seven following courses: S. 57°01'40" E. - 75.00 feet to a point; thence with a curve concave to the southeasterly, having a radius of 1,661.91 feet and an arc length of 80.00 feet to a point; thence S. 54°16'11" E. - 7.00 feet to a point; thence N. 57°03'31" E. - 38.94 feet to a point; thence with a curve concave to the southwesterly, having a radius of 2,757.79 feet and an arc length of 230.849 feet to a point; thence N. 47°06'30" E. - 210.00 feet to a point; thence N. 40°17'43" W. - 80.68 feet to a point; thence N. 54°14'42" E. - 220.55 feet to a point; thence S. 35°20'36" E. - 17.34 feet to a point; thence N. 55°31'30" E. - 223.28 feet to a point; thence N. 27°30'40" W. - 265.86 feet to a point; thence W. 49°03'54" E. - 9.92 feet to a point; thence with a curve concave to the southerly, having a radius of 251.67 feet and an arc length of 107.133 feet to a point; thence N. 10°50'36" W. - 128.42 feet to a point; thence with a curve concave to the southerly, having a radius of 379.67 feet and an arc length of 14.387 feet to a point; thence N. 16°47'24" W. - 160.00 feet to a point; thence with a curve concave to the southerly, having a radius of 539.67 feet and an arc length of 333.763 feet to a point; thence with another curve being concave to the northerly, having a radius of 672.27 feet and an arc length of 465.722 feet to a point; thence N. 68°57'10" E. - 80.00 feet to a point; thence N. 21°02'50" W. - 80.00 feet to a point; thence N. 68°57'10" E. - 84.65 feet to a point; thence W. 21°02'50" W. - 160.00 feet to a point; thence S. 68°57'10" W. - 164.85 feet to a point; thence S. 78°17'06" W. - 152.03 feet to a point; thence W. 00°50'28" W. - 39.29 feet to a point; thence W. 68°09'33" W. - 69.31 feet to a point; thence N. 72°53'26" W. - 150.00 feet to a point; thence N. 22°00'00" E. - 60.00 feet to a point;



RESERVED LANDS OF MYSTIC HARBOUR CORPORATION AND M. H. UTILITIES

PAGE TWO...

thence N. 68°00'00" W. - 280.00 feet to a point; thence N. 22°00'00" E. - 69.00 feet to a point; thence N. 68°00'00" W. - 135.83 feet to a point; thence S. 32°07'03" W. - 253.17 feet to a point; thence N. 42°13'37" W. - 129.95 feet to a point; thence N. 74°33'37" W. - 200.06 feet to a point; thence N. 74°39'11" W. - 72.74 feet to a point; thence with a curve concave to the westerly, having a radius of 5,343.84 feet and an arc length of 161.70 feet to a point; thence S. 34°20'27" W. - 152.71 feet to a point; thence S. 40°05'55" W. - 152.12 feet to a point; thence S. 53°23'22" W. - 103.12 feet to a point; thence S. 43°19'04" W. - 203.76 feet to a point; thence S. 43°20'20" W. - 263.04 feet to a point; thence with the outline of Section One of Mystic Harbour Subdivision the three following courses: S. 43°20'20" W. - 436.96 feet to a point; thence S. 43°32'07" W. - 74.82 feet to a point; thence N. 46°34'44" W. - 26.13 feet to the point of beginning.

CONTAINING 240.08 acres of land more or less.

EXHIBIT B



*Frank G. Lynch, Jr. & Associates*

641-3773 641-4488

SURVEYING  
LAND PLANNING

ROUTE 4 - BOX 299-B  
BERLIN, MARYLAND 21811

LEGAL DESCRIPTION

PROPOSED OUTLOT "C"

LANDS OF MYSTIC HARBOUR CORPORATION  
TENTH ELECTION DISTRICT, WORCESTER COUNTY, MARYLAND

BEGINNING FOR THIS DESCRIPTION at the southwest corner of Lot 101, Block I in Section Two of Mystic Harbour Subdivision, said point being further described as being on the easterly line of Deep Channel Drive; thence from said point and along the southerly outline of said Block I in Section Two of Mystic Harbour Subdivision the five following courses: S. 57°01'40" E. - 75.00 feet to a point; thence along a curve in a generally northerly direction, said curve being concave to the easterly and having a radius length of 1,661.91 feet and an arc length of 80.00 feet to a point; thence S. 54°16'11" E. - 7.00 feet to a point; thence N. 57°03'31" E. - 38.94 feet to a point; thence along a curve in a generally easterly direction, being concave to the southerly and having a radius length of 2,757.79 feet and an arc length of 169.681 feet to a point, said point being on the southerly line of Lot 106 in Block I of Section Two in Mystic Harbour Subdivision; thence leaving said Block I and across the lands of Mystic Harbour Corporation the eight following courses: S. 15°57'00" W. - 123.04 feet to a point; thence N. 73°52'17" W. - 62.34 feet to a point; thence S. 16°07'42" W. - 160.54 feet to a point; thence N. 73°52'17" W. - 87.50 feet to a point; thence N. 14°48'22" E. - 11.54 feet to a point; thence N. 73°42'56" W. - 78.74 feet to a point; thence S. 14°44'48" W. - 29.88 feet to a point; thence N. 71°10'00" W. - 113.27 feet to a point, said point being on the easterly line of Deep Channel Drive; thence along said easterly line of Deep Channel Drive the two following courses: N. 23°52'33" E. - 25.63 feet to a point; thence along a curve in a generally northerly direction, said curve being concave to the easterly and having a radius length of 1,736.91 feet and an arc length of 275.738 feet to the point of beginning. CONTAINING 2.0 ACRES OF LAND MORE OR LESS.

FILED

AUG 24 2 16 PM '87

RECORDED IN  
LIBER 1352 ... 444469  
WARNER  
CLERK  
BY *BS*

WORCESTER COUNTY CIRCUIT COURT (Land Records) WCL 1352, p. 0069, MSA\_CE31\_1499. Date available 06/12/2003. Printed 07/11/2019.