

**EXHIBIT A**  
**FROM**  
**PUBLIC OFFERING STATEMENT**  
**FOR**  
**FEE SIMPLE TOWNHOUSE OWNERSHIP**  
**Filed by:**  
**MONTGOMERY WOODS ASSOCIATES**  
**DEVELOPER**

**THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**EXHIBIT A**

**THE ORGANIZATION DOCUMENTS FOR THE MONTGOMERY WOODS  
HOMEOWNERS ASSOCIATION, INC. INCLUDING THE DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
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**MONTGOMERY WOODS HOMEOWNERS**  
**DECLARATION OF**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION made this day of , 1984, by and between MONTGOMERY WOODS ASSOCIATES, a new jersey joint venture general partnership, having its principal office at 100 Craig Road, in the Township of Freehold, County of Monmouth, State of New Jersey, hereinafter referred to as the "Declarant" and MONTGOMERY WOODS HOMEOWNERS ASSOCIATION, INC., a nonprofit corporation formed under the laws of the State of New Jersey, having its principal office at 100 Craig Road, in the Township of Freehold, County of Monmouth, State of New Jersey, hereinafter referred to as the "Association."

**RECITALS**

**WHEREAS**, The Declarant is the owner of approximately seventy-three (73) acres of land located in the Township of Montgomery County of Somerset and State of New Jersey and desires to create a planned development community to be known as "MONTGOMERY WOODS." Such real property to consist of single family attached residential townhouse dwellings on Lots, open space and common facilities; and

**WHEREAS**, Declarant desires to provide for the conservation, preservation and enhancement of the property values, amenities and opportunities in **MONTGOMERY WOODS** so as to contribute to the personal and general health, safety and welfare of its residents and for the conservation and maintenance of the land and improvements thereon; and to be made thereto, and desires to subject said real property to the covenants, restrictions, conditions, easements, charges, assessments, obligations and liens hereinafter set forth,

each and all of which is and are for the benefit of such real property and each owner thereof; and

**WHEREAS**, Declarant desires to develop and improve MONTGOMERY WOODS as an independent community in the Township of Montgomery, County of Somerset, State of New Jersey; and

**WHEREAS**, MONTGOMERY WOODS is an area of unique natural beauty, featuring distinctive terrain and it is the desire of Declarant to create a community in which such beauty shall be substantially preserved and the enjoyment and convenience of the persons living in MONTGOMERY WOODS shall be enhanced by the installation and operation of improvements and amenities, and to this end, desires to subject such real property described in this Declaration, together with such additions thereto as may hereafter be made to the covenants, restrictions, conditions, easements, charges, assessments, obligations and liens, hereinafter set forth; and

**WHEREAS**, Declarant has deemed it advisable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the power and authority to maintain and administer the common property and common elements and to administer and enforce the covenants, conditions and restrictions governing the same, and to collect and disburse all assessments and charges necessary for such maintenance, administration, and enforcement, as are hereinafter provided; and

**WHEREAS**, Declarant has caused to be incorporated under the laws of the State of New Jersey, a nonprofit corporation known and designated as **THE MONTGOMERY WOODS HOMEOWNERS ASSOCIATION, INC.**, as the agency to perform the functions aforesaid, and which are hereinafter more fully set forth; and

WHEREAS, these covenants, conditions and restrictions, all of which are hereinafter included in the term "Declaration", are intended to secure the above objective.

**DECLARATION**

**NOW, THEREFORE,** Declarant does hereby make, declare and publish its intentions and desires to submit and does hereby submit the real property described on the Montgomery Township Tax Map as follows:

BEGINNING at a point on the existing Westerly sideline and 16.50' from the centerline of Somerset County Route 605, said point being on the Somerset County - Mercer County boundary line and also being the Southeasterly corner of Lot 10 in Block 37001 on the Montgomery Township Tax Map, and from said point of beginning running; thence (1) along the lands of Lot 11 in 5-32.04 in Princeton Township, South, fifty-eight degrees, fifty-six minutes, forty-five seconds, West ( $5-58^{\circ}-56'-45''-W$ ), a distance of nine hundred twenty-eight and forty-eight hundredths feet (928.48') to a point; thence (2) along the lands of Lots 168, 38 & 147 in 5-32.04 in Princeton Township, North, sixty-four degrees, one minute, thirty seconds, West ( $N-64^{\circ}-01'-30''-W$ ), a distance of seven hundred thirty-three and ninety-three hundredths feet (733.93') to a point; thence (3) along the lands of Lot 147 in 5-32.04 in Princeton Township, North, sixty-six degrees, thirty-two minutes, thirty seconds, West ( $N-66^{\circ}-32'-30''-W$ ), a distance of one thousand two hundred eighty-one and seventy-six hundredths feet (1281.76') to a point; thence (4) still along the lands of Lot 147 in S-32.04 in Princeton Township, North, sixty-three degrees, thirty-six minutes, fifty seconds, West ( $N-63^{\circ}-36'-50''-W$ ), a distance of three hundred fifty-one and eighty-nine hundredths feet (351.89') to a point; thence (5) along the lands of Lot 6 in Block 37001 in Montgomery Township, North, twenty-three degrees, forty-

nine minutes, forty-nine seconds, East (N-230-49'-49"-E), a distance of eight hundred fifty-six and fifty-three hundredths feet (836.33') to a point; thence (6) along the lands of Lot 7 in Block 37001 in Montgomery Township, South, eighty-four degrees, forty-nine minutes, fifty-six seconds, East (S-34°-49'-36"-E), a distance of one thousand nine hundred fifty-four and twenty-seven hundredths feet (1934.27') to a point on the existing Westerly sideline and 16.30' from the centerline of Somerset County Route 603; thence (7) along the existing Westerly sideline of Somerset County Route 603; South, thirty-four degrees, thirty-six minutes, thirty-seven seconds, East (S-34°-36'-37"-E), a distance of seven hundred thirty-seven and one hundredth feet (737.01') to a point; thence (8) still along the Westerly sideline of Somerset County Route 605, South, twenty-nine degrees, five minutes, twenty-eight seconds, East (S-29°-03'-28"-E), a distance of one hundred eighty-eight and eighty-five hundredths feet (188.83') to a point; thence (9) still along the existing Westerly sideline of Somerset County Route 603, *South, Twenty-three degrees, twenty-two minutes, four seconds, East (S-230 -22'-04"-E)*, a distance of three hundred thirty-one and eighty-one hundredths feet (331.81') to a point; thence (10) still along the existing Westerly sideline of Somerset County Route 605, South, sixteen degrees, nineteen minutes, thirty-four seconds, East (S-16°-19'-34"-E), a distance of forty-two and nine hundredths feet (42.09') to the point and place of BEGINNING.

Containing 73.7253 acres of land.

The above described lands are known as Lots 8 & 10 in Block 37001 on the Montgomery Township Tax Map.

Said land is to be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, obligations, and liens (generally herein referred to as "Covenants, Conditions and Restrictions" or alternatively as "Restrictions") hereinafter set



forth by and to MONTGOMERY WOODS HOMEOWNERS ASSOCIATION, INC., for the specific purpose of ownership and management of the Common Property and Common Elements within the legal boundaries of MONTGOMERY WOODS.

## ARTICLE I

### DEFINITIONS

**Section 1.01. Applicability.** This Declaration shall be applicable to the property known as MONTGOMERY WOODS. All present and future owners and tenants, their guests, licensees, servants, agents, employees and other persons who shall be permitted to use the Common Property and Common Elements of the Association shall be subject to this Declaration, the Certificate, the By-Laws and the Rules as may be issued by the Board from time to time to govern the conduct of its members and the use and occupancy of the Common Property. Ownership, rental or occupancy of -any Lot or Townhouse in MONTGOMERY WOODS shall be conclusively deemed to mean that said Owner, Associate, tenant or occupant has accepted and ratified this Declaration, the Certificate, the By-Laws and the Rules of the Association, and shall comply with them.

Nothing in this Declaration shall prevent the filing of a Supplemental Declaration, which may contain such complementary additions and modifications of this Declaration as may be necessary or convenient in the judgment of Declarant, to reflect and adapt to any difference in character to the Property and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplemental Declaration revoke, modify or add to this Declaration so as to adversely affect the real property previously subject to this Declaration, unless otherwise expressly provided herein.

**Section 1.02. Interpretation.** In the event of any conflict between this Declaration, or any Supplemental Declaration hereof then the instruments

shall control in the order listed herein. Each of the instruments listed herein shall be interpreted in such a manner so as to conform to provisions respecting nonprofit entities, it being the intention to preserve the lawful status of the Association and any supplemental as bona fide nonprofit entities.

**Section 1.03. Terms and Definitions.** The following words and terms, when used in this Declaration (unless the context clearly shall indicate **otherwise**) **shall have the following meanings:**

**"ARCHITECTURAL COMMITTEE"** (hereinafter sometimes referred to as the "Committee") shall mean and refer to the committee created pursuant to Article V hereof.

**"CERTIFICATE"** shall mean the Certificate of Incorporation of The Montgomery Woods Homeowners Association, Inc. which shall be filed in the office of the Secretary of State of New Jersey and as the same may from time to time be amended, and which are herein incorporated by reference as fully as if the same were set forth at length.

**"ASSESSMENTS"** shall mean those levies, charges or assessments of the Association.

**"ASSOCIATE"** shall mean and refer to those persons who are not Owners but who, by reason of their residence within the Property as tenants of an Owner, may enjoy the benefits of the Common Property.

**"ASSOCIATION"** shall mean and refer to The Montgomery Woods Homeowners Association, Inc., a New Jersey nonprofit corporation.

**"BENEFICIARY"** shall mean a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be.

**"BOARD"** shall mean the Board of Trustees of the Association.

**"BY-LAWS"**, shall mean the By-Laws of the Association which may be adopted by the Board, and as the same may from time to time be amended and

which are herein incorporated by reference as fully as if the same were set forth at length.

**"COMMERCIAL USE"** shall mean any governmental, professional, office, business park, eleemosynary, trade, or industrial use, including any activity involving the offering of goods or services. Recreational use and services shall not be considered to be Commercial Use.

**"COMMON PROPERTIES" or "COMMON PROPERTY"** shall mean and refer to all those areas of land other than the residential building lots so designated on any recorded subdivision map, approved site plan or any final and . recorded map or plan, or any property, buildings and facilities acquired by purchase, gift, lease or otherwise, to be devoted to the common use and enjoyment of the Owners.

**"COMMON ELEMENTS"** shall mean and refer to those sidewalks, curbs, landscaped driveways, lawns, exterior above-grade walls, roofs, doors, downspouts, gutters, chimneys and all other similar items and areas which are within any lot and exterior to any townhouse installed or constructed by Declarant or a Developer, excluding Common Property, and shall not include any landscaping or planted area, patio deck or other improvements within any partially or totally fenced area of any lot, or any windows, screens, lights, light fixtures, mailboxes, party walls, doorbells or any other similar improvement, installed by or on behalf of any Owner unless owned by the Homeowners Association.

**"DECLARANT"** shall mean Montgomery Woods Association, a joint venture general partnership formed under the laws of the State of New Jersey and its successors and assigns.

**"DEED OF TRUST"** shall mean a mortgage or a deed of trust as the case may be.

**"DEVELOPER"** shall mean any person or entity designated as such by the Declarant to develop and improve the Lots, Townhouses, or Buildings.

**"FINAL"** shall mean an action which has received unappealable final approval from the Planning Board of the Township of Montgomery, County of Somerset, State of New Jersey.

**"IMPROVEMENT"**, shall mean every structure and all appurtenances thereto of every type and kind, including, but not limited to, buildings, outbuildings, patios, tennis courts, swimming pools, garages, doghouses, mailboxes, exterior aerials, exterior antennae, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning units, water softener fixtures or equipment, pumps, wells, tanks, reservoirs, pipes, lines, meters, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, television or cable television system, or other utilities.

**"LOT"** shall mean and refer to any improved or unimproved plot of land designated upon any recorded final subdivision map of any part of the Property with the exception of the Common Property, together with any building improvements and Common Elements contained thereon. No lot shall be severed from the rights, duties, burdens, servitudes or benefits herein contained.

**"MONTGOMERY WOODS"** shall mean all that real property described in this Declaration. MONTGOMERY WOODS shall also mean such additional lands as may then be hereafter added or which may be hereafter subjected to this Declaration.

**"MORTGAGE"** shall mean any mortgage or deed of trust given to secure the payment of a debt.

**"NOTICE AND PERIOD OF CURE"** shall mean the notice and period of cure as provided in Section 6.03.

**"OWNER" OR "MEMBER"** shall mean and refer to the record owner, whether one or more persons, firms, associations, corporations or other legal entities, of the fee simple title to any Lot, situated upon the Property but, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure proceedings or any proceeding in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner or Member. Ownership of more than one (1) Lot, or Townhouse shall subject the Owner or Member to multiple rights, privileges, liabilities and duties with respect to each Lot or Townhouse as if each were separately owned, irrespective of whether this is so in fact or not.

**"PERIOD OF DECLARANT'S CONTROL"**, shall mean that period of time during which Declarant shall have the right, at Declarant's option, to appoint a majority of the Board of Trustees of the Association pursuant to Section 4.04.

**"PERSON"** shall mean a natural individual or any other entity with the legal right to hold title to real property.

**"PROPERTY" OR "ASSOCIATION PROPERTY"** shall mean and refer to the real property described in this Declaration, and other property that may hereafter become subject to this Declaration pursuant to the provisions of Article II hereof.

**"RESTRICTIONS"** shall include those covenants, restrictions, conditions, easements, charges, assessments, obligations and liens contained in this Declaration or any Supplemental Declaration which may be recorded pursuant to Article II hereof, and as the same may be amended from time to time, together with the Certificate, By-Laws and Rules of the Association from time to time in effect.

**"RECORD", "RECORDED", AND "RECORDATION"** shall mean, with respect to any document, the recordation of such document in the office of the Clerk of Somerset County, State of New Jersey.

**"RULES"**, shall mean the rules adopted by the Board pursuant to Section 4.06 hereof, as they may be amended from time to time.

**"SECTION"** shall mean that sectional part for which Declarant has obtained final subdivision or site plan approval from all of the appropriate government authorities and any subsequent part or parcel of real property for which Declarant obtains final subdivision or site plan approval from all of the appropriate governmental authorities.

**"SITE PLAN"** shall mean a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the planning board adopted by the Township of Montgomery, New Jersey.

**"SUBDIVISION"**, shall mean a division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land.

**"SUPPLEMENTAL DECLARATION"** shall mean any declaration of covenants, conditions and restrictions which may be hereafter recorded by Declarant or by Declarant and Developer.

**"TOWNHOUSE"**, shall mean and refer to a single family attached dwelling, designated and operated exclusively as a residence, located in

MONTGOMERY WOODS and subject to this Declaration. For the purpose of this Declaration each separate dwelling shall constitute a separate Townhouse and be subject to all of the rights, privileges, liabilities and duties as if each were separately owned.

## ARTICLE II

### **DEVELOPMENT OF MONTGOMERY WOODS**

**Section 2.01. Subdivision and Development by Declarant.** Declarant intends to divide MONTGOMERY WOODS into several Sections, to develop all or some of said Sections and at Declarant's option, to dedicate part of said Sections as Common Property and to restrict part of said Sections as Common Elements. As each Section is further developed, Declarant, or if the Section is owned by a Developer, Declarant and such Developer, shall record one or more Supplemental Declarations with respect thereto which will refer to this Declaration and which may supplement and restate this Declaration with such additional covenants, restrictions, conditions, charges, assessments, obligations and liens as Declarant and such Developer may deem appropriate for that Section. Any such Declaration may provide its own procedure for the amendment of any provisions thereof. All lands, Improvements and uses in each Section so developed shall be subject to both this Declaration and the Supplemental Declaration for that Section, if any.

It shall be understood that Declarant shall be free to subdivide or develop such Sections or part of such Sections as, in the reasonable exercise of its discretion, it deems in the best interest of the development, without regard to its relative location within the Section or the development; nor shall it be required to follow any predetermined sequence or order of Improvement and development; and that it may bring within the scheme of this Declaration and

any applicable Supplemental Declaration, additional lands, and develop the same before completing the development of the real property previously subject to this Declaration and any applicable Supplemental Declaration.

**Section 2.02. Homeowners Association.** In order to further the development and enhance the -coexistence of each Section within MONTGOMERY WOODS, Declarant shall form the Montgomery Woods Homeowners Association, Inc.

**Section 2.04. Lands Owned by Developer.** If an area has been sold to a Developer, any Supplemental Declaration with respect thereto shall be executed by both Declarant and such Developer.

### ARTICLE III

#### **GENERAL RESTRICTIONS**

All real property within MONTGOMERY WOODS shall be owned, held, conveyed, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

**Section 3.01. Antennas.** Except for any which may, at Declarant's option, be erected by Declarant or Declarant's representative, no exterior television or radio antenna or aerial shall be erected or maintained in MONTGOMERY WOODS without the prior written approval of the Architectural Committee pursuant to Article V.

**Section 3.02. Insurance Rates.** *Nothing shall be done or kept in* MONTGOMERY WOODS which will increase the rate. of insurance on any Association Property or any Townhouse without the approval of the Board, nor shall anything be done or kept in MONTGOMERY WOODS which would result in the cancellation of insurance on any Association Property, Townhouse, or which would be in violation of any law.



**Section 3.03. No Further Subdividing.** No Lot, Common Property or residential dwelling shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner hereof without the prior written approval of the Board; provided, however, that when Declarant or a Developer is the Owner thereof, Declarant or the Developer, with the Declarant's written approval, may further divide and subdivide any Lot, or Townhouse or Common Property and convey any easement or other interest of any nature or amount, all without the approval of the Board. The Declarant shall not be permitted to cast any votes held by him for unsold lots, parcels, or interests for the purpose of amending this Declaration, the Certificate of Incorporation or the By-Laws or any other document for the purpose of changing the permitted use of any sold Lot or Townhouse, or for the purpose of reducing the common property affecting any sold Lot or Townhouse.

**Section 3.04 Signs.** Signs shall be displayed to the public view only with the approval of the Board which shall establish rules on the structure and nature of signs.

**Section 3.05 Nuisances.** No rubbish, debris, grass cuttings, or trash of any kind shall be placed or be permitted to accumulate upon any property **within MONTGOMERY WOODS**, nor shall same be permitted to burn or odors allowed to arise therefrom nor shall any other act or omission be performed on said property so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property or to its occupants.

No tank for storage of gas or *liquids* may be maintained on any Lot, or Townhouse unless hidden from external view of any other Lot, or Townhouse.

No garbage, refuse or, rubbish shall be deposited on any Lot, Townhouse, street, sidewalk, parking area, on the Common Elements unless placed in a closed receptacle container and placed in an area designated for collection. Dumpsters may be provided and placed in specified areas where said garbage, refuse or rubbish may be discarded.

No noxious, unsightly or offensive activity, including vehicle repairs, cloth lines or exterior storage shall be conducted on any Lot, Townhouse street, Common Property or Common Elements.

**Section 3.06 Repair of Buildings.** No Improvement hereafter constructed within MONTGOMERY WOODS shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished and maintained in accordance with the Restrictions of this Declaration.

**Section 3.07 Drainage.** There shall be no interference with the established drainage patterns over any real property within MONTGOMERY WOODS, except by Declarant, unless adequate provision is made for proper drainage and approved by the Board.

**Section 3.08 No Hazardous Activities.** No activities shall be conducted on Montgomery Woods and no Improvements shall be constructed on Montgomery Woods which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged on Montgomery Woods and no open fires shall be lighted or permitted on any property except in a contained barbeque unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace, or except in the portions, of the Common Property, if any, designated for such use by Declarant or by the Association.

**Section 3.09 No Temporary Structures.** No tent or shack or other temporary building, Improvement or structure shall be placed within Montgomery Woods except that temporary structures necessary for storage of tools and equipment and for office space for architects, engineers, construction sales professionals, builders and foremen during actual construction may be maintained with the prior approval of Declarant or the Board, which approval shall specify the nature, size and location of such structure.

**Section 3.10 No Drilling.** No drilling, boring or exploring shall be permitted in Montgomery Woods.

**Section 3.11 Vehicles.** The use of all vehicles, including but not limited to helicopters, gliders, trucks, automobiles, graders, boats, tractors, pickups, mobile homes, trailers, buses, campers, recreational vehicles, bicycles, motorcycles, motor scooters, wagons, sleighs and snowmobiles, shall be subject to the Rules, which may prohibit or limit the use thereof within specified parts of MONTGOMERY WOODS and which may also provide parking regulations and adopt other rules regulating the same.

No vehicles shall be permitted to stand or be parked on any street or roadway within MONTGOMERY WOODS, except in designated parking areas. There may be on each individual Lot, a garage and driveway which shall accomodate two vehicles.

**Section 3.12. Improvements and Alterations.** There shall be no construction, excavation or alteration which in any way alters the exterior appearance of any Improvement, or removal of any Improvement without the prior written approval of the Architectural Committee.

**Section 3.13. Common Property and Common Elements**

A. Any other provision of this Declaration to the contrary notwithstanding, no Common Property shall be improved, used or occupied

except in such manner as shall have been approved by Declarant in its sole and absolute discretion. Such required approval shall extend to the nature and type of use, occupancy and Improvement, and shall be given by a recorded Declaration. Declarant may delegate its right to grant such approvals to the Board. No approvals shall be granted which would be -in contravention of governmental zoning then in effect for the area in question.

B. No Lot or Townhouse owner or occupant shall plant or maintain *any matter or thing, upon, in, over or under the Common Elements without the* prior written consent of the Board, except that a Lot owner may plant flowers, trees or shrubbery within the privacy area appurtenant to his dwelling in accordance with the rules of the Association. It shall be the Lot or Townhouse owners responsibility to care for and maintain such flowers, trees and shrubbery within such privacy area and the Association shall not be responsible for the failure to maintain the Common Elements within such lot, if such maintenance of the common areas would interfere in the judgment of the Association with such flowers, trees and shrubbery within such privacy area.

C. In no event shall there be erected or planted upon any Lot any fabricated fence, hedge or other growing fence.

**Section 3.14. Placement of Utilities.** All electric, telephone, gas, water, sewer, television and other utility conduits, lines and pipes on or to any Lot or Townhouse shall be placed underground. No transformer, or electric, gas, water, sewer or other meter or device of any type, or heating, ventilating, or air-conditioning equipment, or any other apparatus shall be located on any pole, nor shall the same be placed on the roof or ground, such apparatus shall only be placed with Declarants consent and shall be appropriately screened from view, except that Declarant may exempt from such screening requirements transformers, meters, and similar devices owned by a utility or other company or

public, governmental, or quasi-governmental entity. All such installations (including all of those exempted under the preceding sentence) shall be subject to the prior written approval of Declarant.

Each Owner shall abide by all applicable rules and regulations of all utility and other companies and public, governmental and quasi-governmental entities which supply any of the services mentioned above.

**Section 3.15. Lease of Lot or Townhouse.** Any lease of any Lot or Townhouse shall provide that the terms of the lease are subject to the terms and conditions of this Declaration. Any Owner who leases any Lot or Townhouse shall not lease for less than one (1) year and shall, prior to the commencement of such lease, supply the names of such tenant or lessee, the term of such lease and the address of the Lot or Townhouse to be leased to the Secretary of the Association.

**Section 3.16 Approval of Improvements.** Notwithstanding anything herein to the contrary or any of the Certificate or By-Laws, Declarant reserves the right for so long as Declarant owns any Lots or Townhouses in MONTGOMERY WOODS to approve the type, kind, character, size, color and style of any buildings, structures and other improvements within MONTGOMERY WOODS.

**Section 3.17. Violation of Restrictions.** The Association shall have the power to enforce, in its own behalf, and in behalf of all Owners, all of the restrictions set forth in this Declaration and all of the restrictions set forth in any Supplemental Declaration under an irrevocable non-exclusive agency (hereby granted) coupled with an interest, as beneficiary of said restrictions and such other Restrictions as set forth in this Declaration and as assignee of Declarant; and each shall have the power to perform all other acts, whether or not anywhere expressly authorized, as may be reasonably necessary to enforce any of

the aforementioned provisions. If any Owner or his family or any guest, licensee, lessee or invitee of such Owner or his family violates the restrictions, or the Restrictions adopted by this Association, the Association may invoke any one or all of the following remedies; (a) impose a special charge upon such Owner of not more than Fifty (\$50.00) Dollars for each violation; (b) suspend the right of such Owner and his family, guests, licensees, lessees and invitees to use the Common Property under such conditions as the Association may specify, for a period not to exceed thirty (30) days for each violation; (c) cause the violation to be cured and charge the cost thereof to such Owner; and (d) obtain injunctive relief against the continuance of such violation. Except where emergency action is required in the judgment of the Board, before invoking any such remedy the Board shall give such Owner such Notice and Period of Cure as -provided in Section 6.03, except that the Board may suspend the right of any Owner and his family, guests, licensees, lessees and invitees without such Notice and Period of Cure for any period during which any Assessment owed by such Owner is past due and unpaid.

Any assessment or charge which remains unpaid for a period of ten (10) days or more shall become a lien upon such Owner's Lot or Townhouse as the case may be, and may be collected as hereinafter provided for the collection of other Assessments. The duties and powers of the Association pursuant to this Section may to the extent permitted by law be delegated to the Board of this Association, a committee of Members, Trustees, or both.

**Section 3.18. Exemption of Declarant.** Notwithstanding anything in this Declaration to the contrary, neither Declarant's or Developer's activities shall in any way be subject to the control of or under the jurisdiction of the Board. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant or Developer to

excavate and grade. to construct and alter drainage patterns and facilities, to construct any and all other types of Improvements, to maintain model townhouses and construction, sales and leasing offices and similar facilities, and and to post signs incidental to construction, sales and leasing, anywhere within MONTGOMERY WOODS; provided however, that no such activity shall be carried on in such a way as to create a health hazard or unreasonably interfere with the use and enjoyment by any Owner or his family of the Owner's home.

**Section 3.19. Assignment by Declarant.** Any other provision of this Declaration to the contrary notwithstanding, Declarant may assign in whole or in part any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation in whole or in part by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

**Section 3.20. Easements.** Every Owner shall have the right of ingress, egress and easement of enjoyment in, to and over the Common Property which right shall be appurtenant to and shall pass with the title to each and every Lot or Townhouse which rights shall be subject to the following provisions:

**A. Municipal Services Easement** An easement to the Township of Montgomery, but not to the public in general, to enter upon the Common Property of the Association, including, but not limited to, the streets, roadways, parking areas, sidewalks, driveways and walkways for the purpose of maintaining the safety, welfare, police and fire protection of the citizens of the Township of Montgomery, including the residents of MONTGOMERY WOODS.

**B. Stormwater and Drainage Easement.** A perpetual stormwater and drainage easement as shown on a final and recorded subdivision map subject to the right of Declarant to install and construct a

drainage swale or other improvement, or to install and construct, maintain, or repair any other Improvement in, through or over said easement. This easement is to be held by the Association as appurtenant to the land owned by the Association, and said easement shall run for the benefit of the Association's Property.

**C. Stream Encroachment Easement.** A perpetual stream encroachment easement as shown on a final and recorded subdivision map prohibiting any building or structure to be placed, erected, or to permit same to remain, or equipment or goods to be stored or landfill, excavation or construction operation to be undertaken except upon application to and with the approval of the Montgomery Township Planning Board and the New Jersey Department of Environmental Protection where required, or except for maintenance and repair purposes. This easement is to be held by the Association as appurtenant to the land owned by the Association and said easement shall run for the benefit of the Association's Property.

**D. Use and Maintenance Easement** A perpetual use and maintenance easement for activities by the members of the Association in the area designated on a final and recorded subdivision map and marked Recreation Area, if any, subject to the right of Declarant or its assigns to install and construct Improvements through said easement and to install, construct, maintain or repair any other Improvement in, through or over said easement. This easement is to be held by the Association as appurtenant to the land owned by the Association, and said easement shall run for the benefit of the Association's Property.



**E. Encroachment and Party Wall Easement** A perpetual encroachment easement granted to adjoining owners of real property so that in the event any building, street, roadway or other Improvement, whether public or private or whether owned by the Association or any adjoining owner of real property which is subject to this Declaration encroaches upon the real property of another owner of real property which is subject to this Declaration, then to the extent of any such encroachment, there shall be and hereby is automatically granted an easement appurtenant from the servient tenement to the dominant tenement so that such encroachment is permitted.

Each wall built as part of an original Improvement of the Townhouses for the purpose of dividing the Improvements between each-Lot shall constitute a Party Wall and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding Party Walls and of liability for property damages due to negligent or willful acts or omissions shall apply thereto.

If a Party Wall is destroyed or damaged by fire or other casualty, the Association shall restore it, without prejudice however, to its right to call for a later contribution under any rule of law regarding liability for negligent or wilful acts or omissions.

**F. Association Easement** A perpetual easement upon, over, under across and through the Townhouse or Lot for the purpose of repair, replacement and maintenance of any Common Element therein or accessible therefrom, or from making emergency repairs necessary to prevent damage to any Common Elements, or to remedy any violation set forth in this Declaration or the By-laws, provided, however, that

subject to the provisions of Article VI, section 6.03, a request for entry into any Townhouse shall be made in advance and at a time reasonably convenient to the Owner of the Townhouse being entered except that in the event of any emergency such right of entry shall be Immediate and without regard to the presence of such Townhouse Owner.

If any of the Common Elements are destroyed or damaged, the Homeowners Association shall restore it, without prejudice subject, however, to its right to call for subsequent compensation from the owner, associate or tenant under any rule of law regarding liability for property damages due to negligence or willful acts or omissions.

**Section 3.21. Reservations.** Declarant hereby expressly reserves unto itself for the benefit of the Association and its successors and assigns:

**A. Reservation of Utility and Development Easement.** The right to grant any private or public easement to or through any Lot, Common Elements or Common Property, the bed in fee of all streets, avenues, or roads appearing on any recorded map, deemed necessary for the development and improvement of the real property described herein, for the purpose of installation, maintenance, repairs, and replacement of all lines and appurtenances for electric, gas, telephone, television, telecommunications, cable, sewer and water, including, but not limited to, power and telephone lines, mains, conduits, wires, poles, transformers, meters and any and all other equipment, machinery or systems necessary or incidental to the proper function of any utility system.

Declarant further reserves unto itself, its successors and assigns, during the period of Declarant's control the right to relocate,

change or modify from time to time any lot line or subdivision plat, street, avenue, roadway, highway, utility easement, Section or area. Reference to any street, avenue, or roadway, highway, utility easement, Section or area in any recorded subdivision map is for the purpose of description only and does not constitute a dedication to the public in general. Declarant expressly reserves to itself, its successors and assigns, the right to further subdivide the real property described in this Declaration. Declarant expressly reserves unto itself, its successors and assigns, the right at or after the time of grading of any streets or roadways or any part thereof for installation of any utilities, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street or roadway, but shall not be under any obligation or duty to maintain any slope or to do any grading beyond the state found prior to such grading. No right shall be conferred upon any Owner or Member by the recording of any map relating to the development of the real property described herein to require the development of said real property in accordance with such map. Declarant expressly reserves unto itself the right to make such amendments to any such subdivision plan or map as shall be advisable in its best judgment and as shall be acceptable to public authorities having the right to approval thereof.

Declarant expressly reserves unto itself, its successors and assigns the right to extend Blue Spring Road at some time in the future within to and or beyond the designated area known as MONTGOMERY WOODS.

Declarant further, reserves unto itself, its successors and assigns, the right to dedicate such Common Property including, but not limited to, Blue Spring Road to appropriate public entities,

including but not limited to Montgomery Township, subject to the acceptance of such dedications by said public entities.

**B. Owners' Cooperation.** The right to require each Owner to execute such further grants or other documentation as may be reasonably required by a **utility** company or other company or public, governmental or quasi-governmental entity.

**Section 3.22. Title to Common Property.** Declarant may retain legal title to the Common Property subject to the Restrictions until It has completed all the Improvements in MONTGOMERY WOODS and until such time as, in the opinion of Declarant, the Association Is able to maintain the Common Property. Notwithstanding any provision herein, Declarant hereby covenants for itself, its successors and assigns, that it shall cause the conveyance of the Common Property subject to the Restrictions to the Association prior to or upon the termination of Declarant's control of the Board as herein defined. In addition, Declarant hereby retains the right to dedicate parts of the Common Property to the Township of Montgomery prior to the title being conveyed to the Association.

If requested by the Declarant, the Association agrees to join in any deed or instrument required to effectuate 'the foregoing. Any conveyance to the Association of the Common Property shall be subject to such covenants, restrictions, conditions, charges, assessments, obligations and liens as are provided for herein. The Association shall accept the conveyance of the Common Property upon delivery of legal title to the Association.

#### ARTICLE IV

#### **THE MONTGOMERY WOODS HOMEOWNERS ASSOCIATION, INC.**

**Section 4.01. Organization.** The Association shall be a nonprofit corporation formed under the laws of the State of New Jersey created for the

purposes, charged with the duties, and invested with the powers prescribed by law or set forth in its Certificate and By-Laws or in this Declaration. Neither the Certificate, or By-Laws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

**Section 4.02. Membership.** Every Owner, Declarant and Developer shall be a Member of the Association; provided, however, that no Person shall be a Member by reason of ownership of lands used for governmental or quasi-governmental purposes or by reason of ownership of any park, public land, road, easement, right of way, mineral interest, mortgage or deed of trust. Each Owner as defined in the preceding sentence shall automatically be a Member of the Association without the necessity of any further action on his part, and Association membership shall be appurtenant to and shall run with the real property interest and ownership of which qualifies the Owner thereof to membership. Membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated except together with the title to the real property interest, ownership of which qualifies the Owner thereof to membership, and then only to the transferee of the title to said real property interest. Any attempt to make a prohibited severance, transfer, pledge, mortgage or alienation shall be void.

**Section 4.03. Associates.** Every person *who is* entitled to possession and occupancy of any Lot or Townhouse as a tenant or lessee of a Member, shall be an Associate of the Association and as such shall be privileged to use the Common Property, subject to the Rules and Regulations of the Association and *this* Declaration. Associates shall not be entitled to vote, but shall be required to register their names with the Secretary of the Association.

**Section 4.04. Voting Rights.** There shall be 340 votes in the Association, each of equal weight, all of which shall be held by the Declarant,

who shall be deemed to be a Member of the Association; provided, however, that upon each conveyance of title of a Lot by Declarant to another Owner, such Owner shall become entitled to one vote for each Lot purchased, and the number of votes held by Declarant shall be reduced accordingly. Declarant's votes shall be cast by such persons as it may from time to time designate. Votes not held by Declarant shall be cast in person or by proxy, as otherwise provided herein. Anything to the contrary herein notwithstanding, it is understood that the number of votes in the Association shall be equal to *the* number of Townhouse Lots to be established in Montgomery Woods.

**B. point or Common Ownership.** If any membership is held jointly, or in common by more than one person, It may be voted by any of the persons, if no other joint tenant seeks to vote either in person or proxy. In the case of a proxy a "written agreement" which states how the votes should be cast, must be presented at the meeting to be valid. In the event that the joint tenant or common tenants are unable to agree among themselves and if there is no majority, the vote will be equally divided among such joint tenants or common tenants.

**C. Proxy Voting.** Any Owner, including Declarant or any Developers may give a revocable written proxy to any person authorizing the latter to cast the Owner's votes on any matter.

**D. Period of Declarant's Control.**

(a) Notwithstanding the provisions of this Section, Declarant shall have the right, at Declarant's option, to appoint all *the* officers and trustees of the Association and to direct the business of the Association (except as limited by this Declaration and the Certificate of Incorporation) for a period of time determined as hereinafter indicated, after which period Declarant's rights to appoint all or any

of the officers and trustees of this Association and to direct the business of this Association shall cease and terminate except to the extent of Declarant's voting rights according to the provision of this Section. This Period of Declarant's Control shall be limited, and control of this Association shall be surrendered to the Owners in the following manner:

1. Sixty (60) days after conveyance to Owners, who are **not Developers, of eighty five (85) of the Lots or** Townhouses contained within the property described herein not less than twenty-five (25%) percent of the Members of the Board shall be elected by votes not controlled by Declarant or a Developer appointed by Declarant;

2. Sixty (60) days after conveyance to Owners, who are not Developers, of one hundred seventy (170) of the Lots or Townhouses contained within the property described herein not less than forty (40%) percent of the Members of the Board shall be elected by votes not controlled by Declarant or a Developer appointed by Declarant; 3. Sixty (60) days after conveyance to Owners, who are not Developers, of two hundred fifty five (255) of the Lots or Townhouses contained within the property described herein, the Developer's control of the Board shall terminate at which time the entire Board shall be elected by votes not controlled by Declarant or a Developer appointed by Declarant.

(b) Notwithstanding paragraphs 1, 2 and 3 above, Declarant may retain one (1) Member of the Board so long as there are any Lots

or Townhouses remaining unsold in the regular course of business of Declarant or Developer.

(c) Declarant may surrender control of the board of the Association prior to the time as specified, provided a majority of the votes not controlled by Declarant or by a Developer vote to assume control.

(d) Upon the assumption by the Owners of control of the Board of the Association, Declarant shall forthwith deliver to the Association all items and documents pertinent to the Association such as, but not limited to, a copy of this Declaration, Certificate of Incorporation of the Association, By-Laws of the Association, and the Association's minute book, including all minutes, and any rules and regulations adopted by the Association, an accounting of the Association funds, and all personal property, insurance policies, government permits, a membership roster and all contracts and agreements relative to the Association.

(e) The Association, when controlled by the Owners, shall not take any action that would be detrimental to the sale of Lots or Townhouses by Declarant or any Developer and shall continue the same level of maintenance, operation and services as immediately prior to their assumption of control, until the last Lot or Townhouse is sold.

(f) While the Declarant maintains a majority of the Board of Trustees it shall adopt no operating budget containing any payment or subsidy that artificially influences the monthly assessment, unless the details are fully disclosed.



**E. Non-Cumulative Voting.** The exercise of the voting rights pursuant to this Association and the Certificate shall be non-cumulative.

**Section 4.05. Meetings of Members.** There shall be a regular annual meeting of the Members of the Association on the second Monday in November of each year at 7:00 p.m. at the principal office of the Association. Except as provided in the next sentence, no notice need be given of said regular annual meeting. Said regular annual meeting may be held at such other reasonable place or time (not more than thirty (30) days before or after the aforesaid date) as may be designated by notice of the Board given to the Members not less than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting.

All notices of meetings shall be addressed to each Member as his address appears on the books of the Association.

The presence at any meeting, in person or by proxy, of Members entitled to vote at least thirty-three (33%) percent of the total votes outstanding shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Members present, either in person or by proxy, may adjourn the meeting to a set for. In the event of such adjournment the presence at such adjourned meeting, in person or by proxy, of Members entitled to vote at least sixteen (16%) percent of the total outstanding votes shall constitute a quorum.

The President of the Association, or in his absence the Vice President, shall call meetings of Members to order and act as chairman of such meetings. In the absence of both said officers any Member entitled to vote thereat or any proxy of any such Member may call the meeting to order, and a chairman of the meeting shall be elected. The Secretary of the Association, or in his absence the Assistant Secretary, shall be secretary of such meetings.

Except as provided otherwise in this Declaration, any action may be taken at any legally convened meeting of the Members upon the affirmative vote of the Members having a majority of the total votes present at such meeting in person or by proxy.

Special meetings may be called for any purpose at any time by the President, Vice President, Secretary, Treasurer, or by any two (2) or more Members of the Board of Trustees.

**Section 4.06. Duties of the Association.** Subject to and in accordance with these Restrictions, the Association shall have and perform each of the following duties for the benefit of the Members of the Association:

**A. Common Property.** To accept, own, operate and maintain all Common Property and all other property, real and personal, which may be conveyed to it together with all Improvements of whatever purpose which may be located in said areas.

**B. Title to Property Upon Dissolution.** To pay over or convey, upon dissolution of the Association, the assets of the Association to one or more nonprofit organizations. Provided, however, that pursuant to law the Association shall first offer to dedicate that Association Property which constitutes open space to the municipality or municipalities where the land is located.

**C. Repair and Maintenance of Association Property and Common Elements.** To repair, restore and maintain in good condition all lands, Improvements, and other property owned by the Association and to repair, restore and maintain in good condition the Common Elements.

**D. Payment of Taxes.** To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any real property owned by the Association, to the extent that such taxes

and assessments are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

**E. Insurance.** To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount. The Association shall be deemed trustee of the interests of all Members in all insurance proceeds, and shall have full power to receive and to deal with such proceeds.

**F. Rules.** To make, establish and promulgate, and in its discretion to amend or repeal or reenact, such Rules, not in contradiction of this Declaration, as it deems proper covering any and all aspects of its function, including the use and occupancy of the real property within the Association. Without limiting the generality of the foregoing sentence, such Rules may set dues and fees, require the prepayment of same, and prescribe the regulations governing the operation of the Association, as it deems proper covering any and all aspects of its function, including the use and occupancy of the Common Property and Common Elements. *Each* Member shall be entitled to examine such Rules at any time during normal working hours at the principal office of the Association.

**G. Board of Trustees.** To appoint and remove members of the Board as provided herein, and to insure that at all reasonable times there is available a duly constituted and appointed Board of Trustees of the Association.

**H. Audit.** To provide an annual audit by an independent certified public accountant of the accounts of the Association and to make a copy of such audit available to each Member and mortgagee during

normal business hours at the principal office of the Association. Any Member or mortgagee may at any time and at his own expense cause an audit or inspection to be made of the books, records and papers of the Association by a certified public accountant or attorney, provided that such audit or inspection is made during normal business hours and without unnecessary interference with the operations of the Association. The Declaration, the Certificate, and the By-Laws shall be available for inspection by any Member or mortgagee at the principal office of the Association, where copies may be purchased at a reasonable cost.

**I. Restoration and Repair of the Townhouse and Common Elements** The Association shall maintain at all times insurance coverage insuring the building structures of each Townhouse and Common Elements and naming as a loss payee on such insurance policy the Association, the Owner, and the mortgagee of the Owner, if any, as their interests appear. If the building structure of a Townhouse and Common Elements is destroyed or damaged by fire or other casualty, the Association shall restore or repair the same. The Owner shall be responsible for the payment of any deductible to the association which shall be applied to the cost of restoration and repair.

**J. Other.** To carry out all duties of the Association set forth in this Declaration or the Certificate and By-Laws of the Association or as may be permitted by the laws of the State of New Jersey, regardless of whether expressly enumerated herein.

**Section 4.07. Powers and Authority of the Association.** The Association shall have all the powers of a New Jersey nonprofit corporation

which shall be exercised by the Board, subject only to such limitations upon the exercise of such powers as are expressly set forth in this Declaration. It shall **further have the power to do and perform any and** all acts which may be necessary or proper for or incidental to the exercise of any of the express powers **granted to it by the laws of the State. of New jersey or by this Declaration including the** power to require assessments to be paid in advance. Without in any way limiting the generality of the two preceding sentences, the Association shall have the power and **authority at all times:**

**A. Assessments.** To *levy* Assessments as hereinafter provided.

1. An Assessment is defined for purposes of this Section as that sum which must be levied in the same manner and against the real property set forth below in this Section in order to raise the total amount for which the *levy* in question is being made, and each individual Assessment shall be equal to each other similar individual Assessment. The Association shall levy:

(a) One Assessment against each Lot for which a certificate of occupancy, temporary or permanent, has not been issued, or if issued has been revoked, by the appropriate governmental authorities, provided, however, that any Assessment made pursuant to this subparagraph shall not exceed twenty-five (25%) percent of any Assessment made pursuant to subparagraph (b) immediately succeeding; and

(b) **One Assessment against each improved Lot or Townhouse** for which a certificate of occupancy, temporary or permanent, has been issued and has not been revoked by the appropriate governmental authority.

2. During the period of Declarant's Control, Declarant or any Developer shall not be subject to Assessments nor be required to pay any Assessments, dues or fees. Declarant shall furnish, or shall cause any Developer to furnish to the Association a subsidy which, together with Assessments, dues and fees paid by other Members of the Association or others, will be sufficient to maintain the Association in a sound and solvent financial condition without regard to any allocation for surplus or reserves. The subsidy shall not artificially deflate the assessment amount being charged to each respective Townhouse or Lot. After the Period of Declarant's Control, Declarant and Developer shall be subject to Assessments, dues and fees in like manner as any other Member of the Association.
3. Where the obligation to pay an Assessment first arises after the commencement of the Assessment period for which the Assessment was levied, the Assessment shall be pro-rated, as of the date when said obligation first arose, in proportion to the amount of the Assessment period remaining after said date.
4. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association in performing its functions under the Restrictions, including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Uniform and equal Assessments sufficient to pay such estimated net charges shall then be levied as provided in this Section. If the sums collected prove inadequate. for any reason, including nonpayment of any

individual Assessment, the Association may at any time and from time to time levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association during the fiscal year in equal monthly installments on or before the first day of each month, or in such other reasonable and uniform manner as the Board may designate with the assent of a majority vote of the Members at any regular or special meeting of the Members at which a quorum is present in person or by proxy; subject, however, to the limitations of this Section.

5. In addition to the periodic Assessments authorized above, the Association may *levy* special Assessments for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon Common Property or to meet any financial emergency of the Association.

6. Assessments shall be both a personal obligation and a lien against each Lot or Townhouse and all Improvements thereon.

The Association may enforce payment of such Assessments in accordance with the provisions of this Section.

**B. Association Funds.** The Board shall establish funds into which shall be deposited all monies paid to the Association and from which disbursements shall be made In performing the functions of the

Association under the Restrictions. The funds of the Association must be used solely for purposes relating to the Common Property, Common Elements subject to the Restrictions of by this Declaration as it may from time to time to be amended.

**C. Late Charges.** If any Assessment is not paid within ten (10) days after it is due, or within such longer period of time after due as the Board may determine, the Owner may be required by the Board to pay a late charge of eighteen (18%) percent per annum of the unpaid Assessment.

**D. Unpaid Assessments as Personal Liabilities and Liens.** The amount of any delinquent Assessment or charge assessed against any property and any late payment charge attributable thereto, plus interest on same charged at a rate of eighteen (18%) percent per annum, and the costs of collecting the same, including reasonable attorneys' fees, shall be both a personal liability of the Owner, enforceable in any court of competent jurisdiction, and a lien upon such Lot or Townhouse or any Improvements thereon. Such lien shall be prior to any homestead exemption. Such lien may be foreclosed in the same manner as is provided in the laws of the State of New Jersey for the foreclosure of mortgages on real property.

Upon the sale, conveyance or any lawful transfer of title to a Lot or Townhouse all unpaid Assessments, charges and expenses chargeable to the Lot or Townhouse shall first be paid out of the sales price in preference to any other Assessments or charges of whatever nature except: (1) Assessments, liens and charges for taxes past due and unpaid on the Lot or Townhouse and, (2) payments due under bona fide first mortgages, duly recorded.

A certificate executed and acknowledged by any Member of the Board or any officer of the Association stating the indebtedness secured by such lien shall be conclusive upon the Association as to the amount of such indebtedness as of the date of such certificate, in



favor of all Persons who rely thereon in good faith, and such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed Ten (\$10.00) Dollars.

**E. Right of Entry and Enforcement.** To enter, without being liable to any Owner upon any Lot or into any Improvement, excluding a Townhouse or onto any Common Property or Common Elements for the purpose of maintaining or repairing any Improvement or other facility. The Association shall also have the power and authority from time to time in its own name and on its own behalf, or in the name and on the behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce by mandatory injunction or otherwise, or to restrain and enjoin any breach or threatened breach of this Declaration.

**F. Conveyance.** To grant and convey real property and interests therein, including fee titles, leasehold estates, easements, rights of way, mortgages and deeds of trust; out of, in, on, over or under any Association Property for the purpose of constructing, erecting, operating or maintaining therein:

- (1) Parks, parkways, campgrounds, recreational facilities, or Common Property;
- (2) Roads, streets, walks, driveways, trails, and paths;
- (3) Lines cables, wires, conduits, pipelines or other devices for utility purposes;
- (4) Sewer systems, water systems, storm water drainage systems, sprinkler systems, and pipelines;
- (5) Any similar public, quasi-public, or private Improvements or facilities; or

(6) To dedicate or transfer subject to any condition or purpose all or any part of the Common Property to any municipal, county, State, Federal or other public agency, authority, or utility.

Nothing above contained, however, shall be construed to permit use or occupancy of any land, Lot, Townhouse, Improvement or other facility in a way which would violate applicable zoning laws or use and occupancy restrictions imposed thereon by other provisions of this Declaration.

**G. Security Service.** To provide watchmen, guards and security personnel at points of entry onto MONTGOMERY WOODS, for the Property and at such other places and for such other purposes as the Board shall determine.

**H. Manager.** To retain and pay for the services of one or more persons or firms (the "Manager") to manage and operate the Association, to the extent deemed advisable by the Board, together with such other personnel as the Board shall determine advisable for the operation of the Association, for the conduct of its business, and the management of its Property. Such personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any of their duties, powers and functions to the Manager.

Each and every independent contract with a Manager for comprehensive management services by or under the direction of said Manager, which is entered into by or otherwise made binding upon the Association during the Period of Declarant's Control shall not be for more than one (1) year and shall be terminable by the Association

with or without cause, in the Board's sole and absolute discretion, and upon no more than thirty (30) day's prior written notice, at any time after termination of the Period of Declarant's Control. The provisions of this paragraph are not intended to apply to any contract of employment between the Association and its own employees, nor to any contract between the Association and any independent contractor for the provision of legal, accounting, special consulting, or other management related services which are not comprehensive in nature.

**I. Legal and Accounting Services.** To retain and pay for legal and accounting services necessary or proper for the operation of the

Association, the operation and management of its Property, the enforcement of this Declaration, or in performance of any other duty, right, power or authority of the Association.

**J. Association Property Services.** To pay for water, sewer, septic, garbage removal, electricity, telephone, gas, snow clearing landscaping, gardening, master television antenna, cable, telecommunications service and repair, and all other utilities, services and maintenance for the property of the Association.

**K. Other Areas.** To maintain and repair easements, roads, septic systems, roadways, rights of way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes, entry details, guardhouses, and other areas of MONTGOMERY WOODS owned by or leased to the Association.

**L. Recreational Facilities** To own and operate any and all types of facilities for both active and passive recreation, within MONTGOMERY WOODS and to charge, if determined by the Board, reasonable admission fees for same.

**M. Other Services and Properties** To obtain and pay for any other property and services, and to pay any other taxes or Assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, the Certificate or By-Laws of the Association.

**N. Construction on Association Property** To construct new Improvements or additions to the Association properties, or demolish existing Association Improvements, subject to the approval of the Board and as required by this Declaration.

**O. Contracts**. To enter into contracts with Declarant and with other associations, Developers, and other persons on such terms and provisions as the Board shall determine, and operate and maintain any Common Property, Common Elements, or to provide any service or perform any function on behalf of Declarant or such other association, Developer or other person. As to any such contract into which the Association may enter with such other association, the Association may make, establish and promulgate, and in its discretion may amend or repeal and reenact, rules of the kind described in Section 4.06.17 with respect to such other association's property.

**P. Long Term Financing**. The Association may execute mortgages and deeds of trust, both construction and permanent, for construction of facilities, including Improvements on property owned by the Association. Such financing may be effected through conventional mortgages or deeds of trust, the issuance of sale, development or other bonds, or in any other form or manner as may be deemed appropriate. The mortgage, deed of trust or other security interest given to secure repayment of such debt may consist of a first lien,

second lien, or other junior lien, as shall be deemed appropriate, on the Improvement or other facility to be constructed, together with such underlying and surrounding property as the Association deems appropriate. The debt secured by such mortgage, deed of trust or other security instrument may be retired from revenues generated by dues, use fees, assessment of the Members of the Association, or otherwise, or any combination thereof as may be deemed appropriate, but subject to the limitations imposed by this Declaration.

**Q. Permits and Licenses.** To obtain and hold any and all types of permits and licenses.

**R. Subsidiaries.** The Association may create a subsidiary or other association to perform the rights, powers, duties, obligations or function which prevent the Association from obtaining of tax preference treatment or, alternatively, the Association may retain the rights, powers, duties, obligations and functions which prevent the obtaining of tax preference treatment and transfer some or all of its rights, powers, duties, obligations and functions hereunder to a subsidiary or other association.

**Section 4.08. Indemnification.**

**A. Third Party Actions.** The Association shall indemnify any person who was or is a party to any pending or completed action, suit or proceeding, whether civil, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that such person is or was a trustee, officer, employee, servant or agent of the Association, against expenses (including attorneys' fees), judgments, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if such

person acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Association. The termination of any action, suit or proceeding by judgment, order, or settlement shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in or not opposed to the best interests of the Association. However, indemnification shall not be provided in respect to any claim, issue or matter or to which the agent was liable for negligence or misconduct, unless and only to the extent that the tribunal in which the proceeding was instituted, shall make the determination that despite the adjudication of liability, the circumstances of the particular case, entitle that person who is or was a Trustee officer, employee, servant or agent of the association to indemnification for those expenses as the tribunal shall deem proper.

**B. Determination.** Any indemnification which the Association has elected to provide under paragraph A of this Section shall be made (a) by the Board by a majority vote of a quorum consisting of Trustees who were not parties to such action, suit or proceeding, or (b) upon recommendation by independent legal counsel, in a written opinion that such person should be indemnified as herein provided; provided, however, that if a Trustee, officer, employee, servant or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraph A of this Section, or in defense of any claim, issue or matter therein, then, such person shall automatically be indemnified against expenses (including attorneys' fees) actually and reasonably incurred in connection therewith without the necessity of any such determination

that the applicable standard of conduct set forth in paragraph A of this Section has been met.

**C. Payment in Advance.** Expenses incurred in defending a civil action, suit or proceeding may, in the discretion of the Board, be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Trustee, officer, employee, servant or agent to repay such amount unless it shall ultimately be determined that such person is entitled to be indemnified by the Association as authorized in this Section.

**D. Other Coverage.** The indemnification provided by this Section shall not be deemed exclusive of any other rights to which anyone seeking indemnification may otherwise be entitled.

## ARTICLE V

### ARCHITECTURAL COMMITTEE

**Section 5.01. Members of Committee.** The Architectural Committee shall consist of either three members or five members of which at least one shall be a Member of the Board. The Board may reduce the number of members of the Committee to three and increase it to five as often as it wishes. Each member of the Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the Committee may be removed at any time without cause.

**Section 5.02. Appointment and Removal.** The Board shall have the right to appoint and remove all members of the Committee.

**Section 5.03. Review of Proposed Construction.** Whenever in this Declaration the approval of the Architectural Committee is required, it shall

have the right to consider all of the plans and specifications for the Improvement or proposal in question and all other facts which in its sole discretion are relevant. Except as otherwise provided in this Declaration, prior to commencement of any construction or planting of any Improvement within MONTGOMERY WOODS, the plans and specifications therefore shall be submitted to the Architectural Committee, and construction thereof shall not commence unless and until the Committee has approved such plans and specifications in writing. The Committee shall consider and act upon any and all plans and specifications submitted for its approval pursuant to this Declaration and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans and specifications approved by the Committee. Except as otherwise provided in this Declaration, the Committee shall have the power to review and approve the type, kind, character, size, color and style of any building, structure or other Improvement upon any Lot or Townhouse within MONTGOMERY WOODS, provided however, in the event said Improvement is to repair, replace or restore the building structure of a Townhouse then said plans shall conform to the original plans of said Townhouse. The Committee shall approve plans and specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the surrounding areas of MONTGOMERY WOODS as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The Committee may condition its approval of plans and specifications on such changes therein as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving the material submitted. The Committee may also



issue Rules or guidelines regarding anything relevant to its functions, including but not limited to minimum standards, procedures for the submission of plans and specifications for approval, and fines or other reasonable penalties for prosecution of work in violation of this Article. The Committee may require a reasonable fee to accompany each application for approval. The Committee may require such detail in plans and specifications submitted for its review and such other information as it deems proper, including without limitation, environmental impact statements. Until receipt by the Committee of all required plans and specifications and other information, the Committee may postpone review of anything submitted for approval. Upon receipt by the Committee of all required plans and specifications and other information as determined by the Committee the Committee shall have thirty (30) days in which to approve or disapprove such plans and specifications in writing. If the Committee fails so to approve or disapprove within said thirty (30) day period, the plans and specifications shall be deemed to have been approved as though written approval had been given by the Committee.

**Section 5.04. Meetings of the Committee.** The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution unanimously adopted in writing designate one of its members to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 5.09. In the absence of such designation, the vote of a majority of all of the members of the Committee, or the written consent of a majority of all the members of the Committee taken without a meeting, shall constitute an act of the Committee.

**Section 5.05. No Waiver of Future Approvals.** The approval or consent of the Committee to any plans or specifications for any work done or

proposed or in connection with any other matter requiring the approval or consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans or specifications or other matter whatever subsequently or additionally submitted for approval or consent by the same or a different Person.

**Section 5.06. Inspection of Work.**

A. Completed Work. Inspection of completed work and correction of defects therein shall proceed as follows:

(1) Upon the completion of any Improvement for which approved plans or specifications are required under this Declaration, the Owner shall give written notice of completion to the Committee.

(2) Within such reasonable time as the Committee may set in its Rules, but not to exceed fifteen (15) days thereafter, the Committee or its duly authorized representative may inspect such Improvement. If the Committee finds that such work was not done in strict compliance with all approved plans and specifications submitted or required to be submitted for its prior approval, it shall notify the Owner in writing of such non-compliance within such period, specifying in reasonable detail the particulars of noncompliance, and shall require the Owner to remedy the same.

(3) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, the Committee shall notify the Board in writing of such failure. The Board shall determine whether there is noncompliance and, if so, the nature thereof and the estimated

cost of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than thirty (30) days from the date of the announcement of the Board's ruling. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Association upon demand for all expenses incurred in connection therewith. If such expenses are not promptly paid by the Owner to the Association, the Board shall levy an Assessment against such Owner and the Improvement in question and the land upon which the same is situated for reimbursement and the same shall constitute a lien upon such land and Improvement and be enforced as provided in subparagraph (A) of Section 6.07. (4) Upon receipt of said written notice of completion from the Owner within the period provided above in subparagraph (2) of this Section and failure of the Committee to notify the Owner of non-compliance as provided in subparagraph (2) of this section the Improvement shall be deemed to be in accordance with said approved plans and specifications. B. Work In Progress. The Committee may inspect all work in progress and give notice of noncompliance as provided above in subparagraph (2) of Section S.07A. If the Owner denies that such noncompliance exists, the procedures set out in subparagraph (3) of Section 5.07A shall be followed, except that no further work shall be done, pending resolution of the dispute,

which would hamper correction of the noncompliance if the Board shall find that such noncompliance exists.

**Section 3.07. Nonliability of Committee Members.** Neither the Committee nor any member thereof nor the Board nor any Member thereof shall be liable to the Association or to any owner or to any other Person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's or the Board's respective duties under this Declaration unless due to the wilful misconduct or bad faith of the Committee or its members or the Board or its Member, as the case may be.

**Section 3.08. Variances.** The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, bulk, size, shape, floor area, land area, placement of structures, plantings trees or shrubs, set-backs, building envelopes, colors, materials, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental consideration may, in its sole and absolute discretion, warrant. Such variances must be evidenced in writing and must be signed by at least a majority of all of the members of the Committee. If such a variance is granted, no violation of the covenants, conditions or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision and in the particular instance covered by the variance, nor to waive any requirement established by the State of New Jersey, Township of Montgomery or other governmental authority.

**Section 3.09. Obligations With Respect To Zoning and Subdivision.** Nothing set out in this Declaratinn shall be deemed to dispense with the

requirement that all Persons comply fully with all applicable zoning, subdivision, building and other governmental resolutions, regulations and codes, except that prior to the submission of any application to any governmental body, such application shall first be reviewed and approved by the Architectural Committee.

## **ARTICLE VI**

### **MISCELLANEOUS**

**Section 6.01. Term.** This Declaration, including all of the covenants, conditions and restrictions hereof, shall run with and bind the land perpetually, unless amended as herein provided.

**Section 6.02. Amendment.** Except as otherwise provided herein, this Declaration may be amended as hereinafter indicated. During the Period of Declarant's Control, amendment shall require the written approval of Declarant, and a majority vote of the Board of Trustees of the Association. Amendment shall be effected by recordation of an instrument setting forth the amendment and including a statement of Declarant's consent, executed and acknowledged by Declarant; and a statement executed and acknowledged by the President and Secretary of the Association certifying that such amendment has been approved according to the terms hereof. After the Period of Declarant's Control, an amendment shall require the approval of sixty-six (66%) percent of the total votes as defined in Section 4.04. An amendment shall be effected by recordation of an instrument setting forth the amendment and shall include a statement executed and acknowledged by the President and Secretary of the Association certifying that such amendment has been approved according to the terms hereof. Evidence sufficient to establish the truth, of the Association certification on any recorded amendatory instrument shall be retained by the Association in its permanent files.

Notwithstanding anything herein to the contrary, for so long as the Declarant or any Developer shall own one or more Lots or Townhouses unsold in the ordinary course of business.

A. Neither this Declaration nor the Certificate or By-Laws of this Association or any Supplemental Declaration may be amended without the Declarant's written consent if the effect of such amendment would be detrimental to any right or interest of Declarant or any Developer.

B. The Declarant shall have the right to amend this Declaration, the certificate or the By-Laws of this Association or any Supplemental Declaration without the requirement of any vote, approval or consent of any Lot or Townhouse member (or mortgagee in the case of an amendment which does not affect the validity of the lien of its mortgage) for any lawful purpose, provided that such amendment is requested by any title insurance company, mortgage lender, prospective mortgage lender, governmental authority or governmental agency.

**Section 6.03. Notice and Period of Cure.** Any notice relating to a breach of any Restriction or any other rule or requirement attaching to any real property within the Association which is permitted or required to be given shall be in writing and shall provide a twenty (20) day period from the date of receipt of such notice in which no action by the Board shall be taken except as provided by law.

In the event any Owner or Member receives a notice as hereinabove provided, there shall be allowed twenty (20) days from the date of receipt of such notice in which to cure the defect or default for which such notice was served except as provided by law.

Except where emergent action is required in the judgment of the Board, during such twenty (20) day period the Association shall take no action with respect to the defect or default for which such notice was served, provided, however, that in the event the party receiving such notice requests advice or assistance from the Association in writing relating to curing the defect or default, the Association may in its sole discretion give such advice or assistance whether within or without the aforesaid twenty (20) day period.

Upon the expiration of such twenty (20) day period and in the event the party receiving notice of a defect or default has failed in the judgment of the Association to have adequately cured such defect or default, the Association shall have the right and power to cure same.

Any and all costs incurred by the Association in curing any defect or default pursuant to this Section shall be and become a lien against the Lot, Townhouse or Unit of the party receiving notice pursuant hereto.

**Section 6.04. Mortgage Protection.** Notwithstanding any other provision of the Restrictions, in the event of foreclosure every lien created under this Declaration, or under any provision of the Certificate or under any of the organizational documents for the Association, shall be subordinate to any first Mortgage of record, or first Deed of Trust of record, or executory land sales contract of record upon a Lot or Townhouse made in good faith and for value. However, after the foreclosure of any such first Mortgage, first Deed of Trust, or executory land sales contract, or after cancellation or forfeiture of any such executory land sales contract, or after any conveyance in lieu of foreclosure, such Lot or Townhouse shall remain subject to the Restrictions and shall be liable for all regular and special assessments levied subsequent to completion of such foreclosure, or cancellation or forfeiture, delivery of such conveyance in lieu of foreclosure, and for all installments of all Assessments

levied prior to completion of such foreclosure, or cancellation or forfeiture, or delivery of such conveyance in lieu of foreclosure, but failing due after such completion, cancellation, forfeiture, or delivery. Nothing herein contained shall extinguish, toll, or otherwise affect the personal obligation of an Owner to pay all Assessments.

**Section 6.05. Effect of Amendments on Mortgages.** No amendment of any provisions of this Declaration nor of any other instrument of the Association shall in any way, affect the priority of any lender or holder of any recorded first mortgage, or recorded first deed of trust, or of any executory land sales contract of record except upon the express written consent of such lender or holder; provided, however, that after the foreclosure of any such first mortgage, first deed of trust, or executory land sales contract, or after cancellation or forfeiture of any such executory land sales contract, or after any conveyance in lieu of foreclosure, the property which was subject to such mortgage deed of trust, or executory land sales contract shall be fully subject to such amendment.

**Section 6.06. Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development and operation of MONTGOMERY WOODS and of promoting and effectuating the fundamental concepts of the MONTGOMERY WOODS HOMEOWNERS ASSOCIATION, INC., as set forth in the RECITALS and DECLARATION of this Declaration. This Declaration shall be construed and governed under the laws of the State of New Jersey and the Township of Montgomery, New Jersey.

**Section 6.07. Enforcement and Nonwaiver.**

**A. Right of Enforcement.** Except as otherwise provided herein, any Owner at its own expense, Declarant, or the Board, shall have the



right to enforce all of the provisions of the Restrictions against any property, Lot or Townhouse within MONTGOMERY WOODS and the Owners thereof. Such right of any Owner to so enforce such provisions shall be equally applicable without regard to whether the land (or other interest) of the Owner seeking such enforcement with respect to which a violation of such provisions is alleged is initially set forth in this Declaration or is hereafter subjected to this Declaration pursuant to Article II.

**B. Violation a Nuisance.** Every act or omission whereby any provision of the Restrictions is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated by any Owner at its own expense, Declarant or the Board, whether or not the relief sought is for negative or affirmative action. However, only Declarant, or the Board and the duly authorized agents of either of them may enforce by self-help any of the provisions of the Restrictions, and then only if such self-help is preceded by reasonable notice to the Owner in question.

**C. Violation of Law.** Any violation of any federal, state or local law, ordinance or regulation pertaining to the ownership, occupancy or use of any property within MONTGOMERY WOODS is hereby declared to be a violation of the Restrictions and subject to all of the enforcement procedures set forth in said Restrictions.

**D. Remedies Cumulative.** Each remedy provided by the Restrictions is cumulative and not exclusive.

**E. Nonwaiver.** The failure to enforce any of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said Restrictions.

**F. Notices.** All notices required or permitted hereunder shall be in writing and shall be effective upon personal delivery to the party to be notified or any officer of such party, or three (3) days after being postmarked in the United States mail, certified return receipt requested postage fully prepaid addressed to the party at the address given by such party to the Association for the purpose of service of notices.

**Section 6.08. Construction.**

**A. Restrictions Severable.** Notwithstanding any of the provisions of the foregoing, each of the provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

**B. Singular Includes Plural.** Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

**C. Captions.** All **captions** and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, Sections or Articles hereof.

**Section 6.09. Conflict of Interpretation Between Organizational Documents.** In the event of a conflict of interpretation between the provisions of the Declaration and the Certificate of Incorporation, this Declaration shall control.

In the event of a conflict of interpretation between the provisions of this Declaration and the By-laws, this Declaration shall control. In the event of

a conflict of interpretation between the provisions of the Certificate of Incorporation and the By-laws, the Certificate shall control.

IN WITNESS WHEREOF this instrument has been executed the date and year first written above.

WITNESS:

DECLARANT:

MONTGOMERY WOOD ASSOCIATES

By: \_\_\_\_\_

**ACKNOWLEDGEMENT**

**STATE OF NEW JERSEY**

**(COUNTY OF                    )**

BE IT REMEMBERED, that on , 1984, before me the Subscriber, personally appeared Alice M. Simson, who, being by me duly sworn on her oath, deposes and makes proof to my satisfaction that she is the Secretary of Calton Homes, Inc., a joint venture general partner of MONTGOMERY WOODS ASSOCIATES, named in the within Instrument; that Anthony J. Caldarone is the President of Calton Homes, Inc. the joint venture general partner of MWA that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of of said entity that deponent well knows the corporate seal of Calton Homes, Inc., the joint venture general partner of MWA and that said Instrument was signed and delivered by said President as and for the act of MWA in presence of deponent, who thereupon subscribed his name hereto as attesting witness.

**SWORN TO AND SUBSCRIBED**

**DEPONENT**

**BEFORE ME, THE DATE**

**AFORESAID.**

\_\_\_\_\_

\_\_\_\_\_

Secretary

**APPROVAL AND ACCEPTANCE**

Pursuant to an authorizing resolution, duly and unanimously adopted by the Board of Trustees of THE MONTGOMERY WOODS HOMEOWNERS ASSOCIATION, INC., a nonprofit corporation, organized and existing under the Laws of the State of New Jersey, the foregoing Declaration of Covenants, Conditions and Restrictions is hereby approved and accepted as binding upon THE MONTGOMERY WOODS, HOMEOWNERS ASSOCIATION, INC. its successors and assigns.

IN WITNESS WHEREOF, The MONTGOMERY WOODS HOMEOWNERS ASSOCIATION, INC. has caused this instrument to be executed this day of , 1984 by its President and attested by its Secretary, and its corporate seal to be hereto affixed.

ATTEST:

MONTGOMERY WOODS

HOMEOWNERS ASSOCIATION, INC.

By: \_\_\_\_\_

\_\_\_\_\_

Secretary

President

STATE OF NEW JERSEY

(COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of, \_\_\_\_\_ 1983,  
before me, the subscriber, \_\_\_\_\_ personally appeared

who, being by me duly sworn on his oath, doth depose and make proof to my satisfaction, that he is the Secretary of THE MONTGOMERY WOODS HOMEOWNERS ASSOCIATION, INC., the corporation named in the within Instrument; that is the President of said corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Trustees of the said corporation, that deponent well knows the corporate seal of said corporation; and the seal affixed to said Instrument is such corporate seal and was thereto affixed, and said Instrument was signed and delivered by said President as and for his voluntary act and deed and as and for the voluntary act and deed of said corporation, in the presence of deponent, who thereupon subscribed his name thereto as witness.

**SWORN TO AND SUBSCRIBED**

**DEPONENT**

**BEFORE ME, THE DATE AFORESAID.**

\_\_\_\_\_

\_\_\_\_\_

**Secretary**

**CONSENT TO THE FILING OF THE MONTGOMERY WOODS  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

The undersigned hereby joins in this Instrument as if the undersigned were the Declarant herein, and consents to the filing and placement of certain covenants, conditions and restrictions on the real property as described in the attached. Montgomery Woods Associates, a joint venture general partnership formed under the laws of the State of New Jersey, having Its principal office at 100 Craig Road in the Township of Freehold, County of Monmouth, State of New Jersey.

The undersigned further consent, appoint and assign to the Montgomery Woods Associates any and all of the undersigned's right, title or interest to act as the Declarant as stated in the attached, The Montgomery Woods Declaration of Covenants, Conditions and Restrictions and perform any and all further acts that may be performed by Declarant pursuant to the terms of the attached The Montgomery Woods Declaration of Covenants, Conditions and Restrictions.

ATTESTED BY:

\_\_\_\_\_

By:\_\_\_\_\_

**ACKNOWLEDGEMENT**

STATE OF NEW JERSEY

(COUNTY OF . )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 1982, before me, the subscriber, personally appeared \_\_\_\_\_ who, being by me duly sworn on his oath, doth depose and make proof to my satisfaction, that he is the Secretary of THE MONTGOMERY WOODS HOMEOWNERS ASSOCIATION, INC., the corporation named in the within Instrument; that \_\_\_\_\_ is President of said corporation; that the execution as well as the making of this Instrument, has been duly authorized by a proper resolution of the board of trustees of the same corporation, that deponent well knows the corporate seal of said corporation; and the seal affixed to said Instrument is such corporate seal and was thereto affixed, and said Instrument was signed and delivered by said President as and for his voluntary act and deed and as and for the voluntary act and deed of said corporation, in the presence of deponent, who thereupon subscribed his name thereto as witness.

Sworn to and subscribed before me, \_\_\_\_\_ the date aforesaid.

\_\_\_\_\_

This Declaration of Covenants, Conditions and Restrictions was prepared by:

Michael J. Feehan, Esquire  
BRENER, WALLACK & HILL  
2-4 Chambers Street  
Princeton, New Jersey 08540

Recorded and Returned to:  
Michael J. Feehan, Esquire  
BRENER, WALLACK & HILL  
2-4 Chambers Street  
Princeton, New Jersey 08540