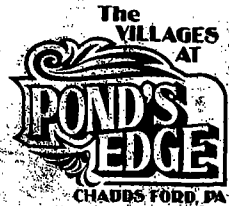


**DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR
THE VILLAGES AT POND'S EDGE
PENNSBURY TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**



PREFACE

Pond's Edge Corporation, Inc., a Pennsylvania Corporation, ("Declarant") is the owner of a certain tract of ground, located in Pennsbury Township, Chester County, Pennsylvania. Declarant presently intends to develop the property pursuant to a final subdivision plan recorded in Chester County as Plan No. 7015 to 7017, inclusive. It is intended that each building lot shall be separately conveyed and owned but that the open space will be conveyed to an association comprising the lot owners and will be maintained and operated by the association.

Therefore, Declarant intends to create a Pennsylvania corporation to be the community association for the Tract. Membership in the association shall be automatically held by the owners of each lot for which Declarant has created a membership. Each owner of a lot to which a membership in the association is appurtenant shall be subject to the assessments of the association for that lot's proportionate share of the funds necessary for the association to perform its obligations and duties. The association shall have the power and authority to lien each lot, and its owners, for payment, in the event of non-payment of assessments.

Declarant intends the lots to be developed over a period of time. Therefore, this declaration shall apply to only those lots, and portions of open space, which Declarant, or its Successor Declarant (as that term is hereinafter defined), has specifically submitted to this declaration pursuant to the process set forth in this declaration. Until the time it is submitted to this Declaration, as aforesaid, each lot shall not be encumbered or governed by this Declaration. However, once a lot has been submitted, the provisions of this Declaration shall bind said lot and shall run with and against it as a covenant running with the land.

NOW THEREFORE,

Declarant does hereby declare and covenant for itself, its successors and assigns, that the certain tract of ground situated in the Township of Pennsbury, Chester County, Pennsylvania, being more fully described in Exhibit A hereto, is hereby and hereafter subject to the terms, covenants, and restrictions hereinafter set forth; subject, however, to the provisions governing the submission of portions of said property to the covenants and restrictions hereinafter set forth in ARTICLE II hereof, all as more fully set forth herein;

ARTICLE I - DEFINITIONS

The following words and terms when used in this Declaration shall have the following meanings:
"Declaration" shall mean and refer to this Restrictive Covenant Agreement for the Tract.

2. "Declarant" shall mean and refer to Pond's Edge Corporation and shall include Successor Declarant.

3. "Successor Declarant" shall mean each entity to which Declarant shall have specifically, by writing, assigned or conveyed any, or all, of Declarant's rights, interests or obligations as Declarant hereunder.

4. "Association" shall mean and refer to the Association of lot owners established hereby and to the Pennsylvania corporation incorporated by, or on behalf of, Declarant for the purpose of organizing the Association as a legal entity.

5. "Plan of Development" shall mean and refer to the plan for development of the Tract, prepared for Declarant, by Brandywine Valley Engineers, Inc., approved by the Board of Supervisors of Pennsbury Township, and recorded in Chester County as Plan No. 7015 to 7017, inclusive, and any and all amendments, additions, revisions or deletions to or from said plan, including as-built plans of the development, or sections thereof.

6. "The Tract" shall mean and refer to the residential community to be constructed pursuant to the Plan of Development.

7. "Lot" shall mean and refer to such residential lot in the Tract which has been submitted to this Declaration pursuant to ARTICLE II hereof.

8. "The Property" shall mean and refer to that certain parcel owned, at the date of this Declaration, by Declarant and described by metes and bounds in the Deed dated October 2, 1986, from The Estate of Oscar K. Burns, deceased, et al to Pond's Edge Corporation recorded in Chester County in Record Book 494, page 569.

9. "Open Space" shall mean and refer to all those portions of the Tract which are intended to be owned by The Association and have been submitted to this Declaration pursuant to ARTICLE II hereof.

10. "Membership" shall mean and refer to the unit of ownership interest in the Association.

11. "Member" shall mean and refer to each owner of a Membership in the Association. If a membership is owned by joint-tenants, or tenants by the entireties, the joint-tenants, co-tenants or tenants by the entireties shall collectively comprise a single Member.

12. "Owner" shall mean and refer to the legal owner of the fee simple title to a Lot in the Tract. If a Lot is owned by joint-tenants, co-tenants, or tenants by the entireties, the joint-tenants, co-tenants or tenants by the entireties shall collectively comprise a single Owner. The mortgagee of a Lot shall not be an Owner unless or until such mortgagee has acquired fee title to the Lot.

ARTICLE II - SUBMISSION OF PROPERTY

1. It is the intention of this Declaration that the covenants and restrictions contained herein shall encumber and bind only those portions of the Property that may hereafter be submitted hereto by act of the Declarant, or authorized Successor Declarant, pursuant to this ARTICLE. Declarant shall not be obligated to submit any Lots or Open Spaces to the Declaration or to continue making submissions once begun, provided, however, that once any lots are submitted to

the Declaration, an amount of Open Space shall likewise be submitted in accordance with the terms of approval of the Plan of Development by the Board of Supervisors of Pennsbury Township and as required by the terms of the township's zoning ordinance.

2. Open space shall be submitted to this Declaration by and upon the conveyance thereof by Declarant, or an authorized Successor Declarant, to the Association. Each such conveyance shall submit only the Open Space described in that deed of conveyance. Thereafter, the Open Space conveyed to the Association shall be held, transferred, sold, conveyed, managed, and occupied subject to the covenants, restrictions and provisions (a) of this Declaration; (b) the Pennsbury Township Zoning Ordinance as amended and (c) by the Plan of Development and all terms and conditions of the approval thereof.

3. Lots shall be submitted to this Declaration by Declarant, or an authorized Successor Declarant, by the Recording, in the Office For the Recording of Deeds in and for Chester County, of a "Notice of Submission of Lots." Each Notice of Submission of Lots shall contain (a) a statement of the number of Lots being submitted; (b) the lot numbers from the Plan Development of the Lots being submitted; (c) a statement of the total number of submitted Lots existing immediately after said submission; and (d) a statement that the Lots therein described are submitted to this Declaration. Thereafter, the Lots so submitted shall be held, transferred, sold, conveyed, managed and occupied subject to the covenants, restrictions and provisions of this Declaration.

ARTICLE III - DECLARANT'S RIGHTS AND EASEMENTS

1. Declarant reserves to itself and Successor Declarants the following rights in addition to any other rights reserved:

(a) To change the size, location or configuration of any Lot or Lots from that shown on the Plan, provided that such right will not exist with respect to any Lot, legal title to which is not held by Declarant.

(b) To change the size, location or configuration of the Open Space, and the roads, utilities, facilities and other improvements and easements thereon, from that shown on the Plan, provided that such change does not materially affect the beneficial use of the Open Space by Owners of Lots subject to this Declaration.

(c) To develop or improve any portion of the property, except Lots owned by persons other than Declarant, in any manner permitted by the zoning ordinance of Pennsbury Township then in effect.

Rights reserved above shall cease and terminate on the sale and conveyance of 120 houses in the Tract by Declarant to persons other than Declarant or a Successor Declarant.

2. Declarant reserves to itself and Successor Declarants the following easements:

(a) Right to Develop and Sell - Until the first day on which Declarant shall not hold legal title to any Lot or any other part of the Property, the Declarant may make use of all or any part of the Property, except Lots whose legal title is held by person other than Declarant, which is consistent with the development and improvement thereof according to the Plan of Development at the time of reference, and the sale or rental of Lots, and houses thereon, without regard to any limitations on use contained elsewhere in this Declaration, including by way of illustration and not of limitation, the use and storage of construction equipment and materials, maintenance of one or more construction offices and one or more administrative, sales or rental offices, the use of one or more sample houses as models and the use of appropriate signs. In the exercise of this right, Declarant shall have the further right to designate temporary construction easements for the exclusive use of Declarant, its employees, agents and contractors, as Declarant may from time to time deem desirable, provided that such easements shall not unreasonably interfere with access to and use of any Lot whose legal title is held by a person other than Declarant.

ARTICLE IV - THE ASSOCIATION

1. **Affairs of the Association.** The Association, which may be organized as a non-profit corporation under the laws of the Commonwealth of Pennsylvania, is charged with the duties and empowered with the rights as set forth in its Articles of Incorporation, its By-Laws and this Declaration. The affairs of the Association shall be governed by its Articles of Incorporation, its By-Laws and this Declaration.

2. **Membership.** The Association shall have two classes of Membership:

(a) **Class A Membership.** Each Owner, including Declarant and any Successor Declarant, of a Lot which has been submitted to the Declaration pursuant to ARTICLE II hereof shall be a Class A Member. Each Class A Membership shall be appurtenant to, and not severable from, ownership of a Lot, and shall be held in the name of the title owner of said Lot, whether or not that Lot is owned jointly, in common or in any other form of tenancy. Each Lot shall have one, and only one, Membership regardless of the number of co-tenants, joint-tenants or tenants by the entireties with interest in said Lot.

(b) **Class B Membership.** Declarant, and any Successor Declarants to which Declarant has assigned all, or part, of Declarant's Class B Membership, shall be the sole Class B Member(s). The Class B Membership may be freely assigned to Declarant or any Successor Declarant.

3. **Duration of Membership.** Each Class A Membership shall initially commence upon the Recording of the Notice of Submission of Lots for that Lot, and shall be initially held by the Declarant or other title holder of said Lot at the time of Recording of Notice. Thereafter, the Membership shall transfer to each successive Owner of the Lot as an appurtenance of legal title. Class B Membership shall commence upon the Recording of the Declaration and shall terminate upon the conveyance by Declarant, or a Successor Declarant, of the final Lot intended to be

conveyed in the Tract pursuant to the then existing Plan of Development.

4. **Voting.** Each Class A Member shall be entitled to one vote on all matters on which Class A Members are entitled to vote. Class A Members shall not be entitled to cumulative voting for the election of directors. The Class B Member or Members shall be entitled to a total of one hundred twenty-three (123) votes on all matters on which Class B Members are entitled to vote.

Board of Directors. The Association shall have a Board of Directors comprised of three persons elected annually by the combined vote of the Class A and Class B Members (so long as such Members shall exist). The Board of Directors shall conduct the business of the Association.

6. **Powers and Duties of the Association.** The Association shall have the duty, obligation and the sole and exclusive power and right:

(a) To own, operate, maintain, repair, restore, manage and improve all Open Space deeded to it such as, but not limited to, the entrance way and structures thereon, if any, storm water facilities, sanitary sewer system, if any, landscaping, street lighting, emergency accessway, and the existing pond; provided, however, that each Owner shall be responsible for snow removal and routine upkeep of the walks and driveway, of which Owner has exclusive use under ARTICLE V(2)(b) below;

(b) In addition to maintenance upon the Open Space, the Association shall provide exterior maintenance of the house upon each Lot as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, patios, porches, decks, overhangs, and other exterior improvements. Such exterior maintenance shall not include glass surfaces.

In the event that the need for maintenance or repair of the improvements on a lot is caused through the willful or negligent acts of its owner, or through the willful or negligent acts of the family, guests, tenants or invitees of the owner of the improvements needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

(c) To determine its own expenses and necessary reserves and to raise all monies required therefor by levying upon, and collecting assessments against, the Members and the Lots; and,

(d) To establish, promulgate, amend, repeal, distribute, approve, reject and enforce rules governing the use and occupancy of Open Space deeded to it; and,

(e) To bring, prosecute, defend and settle litigation for or against the Association, and to satisfy any adverse judgment entered against it; and,

(f) To otherwise perform and conduct all duties and powers imposed upon or granted to it by this Declaration, the By-Laws or any other document relating to the Association (including the power and duty to enforce this Declaration with respect to each Lot).

(g) To maintain those certain portions of land granted by Richard King and Kathryn King to Pennsbury Township and by Roman Fyk and Joan Fyk to Pennsbury Township at or near the intersection of Pond's Edge Road and Baltimore Pike, and which are not utilized for Pond's Edge Road.

the performance of those duties and powers, the Association, inter alia, shall:

(a) Maintain all Open Space owned by it, including storm water management and sanitary sewer facilities, in good repair and shall make all repairs, restorations and improvements necessary to so maintain said Open Space; and,

(b) Make, or provide for, all capital improvements to the Association owned Open Space, provided that the Board of Directors and 75% of the then Class A Membership deem them necessary and desirable; and,

(c) Take and carry out all actions reasonably necessary and proper to enforce the provisions of this Declaration; and,

(d) Secure and maintain policies of liability insurance insuring against its liability as owner and operator of the Association owned Open Space; and,

(e) Perform any other acts necessary or proper to carry out any of the duties and obligations of the Association.

ARTICLE V - PROPERTY RIGHTS IN THE OPEN SPACE

1. **Owner's Easements of Enjoyment.** Subject to the provisions of Article III and Section 2 of this ARTICLE V, every Owner shall have a right and easement of enjoyment in and to the Open Space owned by the Association in common with the other Owners and such easement shall be appurtenant to and shall pass with the title to every Lot. Use and benefit of the easement shall inure to the Owner, lessee or occupant of the Lot and their family and guests.

2. **Extent of Members' Easements.** The rights and easements of the enjoyment created in Section 1 above shall be subject to the following:

(a) Ownership of each Lot shall entitle the owner or owners thereof to the use of not more than 2 automobile parking spaces, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking area. The Association shall permanently assign 2 vehicle parking spaces for the exclusive use of each Lot.

(b) The Owner of each Lot shall have the exclusive right to use the entrance-walks, porches, patios, decks, and driveway which directly adjoin the Lot, and also the yard area extending outward perpendicularly front of the Lot to the sidewalk, street curb, or distance of 15 feet, whichever is less, and from the rear of the Lot to the sidewalk, street curb or distance of 25 feet, whichever is less, and from the side of an end Lot to the sidewalk, street curb, or distance of 25 feet, whichever is less. These exclusive rights shall be considered easements that run with the Lot and shall last in perpetuity. No building, structure, paving, planting, alteration or decoration may be constructed, erected, placed or planted on the easements without the written approval of the Board of Directors.

(b) The Owner of each Lot shall have an easement for the exclusive use of the entrance-walks, and driveway which directly adjoin the Lot, and also the yard area extending outward perpendicularly front of the Lot to the sidewalk, street curb, or distance of 15 feet, whichever is less, and from the rear of the Lot to the sidewalk, street curb or distance of 25 feet, whichever is less, and, with respect to an end Lot, also the yard area extending from the end-side of the Lot to the sidewalk, street curbing, or distance of 25 feet, whichever is less, and the corner areas included between the said front, side, and rear yards. Also, the Owner of each Lot shall have the exclusive right to use, possess, repair, restore, and rebuild all improvements appurtenant to the Lot, as built by the developer, including without limitation roofs,

gutters, patios, decks, balconies, overhangs and porches, which extend onto or over the Open Space; and even if attached to or supported by the Open Space, and even if maintained by the Association; the said improvements shall be the property of the Lot Owner alone. These easements and rights shall run with the Lot in perpetuity. Nothing in these easements and rights, however, shall give any Owner the right to place, erect, alter or remove any building, structure, plant, landscaping, or paving, without the written approval of the Board of Directors, as required by the Declaration.

(c) The rights of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Open Space owned by it and in aid thereof to mortgage said Open Space, and the rights of such mortgagee in said properties shall be senior to the rights of the Owners hereunder;

(d) The right of the Association to take such steps as are reasonably necessary to protect the Association owned Open Space against foreclosure;

(e) The right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any Member for any period during which his assessment remains unpaid, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, if any;

(f) The right of Pennsbury Township to enforce the obligations of the Association herein imposed, including the right of entry to and upon the Open Space to remedy any breach of any such obligation by the Association;

(g) The right of the Association to charge reasonable admission and other fees for the use of any capital improvements hereafter constructed by it in the Open Space owned by the Association;

(h) The right of the Association to dedicate or transfer all, or any part, of the Open Space owned by it to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast two-thirds of the votes of the Class A Membership and two-thirds of the votes of the Class B Membership, if any, has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the action is sent to every Member at least sixty (60) days in advance of any action taken; and,

(i) The right of the Declarant, and of the Association, to grant and reserve easements and rights-of-way through, under, over and across the Open Space owned by the Association, and appurtenances for public or private water, sewer, drainage, fuel oil, cable-television, and other utilities, and for exclusive use in construction by Declarant, or any Successor Declarant, of improvements, of any kind, on the Property.

3. **Rights Subject to Zoning Ordinance.** Notwithstanding anything herein to the contrary, the property rights of each Owner, Member, the Association, Declarant and any Successor Declarant shall be subject to the restrictions upon the Open Space, and any use or transfer thereof, and the rights of Pennsbury Township, both as set forth in the Zoning Ordinance and the Subdivision and Land Development Ordinance of Pennsbury Township, and any amendments thereto.

ARTICLE VI - ASSESSMENTS

1. **Creation of the Lien and Personal Obligation.** Declarant, as title owner of the Property at the date hereof, hereby covenants and decrees, on its own behalf and on behalf of its successors and assigns, (1) that hereafter each Owner of a Lot, who is a Class A Member, shall pay, and shall be liable for payment, to the Association all assessments, whether annual or special, as each is hereinafter defined, fixed, established and collected by the Association from time to time during the period that the Owner is a Class A Member, pursuant to the terms of this Declaration or the By-Laws of the Association, and (2) that the respective Lot owned by each Class A Member shall be subject to an in rem charge and continuing lien upon and against it for the payment of said assessments, and any interest or penalties thereon and all costs of collection thereof, by the Owner/Class A Member. Each Owner, by acceptance of a deed for his Lot or other evidence of ownership thereof, whether or not it shall be so expressed therein, shall be deemed by said acceptance to covenant and agree to pay the Association all assessments chargeable to the said Lot and Owner (from the commencement of his Class A Membership); all as set forth herein.

2. **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the discharge of the powers and duties of the Association including, inter alia, the improvement and maintenance of Open Space, the payment of taxes and insurance thereon, and repair, replacement, and additions thereto, exterior maintenance of each Lot and the improvements thereon, and for the cost of labor, equipment and materials in the management and supervisor thereof.

3. **Basis and Maximum of Annual Assessments.** Commencing with the first Class A Membership and until January 1 of the year immediately following such the annual assessment, for each Class A Member shall be at the annual rate of \$1,500.00 pro rata for Memberships created during the year. From and after January 1, 1988, the annual assessment may be increased or decreased, as hereinafter provided. Assessments shall be uniform.

It shall be an affirmative obligation of the Association and its Board of Directors to fix such assessments at an amount sufficient to maintain and operate the Open Space and facilities.

The Class B Member(s) shall be exempt from the payment of any annual assessment or charge unless the annual assessments levied upon the Class A Members shall be insufficient in the aggregate to cover the actual costs of performing the obligations and duties imposed upon the Association in this Declaration or its By-Laws. In case of any such insufficiency, the Class A Member(s) shall be responsible for the payment of same in an amount not to exceed the product of the annual assessment charged each Class A Member multiplied by the number obtained by subtracting the total of all then existing Class A Memberships from 120.

4. **Special Assessments.** In addition to the annual assessments authorized by Section 3 of ARTICLE VI, the Association may levy in any assessment year special assessment (which, so long as the Class B Membership still exists, must be fixed at a rate that assesses each Class A Member 1/120th of the special

assessment and the Class B Member(s) the remainder of the special assessment) applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Open Space owned by the Association including the necessary fixtures and personal property related thereto or for any insolvency in the annual assessment to cover actual costs, as described in Section 5 above which still remains after assessment of an annual assessment against the Class B Member(s), if any. No special assessment shall be made for construction of any capital improvement unless said assessment shall be approved by vote of at least 75% of the then existing Class A Membership.

5. Payment of Assessments. All annual assessments shall be levied on or before December 31 each year for the immediately following year, and shall be due and payable by each Member in monthly or other convenient installments beginning on January 1 immediately following thereafter. All Special Assessments shall be due and payable one month from the date they are levied unless the Board of Directors shall designate a later, or installment, due date(s) in the resolution authorizing such assessment.

No annual or special assessment, or pro-rata portion thereof, shall be returned upon transfer of Membership. It shall be the responsibility of the selling and buying parties to agree between themselves on the proration of any installment paid. However, each Class A Member whose Lot becomes initially subject to Membership during any year shall immediately become liable to pay the pro-rata portion of the annual assessment due for the remainder of the year in monthly installments as above.

6. Duties of the Board of Directors. The Board of Directors of the Association shall, subject to the requirements of Section 5, above, fix the amount of the assessment against each Member uniformly for each assessment period in advance of such date or period.

Written notice of the assessment shall thereupon be sent to every Member subject thereto.

The Association shall, upon demand at any time, furnish to any Member, liable for said assessment, a certificate in writing signed by an Officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be prima facie evidence of payment of any assessment therein stated to have been paid.

7. Capital Contribution. In addition to Assessments paid to the Association under this ARTICLE, each initial purchaser of a Lot from Declarant shall, at settlement, pay to the Association \$250.00 or such other amount as Declarant may from time to time determine to provide operating capital. The contribution shall not be repaid by the Association. The contribution shall be deemed to be transferred with legal title to the Lot in all subsequent conveyances thereof.

8. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner; The Lien; Remedies of Association. If any assessment is not paid on the date when due (being the dates specified in Section 5 hereof), then such assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, continue as a lien on the Lot which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner/Member to pay such assessment, however, shall remain his personal obligation and shall not pass to his successors in title as a personal obligation unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of six percent per annum and the Association may bring legal action against the Owner/Member personally obligated to pay the same or may enforce or foreclose the lien against the Lot; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court together with the costs of action.

9. Subordination of the Lien to Mortgages and Municipal Liens. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages or municipal liens now or hereafter placed upon the Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lien of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

10. Exempt Property. All portions of the Property not yet submitted to this Declaration pursuant to Article II shall be exempted from the assessments, charge and lien created herein.

11. Year End Surplus. (a) If the Board of Directors should determine that any retained surplus of assessment income over expenses actually paid constitutes taxable income to the Association for any assessment year, the Board may direct distribution of said surplus in accordance with Section (b) hereof; (b) If at the end of any year, the Association shall have spent, including accrued expenses, less than the income received by it from assessments of otherwise, and if the Board of Directors shall determine, pursuant to Section (a) above that said excess should be distributed to avoid taxation thereon, the Association shall distribute the excess to all Class A and Class B Members in proportion to their actual payments of assessments to the Association during that year, subject, however, to Section 12 of this ARTICLE. For the purposes of this Section, monies budgeted and collected for future repair and replacement of Open Space facilities shall be deemed to have been spent in the year collected, and shall not be distributed as surplus. Each Member receiving a distribution may, at his option, receive such distribution either as a direct refund or as a credit to apply to the corresponding monthly installments, or the appropriate portion thereof, for the next year. Such election must be made in writing to the Association.

12. Reassessment of Uncollectable Assessments. In all cases where all or any part of any annual or special assessment cannot be promptly collected from any Member or Members liable therefor, the Board of Directors shall reassess the same as an insolvency pursuant to Section 3 and 4 of this ARTICLE. Any Member or Members who have paid a reassessment made pursuant to this Section 12 shall

be reimbursed, to the extent possible, as follows:

(a) From the monies, net of collection expenses, thereafter recovered by the Association in collection of the unpaid assessment; or,

(b) From the year end surplus, if any, prior to distribution pursuant to Section 11(b) above.

Any monies recovered, net of collection expenses, subsequent to full reimbursement pursuant to (a) and/or (b) above, shall be income to the Association in the year recovered.

ARTICLE VII - PARTY WALLS

1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VIII - RESTRICTIONS

The following restrictions shall apply to all Open Space and all Lots submitted to the covenants and restrictions of this Declaration pursuant to Article II and shall run with the land thereafter.

a. No building, fence, wall or other structure, and no planting, landscaping or paving, shall be commenced, erected, remodeled, or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an Architectural Control Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such plans and specifications within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this provision will be deemed to have been fully complied with.

b. No animals, livestock or poultry of any kind shall be raised, bred or kept in any part of the Property, except that dogs, cats or other domesticated household pets may be kept on a Lot provided that they are not bred, maintained or kept for any commercial purpose, are not noisy, dangerous, or otherwise a nuisance, and provided that not more than two pets in the aggregate may be kept on a Lot. No domestic animals, including pets permitted to be kept on a Lot under this provision, shall be permitted to run loose or to be left unattended by the Owner in any part of the Open Space. Permitted pets may be walked only in those parts of the Open Space and in the manner prescribed by rules and regulations adopted from time to time by the Association.

c. No commercial or other non-passenger vehicle of any type, and no unlicensed motor vehicles of any type shall be permitted to remain overnight on the Property unless garaged, other than as may be used by persons currently performing services or improvements to the premises.

d. No trailer, tent, outbuilding or structure of temporary nature shall be used at any time as a residence on the Property. No recreational vehicle, trailer (whether occupied or not), or boat, shall be parked on the Property overnight.

e. No sign of any kind shall be displayed to the public view on any Lot except a family name sign of not more than one hundred and forty-four (144) square inches, and one (1) temporary sign of not more than six (6) square feet, advertising the property for sale or rent. No such sign shall be illuminated.

f. No Owner shall make any use of his Lot which violates the zoning ordinance of Pennsylvania Township, or creates a nuisance and/or which is dangerous. No structure upon any Lot shall be used for manufacturing, business trade, sales activities, or any use other than residential use.

g. Open Space shall be for the common use and benefit of the Owners and shall be used only for open space, and recreation, and for common facilities including streets, parking areas, sanitary sewage disposal, storm water management, public water, gas and electricity, and similar public or private utilities.

h. A portion of an existing lake is situate within the Open Space. By agreement among all of the owners on the lake, dated November 27, 1984, said lake may not be used by the Owners, their guests or invitees for any recreational purpose, including, boating, swimming or fishing.

i. Nothing contained herein shall be construed to prohibit building, advertising and displaying to the public sample houses as authorized by Declarant, its successors and assigns.

ARTICLE IX - MISCELLANEOUS

1. Enforcement. The Association, Declarant, or any Owner of a Lot submitted

to this Declaration pursuant to, ARTICLE II shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction; to restrain violations; to require specific performance and/or to recover damages; and the Association shall have the right to proceed against the land to enforce any obligations created by these covenants. The failure by the Association, the Declarant, or any Owner, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Any Member of the Association shall have the right to enforce the obligations, imposed by this Declaration or the By-Laws of the Association, upon the Association or its Board of Directors by proceeding in law or equity to restrain any violation and/or to require specific performance of any obligation or duty. The provisions of this Declaration and of the Plan of Development shall also run in favor of Pennsbury Township and shall be enforceable in law or in equity by said Township, without limitation on any powers of regulation otherwise granted the municipality by law. Pennsbury Township is hereby granted an easement over and upon the Open Space for the purpose of exercising any right granted it by this Declaration.

2. **Amendment.** This Declaration may be amended or modified at any time or from time to time, by Declarant, upon due recording in Chester County, Pennsylvania, of a document validly executed by Declarant setting forth the amendment thereto. After the termination of Class B Membership pursuant to this Declaration, the Class A Members of the Association may amend this document by resolution adopted by at least 75% of said Members; provided, however, that said Members may not amend or modify either the provisions contained herein requiring the Association to maintain, repair and restore Open Space owned by it, or the provisions requiring Membership and establishing the duty of Members to pay assessments to the Association, including the lien against a Member's respective Lot for payment thereof, or any provision extending rights to Pennsbury Township without first obtaining its written approval.

3. **Notices.** Any notice required to be sent to any Member under the Provisions of this Declaration shall be deemed to have been properly sent when mailed postage paid to the Member at the mailing address of his Lot.

4. **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions hereof, and they shall remain in full force and effect.

5. **Binding Effect.** The provisions of this Declaration shall, pursuant to the terms, inure to the benefit of, and bind, the Property, Declarant, the Association, all Owners, all Members, all other persons, entities or property benefited or bound by the specific terms hereof and the respective heirs, administrators, executors, successors and assigns of each of them.

6. **Transfer of Open Space.** The Association shall not dispose of any part of the Open Space by sale or otherwise except for (i) disposition as a whole to a person or entity or group conceived to own and maintain the Open Space and which shall covenant to own and operate the Open Space consistently with this Declaration, or (ii) disposition by dedication of all or any part or parts thereof to an appropriate governmental body, authority or public utility company.

Special Provisions Relating to Sewer Facilities

a. The Declarant, or its successors and assigns, shall, at its expense, design, layout and construct and obtain all necessary approvals for the sanitary sewage collection and disposal system to service the Lots on the Property prior to conveying the sanitary sewage system to the Association. Upon conveyance of the sewer facilities and disposal system to the Association, Declarant's responsibility therefor shall cease and determine. The sewer facilities and disposal system shall be constructed in accordance with the final plans as approved by Chester County Health Department and other appropriate governmental agencies. In that respect, any and all construction, maintenance, repair and/or reconstruction of any such system shall be in full compliance with the rules and regulations of the Chester County Health Department pursuant to the Pennsylvania Sewage Facilities Act and the Declarant and Members of the Association acknowledge this requirement.

b. The Association shall contract for the inspection, operation and maintenance of the sewer facilities and disposal system (or shall assume responsibility under an existing contract if same does exist) and shall assure the continued maintenance, repair and lawful operation of the same, all of which shall be part of the Common Expenses and an annual report of income and expenses shall be submitted to the Township. The obligation so to do shall exist in perpetuity as long as the system has not been deeded over to Pennsbury Township or any other agency, authority or public utility on its behalf. Interim operation by the Township shall not be deemed to be a deed over for this purpose and shall not relieve the Association of the responsibility and liability for costs and expenses in the operation and maintenance of the system by the Township or its agents.

c. All costs of operation and maintenance of the sewer facilities and disposal system, including, but not limited to the replacement of beds and pumps as and when the same may be necessary and the repair of any and all lines, whether within or without the rights-of-way of public roads and also including but not limited to appropriate reserves for repair, replacements, operation and maintenance shall be assessed among the Owners as set forth herein. The Association shall prepare an annual budget showing the anticipated sewage disposal expenses for the forthcoming year. There shall be added to this amount a contingency reserve of twenty-five (25%) percent and a capital reserve of twenty-five (25%) percent. The total of the anticipated expenses plus appropriate contingency and capital reserves shall constitute the assessable expenses for sewage disposal for that term, and each Owner shall be billed for his proportionate share as set forth herein in addition to any other assessment and charge for Common Expenses.

d. In the event that the Association fails to maintain and operate the said sewer facilities and disposal system, Pennsbury Township may, but shall not be obligated, either by its agents, servants, employees or contractors to operate and maintain the said system at the cost and expense of the Association as long as the Township, in its sole discretion, deems necessary in order to assure the performance of the Association's obligations. The cost of operation shall continue to be assessable against the Owners as herein set forth and the assessments for such operation and maintenance may be made directly by the Township against the Owners and their Lots as provided herein.

e. The Association shall not encumber by lien, charge or otherwise any of the

lands upon which the disposal system is constructed nor the facilities or disposal system in any manner whatsoever and the obligations of the Association created hereby shall, upon recording in the Office of the Recorder of Deeds in and for Chester County, be deemed senior and paramount to any other obligation of any nature or description whatsoever.

f. In the event that the Association shall fail, for any reason whatsoever to provide continuous sewage treatment service through said facilities to the Lots, or fail to repair any facility breakdown malfunction in said system for a period in excess of fifteen (15) days, then the Association shall bear all responsibility for said operation and/or facility repairs in conformance with the Pennsylvania Sewage Facilities Act and the Association's responsibility.

g. Any provision to the contrary notwithstanding, the legal owner of the sewer facilities, whether Declarant or the Association, as the case may be, shall remain liable for purposes of indemnification or contribution for financial responsibility during any period including and beyond said fifteen (15) day period until the date said facility is restored and/or repaired to proper functioning condition. Such indemnification shall be in favor of the party or parties providing and/or bearing the cost of sewage treatment during the period in question, however, said indemnification shall only exist in the event of negligence of the Declarant or Association, as the case may be. Negligence shall not exist if the failure and deficiency of Association is due to a lack of funds which occurs as a result of Owner's failure to pay their appropriate assessments, whether regular assessments or special assessments, all as provided for herein.

8. **Assigns and Successors of Declarant.** The rights and obligations of Declarant contained herein, inure to and bind it in its capacity as developer of the Property. Therefore, these rights and obligations shall not, unless specifically set forth herein (as, for example, the obligation, and lien, of Class A assessments, inure to the benefit or bind, successors in title to the Property, or any portion thereof, unless the document of conveyance thereof, or another duly recorded document executed by Declarant, wholly or partially assigns the obligations and/or benefits of Declarant in this Declaration to said successor in title.

9. **Encroachments.** If construction, reconstruction, repair, or shifting, settlement or other movement of any portion of any Lot or other improvement results in either the Open Space encroaching on any Lot, or in a Lot encroaching on the Open Space or another Lot, a valid easement shall exist for both the encroachment and its maintenance so long as such encroachment exists.

10. **Recording.** This Declaration shall be forthwith recorded in the Office for the Recording of Deeds in and for Chester County, Pennsylvania.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal this
day of _____ 19 ____

ATTEST

ATTEST

POND'S EDGE CORPORATION
By: _____

APPROVED: (As its interest may appear)
COTTCO, INC.
By: _____

"Exhibit A"

DESCRIPTION AND RECITAL

ALL THAT CERTAIN lot or tract of land, Situate in the Township of Pennsbury, County of Chester and State of Pennsylvania, bounded and described according to a Master Plan for The Village of Pond's Edge, made by Brandywine Valley Engineers, Inc., Consulting Engineers and Land Surveyors, dated 2/5/1986 and last revised 5/28/1986 as follows, to wit:

BEGINNING at an interior point on the Northeast side of Pond's Edge Drive (unopened) in line of lands now or late of Richard M. King (as shown on said Plan); thence extending from said beginning point along lands now or late of Richard M. King and partially along Pond's Edge Drive and Nelson P. Adams the three following courses and distances (1) South 25 degrees 38 minutes East, 116.00 feet to a point; (2) North 64 degrees 22 minutes East, 20.00 feet to a point and (3) South 25 degrees 5 minutes 20 seconds East, 1031.66 feet to a stone corner of lands now or late of Ronald D. Carpenter; thence extending along the same South 87 degrees 21 minutes 10 seconds West, 1792.47 feet to a point a corner of lands now or late of Rodney M. Layton; thence extending along the same the two following courses and distances; (1) North 10 degrees 47 minutes 10 seconds West, 871.21 feet to a point and (2) North 3 degrees 59 minutes 50 seconds West, 290 feet to a point; thence extending South 88 degrees 44 minutes 51 seconds East, crossing an existing 25 feet wide right of way 350.68 feet to a point; thence extending South 52 degrees 12 minutes 51 seconds East, 282.92 feet to a point; thence extending North 38 degrees 25 minutes East, 211.34 feet to a point; thence extending South 88 degrees 44 minutes 51 seconds East, crossing a stream of water and the bed of Pond's Edge Drive, 762.82 feet to the first mentioned point and place of beginning.

Being the same premises which the estate of Oscar K. Burns, deceased, et al, by deed, recorded at West Chester, in the office of the Record of Deeds, in Record Book 494 page 569, granted and conveyed unto Pond's Edge Corporation, in fee