

DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS

TALCOTT WOODS OWNERS ASSOCIATION, INC.

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DECLARATION OF PROTECTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS.

TALCOTT WOODS OWNERS ASSOCIATION, INC.

THIS DECLARATION, made this _____ day of _____, 1977, by CAWLEY CAPITAL, LTD. a New York Corporation, having its principal place of business at 33 Lincoln Avenue, Town of Rye, Port Chester, New York.

BACKGROUND TO THIS DECLARATION:

1. The Declarant is the fee owner of the premises described on Schedule A attached hereto and made a part hereof, said premises being designated and known as "TALCOTT WOODS", said premises and any additions thereto as may be made from time to time pursuant to this Declaration being referred to as "the Property".

2. The Declarant wishes with respect to the premises described in Schedule A to add certain covenants, conditions, and restrictions to preserve, protect and enhance the specific values and amenities of said premises.

3. The Declarant has incorporated under the Not-for-Profit Corporation Law of the State of New York as a Non-Profit Corporation, TALCOTT WOODS OWNERS ASSOCIATION, INC. (hereinafter sometimes referred to as "the Association"), for the purpose of insuring its members' enjoyment of the specific rights and privileges to own, maintain, and administer its facilities and to enforce the provisions of the covenants, conditions and restrictions contained in this Declaration.

NOW, THEREFORE, the Declarant declares that the real property on Schedule A attached, and such additions as may be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and lien contained in this Declaration.

ARTICLE I

DEFINITIONS

Section 1.01. The following words, phrases or terms when used in this Declaration have the following meaning:

A. "Association" shall mean and refer to TALCOTT WOODS OWNERS ASSOCIATION, INC.

B. "Association Property" shall mean and refer to all land, improvements and other properties heretofore or hereafter owned by or in possession of The Association.

C. "Developer" shall mean and refer to CAWLEY CAPITAL, LTD.

D. "Development Period" shall mean and refer to the period between the date on which this Declaration of Protective Covenants, Conditions and Restrictions is recorded in the Office of the Clerk of the County of Westchester, and December 31st, 1980.

E. "Exempt Property" shall mean and refer to the following portions or parts of the Property:

1. All land and improvements owned by the United States, the State of New York, the County of Westchester, the Town of Rye, or any instrumentality or agency of any such entity, for so long as any such entity, instrumentality or agency shall be the owner thereof;

2. All land and permanent improvements owned by THE ASSOCIATION or a "successor corporation" (as provided for in Article X, Section 10.04 hereof) for so long as the Association or such successor corporation shall be the owner thereof;

3. All land and permanent improvements fully exempt from the State, County, Town and School Real Property Taxes by virtue of applicable law.

F. "Lot" shall mean and refer to any portion of the Property indentified as a separate parcel on the tax records of the Town of Rye or shown upon any recorded subdivision map, with the exception of Association Properties as heretofore defined.

G. "Owner" shall mean and refer to the holder of record title, whether one or more persons or entities, of the fee interest in any Lot or Unit which is subject to this Declaration and any supplement or amendment thereto.

H. "Unit" shall mean and refer to any Living Unit.

I. "Residents" shall mean and refer to all persons living on the Property subject to the Declaration at the time of its recording, or which is added by supplement, extension or amendment to the Declaration.

J. "Unit Owner" shall mean and refer to the owner of any dwelling unit.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO.

Section 2.01. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Town of Rye, County of Westchester and State of New York, and is more particularly described in Schedule A attached hereto and incorporated by reference herein, all of which property shall be hereinafter referred to as "Existing Property".

Section 2.02. Additions to Existing Property within the Declaration. The Developer, its successors and assigns, shall have the right to bring additional properties within the scheme of this Declaration.

The additions authorized under this Article shall be made by filing or recording a Supplemental Declaration with respect to the additional properties which shall extend the scheme of the covenants and restrictions of this Declaration to such properties and thereby subject such additions to assessment for their just share of The Association expenses. Said Supplemental Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration.

Section 2.03. Mergers. Upon a merger or consolidation of The Association with another association as provided in its Certificate of Incorporation or By-Laws, its properties, rights and obligations may, by operation of law, be transferred to another survivor or consolidated association, or alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants, conditions, and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except as hereinafter provided.

ARTICLE III.

MEMBERSHIP AND VOTING RIGHTS

Section 3.01. Membership. The Association shall have as members only Owners. All Owners shall, upon becoming such, be deemed automatically to have become members and there shall be no other qualification for membership. Membership shall be appurtenant to, and shall not be separated from, the ownership of any of the interests described in the definitions of the word "Owner" as found in Article I of this Declaration.

Section 3.02. Voting Rights in the Association. The Association shall have two classes of voting membership:

CLASS A. Class A Members shall be all those Owners as defined elsewhere in this Declaration with the exception of the Developer. The Developer may, however, become a Class A Member upon termination of its Class B Membership as hereinafter provided. Class A members shall be entitled to one (1) vote for each Unit which they own.

CLASS B. The Developer shall be the sole Class B member. The Class B member shall be entitled to 55 votes in the Association. The Class B membership shall terminate on December 31, 1980 or such sooner time as the Developer may elect. Upon the termination of said membership, the Developer shall be deemed a Class A member entitled to One (1) vote for each Unit which it owns.

Section 3.03. Interest in More than One Unit. If any member owns or holds more than one unit, such Member shall be entitled to the appropriate number of votes for each Unit so owned or held.

Section 3.04. Unit Owned or Held by More than One Person. When any Unit is owned or held by more than one Member as Tenants by the Entirety, or in joint tenancy, in common or any other manner of joint or common ownership or interest, such Members shall collectively be entitled to only that number of votes prescribed herein for such Unit, and if such Members cannot jointly agree as to how that vote should be cast, no vote shall be allowed with respect to such Unit.

Section 3.05. Holder of Security Interest Not a Member. Any person or entity which holds an interest in a Unit merely as security for the performance of an obligation shall not be a member.

Section 3.06. Restrictions on Voting. Any Member who is in violation of these Protective Covenants, Conditions, and Restrictions, as determined by the Board of Directors of the Association, shall not be entitled to vote during any period in which such violation continues. Any member who fails to pay any dues or any special assessments established by the Association shall not be entitled to vote during any period in which any such dues or assessments are due and unpaid.

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Section 3.07. Assigning Right to Vote. The Developer of TALCOTT WOODS may assign its membership in the Association to any person, corporation, association, trust or other entity, and such assignee, and any future assignee of such membership, may make successive like assignments.

Any Member of the Association shall be entitled to assign his right to vote, by power-of-attorney, by proxy or otherwise, provided that such assignment is made pursuant to the By-Laws of the Association. The By-Laws may require that the assignment specify the meeting or issue to which the assignment applies.

In the case of a corporate member, votes may be cast by an appropriate officer of such corporation.

In the case of joint or common ownership any one such member shall be entitled to cast the vote with respect to the particular unit.

Section 3.08. Voting Regulations. The Board of Directors of the Association may make such regulations, consistent with the terms of these Protective Covenants, Conditions and Restrictions and the Certificate of Incorporation and By-Laws of the Association as it may deem advisable for any meeting of its members, in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of members for voting purposes, the establishment of representative voting procedures and such other matters concerning the conduct of meetings and voting as it shall deem fit.

ARTICLE IV

PROPERTY RIGHTS.

Section 4.01. Dedication of Association Property. The Declarant. intends to convey to the Association, subsequent to the recording of this Declaration, certain tracts of land within the Property for the use and enjoyment of the Owners. Said tracts of land conveyed to the Association shall hereinafter be referred to as "Association Property". The conveyance of such lands to the Association shall state that such land has been designated as an Association Property for the purposes of this Section 4.01. No portion of the Property shall be subject to the rights and easements of enjoyment and privileges hereinafter granted unless and until the same shall have been so designated and the above described conveyance recorded in accordance with the procedure provided herein.

Section 4.02. Right and Easement of Enjoyment. Every Member, as defined in Article III herein, shall have a right and easement of enjoyment in and to all Association Property. Such easements shall be appurtenant to and shall pass with the interests of an Owner, as defined in Article I, Section 1.01 hereof. All such rights, easements and privileges, shall be subject, however, to the right of the Association to adopt and promulgate reasonable rules and regulations pertaining to the use of the Association Property which shall enhance the preservation of such facilities, the safety and convenience of the users thereof, or which, in the discretion of the Association, shall serve to promote the best interests of the Members. The Association shall have the right, with respect to the Association Property owned, and in accordance with the Certificate of Incorporation and By-Laws:

a) To borrow money for the purpose of improving Association Property and to mortgage said property to carry out such improvement;

b) To grant easements or rights of way to any public utility corporation or public agency;

c) To dedicate or transfer all or any part of the land which it owns to any trust, public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association and the transferee. Such a conveyance shall require the consent of two-thirds (2/3) of the total votes of all classes of Members of those voting upon written ballot which shall be sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance of the canvass thereof. In addition, the approval of the Developer will be required for any transfer by the Association prior to December 31st, 1980 or such sooner time as the Developer may elect.

Section 4.03. Immediate Family and Guests. A Member's right of enjoyment in the property and facilities of the Association shall automatically extend to all members of his immediate family, provided they reside with said member. Members shall be permitted to exercise such right of enjoyment of Association property and facilities and to reserve said property and facilities for the use and enjoyment of individual members and their guests. The Association shall have the right to adopt rules and regulations which limit the extent to which said Association property and facilities may be used by guests and/or reserved for the use of individual members.

ARTICLE V

THE MAINTENANCE ASSESSMENT.

Section 5.01. Imposition, Personal Obligation, Lien. Each Unit Owner of any Property in TALCOTT WOODS by becoming an owner by the acceptance of a deed or otherwise, whether or not such deed or other conveyance so provides, shall be deemed to covenant and agree to pay to the Association:

- 1) Annual assessments or charges; and
- 2) Special assessments for capital improvements.

such assessments to be fixed, established and collected from time to time as hereinafter provided. These annual and special assessments, together with such interest thereon and costs of collection as hereinafter provided, shall be a charge on the individual lot owned by the Unit Owner and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 5.02. Notice and Date of Commencement of Assessments. The maintenance assessments provided for herein shall commence on the first day of the month following the date on which the first Unit was conveyed. The first annual assessments shall be adjusted according to the number of months remaining in the fiscal year as established by the Board of Directors, and such assessments shall thereafter be on a full year basis. The Board of Directors of the Association shall fix the amounts of the annual assessments against each Unit at least thirty (30) days in advance of each annual assessment period and the Board shall also establish due dates for such assessments. Separate due dates may be established by the Board for partial annual assessments as long as said assessments are established at least thirty (30) days before due. Written notice of the annual assessments shall be sent to every Owner subject thereto.

Section 5.03. Assessments of Specific Units. Each Unit may, in the discretion of the Board of Directors of the Association, be liable for the payment of established maintenance assessments and special charges on the first day of the first month following the closing of title to said Unit. The Developer shall become liable for said maintenance assessment on Units and Unit lots owned by it at the time said assessment is charged against any such Unit Owner.

Section 5.04. Basis and Maximum of Annual Assessments of the Association. The maximum annual maintenance assessments for the Association shall be TEN (\$10.00) ——— Dollars per Unit per month.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association fix the actual assessment for any period at a higher or lesser amount than the preceding period.

Section 5.05. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 5.06 hereof, the Association may change the basis and/or maximum of the Assessments provided for in Section 5.04 above by obtaining the consent of two-thirds (2/3) of the total votes of all Unit Owners who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Unit Owners at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5.06. Special Assessments for Capital Improvements. In addition to the annual assessments, authorized by Section 5.04 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction of, or unexpected repair or replacement of a described capital improvement to the Association Property, including the necessary fixtures and personal property related thereto, provided that the consent is obtained of two-thirds (2/3) of the total votes of the Owners of all Units who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Unit Owners at least thirty (30) days in advance setting forth the purpose of the meeting.

Section 5.07. Effect of Non-Payment of Assessment. If a maintenance or special assessment is not paid on the due date, established pursuant to Section 5.02 hereof, then such assessment shall become delinquent and shall together with such interest thereon and cost of collection thereof as herein provided, thereupon become a continuing lien on the lot which shall bind such property in the hands of the then Owner(s), his heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the then Owner to pay such assessment shall remain his personal obligation and shall not pass to his successors in title 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 such rate as may be fixed by the Board of Directors from time to time, such rate not to exceed the maximum rate of interest permitted by New York State Law at the time it is so fixed, and the Asso-

ciation may bring legal action against the Owner personally obligated to pay the same or to foreclose the lien against the lot, and there shall be added to the amount of such assessment the cost of such proceedings, including reasonable attorneys' fees, and interest.

Section 5.08. Use of Funds. The assessments levied under this Article shall be used exclusively for the benefit of the Residents of TALCOTT WOODS and in particular for the acquisition, improvement and maintenance of the properties, services and facilities devoted to the purpose of promoting the recreation, health, safety and welfare of said Residents including, but not limited to, the payment of taxes and insurance on said properties and facilities and the repair, replacement and additions thereto and for the cost of labor, equipment, materials, management and supervision thereof and for such other needs as may arise.

Section 5.09. Right to Borrow and Mortgage. In order to fulfill the purposes set forth herein, the Association may borrow funds from any recognized lending institution, and in conjunction therewith, mortgage its properties. The amount, terms, rate or rates of all borrowing and the provisions to all agreements with note holders shall be subject solely to the discretion of the Board of Directors acting in its absolute discretion. However, the Board of Directors shall not have the authority to borrow any monies to finance any new capital facilities without the approval of two-thirds (2/3) of the total votes of owners of Units who are voting in person or by proxy at a meeting duly called to consider said action, written notice of which shall be sent to all Unit owners at least thirty (30) days in advance setting forth the purpose of said meeting.

Section 5.10. Repayment of Monies Borrowed. In order to secure the repayment of any and all sums borrowed from time to time, the Association is hereby granted the right and power:

i) To assign and pledge all revenues received and to be received by it under any provision of this Declaration including, but not limited to, the proceeds of the maintenance assessments hereunder;

ii) To enter into agreements with note holders with respect to the collection and disbursements of funds, including but not limited to agreements wherein the Association covenants:

a) To assess the maintenance assessments on a given day in each year and to assess the same at a particular rate or rates;

b) To establish sinking funds and/or other security deposits;

c) To apply all funds received by it first to the

payment of all principal and interest on such loans, when due, or to apply the same to such purpose after providing for costs of collection;

d) To establish such collection, payment, and lien enforcement procedures as may be required by the note holders;

e) To provide for the custody and safeguarding of all funds received by it.

Section 5.11. Right to Contract Duties. The Association shall be entitled to contract with any corporation, firm, trust company, bank or other entity for the performance of various duties imposed on it hereunder. The performance by any such entity shall be deemed to be the performance of the Association. This right shall entitle the Association to enter into common management agreements with other local associations, condominiums and co-operatives.

Section 5.12. Right to Maintain Surplus. The Association shall not be obligated in any calendar year to spend all the sums collected in such year by way of maintenance assessments or otherwise, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the maintenance assessment in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors in its absolute discretion may determine to be desirable for the greater financial security and the effectuation of the purposes of the Association, provided, however, that they remain within the bounds of Sections 204 and 508 of the Not-For-Profit Corporation Law.

Section 5.13. Assessment Certificates. Upon written demand of an Owner, the Association shall, within a reasonable period of time, issue and furnish to such Owner a Certificate in writing signed by an officer of the Association setting forth, as of the date of the Certificate, whether the maintenance assessment and any special assessments if any, have been paid with respect to any specified property and set forth the amount of such assessments, including interests and costs, if any, due and payable as of such date. A reasonable charge, as determined by the Board of Directors, may be made for the issuance of these certificates, which charge must be paid at the time that the request is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the property in question.

Section 5.14. Subordination of Maintenance Assessment Lien to Mortgages. The lien of the assessments provided for herein shall be

subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the property subject to said assessments; 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 lieu 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.

ARTICLE VI

EASEMENTS.

Section 6.01. Easements and Rights-of-Way for Utilities, Etc. Easements and rights-of-way are hereby expressly reserved to the Developer, its successors, and assigns, and to the Association in, on, over and under all areas of the Property and such additions as may be made from time to time, whether within the boundaries of residential or commercial lots or in common areas, for the following purposes:

a) For the erection, installation, construction and maintenance of (i) poles, wires, lines, conduits, and the necessary or proper attachments in connection with the transmission of electricity, telephone, community antenna television cables and other utilities and other similar facilities, and (ii) storm-water drains, land drains, public and private sewers, pipe lines for supplying gas, water and heat, and for any other public or quasi-public utility facility, service or function, whether above ground or underground; and

b) For slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios approved by the Developer, its successors and assigns, or which might create erosion or sliding problems, or change, obstruct or retard drainage flow.

Such easements shall include the right of ingress and egress, provided that any damage resulting from the installation, maintenance or repair of the poles, wires, lines, conduits, cables, attachments or drainage facilities shall be promptly repaired or replaced at the expense of the corporation or authority which directed the entry.

Section 6.02. Drainage Easements. In addition to the above easements and rights-of-way, each owner, by taking title to any portion of the Property, covenants to maintain and repair those drainage facilities which are situated on the premises conveyed. Each and every owner of a lot shall have the right to enter upon the easement area of any other lot in the subdivision for the purpose of installing, maintaining and repairing the drainage facilities.

Section 6.03. Easements to Association Property. All members of the Association shall have easements of ingress and egress to all Association property. The location and dimensions of such easements shall be temporary until the Declarant has either conveyed to the Association property or an easement over property which is sufficient to

provide such access to Association Property or has granted to the owners of all lots comprising the Association sufficient easements of ingress and egress to the Association Property. Any easement granted shall be subject to the reasonable rules and regulations of the Association.

Section 6.04. Encroachment. Each Unit Owner will have an easement for the continuance of any encroachment by his Unit or any adjoining Unit or common elements now existing or which may come into existence hereafter as the result of the settling of the Units, or of the repair or alteration of the Units by the Association, after damage by fire or other casualty or as a result of condemnation or eminent domain proceedings so that any such encroachment may remain undisturbed as long as the Unit stands. Each Unit will be subject to such encroachments and easements in favor of all other Units.

ARTICLE VII.

GENERAL COVENANTS & RESTRICTIONS.

Section 7.01. Change in Use of Buildings or Structures. No building or structure previously approved by the Architectural Committee shall be used for any purpose other than that for which it was originally designed, without the prior written approval of the Architectural Committee.

Section 7.02. Approval to Construct or Alter. No building, structure, alteration, addition or improvement of any character including repainting, staining or otherwise affecting color, other than interior alterations not affecting the external appearance of a building or structure shall be constructed upon any portion of the Property unless and until a plan of such construction shall have been approved by the Architectural Committee as to quality of workmanship and materials, harmony of external design with surrounding structures, location with respect to topography and finished grade elevation, the effect of the construction on the outlook from surrounding property and all the other factors which will, in their opinion, affect the desirability or suitability of the construction. No construction shall be commenced and no lot shall be graded except in accord with such approved plan or a modification thereof similarly approved. This provision shall not apply to any buildings, improvements or alterations made by Developer.

Section 7.03. Construction on Open Space. No lot or other parcel of land shown on any filed or recorded map of the Property or on any subsequent filed or recorded map as open space (and which is an area in which no residential dwelling units are permitted) may be subdivided built upon, altered or modified except as provided on such map, or except in accordance with an amended final plan thereof approved as now or hereafter provided by the applicable zoning ordinances or any amendment thereto. In no event, however, shall any additional residential dwelling units be permitted on land shown on such map as open space.

Section 7.04. Advertising and Signs. No signs or other advertising device of any nature shall be placed on display to the public view on any Lot, except for signs placed by Developer in connection with the construction, lease, sale of buildings, and lots or other parcels of the property. The Architectural Committee may, in its discretion, adopt and promulgate additional rules and regulations relating to signs which may be employed.

Section 7.05. Animals, Birds and Insects. No animals, birds or insects shall be kept or maintained on any Lot except for domestic purposes. Under no circumstances shall any commercial or business enterprise involving the use of animals, birds or insects be conducted on the Property without the express written consent of the Architectural Committee. The Architectural Committee may, from time to time, impose reasonable regulations setting forth the type and number of animals, birds, and insects that may be kept on any Lot.

Section 7.06. Trailer and Boat Storage. No boats, boat trailers, house trailers, trailers or any similar items shall be permitted to be stored on any Lot for more than fourteen (14) days unless garaged or screened in a manner acceptable to the Architectural Committee.

Section 7.07. Commercial and Unlicensed Vehicles. Unless used in connection with the construction or maintenance of the property by the Developer, no commercial vehicle or any unlicensed motor vehicle of any type shall be permitted to remain overnight within the area comprising the Association, unless garaged or approved by the Association.

Section 7.08. Fences and Walls on the Properties. No fence or wall of any kind shall be erected, begun, or permitted to remain on any portion of the Property unless approved by the Architectural Committee.


Section 7.09. Garbage and Refuse Disposal. No lumber, metals, bulk materials, refuse or trash shall be kept, stored, or allowed to accumulate on any Lot, except building materials during the course of construction of any approved structure. Trash, garbage or other waste shall not be kept except in sanitary containers. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pick-up is to be made, at such place on the Lot, so as to provide access to persons making such pick-up. At all other times such containers shall be stored in such a manner that they cannot be seen from adjacent and surrounding property. The Architectural Committee, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same on the Property. All incinerators or other waste shall be kept in a clean and sanitary condition.

Section 7.10. Clothes Lines. No outdoor drying or airing of any clothing, bedding, carpeting, etc., shall be permitted within the area comprising the property at any time. No lines, poles, frames, reels or other clothes hanging devices shall be permitted outdoors within said area at any time.

Section 7.11. Windows. At no time shall the window or windows of any Unit be permitted to remain in a broken condition.

Section 7.12. Outdoor Storage. No machinery, equipment, supplies or other devices shall be permitted to be stored on patios or other outdoor areas so as to unreasonably clutter said areas, except in connection with construction by the Developer.

Section 7.13. No Above Surface Utilities Without Approval. No facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Lot, and no external or outside antennas of any kind shall be maintained, without the prior written approval of the Architectural Committee.

 Section 7.14. Noxious or Offensive Activities. No noxious or offensive activity shall be conducted on any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood.

Section 7.15. Pipes, Oil and Mining Operations. No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any Lot above the surface of the ground except hoses and movable pipes used for irrigation purposes. No Lot shall be used for the purpose of boring, drilling, refining, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth. No derrick or other structure designed for use in boring for oil or natural gas or any other mineral shall be erected, maintained or permitted on any Lot.

Section 7.16. Protective Screening. Where protective screening areas, screen planting, fences, or walls are shown on the attached plat or any subsequent plat, the same shall be maintained by the Association for the protection of adjacent property. No building or structure, except such planting, fence, or wall shall be placed or permitted to remain in such area. No vehicular access shall be permitted to remain over such area, except for the purpose of installation, and maintenance of screening, utilities and drainage facilities, if any.

Section 7.17. Residence Not in Dwelling House. No temporary building, trailer, basement, tent, shack, barn, outbuilding, shed, garage, or building in the course of construction or other structure not a dwelling house shall be used, temporarily or permanently, as a residence on any Lot.

Section 7.18. Refuse Near Water Courses. No material or refuse shall be placed or stored on any Lot within twenty (20) feet of

the property line of any part or edge of any water course or body of water, except that clean fill may be placed nearer, provided that the natural water course is not altered or blocked by such fill.

Section 7.19. Sight Obstructions to Vehicular Traffic. No fence, wall, tree, hedge, or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic.

Section 7.20. Television and Radio Antennas. No outside television or radio antenna shall be erected on any Lot unless and until permission for the same has first been granted by the Architectural Committee.

Section 7.21. Relief for Breach or Violation. Damages shall not be deemed adequate compensation for any breach of violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction as well as any other available relief either at law or in equity.

Section 7.22. Residential Use Only. Property zoned for residential purposes shall be used only for residential and incidental and accessory purposes thereto except that any Lot may be used for a model home or for a real estate office during the period of development of the Association.

Section 7.23. Commercial and Professional Activity on Residential Property. No profession or home industry shall be conducted in or on any part of a Lot or in any improvement thereon on the Property without the specific written approval of the Architectural Committee. The Architectural Committee, in its discretion, upon consideration of the circumstances in each case, and particularly the effect on surrounding property, may permit a Lot or any improvement thereon to be used in whole or in part for the conduct of a profession or home industry. No such profession or home industry shall be permitted, however, unless it is considered by the Architectural Committee to be compatible with a high quality residential neighborhood. The activities which may be permitted by the Architectural Committee in its discretion, shall include, without limitation, the following: music, art and dancing classes, day nurseries and schools, medical, dental, and legal offices; fraternal or social club meeting places; seamstress services.

Section 7.24. Machinery. No machinery shall be placed or operated upon any residential Lot except such machinery as is usual in maintenance of a private residence, and except machinery used in connection with construction by the Developer.

Section 7.25. Repair Work. No extensive repair work, including, but not limited to, dismantling of any motor vehicles, boat or machine of any kind, shall be permitted outdoors on any Lot.

Section 7.26. Exterior Changes. No modifications, addition, or alteration to the exterior of any Unit shall be undertaken nor shall any equipment or device be installed upon the common areas by any individual Unit Owner or Owners without the express written consent of the Board of Directors or such committee as the Board may direct. This Section shall not apply to the Developer.

ARTICLE VIII

INSURANCE

Section 8.01. Insurance to be Carried. The Board of Directors shall purchase such insurance as it may determine to be necessary.

ARTICLE IX

ENFORCEMENT, AMENDMENT AND DURATION OF
PROTECTIVE COVENANTS AND RESTRICTIONS

Section 9.01. Enforceable by. The Protective Covenants, Conditions and Restrictions contained in this Declaration and in any addition, extension or amendment thereto, shall bind the Property and shall be construed as running with the land and shall inure to the benefit of and be enforceable by the Declarant and the Association which shall be deemed the agent for all of its members for such purposes, and by the Owner(s) of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity.

Section 9.02. No Waiver by Failure to Enforce. The failure of any person or organization to enforce any protective covenant, condition or restriction herein contained shall in no event be construed as a waiver of the right by that or any other person or organization to do so thereafter, as to the same violation or breach occurring prior to subsequent thereto. No liability shall attach to the Declarant or to any other person or organization for failure to enforce such protective covenants, conditions and restrictions.

Section 9.03. Entry to Enforce. Violation or breach of any protective covenant, condition or restriction herein contained shall give the Declarant or the Association, their respective legal representatives, heirs, successors and assigns, in addition to all other remedies, the right to enter upon the land upon or as to which such violation or breach exists, and sum-

marily to abate and remove any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, using such force as may be reasonably necessary and permitted by law, at the expense of the Owner thereof, and neither the person entering, abating or removing, nor the organization directing the entry, abatement or removal shall be deemed liable for any manner of trespass for such action. The owner shall pay on demand the cost and expense of such abatement or removal, which cost shall include reasonable attorney's fees and other costs in connection with seeking a court order. The cost of such abatement or removal shall, when due, become a lien upon the portion of the Property affected. Nothing contained in this Section shall be deemed to affect or limit the right of the Owners of the Lots within the Property to enforce covenants or restrictions by appropriate judicial proceedings.

Section 9.04. No reverter. No protective covenant or restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

Section 9.05. Future Owners Bound. Each grantee accepting a deed or other instrument conveying any interest in any Lot or any portion of the Property, whether or not said deed or other instrument incorporates or refers to these Protective Covenants, Conditions and Restrictions, covenants for himself, his heirs, successors and assigns to observe, perform and be bound by these Protective Covenants, Conditions and Restrictions including personal responsibility for the payment of all charges that may become liens against his property and which become due while he is the owner thereof, and also covenants to incorporate these Protective Covenants, Conditions and Restrictions by reference in any deed or other conveyance of all or any portion of his interest in any real property subject hereto.

Section 9.06. Inspection Rights. Any agent of the Developer, the Association, or the Architectural Committee may at any reasonable time or times enter upon and inspect any Lot and any exterior improvements thereon for the purpose of ascertaining whether the maintenance of such Lot and the maintenance, construction or alteration of structures thereon are in compliance with these Protective Covenants, Conditions and Restrictions; and neither the Developer, the Association nor the Architectural Committee nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection. However, this provision shall not be deemed to confer the authority to enter the interior of a unit without having obtained prior legal authority to do so.

Section 9.07. Amending or Rescinding. Unless otherwise specifically provided for herein, these Protective Covenants, Conditions and Restrictions may be amended or rescinded as follows:

- a) Prior to December 31st, 1980 : By an Instrument by the Developer and the Owners having not less than three-fourths (3/4) of the votes of all Units which are subject to the Declaration
- b) On and after January 1st, 1981 : and prior to January 1, 1982: By an instrument signed by the Owners having not less than three-fourths (3/4) of the votes of all Units which are subject to this Declaration.
- c) On and after January 1st, 1982 : By an Instrument signed by the Owners having not less than two-thirds (2/3) of the votes for all Units which are subject to this Declaration in voting for such amendmet or rescission, the owner of each Unit shall have one (1) vote.

The Owners of every Unit must receive written notice of every proposed amendment or rescission at least sixty (60) days prior to the date set for voting on said proposed amendment.

Section 9.08. When Amendment or Rescission Becomes Effective. Any amendment or rescission to these Protective Covenants, Conditions and Restrictions shall not become effective until the instrument evidencing such change has been duly recorded in the Office of the Clerk of the County of Westchester.

Section 9.09. Duration. These Protective Covenants, Conditions and Restrictions shall, unless amended or rescinded as hereinabove provided, continue with full force and effect against both the property and the owners thereof, their heirs, successors or assigns, said covenants, conditions and restrictions to run with the land.

Section 9.10. Construction and Interpretation. The Association shall have the right to construe and interpret the provisions of these Protective Covenants, Conditions, and Restrictions and, in the absence of an adjudication by a Court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions hereof. Subject to the foregoing, the Architectural Committee shall have the right to determine all questions arising in connection with its functions as set forth herein and construe and interpret the Protective Covenants, Conditions and Restrictions with respect thereto, and likewise its construction or interpretation shall be final and binding in the absence of an adjudication by a court of competent jurisdiction to the contrary.

Any conflict in construction or interpretation between the Association or the Architectural Committee or any other person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association. The Association and the

Architectural Committee to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association and the Architectural Committee shall take into consideration the best interests of the Owners of the Property to the end that the Property shall be preserved and maintained as a high quality community.

In granting any permit, authorization or approval, as herein provided, the Association and the Architectural Committee may impose any conditions or limitations thereon as they shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding paragraph hereof.

Section 9.11. Conflict with Municipal Laws. These Protective Covenants, Conditions and Restrictions shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, ordinances, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed. In the event of any conflict, the most restrictive provisions of such laws, ordinances, rules, regulations, deed, or these Protective Covenants, Conditions and Restrictions shall be taken to govern and control.

Section 9.12. Attorneys' Fees. Any party to a proceeding who succeeds in enforcing a covenant, condition or restriction or enjoining the violation of a covenant, condition or restriction against a Lot Owner may be awarded reasonable attorneys' fees against such Lot Owner.

Section 9.13. Chance of Conditions. No change of conditions or circumstances shall operate to amend any of the provisions of these Protective Covenants, Conditions and Restrictions, and the same may be amended only in the manner provided herein.

Section 9.14. Invalidity of Agreement or Declaration. The determination by any court that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provision hereof.

ARTICLE X

GENERAL

Section 10.01. Headings and Captions. The headings and captions contained in these Protective Covenants and Restrictions are for convenience only and shall not affect the meaning or interpretations of the content thereof.

Section 10.02. Right Reserved to Impose Additional Protective Covenants. The Declarant reserves the right to record additional protective covenants and restrictions prior to the conveyance of any lands encumbered by these Protective Covenants, Conditions and Restrictions.

Section 10.03. Notice. Any notice required to be sent to any Member, Owner or Occupant, under the provisions of this Declaration, shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Member, Owner or Occupant on the records of the Association at the time of such mailing.

Section 10.04. Right of the Association to Transfer. Notwithstanding any other provision herein to the contrary, the Association, its heirs and successors shall at all times have the absolute right to fully transfer, convey and assign its right, title and interest under this Declaration to any successor not-for-profit corporation or trust, and upon such assignment the successor corporation or trust shall have all the rights and be subject to all the duties of said Association as set forth in this Declaration and shall be deemed to have agreed to be bound by all provisions hereof, to the same extent as if the successor corporation or trust had been an original party, and all references herein to the Board of Directors shall refer to the Board of Directors (or Trustees) of such successor corporation or trust. Any such assignment shall be accepted by the successor corporation or trust under a written agreement pursuant to which the successor corporation or trust expressly assumes all the duties and obligations of the Association. If, for any reason, the Association shall cease to exist without having first assigned its rights hereunder to a successor corporation or trust, the covenants,

easements, charge and liens imposed hereunder shall nevertheless continue and any Owner may petition the court of competent jurisdiction to appoint a trustee for the purpose of organizing a non-profit corporation or trust to take over the duties and responsibilities of the corporation ceasing to exist, subject to the conditions provided for herein with respect to an assignment and delegation to a successor corporation or trust.

CAWLEY CAPITAL, LTD.

BY: ROBERT A. FREEMAN, Secretary