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**DECLARATION OF PROTECTIVE COVENANTS, EASEMENTS,
RESTRICTIONS, EQUITABLE SERVITUDES, CHARGES AND LIENS
THE PRESERVE AT SIMMONS CREEK
SILVER SPRING TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA**

This Declaration of Protective Covenants, Easements, Restrictions, Equitable Servitudes, Charges and Liens is made this 24th day of April 2007, by **THE CUSTER FAMILY LIMITED PARTNERSHIP**, hereinafter known as "Declarant".

WITNESSETH:

WHEREAS, The Custer Family Limited Partnership is the Owner of a certain tract of land situate in Silver Spring Township, Cumberland County, Pennsylvania designated as Lot Nos. 1 through 11, on a Final Subdivision Plan of The Preserve At Simmons Creek, as recorded in the Office of the Recorder of Deeds in and for Cumberland County on March 21, 2007 in Cumberland County Plan Book 93, Page 143, Sheets 1 thru 10 (the "Final Plan") (the Lots singularly referred to herein as a "Lot" and are collectively referred to herein as the "Lots".) and does establish the following protective covenants, easements, restrictions, equitable servitudes, charges and liens relating to the improvements, use and enjoyment of all Lots now owned or hereafter created in said tract of land and hereby covenant and agree that all of the Lots which will be owned and conveyed under and subject to these protective covenants, which protective covenants shall run with the lots and bind the Grantees of said Lots, and their heirs, personal representatives, successors and assigns. It is noted that Lot 11 is open space as designated on the said Final Subdivision Plan, which will be dedicated to The Preserve at Simmons Creek Homeowners Association; and

WHEREAS, it is also noted that portions of Lots 5, 6 and 7 are located, in part, in the area designated as flood plain as appearing on the Final Plan; and

WHEREAS, Declarant desires to create thereon therefor a residential neighborhood to be named The Preserve At Simmons Creek consisting of residential building lots, hereinafter "Simmons Creek".

WHEREAS, Declarant desires to ensure the attractiveness of the homes within Simmons Creek to prevent nuisances, protect and enhance the value and amenities of said Simmons Creek, and to provide for the care, safety and maintenance of certain areas hereinafter specifically

described and to accomplish these purposes, desires to subject the real Property included within Simmons Creek, each and all of which is and for the benefit of said Property and each Owner thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation, protection and enhancement of the values and amenities in Simmons Creek, to create an organization to which should be delegated and assigned the powers of owning, maintaining and administering the responsibilities for certain areas of property hereinafter described, administering and enforcing the covenants and restrictions in collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated a non-profit corporation for the purpose of exercising the owners and functions aforesaid within Simmons Creek pursuant to the Declaration of Protective Covenants, Easements, Restrictions, Equitable Servitudes, Charges and Liens for Simmons Creek.

NOW THEREFORE, Declarant declares that all the Lots and the property herein described shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the provisions of this Declaration, all of which are declared and agreed to be in furtherance of a Plan for the development, improvement and conveyance of the property of Simmons Creek and/or established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness thereof. The provisions of this Declaration are intended to create mutual equitable servitudes upon each of the Lots in favor of all such Lots with each Owner covenanting and agreeing with each other Owner and with Declarant, and for their mutual benefit, that the Owners, their heirs, administrators, successors and assigns will faithfully keep, observe and perform the covenants and conditions hereof for the benefit of each other Owner, to grant each Owner the right to enforce, in law or in equity, the performance hereof by each other Owner; and to operate as covenants running with the land for the benefit of the Property and each Lot subject to this Declaration and the Owners thereof, at present and in future.

PART A - DEFINITION

PART A - DEFINITIONS

A-1. Association.

"Association" shall mean and refer to the Simmons Creek Homeowners Association, its successors and assigns, established pursuant to this Declaration.

A-2. Simmons Creek

"Simmons Creek" means the residential community to be developed and constructed on the Property by Declarant by subdivision of Lots by acquisition and construction of residential dwellings thereon and other improvements, including roads, utility facilities and such other improvements deemed necessary or desirable by Declarant, although Lot 11 is designated as Open Space on the Final Plan and will not be developed as a residential lot and will be owned by the Association.

A-3. Board.

"Board" means the Board of Directors of the Association elected pursuant to provisions hereof and the By-Laws.

A-4. By-Laws.

"By-Laws" means the By-Laws of the Association.

A-5. Areas of Common Responsibility.

"Areas of Common Responsibility " means that portion of the Property designated on the Final Plan, Exhibit "A", attached hereto, as hereinbefore identified as Common Area being the landscape easements on Lots 1 and 10; the landscaped boulevard and cul-de-sac as appearing on Simmons Creek Lane, and portions of the storm detention pond as appearing on Lots 4 and 5 and Lot 11 and all other property, real, personal or mixed acquired by the Association. It is noted that each Lot Owner has the right of access to his/her/their respective Lot by means of direct access to a portion of the Areas of Common Responsibility abutting each and every Lot of The Preserve at Simmons Creek.

A-6. Declaration.

"Declaration" means this Declaration of Protective Covenants, Easements, Restrictions, Equitable Servitudes, Charges and Liens dated April ~~24~~²¹, 2007 as amended or supplemented from time to time, which term sometimes is referred to in this document by use of such words as "hereto", "hereby", "herein", "hereof", and "hereunder", or other descriptive words or phrases having similar import.

A-7. Lot.

"Lot" shall mean and refer to any plot of land shown as a lot upon any recorded subdivision plot of Simmons Creek .

A.8. Flood Plain Lots.

"Flood Plain Lots" shall mean and refer to those portions of Lots 5, 6 and 7 located in the flood plain and appropriate retention and restrictions shall be applicable per local, state and federal statute/ordinance.

A-9. Maintenance.

"Maintenance" means collectively and separately all maintenance, repair work, restoration work, reconstruction work, improvements, replacement, painting, snow removal, landscaping, paving, cleaning, trash collection and any other general maintenance upkeep required to maintain the Areas of Common Responsibility, as herein provided, in a good, safe, sanitary condition and repair.

A-10. Act.

"Act" means the Pennsylvania Uniform Planned Community Act, 68 Pa. C.S.A. Section 5101 et seq. The provisions of the Act and those amendments thereto which by their terms would be applicable to this Planned Community shall apply to and govern the operation of the Planned Community, except to the extent that contrary provisions, not prohibited by the Act as amended, are contained in this Declaration (including the Plats and Plans) or the By-Laws. It is the intention of the Declarant that the Act and amendments shall have but limited application pursuant to Section 5102(2) of the Act.

A-11. Common Expenses

"Common Expenses" means the expenses or financial liabilities for the operation of the Areas of Common Responsibility and The Preserve at Simmons Creek Homeowners Association. These include:

- (i) Expenses of administration, maintenance, repair or replacement of the Areas of Common Responsibility;
- (ii) Expenses declared to be Common Expenses by this Declaration or the Act;
- (iii) Expenses agreed upon as Common Expenses by the Association;
- (iv) Such reasonable reserves as may be established by the Association.

A-12. Convertible Real Estate

There is no convertible real estate as defined in the Act with regard to Simmons Creek.

A-13. Declarant.

"Declarant" means The Custer Family Limited Partnership, a limited liability partnership organized and existing under the laws of the Commonwealth of Pennsylvania.

A-14. Declarant Control Period.

"Declarant Control Period" means the time period commencing on the date of recordation of this Declaration and ending on the earlier of:

- (i) Five (5) years after the date of the first conveyance of a Lot to a Lot Owner other than the Declarant; or
- (ii) Sixty (60) days after the conveyance of seventy-five percent (75%) of the Lots to Lot Owners other than the Declarant which may be built on Simmons Creek.

A-15. Executive Board

"Executive Board" means the Executive Board of the Association.

A-16. Final Plan.

"Final Plan" means a subdivision or land development plan for Simmons Creek, or any portion thereof, as adopted by Declarant and, if applicable, as submitted to and approved by the authorities of Silver Spring Township, Cumberland County, Pennsylvania, and, if applicable, on record in Cumberland County, and any supplements or amendments thereto.

A-17. Majority or Majority of Lot Owners.

"Majority or Majority of Lot Owners" means the owners of more than fifty (50%) percent of the votes in The Preserve at Simmons Creek Homeowners Association.

A-18. Original Declaration.

"Original Declaration" shall mean and refer to the Original Declaration as described in the Preamble hereto, amended or supplemented.

A-19. Property.

"Property" means the Property, including the land and all improvements, easements, rights and appurtenances which have been submitted to the provisions of the Act by this Declaration.

A-20. Public Offering Statement

No Public Offering Statement is required pursuant to the limited elements as so provided in the Act.

A-21. Rules and Regulations.

"Rules and Regulations" means such rules and regulations as are promulgated by the Executive Board from time to time with respect to various details of the use of all or any portion of the Property, which either supplement or elaborate upon the provision, in the Declaration or By-Laws.

A-22. Special Declarant Rights.

"Special Declarant Rights" means Special Declarant Rights, which are reserved, as defined in Section 5103 of the Act and such additional rights reserved for the benefit of the Declarant as set forth in the "Simmons Creek Documents."

A-23. Lot Owner.

"Lot Owner" means the Declarant or other individual, corporation, trust, estate, partnership, association or other legal or commercial entity (herein "Person"). Lot Owner does not include a person having an interest in a Unit solely as security for an obligation. The Declarant is the initial owner of any Unit created by this Declaration.

A-24. The Simmons Creek Documents.

"The Simmons Creek Documents" consist of this Declaration including the Plats and Plans, the By-Laws and the Rules and Regulations.

A-25. Provisions of the Act.

"Provisions of the Act" means the Act and those amendments thereto which by their terms would be applicable to this Planned Community and shall apply to and govern the operation of the Planned Community, except to the extent that contrary provisions, not prohibited by the Act, as so amended, are contained in this Declaration, including the Plats and Plans, or the By-Laws.

PART B - PROPERTY SUBJECT TO THIS DECLARATION

B-1. Existing Property.

The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is more particularly described in Plan Book 93, Page 143, Sheets 1 thru 10. The Preserve at Simmons Creek, as recorded in the Office of the Recorder of Deeds of Cumberland County on March 21, 2007, as hereinbefore referenced.

PART C - MISCELLANEOUS PROPERTY RIGHTS REGARDING AREAS OF COMMON RESPONSIBILITY

C-1. Owners' Easements of Enjoyment.

Every Lot Owner shall enjoy and be subject to the following rights and common responsibilities, which shall be appurtenant to and shall pass with the title to every Lot:

- (a) The right of the Association to dedicate or transfer all or any part of the Areas of Common Responsibility to any public agency or authority for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer is recorded. The effect of such declaration or transfer shall be to terminate the provisions of and rights and obligations of all parties bound by this Declaration with respect to such area dedicated or transferred;
- (b) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Areas of Common Responsibility and in aid thereof, to mortgage said properties and the rights of such Mortgages in said properties shall be subordinate to the rights of the Owners hereunder;

- (c) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;
- (d) The right of the Declarant, and of the Association, to grant and reserve easements and rights-of-way through, under, over and across the Areas of Common Responsibility, with or without limitation as to the location thereof within the Areas of Common Responsibility, for purposes of installing, maintaining, repairing, replacing and inspecting all components, elements or portions of the Areas of Common Responsibility, with the right of the Grantees of such easements to have full access over and across all portions of the Areas of Common Responsibility consistent with the full exercise and enjoyment of such easements and rights-of-way.

PART D - MEMBERSHIP AND VOTING RIGHTS

D-1. Membership.

Every Owner of a Lot or Dwelling Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling Unit which is subject to assessment.

D-2. Voting Rights: Classes.

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, who shall be entitled to one vote for each Lot or Dwelling Unit owned. When more than one person is the Owner, all such persons shall be members. The vote for such Lot or Dwelling Unit shall be exercised as they among themselves determine, but in no event shall more than one Class A membership vote be cast with respect to any Lot or Dwelling Unit. The Class A members shall not include the Declarant unless and until its Class B membership shall cease and be converted to Class A membership as hereinafter provided.

Class B. The Declarant shall be the Class B member in The Preserve at Simmons Creek Homeowners Association and shall be entitled to two (2) votes for each Lot approved for construction on the Property upon the filing of the Final Subdivision Plans in which it holds the interest required for membership. The Class B membership will cease and be converted to Class A membership on the happening of the earlier of the following events:

- (i) when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or
- (ii) twenty (20) years from the date hereof.

From and after the happening of these events, whichever occurs earlier, the Class B member shall then be deemed to be a Class A member entitled to one (1) vote for each Lot in

which it holds the interest required for membership under. A majority vote of each Class of outstanding shares shall be required for actions of the Association.

PART E - COVENANT FOR MAINTENANCE AND ASSESSMENT.

E-1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Lot owned by it upon which a completed private dwelling is erected and for which a certificate of occupancy has been issued within Simmons Creek, hereby covenants, and each subsequent Owner of any Lot (other than an Owner deemed a Declarant for such Lot) whether or not it shall be so expressed in the deed to such Lot, regardless of whether a completed dwelling home has been erected or Certificate of Compliance issued, is deemed to covenant and agrees to promptly pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot (including all improvements thereon) against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became effective. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

E-2. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of Simmons Creek for the restoration, improvement, maintenance and insurance of the Areas of Common Responsibility and all services and facilities relating to the use and safe operation and maintenance thereof.

E-3. Initiation Fee.

The initiation fee shall be \$500.00, payable at the time of deed transfer other than Declarant.

E-4. Annual Assessments for Common Expenses.

The Association shall levy and collect, in each Fiscal Year, an annual assessment upon each Lot liable therefor to provide revenues to pay all Common Expenses, including inter alia, the following:

- (a) Maintenance of the Areas of Common Responsibility, any development sign(s) at an entrance to Simmons Creek, any landscaping or lighting around any development sign(s) or entrance area and any street or stop signs.

- (b) Trash collection, refuse and garbage removal, sewerage use, snow removal, landscaping, vermin extermination, or other similar services, if any, provided to any part of the Areas of Common Responsibility.
- (c) Comprehensive liability insurance coverage, insuring to the extent available, the Owners, the Declarant and the Association against any liability to the public or to Owners, their tenants or invitees, relating in any way to the ownership and/or use of the Areas of Common Responsibility and/or any part thereof; limits of liability shall be at least Five Hundred Thousand and 00/100 (\$500,000.00) per occurrence. The scope and amount of coverage of all liability insurance policies shall be reviewed at least once each year by the Board and may be increased in its discretion.
- (d) Such workman's compensation insurance and other such insurance as applicable laws may require or as the Board may deem advisable.
- (e) Management fees and salaries or such expenses as the Association may deem necessary or desirable for the operation and Maintenance of the Areas of Common Responsibility.
- (f) Legal, accounting, engineering or other professional fees and administrative costs necessary and proper for any one or more of: operation and maintenance of the Areas of Common Responsibility, conduct of the affairs of the Association, or enforcement of the Declaration, or any rules and regulations.
- (g) A fidelity bond or bonds as the Association may deem necessary.
- (h) Maintenance, improvements and additions to the Areas of Common Responsibility, which will include storm water management facilities, as the Association may deem necessary and proper, as well as any materials, supplies, labor, services, structural alterations, insurance and tax assessments which apply thereto and/or which the Association is required to secure or pay by law, by this Declaration or which the Board deems necessary and proper in its discretion.
- (i) Mechanic's and materialmen's liens arising as a result of Maintenance of the Areas of Common Responsibility or part of it.
- (j) Real estate, sale and use and all other taxes or other governmental charges due or paid with respect to use, ownership or occupancy of the Areas of Common Responsibility, provided, however, that real estate taxes on the Areas of Common Responsibility shall be paid only to the extent that such taxes are assessed against the Association as the Owner of record of the Areas of Common Responsibility. Any portion of the Areas of Common Responsibility included within the tax assessment of a particular Lot by the appropriate taxing authorities shall be the

responsibility of the Owner of such Lot and shall in no event be a responsibility of the Association.

- (k) Amounts necessary to recover any deficits from the operations of the Association in prior years; and
- (l) Adequate reserves, as determined by the Board for: 1) repair, replacement or depreciation of the Areas of Common Responsibility or any portion thereof; 2) uncollected accounts; and 3) any other contingency for which a reserve account reasonably may be established pursuant to sound accounting practices.

E-5. Commencement of Assessments.

Assessments shall begin on deed transfer from Declarant to purchaser of a Lot at the initial annual rate of \$750.00 per year, prorated the first year that the date of purchase of the Lot bears to the calendar year. The assessments may be modified by the Executive Board of the Association without amendment of this Declaration.

E-6. Special Assessments for Capital Improvements.

In addition, to the assessments authorized above, 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, reconstruction, landscaping, repair or replacement of a capital improvement upon the Areas of Common Responsibility, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

E-7. Supplemental Annual Assessments.

If the cash requirement estimated at the beginning of any Fiscal Year (commencing on or after the calendar year 2008) shall prove to be insufficient to cover the actual Common Expenses for such Fiscal Year for any reason including (by way of illustration and not limitation) any owner's nonpayment of his assessment, the Board may, at any time it deems necessary and proper, levy a supplemental annual assessment against each Lot except that in the event such supplemental annual assessment is required because of the failure of one or more Owners to promptly pay an annual assessment, the supplemental annual assessment against other Lots may be determined based upon the anticipated failure of such defaulting Owner or Owners to pay its or their share of such supplemental annual assessment.

E-8. Billing Annual Assessments.

Annual assessments are due and payable on the first day of each Calendar Year. Each Owner shall pay any assessment bill levied hereunder within fifteen (15) days. If an assessment is not paid within fifteen (15) days and if Owner fails to respond after five (5) more days to a notice of non-payment, there shall be charged a \$25.00 late fee due in thirty (30) days, plus

interest shall accrue on all delinquent assessments at the rate of 12% per year. The late fees can be modified by the Executive Board of the Association without amendment of this Declaration.

E-9. Failure of Board to Fix Annual Assessments.

If an annual assessment for Common Expenses for any Fiscal Year is not fixed before the expiration of the previous Fiscal Year, the Owners shall continue to pay the same sums they were paying in the Fiscal Year just ended as if such sums were the new annual assessment, and such failure to fix a new annual assessment shall not constitute a waiver, modification or release of any Owner's obligation. If the Association shall change the annual assessment at a later date, an increase in the total assessment amount as a result of such new assessment shall be treated as if it were a supplemental assessment hereunder and be retroactive to the beginning of the Fiscal Year.

E.10. Fiscal Year.

The Fiscal Year of the Association shall be the calendar year unless otherwise determined by the Board.

E-11. Other Special Assessments.

The Board shall have the authority to fix, determine, assess and collect special assessments for the following purposes:

- a) Any expenditure which the Association shall be required to make for the Maintenance of all or any part of the Areas of Common Responsibility because of any injury thereto or misuse thereof by one or more Owners or their tenants, guests, invitees or licensees or resulting from theft or in damage to any portion of the Areas of Common Responsibility shall be assessed as a special assessment against the Lot owned by the Owner or Owners responsible for such injury, loss or misuse, or whose tenants, guests, invitees or licensees caused such injury, loss or misuse.
- b) If the Association shall have made any expenditures on behalf of any Owner or Owners for any reason deemed necessary by the Board, the Board shall levy such expenditures as a special assessment upon the Lot owned by the Owner so benefited or who is responsible for the expenses. Such special assessments shall be levied promptly, and the debt arising from such special assessment shall be treated and due in the same manner as the assessment.

E-12. Notice and Quorum for Any Action Authorized Under

Sections E-3 and E-4:

Written notice of the time and location of any meeting called for the purpose of taking any action authorized under Sections E-3 and E-4 shall be sent to all members not less than 10 days or more than 60 days in advance of the meeting. At any such meeting called, the presence

of members or of proxies entitled to cast thirty-three and one-third (33 1/3%) percent of all the votes of each class membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and there shall be no quorum requirement provided there shall be no less than ten (10%) percent presence of the members of each class of membership. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. The above notice and quorum requirement shall supersede and be in lieu of any notice or quorum requirements at any time hereafter adopted by the Association in its By-Laws, Articles or any resolution, and may be modified only by an amendment to this Declaration. Notice and quorum requirements for all other meetings of the Association called for purposes not in any way including the taking of any action authorized under Sections E-3 or E-4 hereof shall be governed by the Articles and By-Laws of the Association.

E-13. Uniform Rate of Assessment.

Both annual and special assessments must be fixed at a uniform rate for all Lots sold by the Declarant. No assessments shall be levied, annual or special, for Lots owned by Declarant.

E-14. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within fifteen (15) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum to be compounded monthly. In addition, in the event of after five (5) days further notice of non-payment, there shall be a \$25.00 late fee, plus the interest hereinbefore provided. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the lien against the property. In addition, Owner shall likewise be responsible for payment of reasonable attorneys fees and costs if the assessment and interest is more than sixty (60) days in default. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Areas of Common Responsibility or abandonment of his Lot, or any other reason. The provisions of Section E-8 in any inconsistency are incorporated herein by reference.

E-15. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first mortgages now or hereafter placed upon Simmons Creek. Sale or transfer of any Lot will not affect the assessment lien, provided, however, that the sale or transfer of any Lot pursuant to mortgage foreclosure or any other proceeding in lieu of foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

PART F - ARCHITECTURAL CONTROL

F-1. Building Plans: Approval.

Excepting any original construction by the Declarant, or an affiliated company of Declarant, no building, fence, addition, deck, pool, wall or other structure shall be commenced, erected, modified, or maintained upon the Lots in Simmons Creek, until the plans and specifications showing the nature, kind, shape, height, materials 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, topography and finished ground elevation by the Declarant, a designee appointed by the Declarant during the period, or thereafter, by the Board of Directors of the Association, or by an architectural committee appointed by the Board of the Association. The Declarant, however, by approval of any such plans shall not assume, directly or impliedly, any responsibility, duty or liability with regard to the sufficiency, adequacy or any other aspect of such plans, to include conformity with any governmental statutes or regulations.

F-2. Site Plan: Approval.

A final site development plan showing the final grading for the Tract is set forth on Sheet 5 of 10 and any changes therefrom shall require the approval of Declarant, or Declarant's designee and Silver Spring Township, as applicable.

F-3. Approval of Plans Prior to Construction.

Written approval of the building plans and site plan must be obtained prior to the commencement of construction of any building on any Lot by Declarant, or by committee appointed by the Association. A failure to comply with this requirement may permit Declarant or Association to seek legal and/or equitable relief, as may be appropriate to enjoin the construction and/or removal of any construction commenced prior to the approval. Any such proceeding that is necessitated by the failure to obtain approval the violating Owner shall also be responsible for all of Declarant's or Association's reasonable court and legal costs, charges and fees.

F-4. Building Commencement and Completion.

Construction of the dwelling house on any Lot must commence within one (1) year of purchase of the Lot by the Owner, and completion of the dwelling house and driveway, shall occur within one (1) year of commencement of construction of the dwelling house. However, the commencement of construction within one (1) year may be waived in writing by Declarant.

F-5. Landscaping Plan.

Prior to the occupancy of any dwelling located on a Lot a landscaping plan for the Lot, showing the type, size and location of the plants and materials shall be submitted to and approved in writing as to conformity and harmony with Township Ordinances and Regulations and, all other governmental regulations, existing structures, topography and finished ground

elevation by the Declarant, or by a landscaping committee appointed by the Declarant or his designee(s) during the requisite period, and thereafter by the Board of Directors, or a landscaping committee appointed by the Board of Directors. The grass plot on the Lot and the plants and materials as shown on the landscaping plan shall be installed by the Owner within one (1) year of the commencement of construction of any dwelling on the Lot, but no later than thirty (30) days of issuance of occupancy permit, weather permitting, whichever shall occur earlier. No planting other than grass and flower beds shall be permitted in the area from the property line to the curb. Trees, shrubs and bushes of any type, form or kind are specifically prohibited in this area unless approved by Declarant, the Association or committee appointed by the Association.

F-6. Plan Changes.

No changes shall be made in the approved plans prior to the occupancy of any dwelling house located on a Lot without the prior written approval of Declarant or his designee(s) as above provided.

F-7. Exterior Changes After Occupancy.

After the initial occupancy of any dwelling house located on a Lot, any erection of a structure (including but not limited to fences, walls and mailboxes), any addition or alteration to the exterior of a structure, or any change in the existing color or finish of any exterior surface of any building on a Lot shall not be done until plans and specifications showing the nature, kind, color, shape, height, materials 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 finished ground elevation, topography, by the Declarant initially for the period of Declarant's control, then by the Board of Directors of the Association, or by an architectural 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 change, design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

PART G - RESTRICTIVE COVENANTS

G-1. Residential Use.

Other than Lot 11 hereinbefore previously described regarding use, all other Lots shall be used for residential purposes only, and no other land use shall be permitted thereon at any time. An in-home office and/or in-home business may be conducted within a residential structure erected on a lot, but any signage advertising, identifying or relating thereto, is strictly prohibited; no parking for clients, customers or patrons shall be allowed on the roadways, and any such use must comply with any and all Township rules and regulations, and any other relevant governmental body. Otherwise, no business, professional office, store, retail operation or any

other commercial or eleemosynary enterprise of any kind shall be conducted on any Lot or in or on a part of any residential structure erected on the Lot. However, one or more Lots may be used as a promotional and/or model home/sales office by Declarant or his successor or assignee of the sale of homes in Simmons Creek as long as homes are still being built in any portion of Simmons Creek.

G-2. Residential Structures.

No structure other than one (1) single family dwelling house with an attached or detached garage and, provided the same are compatible with the nature, design, landscaping and construction of the main house, and are properly landscaped and screened, small tool sheds, tennis courts, swimming pools and bath houses and structures or facilities, ancillary or incidental to residential, use shall be erected on any Lot. This limitation shall not apply to Lot 11.

G-3. Temporary Structures.

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. Outside water closets shall not be erected or maintained on any of the said Lots after construction has been completed on said Lot. A construction trailer, or a shed for the housing of tools, incident to the erection of dwelling houses on Lots may be erected or placed on a Lot with the written permission of the Declarant.

G-4. Size of Improved Dwelling Home.

Each dwelling home shall contain not less than 2,500 square feet of living area.

G-5. Exterior Materials.

The exterior walls of any building above the finished grade of the ground shall be faced or covered with brick, stone, stucco, wood, synthetic siding, or such other materials as shall have prior approval by Declarant or the Board of Directors of the Association as above provided. Outside finishes on all chimneys shall be constructed with masonry materials and be finished with bricks, stone, stucco or Dryvit, or as approved by Declarant or his designee(s).

G-6. Excavation.

No excavation for stone, gravel or earth shall be made upon the Lot except for walls, pools, basements or cellars, or dwellings to be constructed in accordance with this Declaration.

G-7. Grade.

No Lot Owner shall at any time change the grade of any Lot or Lots subject to this Declaration from the grade established or to be established by the Declarant on the Final Plan, as hereinbefore identified, without written consent of the Declarant, the Association or Silver Spring Township as required.

G-8. Setback.

All land within forty (40) feet of any street shall be used solely for walkways, lawns landscaping, piers, walls and driveways. No fences shall be located closer than forty(40) feet from any street, except for section(s) of fencing employed as decorative landscaping.

G-9. Garages.

Private garages to accommodate no more than six (6) automobiles may be erected and maintained on any of the said Lots, either as an integral part of the dwelling house erected thereon and/or as a separate garage. If a separate garage is erected or maintained, it shall not exceed two (2) stories in height, shall be accessory to the use of the dwelling house but not used as a dwelling, shall comply with all other setbacks as shown on the Final Subdivision Plan.

G-10. Livestock, Poultry and Pets.

No animals, livestock or poultry of any kind shall be raised, bred or kept in any dwelling or on any Lot, except that dogs, cats or other domesticated household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and provided that not more than five (5) pets in the aggregate may be kept on any Lot. Each Owner shall be responsible for the control of his or her domesticated household pets and shall be responsible for cleaning up after his or her pet. In the event of failure of Owner to properly clean up after his or her pet, the Association may take whatever action is necessary to clean up after the pet of Owner and may surcharge Owner for the reasonable cost thereof.

G-11. Garbage, Trash.

No garbage, refuse, rubbish or cutting shall be deposited on any Lot, street, sidewalk or parking area. Containers and/or garbage provided by Lot Owners shall not be placed on any street, sidewalk, or front yard except when necessary for collection and shall regularly be kept in a location on the Lot which is unobtrusive to view from any other Lot in Simmons Creek, as provided by the rules of the Association.

G-12. Architectural Control.

No structural improvements of any kind (including, but not limited to, mailboxes and attachments thereto, swimming pools, etc.) shall be erected, placed or altered on any Lot until the building plans, specifications and plot plan showing the location of all structures and other improvements have been approved by the Declarant or his designee(s) or the architectural control committee appointed by the Association as to size, quality, materials, harmony, topography, location on the Lot, finished grade elevation, landscaping, exterior lighting, color schemes, estimated costs, and all matters of exterior style and appearance, and such other information as shall be reasonably requested.

G-13. Construction Commencement and Completion.

Unless specifically exempted by sales agreement or deed, every purchase of a Lot must begin construction within twelve (12) months and complete construction of the dwelling house, and related improvements and landscaping, within twenty-four (24) months after taking title to the Lot. Declarant shall have the right to repurchase, and by acceptance of the deed to any Lot, each Owner agrees to resell it to the Declarant, or its assignee or designee, any Lot where construction of the dwelling home does not commence within such twelve (12) month period. Declarant shall exercise such right by providing written notice thereof to the Lot Owner at any time after the twelve (12) month period expires and prior to the commencement of construction of the dwelling house by the Lot Owner. Settlement shall occur within thirty (30) days of the date of such notice, the purchase price shall be identical to the purchase price initially paid by the Lot Owner less ten (10%) percent, transfer taxes shall be divided equally between the Declarant and the Lot Owner, and the Lot Owner shall convey by special warranty deed, good and marketable fee simple title to the Lot to Declarant, free and clear of all liens, subject only to easements existing as of the date the Lot was initially conveyed to the Lot Owner.

G-14. Commercial Vehicles.

No commercial or other non-passenger vehicle of any type and no unlicensed, unregistered or non-operational motor vehicles of any type shall be permitted to remain overnight on any property of a Lot Owner within Simmons Creek, or on any of the public streets, other than as may be used by the Declarant, or a commercial firm, organization or entity approved by Declarant, in conjunction with building operations. Notwithstanding the foregoing, if a property owner, as a condition of employment, is required to drive a vehicle to his home, such is permitted providing the vehicle is under 10,000 pounds gross vehicle weight, and is parked at all times on the owner's property. This exception shall furthermore permit only one commercial vehicle per lot within said limitations and conditions, which must be garaged.

G-15. Boats and Campers.

No boats, campers, trailers or other recreational vehicles shall be permitted to be parked on any Lot or on any street within the Simmons Creek for more than one (1) day, unless garaged or screened from view of other Lot Owners.

G-16. Radio and Television Antennas.

No radio or television antennas, or satellite dish antennas, shall be erected or maintained outside of a building on any Lot, except for satellite dishes not exceeding approximately eighteen (18) inches in diameter upon approval by Declarant or the Board of Directors of the Association as hereinbefore provided of the dish. Declarant or the Association must approve the actual

location of all radio and television antennas erected or maintained outside of the building on the Lot regardless of diameter.

G-17. Nuisances.

No noxious, unsightly or offensive activity, including, but not limited to, vehicle repairs done outside of buildings, shall be conducted on the property of a Lot Owner or on the streets, nor shall anything be permitted to be done thereon which may be or may become an annoyance or nuisance to the residents of Simmons Creek.

G-18. Outbuildings.

All outbuildings or similar structures separate from the single family dwelling home constructed on the Lot shall be constructed with material compatible with the construction of the main dwelling home and shall be approved by Declarant or his designee(s) or by the Board of Directors of the Association prior to commencement of any construction. Any facility such as skating rinks, or skateboard ramps whether temporary or permanent are prohibited.

G-19. Signs.

Absolutely no signs of any kind shall be displayed to the public view on any Lot or improvement thereon except a one-family name sign of not more than approximately one hundred forty-four (144) square inches, or one temporary sign of not more than four (4) square feet, advertising the property for sale, rent or open house; provided, during the construction or sale of homes the builder's "under construction" and "model development home" signs of not more than thirty-two (32) square feet may be displayed. No political signs shall be permitted at any time to be placed on any Lot or Areas of Common Responsibility. Violation of this covenant shall entitle Declarant or the Association to seek injunctive action as it deems appropriate if the violation is uncured after written warning. The Lot Owner shall pay all legal expenses and costs of any injunctive action uncured by Declarant or Association which may be charged as a lien against their lot.

G-20. Natural Screening of Structures.

All structures (other than the principal residence), whether permanent or, if permitted hereunder, temporary, shall be completely surrounded by natural screening whereby they cannot be seen by anyone standing outside the Lot, unless approved in writing by the Declarant or the Association. Other than during the construction of the principal resident, no shed, trailers, or temporary housing of any type, shall be located on said Lot, as otherwise also herein addressed.

G-21. Driveways.

All driveways and parking areas of each Lot shall be paved with asphalt or constructive materials acceptable to the Declarant or architectural control committee and shall furthermore comply with all Township Ordinances and Regulations. All driveways shall be complete at the time of occupancy, weather permitting, of the dwelling home on the Lot.

G-22. Mailboxes.

The location, style and design of mailboxes shall be determined by Declarant or his designee(s) or by the Board of Directors of the Association, as applicable.

G-23. Exterior Colors and Roof Pitches.

Exterior colors, materials and roof pitches of all structures shall be approved by Declarant or his designee(s) or by the Board of Directors of the Association, as applicable.

G-24. Swimming Pools.

Swimming pools and tennis courts may be placed, erected and constructed upon any lot only with the prior written approval of the Declarant or his designee(s) or the Board of Directors of the Association, as applicable.

G-25. Resubdivision.

Any further subdivision of any Lot on the aforesaid plan is forbidden, unless by Declarant or by successor in title and position to Declarant, unless said subdivision is first approved by the Declarant or the Association. This restriction does not prohibit or prevent joinder of two or more Lots into one Lot. This section is not intended to provide rights for Declarant under Section 5215 of the Act insofar as the ability of Declarant to create more lots.

G-26. Lot Maintenance.

Each Lot shall be maintained in a neat, clean and attractive manner, consistent with its approved landscaping plan prior to, during and after construction of any structure. All grass, trees and shrubbery shall be maintained and pruned regularly and kept in a well-maintained, attractive, orderly condition at all times. Any dead or diseased tree(s) or shrubs must be promptly removed from the Lot. Upon receipt of notification, the Declarant or Association providing not less than twenty (20) days notice, the Owner shall remove any such dead trees or shrubs, and upon failure to do so, the Declarant or Association may do so and will charge and assess the Owner therefor. Furthermore, no trees having a diameter of six (6) inches or more shall be cut down, unless dead, damaged or diseased, without the prior approval of the Declarant or the Association. If there would occur a violation of this provision, the Owner may be required to replant and replace such tree(s) or shrubs, (cut and remove without approval) at Owner's cost and if he would fail to do so after not less than fifteen (15) days notice, the Declarant or Association may replace such trees and will charge and assess the Owner therefore including all fines to include reasonable costs and fees as appropriate which may be, upon non-payment, after further written notice, placed as a lien against the subject lot. With regard to lawns and landscaping, maintenance shall include regular mowing and trimming of all grass areas and grooming of all landscape areas on owner's property, in order that same shall be maintained similar to that maintained by other property owners in the Simmons Creek community. If the Association or Declarant shall determine that a Lot is not being maintained in accord with the

Declaration, the Association will provide not less than twenty (20) days notice and may perform such landscaping, maintenance, weeding and any trimming and pruning of an Owner's property and charge an assessment therefor. Furthermore, if there would be an uncured violation of this covenant, the Declarant or Association after reasonable further notice of not less than an additional twenty (20) days may suspend any and all voting rights of the violator.

G-27. Reconstruction.

If any structure is partially or totally damaged by fire or other casualty, the Owner shall repair or reconstruct the structure in accordance with the plans and specifications submitted to, and approved by, the Declarant or the architectural review committee. All repairs and reconstruction shall be commenced within three (3) months and complete within six (6) months after the damage has occurred. If the damaged structure is not repaired or reconstructed because of reasons beyond the Owner's control, the Owner shall clear and restore the site to its natural state within three (3) months of the date of the damage.

G-28. Landscaping.

The installation of all landscaping must be approved by the Declarant or the Association following submission of a landscape plan.

G-29. Storm Water Facilities.

Each Lot Owner shall maintain in a good, safe and attractive condition any storm water retention basin, swales, ditches and roof drainage pits located on said Lot in the same manner, design and plan as originally constructed and described in the Final Subdivision Plan for Simmons Creek.

G-30. Exterior Laundry Drying Facilities.

All clotheslines or other exterior laundry drying facilities, to include racks and rotating-type equipment, must be placed in the rear yard of the dwelling and be of a retractable nature out of view from neighbors AT ALL TIMES. IN NO CASE MAY A PERMANENT WASH LINE OR POLES BE INSTALLED.

G-31. Street Right-Of-Way.

The area between the edge of the property line and the edge of the paved roadway, even if in the right-of-way, along all paved streets shall be developed and maintained as part of the landscaping plan of any Lot by each Lot Owner.

G-32. Front Facade.

Material used on the front facade of any building shall be masonry, stucco or similar material. No vinyl or aluminum siding is permitted unless approved in writing by Declarant or Association.

G-33. Fencing.

- (a) Fences shall not exceed a height of six (6) feet and shall be constructed of either wood, vinyl, masonry, aluminum, simulated wood or forged ornamental iron construction only which shall be the only types of fences permitted in Simmons Creek and in the locations as hereinafter limited. Absolutely no chain link or wire materials shall be permitted, except standard tennis court enclosures which will require the consent of the Declarant and/or the Association and the further exception that Declarant shall install a suitable chain link fence surrounding the storm water detention pond which, when required, can be replaced with identical fencing without violation of this Declaration.
- (b) No fences shall be located closer to the street than the rear corners of the dwelling home except limited landscaping fencing or masonry fencing to include ornamental iron construction integral to the house constructed.
- (c) Fences shall not extend any closer to the side property than the side property line or Township Ordinance, if more restrictive.
- (d) Fences shall not extend closer to the rear property line than the rear of the lot or the Township Ordinance, if more restrictive.
- (e) In the event a lot owner desires to erect a fence taller than and restricted other materials or otherwise in conflict with this restriction and provide such request does not violate any local Ordinance, Rule or Regulation, the Declarant and/or the Association may grant variance upon good cause shown which request must contain the consent of all adjoining land owners.
- (f) It is not intended that these restrictions shall prohibit limited decorative fences incorporated into any landscape islands or underground electric fences for pet control.
- (g) No property boundary walls shall be permitted but which shall not exclude well maintained hedges but not to exceed ten (10) feet. Appropriate swimming pool fences will be required and tennis court fences, if required, will be allowed by Declarant or Association and fencing thereof will be allowed to exceed the height guidelines herein established, but only upon approval of Declarant or Association. All such walls and fencing shall be reasonable, appropriate and tasteful to provide privacy screening.
- (h) No natural fencing/boundary wall of any type, form or composition, to include trees, shrubs, hedges or the like shall be constructed in any front yard, unless specifically approved in writing by Declarant or the Association.

- (i) All fencing must furthermore be in strict compliance with any and all Township and other governmental ordinances, rules or regulations.

G-34. Gardens.

Any vegetable garden shall be located to the side or rear of the single family dwelling home which shall be maintained in an appropriate and presentable condition at all times.

G-35. Lighting and Lampposts.

Exterior lighting shall be shielded to prevent glare and shall not directly light areas beyond Lot boundaries. Each Owner shall install a lamppost in the front yard that shall be controlled by a photocell and/or timer so as to provide some light from dusk to midnight.

G-36. Mailboxes

Each dwelling home, in accordance with approved specifications of the Association, shall install at each Lot Owner's cost, a mailbox in a type and form approved by the Declarant or the the Association.

PART H - MAINTENANCE OF AREAS OF COMMON RESPONSIBILITY AND RIGHT OF WAY

The Homeowners Association shall be responsible for all trash removal, cutting of grass, mulching, weeding and pruning, and any other maintenance required throughout the Areas of Common Responsibility of Simmons Creek.

PART I - DECLARANT'S RIGHTS

I-1. Declarant Control of the Simmons Creek Homeowners Association.

(a) Subject to the Act, there shall be a period of Declarant control of the Association during which Declarant or persons designated by the Declarant, may appoint and remove the officers and members of the Executive Board. The period of Declarant control terminates no later than the earlier of:

- (1) Sixty (60) days after conveyance of seventy-five percent (75%) of the Lots that may be created, to Lot Owners other than Declarant; or
- (2) Five (5) years after the first Lot is conveyed to a Lot Owner other than Declarant; or
- (3) Two (2) years after Declarant stops the sale of Lots.

A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period, but only by Amendment to this Declaration executed by Declarant which shall not be effective until recording, but in that event, the Declarant may require, for the duration of the period of Declarant control, that

specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that may be created to Lot Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Lot Owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that may be created to Lot Owners other than Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Executive Board must be elected by Lot Owners other than the Declarant.

(c) Notwithstanding any provisions of the Declaration or the By-Laws to the contrary, following notice of not less than ten (10) nor more than sixty (60) days in advance of any meeting under Section 5308 of the Act, the Lot Owners, by a two-thirds (2/3) vote of all person present and entitled to vote at a meeting of the Lot Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.

Section I-2. Convertible and Withdrawable Real Estate.

There is no convertible or withdrawable real estate in accord with the Act with regard to the Property.

Section I-3 Declarant Relocation of Boundaries. Declarant reserves the right to relocate the boundaries between adjoining Lots owned by Declarant and to reallocate between such Lots their Common Element interests, votes in the Association and common expense liabilities by amendment to the Declaration.

PART J - MISCELLANEOUS

J-1. Term.

The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time the same shall be automatically extended for successive periods of ten (10) years, unless an amendment thereto has been duly adopted and recorded as hereinafter provided.

J-2. Enforcement.

The Declarant, Association or Owner of any Lot, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Any monies received by any Owner from any other Owner or former Owner on account of assessments levied by the Association, less all reasonable enforcement costs, shall be paid by such enforcing Owner to the Association. Failure by the Association or by any Owner to enforce any covenant or restriction

herein contained shall in no event be deemed a waiver of right to do so thereafter, in the event that any such enforcement action results in a judgment or order against the party against whom enforcement is sought, such judgment or order shall also include legal fees and costs to the party seeking enforcement. Failure to promptly prosecute such action shall not be deemed a waiver of rights under these Protective Covenants.

J-3. Severability.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

J-4. Amendment.

This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy (70%) percent of the Lot Owners, and thereafter by an instrument signed by not less than sixty (60%) percent of the Lot Owners. Any amendment must be recorded. Furthermore, the Board of Directors of the Association shall have the power to adopt, modify, cancel, limit, create exceptions to or expand the restrictions set forth herein pursuant to the provisions of this agreement.

J-5. Covenants Running with the Land.

These Protective Covenants and Restrictions that run with the land and shall benefit and bond the Owners of the Lots, their heirs and personal representatives, successors and assigns.

J-6. Fraud, Gross Negligence, or Other Intentional Wrongful Conduct.

No approval or disapproval of any plan submitted under these Covenants and Restrictions with respect to this Declaration shall cause any liability to have occurred by Declarant or the Association or any member thereof, absent fraud, gross negligence or other intentional wrongful conduct of Declarant.

J-7. Termination of Association.

In the event of the liquidation or dissolution of the Association or its successors; the filing against it or voluntarily by it or a petition for reorganization or bankruptcy or for the appointment of a receiver of its assets; the suspension or termination of the Association's rights to administer the use of the Areas of Common Responsibility for any reason other than as a result of merger, passage of control of the Association to parties other than the Declarant and the Owners as herein defined; transfer of ownership or control of the Areas of Common Responsibility, or any part thereof to parties other than the Association, the Declarant or the Owners, the Areas of Common Responsibility shall be thereafter subject to the following use restriction which shall run with and be binding upon the land and be enforceable by any Owner:

- (a) No use or structure, other than a gazebo with attendant landscaping as may be constructed in the cul-de-sac by Declarant or the Association, existing walls and fencing, existing community signage or replacement and maintenance of existing

landscaping, of any kind shall be permitted within the Areas of Common Responsibility other than safe and required utility service to a Lot Owner, maintenance of the Areas of Common Responsibilities, or as otherwise may be permitted by Declarant or Association.

The foregoing provisions shall have no force or effect unless the Areas of Common Responsibility has been initially conveyed to the Association by the Declarant.

J-8. Section Captions.

Section titles or captions contained in this Declaration are inserted only as a matter of convenience and shall not affect the meaning of the Declaration in any way.

J-9. Conformity to Law; Savings Clause.

This Declaration shall be governed by and construed according to Pennsylvania law. Wherever possible, it is to be construed so as to render all of its provisions effective in accordance with the applicable law. Invalidation of any one of the provisions of this Declaration by judgment or court order shall in no way effect any other provisions hereof which shall continue in full force and effect as though the invalid provision had never been included herein.

IN WITNESS WHEREOF, this Declaration has been executed the day and year first above written.

ATTEST:

THE CUSTER FAMILY LIMITED PARTNERSHIP

Lee G. Gorman

By: Stan Custer manager

COMMONWEALTH OF PENNSYLVANIA:

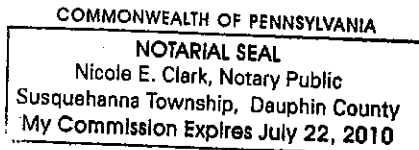
COUNTY OF Dauphin

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PERSONALLY appeared before me, a Notary Public, in and for said County and Commonwealth, STAN CUSTER, JR., who being duly sworn according to law, deposes and says that he is the manager of The Custer Family Limited Partnership, and that as such, being authorized to do so, has executed the foregoing Declaration of Protective Covenants, Easements, Restrictions, Equitable Servitudes, Charges and Liens, for Simmons Creek for the purposes therein contained by the execution thereof, April 24, 2007.



Nicole E. Clark
Notary Public



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My Commission Expires:

I Certify this to be recorded
In Cumberland County PA



Robert P Ziegler

Recorder of Deeds