

Tax Parcel Nos.: See attached Exhibit D
Prepared by and Return to:
Richard P. Beck, Esquire
Morris James LLP
P. O. Box 2306
Wilmington, Delaware 19899

THE VILLAGE OF BAYBERRY NORTH

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (the "Declaration") is made this ___ day of January, 2011, by the undersigned parties (hereinafter collectively referred to as the "Declarant").

RECITALS

Declarant owns certain land (the "Land") located in New Castle County (the "County"), Delaware, shown on the Record Minor Subdivision Plan of The Village of Bayberry North dated May 15, 2009, last revised March 8, 2010 (which plan and any subsequent modifications or amendments thereto are herein referred to as the "Plan"), recorded in the Office of the Recorder of Deeds for the County (the "Recorder's Office") in Instrument No. 20100420019022, which Plan is attached hereto as Exhibit A. The Land includes those lots designated as Lots 1 through 951, except for lot 756, (the "Lots"), and all streets, drainage facilities, and open spaces appurtenant thereto as shown on the Plan.

Declarant desires to provide for the orderly preservation of property values for the owners of the Lots (each an "Owner" and collectively the "Owner") and, to that end, desires to subject the Land to the covenants, conditions, restrictions and easements hereinafter set forth, each and all of which is and are for the benefit of the Land, and each Owner of a Lot.

NOW, THEREFORE, the Declarant hereby declares that the Land, and any future additions thereto, shall be subject to the provisions of this Declaration, and that the covenants, conditions, restrictions and easements contained herein shall run with the title to the Land and any future additions thereto, and be binding on all parties having any right, title or interest in the Land or the Lots, as provided herein. Capitalized terms used by not otherwise defined in this Declaration shall have the meaning set forth in the "Definitions" appended hereto as Exhibit C.

ARTICLE I BUILDING AND USE RESTRICTIONS

1.01. Residential Uses. Except as elsewhere provided in this Declaration, Lots shall be used for private residential purposes only; provided, however, that conduct of business activities that conform with applicable zoning and other laws and are unnoticeable from outside the dwelling house shall not violate this restriction.

1.02. Dwelling Houses. Except as provided in Article VII below, no Structure of any kind shall be erected or maintained on the Lots except dwelling houses, for the use of the owner or occupant of the Lot upon which the dwelling house is erected.

1.03. Plans and Specifications. All dwelling houses shall be constructed in accordance with plans and specifications prepared by Declarant's registered architect or designated designer, or as subsequently modified by or with Declarant's prior written approval (which approval may be withheld in Declarant's sole discretion). Notwithstanding the foregoing, however, Declarant reserves the right (but shall be under no obligation) in its discretion to construct or to allow the construction of any dwelling house that has been designed or adapted for the Community by the Lot Owner's registered architect, if such design or adaptation has been approved by Declarant's registered architect or designated designer, which approval may be withheld if in his or her professional opinion it is not sufficiently compatible with Declarant's design concept for the Community.

1.04. Exterior Changes. Except as provided in Article VII below, all Structures shall be maintained in their original configuration and outward appearance, including without limitation the color of all surfaces exposed to outside view, and the type of trim, shutters, downspouts, gutters, windows, doors, siding and roofing materials.

1.05. Pools and Antennas. Above ground pools are prohibited. To the maximum extent permitted by law, no outside antenna, aerial, or disk for television, radio or other reception or transmission, shall be permitted on any Lot or the exterior of any Structure on a Lot, except as provided in the Architectural Design Guidelines (sometimes called "Architectural Guidelines") attached hereto as Exhibit B.

1.06. Driveways. Driveways shall be paved and or repaved with the same material as the original construction unless another material is approved in advance by the Architectural Review Committee (the "Committee"). Gravel surfaces are prohibited. Expansion or modification of any driveways or parking spaces from what is initially constructed or approved by Declarant shall require prior written approval of the Committee. If expansion or modification of any driveways or parking spaces is approved, all expansions or changes shall provide positive drainage away from Structure(s) and towards a street, swale or drain, or other stormwater management system approved by New Castle County, so as not to violate the rights of owners of neighboring Lots.

1.07. Yards. The front yards of each Lot shall be kept only as a lawn and for ornamental or decorative planting of grass, trees, shrubbery, and flowers. No vehicles, equipment or machinery, including without limitation, equipment or machinery for use in connection with the maintenance of a dwelling, such as lawnmowers, wheelbarrows and similar devices, shall be stored in the front or side yards of any Lot. No vegetable gardens are permitted in the front or side yards of any Lot.

1.08. Trees. Trees planted by Declarant in the front or side yard of any Lot shall be maintained in perpetuity by the Owner of such Lot. If it is necessary to replace a tree due to age, damage, disease, threat of damage to Structures or person or other similar circumstance, said tree shall be promptly replaced by the Owner with a similar genus and species of tree. Trees shall only be removed as approved by the Committee, and shall comply with Architectural Design

Guidelines appended hereto as Exhibit B, as may properly be amended from time to time (the “Architectural Guidelines”).

1.09. Fences. No fences, walls, hedges, landscaping screens (in contrast to isolated trees or shrubbery) or other barriers (hereinafter, “fence”) shall be constructed or planted forward of the front of the dwelling house on any Lot, unless installed by Declarant. Any fence not otherwise prohibited shall only be installed as approved by the Committee, and shall comply with Architectural Design Guidelines.

1.10 Sheds. No sheds are permitted on Townhouse or Twin House Lots. Sheds on Single Family detached Lots shall only be installed as approved by the Committee, and shall comply with Architectural Design Guidelines.

1.11. Lighting. Exterior lighting that was part of the original Structure as constructed by Declarant shall not be altered without the prior approval of the Committee. Proposed replacement or additional fixtures shall only be installed as approved by the Committee, and shall comply with Architectural Design Guidelines.

1.12 Utilities. All exterior mechanical and electrical equipment, other than central heating and air conditioning units and utility meters, must be housed or screened from view from streets and neighboring Lots. No window unit air conditioners shall be permitted

1.13 Day Care Centers, Kindergarten and Preschools. No day care, kindergarten, preschool or other similar business shall be permitted on any Residential Lot, except that a Family Home Day Care shall be permitted provided it meets all applicable County and State standards and licensing requirements. For purposes of this Declaration, a Family Home Day Care shall mean a facility in a private home that is operated for the purpose of providing child day care for one (1) to no more than six (6) children at any one time who are not relatives of the day care provider.

1.14 Grades and Elevations. Except as otherwise provided in Article VII below, no material change shall be made in the elevation, grade or surface composition of any Lot as established by Declarant when any Structure or other improvement is constructed on such Lot. No change shall be made, other than by Declarant, which affects surface water drainage to or from any other Lot or Common Facility; provided, that surface water drainage that rightfully utilizes swales and/or pipes or other County approved stormwater management systems constructed by Declarant shall not be prohibited hereby.

1.15 Vehicles.

(a) The following vehicles, equipment or items are prohibited to be stored, placed or parked in the Community unless such vehicles, equipment or items are kept completely garaged or permission has been granted by the Declarant for the temporary parking or placement of a prohibited vehicle, equipment or item: travel trailers, mobile homes, motor homes, boats, vans or trucks exceeding 1½ tons, and other recreational, commercial or special purpose vehicles, equipment or items, except for light trucks or vans used by the homeowner in his or her vocation. Exceptions are permitted for the temporary purpose of loading, unloading,

construction or temporary rendering of services (including work performed on such vehicle, boat, or equipment, etc.).

(b) Motorcycles, motor scooters, trail bikes, all terrain vehicles, ATV's, go-karts, snow mobiles and similar recreational vehicles may not be operated in the Community; except that licensed motorcycles or motorbikes quietly operated by licensed drivers may be driven to and from a particular dwelling house being occupied or visited by the driver.

(c) Vehicles may not park, stop or stand in a way that impedes or prevents ready access to and from any other vehicle or driveway. No inoperable or unlicensed vehicle may be parked outside of any garage for more than forty-eight (48) hours.

(d) The Corporation has the right to cause any vehicle not conforming with these regulations to be moved or towed away, as necessary, at the offending Owner's or operator's expense, and without liability for damage caused to the moved or towed vehicle.

1.16. Parking. Vehicles shall not be parked except upon the paved portion of streets to either side thereof and where on-street parking is permitted, or within other paved parking areas (if any) and/or driveways as established by the Declarant from time to time. No portion of any Lot shall be graveled or paved for any purpose, parking or otherwise, without the prior written consent of Declarant, or approval of the Committee, pursuant to Article VII below.

1.17. Animals. No animals of any kind, whether mammal, bird, reptile or insect, shall be raised, bred or kept on any Lot, except that up to a total of four (4) dogs, cats or any other small animal commonly recognized as a household pet may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided they do not become a nuisance to the Community or to any other Owners. Such household pets must be restrained with a lead at all times and cannot be chained or left to roam unattended in the Community or on any Lot (other than within a fenced Lot, provided no barking or other nuisance results). Pets shall be registered, licensed and inoculated as required by law. Owners shall be responsible for the immediate clean-up and removal of their pet's waste on any part of the Land including their own Lot. Puppies and kittens in excess of the numbers set forth above may be kept until they reach the age of twelve (12) weeks. The Board of Directors shall have the authority, after hearing, to determine whether a particular pet is a nuisance or a source of annoyance to other Owners, and such determination shall be conclusive.

1.18. Clothes Lines. No permanent outside clothes lines or clothesline posts are permitted. Portable outside clothes lines are permissible, provided same are used and clothes are hung out during daylight hours only, and then only in rear yards.

1.19. Nuisances. No offensive, dangerous or unlawful substance, activity or condition shall be brought, conducted or permitted on the Lots or elsewhere in the Community.

ARTICLE II EASEMENTS AND RIGHTS OF WAY

2.01. Lot Line Easements. Easements and rights-of-way are reserved over, under and along the side (other than along the party wall of any dwelling house) and rear boundary lines of each Lot, being twelve (12) feet in width centered on such boundary lines so that the outmost six

(6) feet of each Lot along its side yard and rear yard boundary lines shall be subject to such reserved easements and rights-of-way. Easements and rights-of-way shown or noted on the Plan, or otherwise created during the construction and development of the Community, are also reserved and shall not be limited to or by the foregoing.

2.02. Purposes. The purpose of the easements and rights-of-way described in Section 2.01 shall be for the construction, installation, maintenance, repair and replacement of:

(a) storm water drainage and management systems as required by the County or otherwise installed or authorized by Declarant;

(b) public or private sanitary sewer lines as required by the County or otherwise installed or authorized by Declarant; and

(c) utility lines, pipes, conduits and cables for electricity, telephone, television, water, gas, fuel oil, and for any other public or quasi-public utility or function serving the Lots and constructed, furnished or maintained by any method on, in, below or above the surface of the ground as installed or authorized by Declarant.

The creation of easements for the above listed purposes shall not obligate Declarant to install all or any of the improvements. Declarant shall have the right to grant easements and rights-of-way to any person, corporate body, the State, the County or any municipality to install, maintain, repair and replace the aforementioned items.

2.03. Limitations. No Lot Owner, utility, public agency or other party shall make use of the easements and rights-of way created in Section 2.01 without the express, separate written consent of Declarant. All parties rightfully using such easements may from time-to-time and at any time enter upon said above-reserved easements and rights-of-way, for any of the purposes for which same have been reserved, and as necessary may remove or trim without replacement any growing or other thing thereon. During the time that any work is rightfully being performed within any easement or right-of-way area, the party performing such work shall also have a temporary easement to either side of the easement area for purposes of conveniently performing the work in question, without harm to original Structures or plantings; provided, that if the practical and reasonable performance of necessary work cannot be performed without disturbing or harming plantings and/or removing fences, such work may proceed if the party performing same has made in advance reasonable and definite arrangements to replace and/or restore any and all such disturbed, or harmed plantings or fences. Disturbed earth shall promptly be graded to its previous state and seeded, any rightful previous paving or other improvements thereon shall be replaced, and all debris shall be completely removed, by the party performing the work.

2.04 Townhouse Lot Easements. Easements and rights-of-way are reserved over the side boundary lines of each End Townhouse Lot, being six (6) feet in width centered on such side boundary lines so that the outmost three (3) feet of each side yard of an End Townhouse Lot shall be subject to such reserved easements and rights-of-way. The sole purpose of the easements and rights-of-way described in this Section shall be to provide the Owners of Interior Townhouse Lots with a means of access between the front and rear yards of their Lots.

2.05. Non-Interference. The Owner and occupants of the Lots shall at all times maintain and occupy their Lots so as not to interfere unreasonably, in the good faith opinion of Declarant, with the purposes for which the easements and rights-of-way referenced herein have

been created and are used. All conveyances of Lots by Declarant or others shall be subject to the said easements and rights-of-way without necessity of any further reservation being mentioned therein.

2.06. Construction Activities; Mowing. All Lot Owners, occupants and other interested persons shall at all times permit the Declarant and/or its successors, assignees, agents and designees the right to go upon any and all Lots, streets and Common Facilities to accomplish and to complete construction, grading or landscaping and perform maintenance or make repairs in accordance with the Plan or as required by the County, the State, or any department or agency thereof, or as deemed necessary or desirable by the Declarant for maintaining the general appearance of the Community.

ARTICLE III ENCROACHMENTS AND PARTY WALLS

3.01. Encroachments. If any Structure or any part thereof ever encroaches upon an adjoining Lot, or any Structure encroaches upon any Common Facilities, and regardless of whether such encroachment is attributable to construction, settlement or shifting of the Structure, or is attributable to any other reason not wrongfully caused by the Board of Directors, by any Owner, or by the Declarant, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner or Owners affected thereby, or the Corporation, as applicable, their respective heirs and assigns, to provide for the encroachment and nondisturbance of the Structure, and allow for its reasonable maintenance, repair and replacement. Such easement shall remain in full force and effect so long as the encroachment shall continue. The conveyance or other disposition of a Lot or Common Facilities shall be deemed to include and convey, or be subject to, any easements arising under the provisions of this Article without specific or particular reference to such easement.

3.02. Party Walls Cross-easements are hereby granted and established upon each Townhouse or Twin House Lot (the "Party Lots") in favor of each adjoining Party Lot to permit the construction, maintenance, repair and replacement of party walls shared in common by the Structures constructed upon each such Lot(s), including garages and common fences, and for the benefit of overhanging roofs or roof eaves, downspouts and gutters, splash blocks, and similar items that ordinarily straddle a common boundary line between Party Lots; provided, that the granting and establishing of such cross-easements shall not authorize the construction of any Structures that have not otherwise been approved by Declarant and/or the Committee, as applicable. The Declarant and each Owner of a Party Lot shall have a right of entry upon two (2) business days' advance written notice to the Owner of the adjoining Party Lot, to perform painting and other exterior maintenance repairs and replacements. Each person exercising such right shall be responsible for preserving, protecting and restoring the adjoining Party Lot to the same condition as prior to the exercise of such entry.

3.03 Maintenance. All work done to maintain, repair or restore party walls or other portions of improvements making use of the cross-easements hereby established, shall be performed after giving the other affected Lot Owner at least two (2) business days advance written notice (or such shorter notice as may be practicable in the event of an emergency

requiring prompt corrective work) describing the work and the estimated cost thereof. All such work shall be performed between the hours of 8:00 a.m. and 5:00 p.m. during weekdays that are not holidays, or such other time or times as the adjoining Lot Owner shall agree to in writing; provided, that a party wall being constructed as the result of damage to or destruction of both houses on either side of the party wall, rendering each uninhabitable, shall not be subject to these time limitations unless and until one or the other of the houses in question is again occupied as a residence. The cost of any such maintenance and repairs shall be borne by the Lot Owners benefiting therefrom in proportion to their relative benefit, which shall be presumed equal unless either Lot Owner gives the other written notice in advance of his or her position that the relative benefit will not be equal. Such position shall be communicated by the Lot Owner performing the work at the time when he or she gives the other advance written notice that the work is to be performed; and shall be given by the party receiving notice of the work to be performed, within two (2) business days of receiving such notice. All disputes regarding the proper apportionment of costs shall be resolved by the Board of Directors after a hearing at which both Lot Owners may be heard.

ARTICLE IV MAINTENANCE CORPORATION

4.01. Binding Obligations. Each Owner of a Lot, by the acceptance of delivery of the deed thereto, obligates and binds himself or herself, his or her heirs and assigns, (i) to become a member of The Village of Bayberry North Maintenance Corporation, a Delaware non-profit, non-stock maintenance corporation (the "Corporation"); (ii) to be bound by the Corporation's Articles of Incorporation, By-Laws and any Community Rules if and as established from time to time; and (iii) abide by all other matters of record, including the Maintenance Declaration, this Declaration and exhibits thereto (including without limitation the Architectural Guidelines appended hereto as Exhibit B and Definitions appended hereto as Exhibit C), the Plan or Plans for the Village of Bayberry North, and other recorded, agreements, easements and restrictions; of the foregoing as same may be amended from time to time being hereinafter sometimes collectively referred to as the "Community Documents."

4.02. Corporation Duties. The Corporation shall have the duty to arrange for, and to provide, the following:

(a) maintenance (including but not limited to grass cutting, pruning and maintenance clearing) and repair of Common Facilities, except insofar as they in whole or in part are dedicated to and accepted for maintenance by any County or State department or agency;

(b) collection and payment of street lights or other common electric charges or taxes (if any) not separately or directly billed to Lot Owners;

(c) removal of snow from the streets within twenty-four (24) hours after snowfall has ceased if the accumulation exceeds three (3) inches, or such lesser accumulation as the Corporation may decide to have removed; and

(d) maintenance, repair and replacement, as necessary or advisable, of all Structures upon or within the Common Facilities.

(e) such other matters, responsibilities and activities as are herein elsewhere contemplated or required, or are authorized or directed in any of the other Community Documents.

4.03 Permitted Action by Corporation. While the Corporation holds the legal title to any or all of the Common Facilities, it may take any or all of the following actions upon approval of such action by majority vote of the Board of Directors:

(a) make an express confirmatory conveyance to any Owner, including the Declarant, of such easements in and other rights with respect to the Common Facilities as under the provisions of this Declaration are held by or provided for such Owner;

(b) grant, convey or dedicate to the County, the State or to any one or more public or quasi-public governmental bodies, utility companies or cable television companies, any and all licenses, easements and/or right-of-way in, over and through the Common Facilities as the Corporation considers appropriate for the provision of any utility or other service to the Community. Notwithstanding a grant, conveyance or dedication of any such license, easement or right-of-way, the land subject thereto shall remain a part of the Common Facilities and the Corporation shall continue to maintain such land (except for any improvements thereon owned by the County, the State or such public or quasi-public governmental body, such utility company or such cable television company) in accordance with the provisions of this Declaration;

(c) convey the legal title to, or any interest in, any or all of the Common Facilities to or at the direction of any governmental or quasi-governmental authority either through the condemnation thereof, or under threat of such condemnation (after which grant, conveyance or dedication, that portion of the Common Facilities that is the subject of the same shall not be part of the Common Facilities); provided, however, no such conveyance, dedication or transfer shall be effective without a majority vote of the Members of the Corporation, together with the prior written consent of the Declarant (if the Declarant then holds title to any portion of the Land); and

(d) grant or reserve, by or to the Declarant for the benefit of any other parcel of land owned by Declarant or Declarant's affiliates that may be adjacent to or nearby the Land, or any portion thereof, (whether or not it is then or thereafter becomes a part of the Land), an easement in, over, under and through the Common Facilities for the construction, installation, use, operation, maintenance, repair and replacement of any facility of the type enumerated in subsection (b) hereof.

4.04. Entrance and Street Improvements, Signage, Lighting and Landscaping.

(a) The Corporation shall maintain and repair, as necessary or advisable, all improvements, signs, lighting and landscaping at the entrance for the Community, upon or within any Common Facilities and, upon or within those portions of the street rights-of-way that do not serve as frontage for one or more residential lots. The Corporation shall keep all such improvements, lights, signs, lawns, landscaped areas, and plant material in a neat, trim and tidy condition, replacing as necessary from time to time any sod, shrubs or trees that die or are damaged; light bulbs that are burnt out or damaged, broken light globes, and any other damaged fixtures or materials. The Corporation's obligations shall not be diminished by the fact that such

improvements, signage, lighting, landscaping or other items are within or upon lands dedicated to the State for street or highway purposes.

(b) Neither the State, nor any agency thereof, shall have any responsibility to maintain, repair, replace, remove or relocate any of the improvements, signs, lights or landscaping at the entrance to the Community, including any of these items that may have to be relocated or removed by reason of any road construction performed by DelDOT or to maintain, cut, trim, repair, replace, remove or relocate any street lights or landscaping;

(c) No Structures (including mailboxes, rocks, basketball hoops, plantings and trees) shall be placed by any Lot Owner within any street right-of-way, unless approved by the Declarant or the Committee. Each Lot Owner shall, however, be responsible for cutting and maintaining any lawn areas and any paving between the boundary lines of his Lot, and the adjacent street paving.

4.05. Community Rules and Regulations. The Board of Directors shall be authorized, by majority vote, to promulgate and to enforce by legal or equitable means, community rules and regulations (the "Community Rules") governing details of the appearance, use, maintenance and care of the Lots, homes, streets, open spaces, drainage areas and other improvements; provided, however, that such Community Rules shall not (i) conflict with any express provision of this Declaration or (ii) be binding upon Declarant without its prior written consent. Any Community Rules adopted by the Board of Directors may be amended or repealed by a majority vote of the Lot Owners.

4.06. Tenants and Leases. In the event that any Structure is leased or rented to any third party by its Owner, or otherwise occupied by any person other than an Owner (collectively a "Tenant"), the Owner of such Lot shall promptly furnish a copy of any lease to the Corporation, or, if no lease exists, inform the Corporation of the occupants of the Lot, and shall promptly furnish a copy of this Declaration and any Community Rules to the Tenant. If, during such tenancy or occupancy, the Structure is not being maintained to the highest standards elsewhere evident in the Community, or if this Declaration or the Community Rules are being violated by the Tenant or other occupant, the Corporation shall have the right to so notify the Tenant and the Owner in writing, by certified mail, return receipt requested, sent to their last known address. Thereafter, unless such lack of maintenance or Tenant's violation has been rectified within fourteen (14) days and does not re-occur for at least ninety (90) days, the Corporation may, at the Owner's expense, accomplish such maintenance as it deems reasonably necessary to preserve the Community's highest standards of appearance and care, and/or terminate the lease and evict the Tenant, as the Corporation may determine. Each Owner shall be deemed to have irrevocably appointed the Corporation, as such Owner's attorney-in-fact, coupled with an interest, for this purpose. Any violation of this Declaration or Community Rules shall be deemed a breach of the lease and shall entitle the Corporation, as agent and attorney-in-fact for the Owner, to proceed accordingly against the Tenant.

ARTICLE V INITIAL CONTRIBUTION

At settlement on the initial sale of a Lot following the issuance of a certificate of occupancy, an initial contribution shall be payable by the Owner of the Lot to the Declarant, to

be held in trust for the benefit of the Corporation. The initial contribution shall be Three Hundred Forty Eight and 00/100 Dollars (\$348.00). The initial contribution is a onetime charge, is not refundable, and will not be credited against annual or special assessments. The funds collected by the Declarant shall be paid over to the Corporation at such time as Common Facilities are conveyed to the Corporation, with payment being made for those Lots that are appurtenant to the Common Facilities conveyed. The initial contributions may be used for any purpose in the discretion of the Board of Directors.

ARTICLE VI COMMON FACILITIES

6.01. Grant Of Common Facilities. The Declarant shall convey to the Corporation from time to time and the latter shall take and accept from the former, the Common Facilities shown on the Plan, free of all monetary liens and encumbrances except current real property taxes and assessments not yet due and payable (which taxes shall be prorated as of the date of conveyance), but subject to nonmonetary title exceptions of record, and to this Declaration. The rights and obligations of the Corporation, the Members and the Owners set forth in this Article VI shall only apply to such Common Facilities as are conveyed to the Corporation.

6.02. Right Of Enjoyment. Every Lot Owner shall have a nonexclusive right and easement for the use, benefit and enjoyment, in common with all other Owners, in and to the Common Facilities conveyed to the Corporation. No portion of the Common Facilities may be used by any Owner or Owners for personal vegetable gardens, storage facilities, leaves, compost or trash disposal, or other private uses unless approved by the Board of Directors. If ingress or egress to any Lot or utility service to any Lot is through the Common Facilities, any conveyance or encumbrance of such Common Facilities shall be and is hereby subject to an easement for ingress, egress and/or utilities for the benefit of such Lot.

6.03. Nuisance. No noxious or offensive activity shall be carried on upon the Common Facilities, nor shall anything be done thereon that will become an annoyance or nuisance to anyone in the Community; provided, that this shall not be deemed applicable to construction activities by Declarant during the initial construction and improvement of the Land, or to construction of improvements subsequently approved by the Committee or ordered by the Corporation.

6.04. Restrictions. The right of each Owner (other than the rights of Declarant, which shall be and remain unrestricted hereby) to use the Common Facilities shall be subject to the following:

- (a) any Community Rules;
- (b) the right of the Corporation to take such steps as are reasonably necessary to protect the property of the Corporation; and
- (c) the right of the Corporation to suspend the rights to use any recreational facilities within the Common Facilities for any period of time during which any assessment against an Owner under the Bylaws remains unpaid, and for any violation of this Declaration or

infraction of any of the Architectural Design Guidelines or Community Rules, after notice and a hearing; provided the Corporation shall have no right to suspend the right of any Owner to use any Common Facilities for necessary, ordinary and reasonable vehicular and pedestrian access to and from such Owner's Lot or any easement over the Common Facilities for telephone, electrical, sewer or other utility service.

6.05. Delegation Of Right Of Use. Any Owner may delegate its rights to the use and enjoyment of the Common Facilities to family members who reside permanently with such Owner and to its tenants, contract-purchasers, invitees and guests.

ARTICLE VII ARCHITECTURAL REVIEW

7.01. General Provisions. No Structure shall be constructed, maintained, altered, extended, added to, removed, repaired, replaced or otherwise modified (collectively a "Lot Improvement") without the prior written consent of the Architectural Review Committee (the "Committee") and in accordance with the Architectural Design Guidelines appended hereto as Exhibit "B". In addition, no Structure, once approved by the Committee, shall be altered, extended, added to, removed, repaired, replaced or otherwise modified, except as provided herein.

7.02. Architectural Review Committee.

(a) The Committee shall consist of between one (1) and three (3) members. Members shall be an Owner, a designee of one of the entities that constitutes the Declarant, and/or a licensed architect (individually a "Committee Member" and collectively the "Committee Members"). The initial Committee Members shall consist of such member(s) designated by Declarant. The initial Committee Member(s) shall serve until such time as Declarant shall designate their respective successors. The Committee shall keep records of its actions, and shall meet when and as it deems reasonably necessary in order to discharge its obligations and responsibilities, including rendering any decisions specified in this Declaration.

(b) When Declarant no longer owns any Lots in the Community, or earlier if Declarant consents in writing, the powers of the Committee shall be assigned to the Corporation.

(c) Exceptions to Sections 1.02, 1.04, 1.05, 1.06, 1.07, 1.08, 1.09, 1.10 and 1.11 of this Declaration may be allowed by the Committee in accordance with the Architectural Design Guidelines. Each Owner seeking such exception, and all other Owners affected thereby, shall accept and be bound by the good faith decision of the Committee in granting or denying such exception, or in qualifying and limiting any exception granted, the same as if the Committee were an arbitration panel resolving a disagreement among the parties; provided, however, that if the Committee's decision has been made without consulting an independent licensed architect or goes against his or her recommendation, then the Owner seeking the exception or the Owner of an adjoining Lot aggrieved by the Committee's decision shall have the right, which must be exercised within thirty (30) days after the Committee's decision was announced, to require that the matter be reviewed by an independent Delaware licensed architect hired by the Committee, at the aggrieved person's expense, to review the matter and to give his

professional opinion thereon as the ultimate arbitrator thereof, in which event his or her decision shall be accepted and followed by the Committee and the Owners.

7.03. Reliance On Architectural Control. Each Owner, in accepting a deed to his or her Lot, is thereby deemed to have acknowledged and agreed that he or she, and every other Owner, has acquired a Lot in the Community in reliance on the initial architectural control of Declarant and its registered architect or designated designer, and that no Owner has a right to construct any improvements upon his or her Lot except in accordance with plans and specifications furnished or approved in writing by Declarant and Declarant's architect or designer. All homes constructed by Declarant shall be deemed so approved. Declarant shall have the discretion, but not the obligation, to permit (i) modifications from previously approved plans and specifications, or (ii) construction of improvements based upon other plans and specifications if, but only if, same are approved by Declarant's architect or designer. The exercise of such discretion shall not be deemed to invalidate the force or effect of the general prohibition. Moreover, each Lot Owner shall further be deemed to have acknowledged and agreed that any amendments, additions or other changes in and to the Architectural Design Guidelines, including without limitation, those which permit exceptions to the limitations as contemplated in Sections 1.02, 1.04, 1.05, 1.06, 1.07, 1.08, 1.09, 1.10 and 1.11 of this Declaration, shall have the same force and effect, as amended from time-to-time, as if they had been appended hereto and made a part hereof from the outset. If any discretionary authority exercised by Declarant or the Committee is determined by any court or other authority to be invalid, such determination shall not invalidate the Architectural Design Guidelines, but shall affect only the manner in which such discretion may be or has been exercised.

7.04. Requests For Lot Improvements. Any request from an Owner for any Lot Improvement shall be in writing and shall be submitted to the Committee for review and consideration, as provided in the Architectural Design Guidelines.

7.05. Unauthorized Lot Improvements. If any Lot Improvement is undertaken other than in accordance with the provisions of this Declaration and applicable law, the Declarant (if it still owns a Lot in the Community), the Committee, or the Board of Directors, may send written notice of the violation to the Owner of the Lot, requiring that the Owner cease any further work, and restore the Lot to the condition before the Lot Improvement was undertaken. If the Owner does not correct the violation within thirty (30) days, or such shorter period as may be reasonable in the event of an emergency, the Declarant or any agent of the Corporation may enter upon such Lot and take such steps as are reasonable to terminate such violation and no trespass or other wrongful act by reason of such entry shall be deemed to have been committed; provided, however, the Declarant or the Corporation may not alter or demolish any Structure without first obtaining a court order. In addition, the Declarant, (if it still owns a Lot in the Community), or the Board of Directors may exercise all other legal and equitable remedies to prevent or remove any unauthorized Lot Improvement. Such Owner shall be personally liable to the Declarant, or the Corporation, as applicable, for any costs incurred in enforcing the provisions of this Declaration, including but not limited to court costs and reasonable attorneys' fees, to the same extent as such Owner is liable for an assessment levied against such Owner's Lot, and, upon the failure of the Owner to pay such costs within thirty (30) days after such Owner's receipt of written demand for payment from the Declarant or the Corporation, the Declarant or the Corporation may (in addition to any and all other rights and remedies available to the

Corporation) establish a lien upon such Owner's Lot in accordance with and subject to the provisions of this Declaration applicable to an assessment lien.

7.06. Exemptions. The provisions of this Article and the Architectural Design Guidelines requiring the Committee's approval shall not apply to a Lot until its title is first acquired of record by a person other than Declarant. Neither the Declarant nor the Committee, by virtue of this Declaration, or by reason any common or neighborhood scheme that might otherwise be implied by law, have any fiduciary or other duty to any Owner, Mortgagee or any other person, including but not limited to any duty to require that any Structure be similar in size, architectural style or cost to those existing or planned for any other Lot. The foregoing exception and disclaimer expressly applies, without limitation, to any and all Lots to which Declarant shall hold title. Declarant's previous approval of plans and specifications for one portion of the Community shall not obligate Declarant to approve the same or substantially similar plans and specifications for any other portion of the Community, and shall not limit Declarant's right to approve other plans and specifications or be binding upon any other portion of the Community unless expressly so determined by Declarant.

7.07. Right Of Entry. The Declarant, the Committee, and the Board of Directors shall have an easement to enter any portion of the Community or any Lot for the exercise of their respective rights and powers, and performance of their respective duties, under this Article (including the Architectural Design Guidelines) and the other provisions of this Declaration; provided such easement shall be exercised during daylight hours and shall not permit entry within the interior portion of any Structure located on any Lot, but (by way of illustration only and not in limitation of the rights granted herein) shall permit the entry into fenced area, and no trespass or other wrongful act by reason of such entry shall be deemed to have been committed. The Declarant, the Committee, and the Board of Directors, as applicable, shall restore any damage caused by their entry; provided, however, to the extent the exercise of such right of entry is for the purpose of removing or restoring any violation of this Declaration, such removal or restoration shall not be deemed to constitute "damage caused by such entry", and to the extent such damage occurred due to refusal by the Owner or occupant of the Lot to provide entry upon request, it shall not be deemed "damage caused by such entry."

7.08. Limitation Of Liability. Neither the Declarant, the Committee, nor the Corporation or any of its directors, officers and members, shall have liability to any Owner, tenant, occupant, invitee, mortgagee or other person for any failure to perform any duty herein created, or for any negligent performance of any duty, nor shall the Declarant, the Committee, the Corporation or its directors, officers or members have any liability for failure to enforce this Declaration, or for any other alleged negligent act or omission. Every decision made by Declarant, the Committee and/or the Corporation shall have the benefit of the business judgment rule and shall be presumed rightful, valid and enforceable unless proven by a preponderance of clear and convincing evidence otherwise; provided, however, that no such presumption or proof shall apply to decisions by the Corporation or Committee, if any, adverse to the Declarant.

ARTICLE VIII CASUALTY AND CONDEMNATION LOSSES

8.01. Casualty. In case of loss or damage to the Common Facilities by fire or other casualty, the Board of Directors or its agent shall, on behalf of the Corporation and the Members,

settle and adjust any claim under insurance policies which insure against such risks and deduct therefrom costs and expenses of collection (including attorneys' fees and expenses), and collect any such insurance proceeds. Each Owner hereby assigns, transfers and sets over unto the Corporation, all insurance proceeds, rights of action or other claims with respect to any damage or destruction of the Common Facilities. Any and all insurance proceeds received by the Corporation by reason of any damage or destruction of the Common Facilities, after deducting therefrom all of its expenses, including attorneys' fees, shall be used for the cost of the rebuilding or restoration of the Common Facilities to substantially the condition it was in prior to the casualty, unless at least seventy-five percent (75%) of the votes of the Members of the Corporation, with the Declarant's advance written consent if the Declarant still holds title to any portion of the Land, shall decide not to repair or reconstruct at a meeting of the membership duly called for such purpose. If the improvements are not to be repaired or reconstructed and no alternative improvements are authorized by the Members, the damaged Common Facilities shall be restored to its natural state and maintained as an undeveloped portion of the Common Facilities by the Corporation in a neat and attractive condition. In such event, any excess insurance proceeds shall be paid over to the Corporation for the benefit of the Land, which proceeds may be used and/or distributed as determined by the Board of Directors, in its reasonable discretion.

8.02. Condemnation. The Board of Directors shall notify all Owners in writing of the pendency of any condemnation proceeding affecting the Common Facilities. Each Owner hereby assigns to the Corporation all compensation, rights or claims for damages, and/or proceeds of any award for any of the Common Facilities (other than those located upon its Lot) taken or damaged under the power of eminent domain or by condemnation or by sale in lieu thereof. The Corporation may, at its option, commence, appear in and prosecute, in its own name and on behalf of all of the Members, any action or proceeding with respect to the Common Facilities, or make any compromise or settlement in connection with such condemnation or taking under the power of eminent domain or sale in lieu thereof. After deducting therefrom all of its expenses, including attorneys' fees, the Corporation may elect to apply the proceeds of the award to the restoration or rebuilding of the Common Facilities. If any Common Facilities are not to be rebuilt or restored pursuant to a vote by the Owners, and no alternative improvements are authorized by the Owners, then and in that event the remaining Common Facilities shall be restored to its natural state and maintained as an undeveloped portion of the Common Facilities by the Corporation in a neat and attractive condition. In such event, any excess award shall be paid over to the Corporation for the benefit of the Community, the proceeds of which may be used and/or distributed as determined by the Board of Directors, in its reasonable discretion.

8.03. Repair and Reconstruction of Common Facilities. If any Structures on the Common Facilities are damaged or destroyed, and the proceeds of insurance (or, in the event of a condemnation, any award) received by the Corporation are not sufficient to pay in full the cost of the repair and reconstruction of the improvements, the Board of Directors may, without the necessity of a vote of the Owners, levy a special assessment in order to cover the deficiency (including but not limited to any deductible amount of any insurance policy). If the proceeds of insurance or the condemnation award exceed the cost of repair, such excess shall be paid over to the Corporation for the benefit of the Community, and may be used and/or distributed as determined by the Board of Directors, in its reasonable discretion.

8.04. Hazard Insurance on Improved Lots. Each Owner of an improved Lot at all times shall maintain fire and extended coverage insurance or other appropriate damage and physical loss insurance, in an amount equal to not less than one hundred percent (100%) of the current replacement value of the Structures on the Lot, excluding land, foundation and excavation.

8.05. Obligation of Lot Owner to Repair and Restore. In the event of any damage or destruction of the Structures on a Lot, the insurance proceeds from any insurance policy on an improved Lot, unless retained by a Mortgagee of a Lot, shall be applied first to the repair, restoration or replacement of the damaged or destroyed Structures. Any such repair, restoration or replacement shall be done in accordance with the plans and specifications for such Structures originally approved by the Declarant or the Committee, unless the Owner desires to construct Structures differing from those so approved, in which event the Owner shall comply with the provisions of Article VII herein. If any Mortgagee does not permit insurance proceeds to be used to restore any damaged or destroyed Structures, and the Owner does not otherwise restore such Structures, then the Owner of such Lot shall raze the Structures and return the Lot to its natural condition free of all debris; provided, that with respect to Party Lots, the Owner shall be required to reconstruct such damaged or destroyed townhouse or twin house, regardless of the Mortgagee's decision or unavailability or insufficiency of insurance proceeds.

8.06. Exemptions and Exceptions. Except for liability insurance, the foregoing provisions shall not apply to Declarant or any designee that has obtained builder's risk or other insurance with respect to any Lot that has not yet been conveyed to an Owner or with respect to any Structures on Common Facilities, the construction of which has not yet been completed by Declarant or its designee. All insurance proceeds paid under policies of insurance obtained by Declarant or its designee shall be paid to the payee named therein, and neither the Corporation, the Board of Directors, or other Owners shall have any rights or interests therein, or control over the application thereof.

ARTICLE IX RIGHTS OF MORTGAGEES

Regardless of whether a Mortgagee in possession of a Lot is its Owner, (i) such Mortgagee in possession shall have all of the rights under the provisions of this Declaration, the Plan, the Certificate of Incorporation and the Bylaws of the Corporation and applicable law, that would otherwise be held by such Owner, and (ii) the Corporation and each other Owner or person shall be entitled, in any matter arising under the provisions of this Declaration and involving the exercise of such rights, to deal with such Mortgagee in possession as if it were the Owner of the Lot. Any Mortgagee in possession of a Lot shall (subject to the operation and effect of the provisions of the Community Documents) bear all of the obligations under the provisions thereof which are borne by the Owner of such Lot; provided, that nothing in the foregoing provisions of this Section shall be deemed in any way to relieve any Owner of any such obligation, or of any liability to such Mortgagee on account of any failure by such Owner to satisfy any of the same. Notwithstanding the foregoing, unless a First Mortgage holder specifically so informs the Board of Directors in writing that the consent of such holder is required to any amendment of, or other action under, the Declaration that requires the consent of the Owner of the Lot encumbered by such First Mortgage, such amendment or other action shall

be effective regardless of the First Mortgage holder's lack of consent thereto, and the Board shall have no obligation to seek such consent.

ARTICLE X EXPANSION OF LAND

10.01. Expansion. Declarant reserves the right at any time and from time to time (but shall have no obligation) to expand the Land to include additional adjoining or nearby lands, whether or not shown on the Plan; provided that the Land as expanded (if ever) shall consist solely of sections or portions of contiguous parcels of land (whether or not shown on the Plan) adjoining one or more portions of The Village of Bayberry North as same presently exists or is hereinafter expanded, although not every parcel need be contiguous with each other parcel. Each such expansion shall be accomplished by recordation of an amendment to this Declaration that identifies the additional Lots, sections or parcels of land being added, and which may show same by adding an additional Exhibit to this Declaration. In the event of any such expansion, all references herein to Lots, Owners, and Common Facilities shall include the Lots, Owners, Common Facilities and so on of the sections and/or parcels added to and included as part of the Land, and all Owners in the sections or parcels so added shall be members of the Corporation as hereinabove provided. Declarant further reserves the right, in the event of any expansion, to allocate maintenance responsibilities and expenses in the event that any Common Facilities serve less than all of the Lots.

The right of expansion hereby reserved shall not require that any Lots, sections or parcels of land added to the Land be submitted to each and every term of this Declaration; rather, any such added Lots, sections or parcels may be exempted from certain provisions herein, or may be submitted and subjected to all or portions of this Declaration upon certain special terms or conditions applicable only to such Lots, sections or parcels, as Declarant deems appropriate taking into account the nature of such Lots, sections or parcels, their usage and other circumstances at the time.

10.02. Conveyance of Parkland. Declarant reserves the right to convey to any governmental body or non profit organization that portion of the Common Facilities being Tax Parcel #1301321209, identified on the Plan as Parcel POS 11, being approximately 55 acres of land located on the East side of North Bayberry Parkway; provided, that any conveyance shall provide as a condition thereof that such land shall remain available for the non-exclusive use by the Owners, in common with all others entitled to make use of such land as set forth in said conveyance. The Corporation shall, upon the request of the Declarant, execute all necessary documents required to convey such portion of the Common Facilities.

ARTICLE XI MISCELLANEOUS

11.01. Term. Except where permanent easements or other permanent rights or interests are herein created, this Declaration shall run with and bind the title to the Land (including the

Lots) for a period of twenty (20) years from the date this Declaration is recorded, after which time this Declaration shall automatically be extended for successive periods of ten (10) years each, unless and until an instrument adopted by the affirmative vote (in person or by proxy) and/or written consent, or any combination thereof, of at least two thirds (2/3) of the Members of the Corporation has been recorded stating that this Declaration shall expire at the end of the then current term or on such other earlier date as may be specified in a duly adopted amendment to this Declaration.

11.02. Enforcement.

(a) The provisions of this Declaration shall be enforceable by the Corporation, the Declarant or its designee (for so long as they own any Lots), and each Owner and their respective heirs, executors, administrators, personal representatives, successors, assigns, invitees and grantees as applicable, by proceedings at law or in equity against any person or persons violating or attempting to violate any provision of this Declaration, either to restrain the violation or to recover damages, or both. Each Owner, by accepting a deed to his or her Lot, and each occupant of any Lot or Structure thereon, is thereby deemed to have agreed that breach of this Declaration (other than by Declarant for construction purposes as permitted below) will result in irreparable harm to the other Owners, may be enjoined, that specific performance hereof may be awarded, and that any Owner (other than Declarant or its designee) found to have breached this Declaration may be held liable for attorney's fees and court costs incurred in its enforcement. Each Owner further empowers the Corporation, as agent for all Owners, to bring any action to enforce this Declaration.

(b) The Owner(s) violating or attempting to violate any provision of the Community Documents, or whose invitees are violating or attempting to violate any provision of this Community Documents, agree to reimburse the Declarant and/or the Corporation, within thirty (30) days of written demand, for all costs and expenses incurred as a result of the said violation or attempted violation, including but not limited to, court costs and attorneys' fees, to the same extent that an Owner is liable for an assessment levied against Owner's Lot. The liability for such costs shall also be the personal obligation of such Owner.

(c) The Corporation, acting through the Committee and/or the Board of Directors, or the Declarant, shall each also have the right, but not the obligation upon (i) thirty (30) days prior written notice to any Owner with respect to the exterior of any dwelling; (ii) five (5) days for yard maintenance; and (iii) twenty-four (24) hours for snow removal, and, in any case, such shorter period as may be necessary if an emergency situation exists that poses imminent danger to persons or property, to abate and remove any breach or violation of the provisions of this Declaration at the cost and expense of the defaulting party; provided, that if any such abatement or removal requires altering or demolishing any item of construction, a court order shall be obtained prior to such alteration or demolition. The Corporation and the Declarant shall have the further right, but not the obligation, through its agents, employees or committees, including but not limited to the Committee, upon ten (10) days' notice, or such shorter period as may be reasonable under the circumstances, to enter upon and inspect the exterior of any Lot at any reasonable time, for the purpose of ascertaining whether any violation of the provisions of this Declaration exist. Neither the Corporation, the Declarant nor any agent or employee, shall

be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

11.03. Development Activities. As long as the Declarant has an interest in developing any of the Land described on Exhibit A to this Declaration, the Corporation may not use its financial resources, directly or indirectly, to defray the costs of opposing any development activities reasonably consistent with the general intention of the Plan, as amended from time to time. Nothing in this Section shall be construed to limit the rights of Members to act as individuals or in affiliation with other Members or groups; however, no signs shall be placed on any Lot, Common Facilities, Structure or other portion of the Community, opposing or suggesting opposition to such development activities, or containing any statement or opinion about Declarant or any product which, if untrue, would be libelous or slanderous, unless a judgment establishing the truth thereof has first been obtained from a Delaware court of competent jurisdiction.

11.04. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage prepaid, to the last known address of the person who appears as Owner on the records of the Corporation at the time of such mailing. Any notice to be sent to Declarant shall be deemed to have been properly sent when mailed, postage prepaid, to Farm Land Holdings LLC, VBN, Inc., Suite 410, 220 Continental Drive, Newark, Delaware 19713, or any other address that Declarant, its successors or assigns, may specify in a notice mailed to the Corporation.

11.05. Construction of Declaration. This Declaration shall be construed under the laws of the State of Delaware; but the invalidation of any part or portion hereof shall in no way effect or invalidate the remaining parts or portions. In no event shall any provision be construed more strongly against or less strongly in favor of Declarant as the author hereof. The singular and the plural, the masculine, feminine and neuter, and the tense of verbs shall be interchangeable as the context may require. No portion of this Declaration shall be deemed waived, abandoned, or modified by course of conduct or failure to enforce the terms hereof. The headings or captions in this Declaration shall be deemed as neither adding to nor detracting from the contents and provisions hereof. The Definitions appended hereto as Exhibit C shall set forth the defined terms applicable to the interpretation of this Declaration. Except as otherwise expressly provided herein, whenever the prior written consent, approval or other action by Declarant, the Corporation or any other party is required, such consent, approval or action may be withheld in the sole discretion of the party from whom it is sought.

11.06. Amendment.

(a) This Declaration shall not be amended without the prior written consent of the Declarant, if the Declarant then owns any portion of the Land.

(b) Members' General Right to Amend.

(i) Subject to (a) above, this Declaration may be amended by the affirmative vote (in person or by proxy) and/or written consent, or any combination thereof, of at least two-thirds (2/3) of the Owners of Lots in the Community, unless expressly provided

elsewhere in this Declaration, in which event such specific provision shall control amendment thereof. Notwithstanding anything to the contrary contained herein, in no event may any of the Declarant's rights, interests, powers or privileges under any of the Community Documents be terminated, altered or amended, nor may any amendment impose on the Declarant any additional obligation that otherwise adversely affects its interests, without Declarant's prior written consent, which Declarant may in its sole and absolute discretion withhold.

(ii) For so long as Declarant holds title to any portion of the Land, the prior written consent of the Declarant shall be required in order for any other person or entity to record any other covenants, restrictions or easements with respect to any of the Land.

(iii) An amendment or modification shall be signed and acknowledged by the President or Vice-President and Secretary of the Corporation, who shall certify that the amendment or modification has been approved as hereinabove provided, and by the Declarant, if such consent is required under the provisions set forth above. The amendment shall be recorded in the Recorder's Office. Unless a later date is specified in any such instrument, any amendment to this Declaration shall become effective on the date of recording.

(c) Declarant's General Right To Amend. Notwithstanding any other provision in this Declaration to the contrary, Declarant hereby expressly reserves the right at any time, and from time-to-time, without the consent of any other person so long as Declarant holds title to at least twenty-five percent (25%) of the Lots in the Community, or thereafter with the consent of the record Owners of fifty percent (50%) or more of the Lots in the Community (which may include the Declarant): (i) to waive, extinguish or reduce the requirements of all or any of the foregoing declarations, covenants, restrictions, conditions, agreements and/or provisions; provided, however, that any such waiver, extinguishment or reduction shall be applicable either to all the Lots in the Community, or to all the Lots in any designated section thereof and shall not modify or change the requirement that Residential Lots in the Community be used only for residential purposes; (ii) to rezone or resubdivide the Land so as to change the size, number, configuration and/or location of the Lots, streets, private open spaces and/or Common Facilities; provided, however, that such resubdivision shall not change the size, shape or location of any Lot to which Declarant no longer holds record title, nor deprive any such Lot of access, drainage or utility services. No Owner shall seek to oppose or interfere with any such amendment, rezoning or resubdivision, nor shall the holder of any contract to purchase a Lot or home in the Community have the right to contend that any such amendment or resubdivision violates, or is prohibited or limited by, the terms of such contract.

(d) Declarant's Specific Rights To Amend. Notwithstanding any other provision in this Declaration to the contrary, Declarant further hereby expressly reserves the right at any time and from time to time, without the consent of any Owner whose property is located in the area outlined on Exhibit A hereto, to amend this Declaration with respect to any Lots or land that have been submitted to the terms of this Declaration as permitted in Article X ("Expansion"). Such reserved right to amend includes, without being limited to, withdrawing any such additional sections from some or all of the provisions of this Declaration, and/or rezoning or resubdividing any Lots to which Declarant holds title so as to change their size, number, configuration and/or location. No Owner shall seek to oppose or interfere with any such amendment or resubdivision, nor shall the holder of any contract to purchase a Lot or home in

the Community have the right to contend that any such amendment or resubdivision violates, or is prohibited or limited by, the terms of such contract.

(e) Declarant's Rights to Waive or Exclude. Notwithstanding the foregoing provision or any other provision herein to the contrary, Declarant reserves the right to waive or modify any requirement as to any individual Lots necessary to avoid hardship resulting from unintentional noncompliance with this Declaration, provided the Board of Adjustment for New Castle County shall have granted a variance for such noncompliance if same also violates the applicable Zoning Code. Declarant also reserves the right to exclude any street or Common Facilities from further regulation hereunder, if and to the extent same in whole or in part are dedicated to and accepted by the County or State, or a governmental agency thereof.

11.07. Exceptions for Declarant. Notwithstanding any other provision in this Declaration to the contrary, no restriction, limitation, covenant or other provision in this Declaration or in any rules and regulations promulgated pursuant hereto, shall be so applied, construed or enforced as to interfere with the construction and sale of homes in the Community by Declarant. Without limiting the foregoing, the presence of construction vehicles, materials, equipment, trailers, portable toilets and temporary sheds, the existence of noise, dust, dirt and other inconveniences of construction, the pursuit of construction and sales activities utilizing on-site sales offices and signs, and the showing for sale and/or temporary rental of homes, shall not be deemed violative of this Declaration, nor be deemed to violate the rights of any Owner or any other third person on the Land.

11.08. Assignment of Rights. Declarant shall have the right, power and authority at any time and from time-to-time, without notice to, action by, or consent of any other Lot Owner, to assign all or any part of its rights, powers, privileges and authorities hereunder to the Corporation and/or to any other party or parties by written document specifically reciting the intent so to assign, which shall be executed and acknowledged by such other party or parties, and recorded in the Recorder's Office. In no event shall Declarant's conveyance of any Lot be deemed to constitute any such assignment, but such assignment must be by a separate instrument to be effective. The term "Declarant" shall also mean and include, whenever appropriate, any company, firm, person or any other entity performing development or construction work to or on any Lot or in the Community at the direction of, or pursuant to contract with, the Declarant if Declarant determines that the benefit of this Declaration should extend to such company, firm, person or entity. Said determination by Declarant may be made before or after the fact, but must be confirmed in writing. Without limiting the foregoing, Declarant hereby assigns (which assignment may at any time be revoked by Declarant's recordation of an instrument of revocation in the Office of the Recorder of Deed in and for New Castle County) all of Declarant's further rights, powers, privileges and authorities hereunder to Blenheim at Bayberry North, LLC ("Blenheim"), a Delaware limited liability company, or such other entity as Declarant may designate from time to time in writing, and Declarant shall have absolutely no liability or obligation to any Lot Owner or other person or entity for (i) any act or omission of Blenheim in exercising or failing to exercise its assigned rights, powers, privileges and authorities hereunder, or (ii) any act or omission of Declarant in making, enforcing or failing to enforce this Declaration or the assignment to Blenheim.

11.09. Waiver. The failure of Declarant, the Corporation, or any Owner or assignee to enforce any covenant, restriction or other provision of this Declaration shall not constitute a

waiver of the right to do so thereafter. No delay or omission of any party in exercising any right occurring upon any breach of any other party shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver of any of the parties of a breach under any of the terms and conditions of this Declaration by any other party shall not be construed to be a waiver of any subsequent breach or default of any other term or condition of this Declaration, except as specifically otherwise provided in this Declaration, but each shall be cumulative with all other remedies provided in this Declaration and at law or in equity.

IN WITNESS WHEREOF, the Declarant has executed this Instrument the day and year first above written.

WITNESS: VBN, INC.

By: _____
Jay N. Sonecha
President

WITNESS: FARMLAND HOLDINGS, LLC

By: _____
Jay N. Sonecha
Authorized Member

STATE OF DELAWARE)

) SS.

NEW CASTLE COUNTY)

BE IT REMEMBERED, that on this _____ day of _____, 2010, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, JAY N. SONECHA, President of VBN, INC., a Delaware corporation, and Authorized Member of FARMLAND HOLDINGS, LLC, a Delaware limited liability company, which are each a party to this Indenture, personally known to me as such, and acknowledged this Indenture to be his act and deed and the act and deed of said corporation and limited liability company.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Notary Public