

VALLEYBROOK HOMEOWNERS' ASSOCIATION, INC.
POST OFFICE BOX 394
CHESTER HEIGHTS, PENNSYLVANIA 09017

VILLAGE OF VALLEYBROOK
Declaration of Easements, Covenants
and Restrictions

Amended and Supplemented

THIS DECLARATION, made this day of A.D., 197 , by COMMUNITY CONCEPTS,
hereinafter called Developer.

WITNESSETH

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and desires to create thereon a planned residential community in strict compliance with the legal and constitutional provisions of the planned residential development ordinance of the Borough of Chester Heights, Delaware County, Pennsylvania, amended zoning ordinance of 1946 as amended July 3, 1972 and the Pennsylvania Municipalities Planning Code of 1969 Art. 7 (53P5510701 et seq.), said community containing permanent parks, playgrounds, open spaces, and other common facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of the said parks, playgrounds, open spaces and other common facilities; and to this end, desires to subject that real property described in Article II (together with such additions as may hereafter be made thereto as provided in Article II) to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner's thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated under the laws of the Commonwealth of Pennsylvania, as a non-profit corporation, THE VALLEYBROOK HOMEOWNER'S ASSOCIATION, INC., for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer declares that the real property described in Article II and such additions thereto as may hereafter be made pursuant to Article II thereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to the VALLEYBROOK HOMEOWNERS' ASSOCIATION, INC.
- (b) "The Properties" and "Properties" shall mean and refer to all such existing properties and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof, as the same may be amended from time to time with the approval of the applicable government bodies prior to their conveyance to the Association.
- (c) "Common Properties" shall mean and refer to those areas of land and the structures and improvements thereon shown on the recorded subdivision plan of the Properties which are intended to be devoted to the common use and enjoyment of the owners of the Properties.
- (d) "Lot" shall mean and refer to any plot of land shown upon and recorded subdivision map of the Properties with the exception of the Common Properties as heretofore defined, subject to any modification from time to time approved by the applicable governmental bodies.
- (e) "Living Unit" shall mean and refer to any portion of a multifamily structure situated upon the Properties designed and intended for use and occupancy as a residence by a single family.
- (f) "Multifamily Structure" shall mean and refer to any building containing two or more Living Units under one roof.

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon the Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(h) "Member" shall mean and refer to all those Owners who are members of the Association as provided for in Article III, Section 1. hereof and for the purposes of Article IV shall also include, unless the context clearly requires otherwise, the tenant of owner, and the family, and invitees of said tenant or owner as applicable.

(I) "Village of Valleybrook Rules and Regulations". The document containing the rules and regulations adopted by the Board of Directors of the Association or a duly authorized committee thereof, as the same may be from time to time amended, for the regulation of the Association, by this Declaration, the Articles of Incorporation and/or Bylaws of the Association or deemed desirable by the Board of Directors.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Chester Heights Borough, Delaware County, Commonwealth of Pennsylvania, and is more particularly described as set forth in Exhibit "A" hereof, all of which real property shall hereinafter be referred to as "Existing Property".

Section 2. Subjection of Additional Property to this Declaration. All or any part of the real property of Developer described on Exhibit "A-1" attached hereto and made a part thereof, which is not within the Existing Property, (hereinafter called "Additional Property") may be subjected to this Declaration in either of the two following ways:

(a) Subjection in Accordance with the Recorded Subdivision Map or Governmental Approval. The Developer shall have the right from time to time to subject to this Declaration, without any requirement for the consent of any other individuals or entities, all or any part of the Additional Property, provided that the property to be subjected, at the time of its subjection, shall have been or is being developed and improved substantially in accordance with the recorded subdivision map of the Properties or

the development approval granted by the Borough of Chester Heights. For purpose of this Article II, Section 2(a), no part of the Additional Property shall be regarded to have been developed or improved in a fashion not substantially in accordance with the recorded subdivision map of the Properties or the development approval granted by the Borough of Chester Heights by virtue of:

- (1) any change in the area content of any of the Lots which according to the recorded subdivision map of the Properties or the development approval granted by the Borough of Chester Heights may be developed on the Additional Property so long as any such change complies with the requirements of the Borough of Chester Heights or any other governmental authority having jurisdiction over the properties; or
- (2) the development of buildings or structures or any portion of the Additional Property in an architectural style different from the architectural style of the buildings or structures on the Existing Property; or
- (3) any change from the recorded subdivision map of the Properties or the development approval granted by the Borough of Chester Heights in the location or alignment of buildings, structures, roadways, walkways, parking areas, utility lines or other improvements made appropriate in the opinion of Developer by topographical conditions presently unknown or required by utility companies or governmental bodies.

The additions authorized pursuant to this subsection shall be made by the Developer filing of record a Supplemental Declaration of Easements, Covenants and Restrictions which shall refer to this Declaration and shall extend the community covenants to the property described in the Supplemental Declaration. Such Supplemental Declaration may contain such complementary additions and modifications of the covenants, restrictions, easements, charges and liens contained in this Declaration as may be necessary to reflect the different character, if any, of the Additional Property and as are not inconsistent with the scheme of this Declaration.

(b) Subjection Upon Approval of the Association. In the event that all or any part of the Additional Property is developed in a fashion not substantially in accordance with the recorded subdivision map of the Properties or the Development approval granted by the Borough of Chester Heights, the Developer may request the Association to approve the subjection of such property to this Declaration, and

upon approval in writing by the Association pursuant to a vote of its members as provided by its Bylaws, the Developer may subject said property to this Declaration by filing of record a Supplemental Declaration of Easements, Covenants and Restrictions.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of the fee simple interest in any Lot (or Living Unit) which is subject by covenants of record to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

Section 2. Voting Rights. The Association shall have three (3) classes of Voting membership, classes A, B and C as more particularly described below:

- (a) except as provided below, Class A membership shall consist of the Owners, each of whom shall have one (1) vote;
- (b) Class B membership shall consist of , and be limited solely to, the Developer, which shall be entitled to that number of votes as results from multiplying the difference between two hundred sixty-four (264) and the number of lots or Living Units conveyed by the Developer from time to time (The Developer's Potential Unit Difference), by the factor of nine (9). Developer's Class B membership and multiple voting rights shall continue until the occurrence of the earlier of either (i) such time as the outstanding votes of the Class A membership equals the total votes of the Class B membership; or (ii) December 31, 1982, at which time, without the necessity of any further act or notice,

Developer's membership in the Association shall, to the extent of the Developer's Potential Unit Difference, become Class A membership.

- (c) Class C membership shall consist of and be limited solely to, the holder or holders of the Deferred Association Installment Obligations described in paragraph 2, of that certain Facilities Acquisition and Management Contract dated , 1974, by and among Community Concepts, Valleybrook Management Co. and the Association (a true and

correct copy of which, bearing the initials of the parties, is on file in the Association offices), which shall be entitled to that number of votes equal to that held, in the aggregate by the Class A and Class B membership plus one (1), but which may only be cast as follows:

- (1) In the event of a default by the Association under a Deferred Association Installment Obligations hereinbefore referred to, on any issue;
 - (2) At any other time, or any issue that may adversely affect the rights of the holder of said Deferred Association Installment Obligation (an "Installment Obligation Holder Issue") including without limitation, any proposed change in the method or manner of assessment or other amendment of the Declaration, any modification of the Association of the Association Articles of Incorporation or Bylaws or any proposed sale, transfer, encumbrance or other disposition of the assets or facilities of the Association, other than in the ordinary course of business.
- (d) Notwithstanding anything contained in this Declaration or the Association Bylaws, the Owner or Owners of a lot with a Living Unit erected thereon shall not be entitled to more than one (1) Class A vote with respect to such Lot with a Living Unit erected thereon.

Section 3. Governance of Affairs. The Association is a non-profit corporation incorporated under the laws of the Commonwealth of Pennsylvania, and charged with the duties and empowered with the rights set forth herein. The affairs of the Association shall be governed by its Articles of Incorporation and its By-laws.

Section 4. Duties of the Association. The Association shall have the duty and obligation to perform each and all of the following and the power to carry out same:

- (a) To maintain in good order and repair the Common Properties including the duty to make all replacements or renewals of portions of the Common Properties necessary to maintain all portions of

said property in good order and condition. Said duty to maintain the Common Properties shall include, but not be limited to, the responsibility for grass cutting; tree and shrub care; litter removal; snow removal; street cleaning and repair; and maintenance, operation and repair of utility lines, sewage treatment facilities and recreational facilities. The Association shall have the sole and exclusive authority (provided that the Association may delegate said authority) to perform said maintenance of the Common Properties.

(b) To make, or provide for, capital improvements to the Common Properties when a special assessment for such purpose has been authorized by a vote of the Members of the Association as set forth in Article IV, Section 4.

(c) To take and carry out all action reasonably necessary and proper to enforce the covenants set forth in the Declaration, including, when necessary, the commencement and maintenance of actions and suits to restrain and enjoin any breach or threatened breach of said covenants.

(d) To establish, promulgate, amend, repeal, and enforce rules for the fair and equitable use and enjoyment of the Common Properties. Said rules shall be known as the Village of Valleybrook Rules and Regulations.

(e) To maintain all lighting fixtures employed to illuminate the roadways, walkways, and parking lots situate upon the Properties, and to service and maintain electric utility service for the same.

(f) To secure and maintain policies of fire extended coverage insurance on all improvements located on the Common Properties for no less than one hundred % (100%) with the Association as named insured and/or policies of bodily injury liability insurance and property damage liability insurance and against any and all liability with respect to the ownership, maintenance and/or repair of the Common Properties with the Association as named insured.

(g) To secure and maintain policies providing fidelity coverage against dishonest acts on the part of the persons responsible for handling and collecting the assessments provided under this Declaration, with the Association as named insured, in an amount not less than one and one-half (1 1/2) times the Association estimated annual costs, expenses and reserves insuring directors and officers of the Association against personal liability arising in connection with the performance of their official duties.

(h) To provide prompt written notification to any first mortgagee so requesting of any default by the Owner of any Lot or Living Unit in the performance of such Owner's obligations under this Declaration which is not cured within thirty (30) days from its occurrence.

(i) To apply the proceeds of all hazard insurance collected as a result of damage or destruction to the Common Properties to the repair, replacement or restoration of such damaged or destroyed Common Properties.

(j) To apply the proceeds of any condemnation award for a taking of Common Properties to the replacement or restoration of such Common Properties so taken or if replacement or restoration is not feasible, to the acquisition of additional land and/or facilities as the Association may deem desirable for the benefit of all Owners.

(k) To establish an adequate reserve fund for replacement of Common Properties, such reserve fund to be funded by monthly payments of Annual Assessments rather than Special Assessments.

(l) To perform any other act necessary or proper to carry out any of the foregoing specified duties and obligations or any other duty or obligation expressly or impliedly established elsewhere in this Declaration.

(m) To perform any other act not authorized by Article III, Section 4 (a) through (m) of this Declaration, but necessary or proper to promote the common health, safety or welfare of the Owners of Living Units, Lots or properties.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Member's Easements or Enjoyment: Subject to the provisions of Section 3, of this Article, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the Title of every Lot or Living Unit.

Section 2. Title to Common Properties: Developer covenants and agrees to convey to the Association, which Association agrees to accept the Common Properties or such portions thereof as Developer may select, at such time, and from time to time, as Developer may elect but not later than

December 31, 1982, nor earlier than the substantial completion of the improvements contemplated for development on the portion to be conveyed. Title to such Common Properties as and when conveyed shall be good and marketable, free and clear of all liens and encumbrances except the following:

- (1) such easements and rights of way on, over and under all or any part thereof as may be reserved to Developer in accordance with the provisions of this Declaration;
- (2) such easements and rights of way on, over or under all or any part thereof as may be reserved to Developer for access to or from real property contiguous to the Common Properties or any part thereof for the use of water, sewer and other utility systems on Common Properties or any part thereof for the benefit of such contiguous real property;
- (3) such easements and rights of way on, over or under all or any part thereof as may be reserved to Developer or granted to or for the benefit of any political subdivision, public organization or public utility corporation, for the purpose of constructing, erecting, operating and maintaining thereon, therein and thereunder, at the time or at any time in the future;
 - (i) roads, streets, walks, driveways, parkways and park areas;
 - (ii) poles, wires and conduits for the transmission of electricity for lighting, heating, power, telephone, television and other purposes and for the necessary attachments in connection therewith, and;
 - (iii) public and private sewers, sewage disposal systems, water systems, sprinkler systems, water, heating and gas lines or pipes and any and all equipment in connection therewith;
- (4) the obligations imposed directly or indirectly, by virtue of any statute, law, ordinance, resolution or regulation of any political subdivision or public organization having jurisdiction over such property, or by virtue of any organization or body politic created pursuant to any such statute, law, ordinance or regulation;
- (5) any other lien, encumbrance or defect of title of any kind whatsoever (other than of the type which would at any time or from time to time create a lien upon such property to

secure an obligation to pay money) which would not materially and actually prejudice the Owners in their use and enjoyment of such property;

- (6) the lien of real property taxes and assessments not delinquent.

Anything to the contrary hereunder notwithstanding, there shall be and is hereby reserved from the application of any restrictions hereunder and/or any conveyance to the Association, (i) such rights of use and access by the Developer as it may deem desirable for the development and marketing of any portion of the Properties including, without limitations, the erection and use of construction structures and construction and project signs and the right to maintain, display or model units in or about The Properties or any portion thereof conveyed to the Association, and to extend visitation privileges therein to, and for the benefit of, potential buyers, and (ii) such rights to make changes or alterations, subject to their compliance with governmental requirements, as may be deemed appropriate by Developer to integrate the access ways, utility systems, drainage, parking areas and other common facilities and areas of the various phases of Development of the Properties.

Section 3. Extent of Member's Easement: The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) the right of the Developer and of the Association in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereon to mortgage the said properties. In the event of a default upon any such mortgage, the Lender's rights hereunder shall be limited to admission and other fees as a condition to continued enjoyment by the members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and

- (b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and

- (c) the right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any Members for a period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(d) the right of the Association to charge reasonable admission and other fees for the use of Common Properties; and

(e) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the vote of each class of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligations of Assessments: The Developer, for each Lot or Living Unit owned by him within the Properties, hereby conenants, and each Owner of a Lot or Living Unit by acceptance of a deed thereof, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to conenant and agree to pay to the Association;

A. Annual Assessments or charges, including those for Association rentals and those charges due under the Association Facility Leases, as hereinafter defined.

B. Special Assessments for capital improvements, not otherwise covered by the Annual Assessments as aforesaid shall require two-thirds (2/3) of the votes of each class of Members, such assessments to be fixed, established, and collected from time to time as hereinafter provided.

The Annual and Special Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot and/or Living Unit against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot and/or Living Unit at the time when the assessment fell due.

Section 2: Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Properties owned by the Association and of the homes situated upon the Properties, including, but not limited to, the payment of the taxes and insurance of the Association; the repair, replacement and additions of and to the Common Properties and the cost of labor, equipment, materials, management, and supervision thereof; the cleaning and repair of all roadways, streets, and sidewalks, the removal of snow from the roadways, streets and sidewalks; the providing of utility services for the Common Properties, including appropriate and adequate sewers; the providing of gardening and cleaning of all Common Properties, not specifically conveyed; the erecting and maintenance of buildings to provide community services and storage; the purchase and maintenance of adequate maintenance and service equipment; the acquisition, ownership and maintenance of a sewage treatment plant, all sewer lines and all roads, drives and walks not dedicated to the Borough of Chester Heights.

Section 3: Basis of Annual Assessments: The charges, costs, and expenses incurred in the operation of the Association in the performance and discharge of its functions as herein provided shall be divided equally among the Owners of those Lots first conveyed by the Developer and the Living Units that are in either case subject hereto, but not including any Lots or Living Units retained by Developer unless and until they are initially occupied by any tenant of Developer, which, when due, shall constitute a charge running with the land, against an applicable Lot or Living Unit, (the "Annual Assessment"). Provided, however, that for one year from the date of the conveyance of the first Lot or Living Unit, the Annual Assessment as aforesaid shall be Four Hundred and Fifty Six (\$456.00) dollars and the Developer shall bear any other costs incurred by the Association including the total amount assessed as aforesaid. The Board of Directors of the Association shall determine the intervals of payment of Assessments, Agent for payment and the dates on which same shall become due.

Section 4: Special Assessments for Capital Improvements: In addition to the Annual Assessments authorized by Section 1 and 3 of this Article V, the Association may levy in any assessment year a Special

Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary 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, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5: Change in Basis and Maximum of Annual Assessments: Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period provided that any such change 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 called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 6: Quorum for any Action Authorized Under Sections 4 and 5: The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Section 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty (60%) per cent of all the votes of each class of Members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6A. Class C Votes Required on Certain Issues: Anything to the contrary herein elsewhere contained notwithstanding, no change in this Declaration or in the Facilities Acquisition and Management Contract described in Article III, Section 2, as amended hereby or any determination thereof or action thereunder that requires the vote of the Association's membership involving an Installment Obligation Holder Issue (as defined in said Section 2) shall be deemed authorized and become effective unless affirmed by the Class C membership.

Section 7. Date of Commencement of Annual Assessments. The Annual Assessment provided for herein shall commence on the date which shall be the first day of the month fixed by the Board of Directors of the Association to be the date of commencement.

The first Annual Assessment shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of March of the said year.

The amount of the Annual Assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the Annual Assessment provided for in Section 3 hereof as the remaining number of months in that year to twelve. The same reduction in the amount of assessment shall apply to the first Assessment levied against any property which is hereinafter added to The Properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any Special Assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Directors: The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Living Unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and Living Units and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner.

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

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

Section 9. Effect of Non-Payment of Assessments; The Personal Obligation of the Owner; The Lien; Remedies of Association: If the assessments are not paid on the date when due (being the date specified in Section 7 hereof) then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien

on the Lot and/or Living Unit which shall bind such Lot and/or Living Unit in the hands of the then Owner, his heirs, devisees, personal representative and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

It the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of the delinquency at the rate of six (6%) per cent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of the assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 10. Subordination and Release of Lien to Mortgages: Any Lot or Living Unit subject to the lien of the assessments provided for herein shall be relieved of such lien to the extent hereinafter described upon the exercise by a first mortgagee of the remedies provided in a first mortgage which results in the first mortgagee obtaining possession of such Lot or Living Unit by foreclosure or a deed or assignment in lieu of foreclosure. The release of lien shall be applicable only to the extent that such lien relates to assessments or charges which have accrued prior to the first mortgagee taking possession by foreclosure of the mortgage or deed or assignment in lieu of foreclosure. Notwithstanding the foregoing, a first mortgagee having obtained possession of a Lot or Living Unit as aforesaid shall not be released from liability for any pro rata share of such released assessments or charges resulting from a pro rata reallocation of such released assessments or charges to all Lots and Living Units including the Lot or Living Unit acquired by the first mortgagee pursuant to its mortgage. The lien of the easements provided for herein shall be subordinate to the lien of any first mortgagee now or hereafter placed upon the Lots or Living Units subject to assessment.

Section 11. Exempt Property: The following property subject to this Declaration shall be exempted from the assessments, charges or liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties as defined in Article 1, Section 1 hereof; (c) all properties

exempted from taxation by the Laws of the Commonwealth of Pennsylvania, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments or charges or liens.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the homes upon the Properties and placed in the dividing line between the Lots shall constitute a party wall and the general rules of law regarding party walls and of liability for personal damage due to negligent or willful acts or omissions shall apply thereto.

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

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

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

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

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

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Review by Committee: No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of exterior design and location in relation to surrounding structures and topography 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, fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with. No change in the exterior color scheme shall be made without the written approval of the Board of Directors.

ARTICLE VIII

EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance: In addition to maintenance upon the Common Properties, the Association may provide exterior maintenance upon each Lot or Living Unit which is subject to assessment under Article V hereof, as follows: paint, repair, replace and care for roofs, broken glass, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements.

No trailers, campers, boats of any size or their trailers, trucks of any size or any vehicle other than an ordinary passenger vehicle shall be parked on any parking lot which is subject to this Declaration, except by Developer. Ordinary delivery vehicles may service the Living Units and remain on said property for a reasonable period of time to complete their service. Abandoned cars or any of the above- mentioned

vehicles will be towed away by the Association without liability for damages and the Owner shall be responsible for any and all costs incurred by such removal and shall be assessed as provided in Section 2 hereof.

Section 2. Assessment of Cost: The cost of such exterior maintenance shall be assessed against the Lot or Living Unit upon which such maintenance is done and shall be added to and become part of the annual maintenance assessment or charge to which such Lot or Living Unit is subject under Article V hereof and, as part of such Annual Assessment or charge, it shall be a lien and obligation of the Owner and shall become due and payable in all respects as provided in Article V hereof. Provided that the Board of Directors of the Association, when establishing the Annual Assessment against each Lot or Living Unit for any assessment year as required under Article V hereof, may add thereto the established cost of the exterior maintenance of that year but shall, thereafter make such adjustment with the Owner as is necessary to reflect the actual cost thereof.

Section 3. Access of Reasonable Hours: For the purpose solely of performing the exterior maintenance authorized by this Article, the Association, through its duly authorized agents or employees shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours or any day except Saturday or Sunday.

ARTICLE IX

MORTGAGE PROVISIONS

Section 1. Mortgage Approval to Association Activities. Notwithstanding anything contained in this Village of Valleybrook Declaration of Easements, Covenants and Restrictions to the contrary, unless at least seventy-five (75%) of the first mortgagees (based upon one (1) vote for each mortgagee) of the Lots and/or Living Units have given their prior written approval, the Valleybrook Homeowners' Association, Inc. shall not be entitled to:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Properties which are owned directly or indirectly by the Association for the benefit of the Lots and Living Units in the Village of Valleybrook (The granting of an easement for public utilities or other public purposes consistent with the intended use of such property for the benefit of the Village of Valleybrook shall not be determined a transfer within the meaning of this subparagraph).
- (b) Change the method of determining the obligations, assessments or other charges which may be levied against an Owner of a Lot or Living Unit.
- (c) By act or omission change, waive or abandon any scheme or regulations or enforcement thereof pertaining to the architectural design or appearance of the Lots and Living Units, the exterior maintenance of the Lots and Living Units, the maintenance of party walls and common fences and driveways or the upkeep of lawns and plantings in the Village of Valleybrook.
- (d) Fail to maintain fire and extended coverage insurance on the Common Properties and other insurable properties owned by the Association on a current replacement cost basis in an amount not less than 100% of the insurable value thereof (based on current replacement costs).
- (e) Use hazard insurance proceeds for loss to any Common Properties or other properties owned by the Association for other than the repair, replacement or reconstruction of such property and improvements thereon.

Section 2. Examination of Books and Records: First Mortgagees of Lots and/or Living Units shall have the right to examine the books and records of the Valleybrook Homeowners' Association, Inc..

Section 3. Payment of Delinquent Taxes and Insurance Premiums: First Mortgagees of Lots and/or Living Units may, jointly or singly, (a) pay taxes or other charges which are in default and which may or have become a charge or lien against the Common Properties or any portion thereof; (b) pay overdue premiums on hazards insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering the Common Properties or any portion thereof.

First Mortgagees, upon making the payments set forth in clause (a) and (b) above, shall be owed immediate reimbursement therefor by the Association.

ARTICLE X

GENERAL PROVISIONS

Section 1. Duration: The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Owners of two-thirds (2/3) of the Lots or Living Units has been recorded, agreeing to change said covenants and restrictions in whole or in part. For the purposes of meeting the two-thirds (2/3) requirement, when Living Units are counted, the Lot or Lots upon which said Living Units are situated shall not be counted. Provided, however that no such agreement to change shall be effective unless made and recorded three (3) months in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Notices: Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement: Enforcement of these covenants and restrictions shall be any proceeding at law or in equity against any person or persons violating or attempting to violate and covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants, and failure by the Association or any Owner to enforce any covenant or restriction herein contained in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability: Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 5. Developer: Developer shall have complete freedom to convey all Lots which are the subject of this Declaration without interference from any Unit Owner.

Section 6. Amendment: In addition to the rights reserved by Developer pursuant to Article II, Section 2 to subject Additional Property to this Declaration; and notwithstanding the provisions of Article X, Section 1, this Declaration may, at any time, with the written consent of Developer, or at any time from and after the extinguishment of Developer's Class B voting rights as set forth in Article III, Section 2, without its written consent of Developer, be amended and/or supplemented upon the happening of the following events:

(a) The holders of seventy-five per cent (75%) of the combined Class A and Class B votes, approving the vote or written consent, the proposed amendment or supplement to this Declaration and;

(b) The recordation of a certificate of an officer of the Association setting forth in full the amendment or supplement to this Declaration so approved and certifying that said amendment or supplement has been approved by the holders of seventy-five (75%) percent of the combined Class A and Class B votes.

Provided, however, that no amendment adopted pursuant to the terms hereof shall become effective unless and until the Class C member approvals set forth in Article III, Section 2, and Article V, Section 6a hereof is obtained when applicable and the mortgage approval set forth in Article IX, Section 1 hereof is obtained when applicable, such approvals to be certified by an officer of the Association and recorded as hereinabove set forth.

IN WITNESS WHEREOF, Community Concepts has caused this Supplementary and Amendatory Declaration of Easements, Covenants and Restrictions to be duly executed the day and year first above written.