

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

SAGAMORE

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Declaration.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration"), is made this \_\_\_\_\_ day of \_\_\_\_\_, 1996, by Sconnelltown V Associates L.P., a Pennsylvania limited partnership. This Declaration shall be recorded in the Office of the Recorder of Deeds in and for Chester County, Pennsylvania.

SECTION 1. Submission to The Declaration. Declarant hereby submits all that certain real property with improvements erected thereon, located in East Bradford Township, Chester County, Pennsylvania and more fully described in Exhibit A attached hereto, together with the easements, rights and appurtenances belonging thereto (the "Property"), to the terms, conditions and provisions of this Declaration.

SECTION 2. Name. The name by which the Property shall hereafter be identified is Sagamore (the "Community").

SECTION 3. Definitions. The following terms when used herein and in the By-Laws of the Sagamore Community Association shall have the meanings set forth below:

(a) "Assessments" shall mean those levies, assessments or sums payable by one or more Owners from time to time upon notification by the Community Association, as provided herein.

(b) "Association" or "Community Association" shall mean the Sagamore Community Association, a Pennsylvania nonprofit corporation, being an association of all Owners, which shall have the duties and powers established in this Declaration and in the By-Laws.

(c) "Board of Directors" or "Board" means a group of natural individuals of the number stated herein and in the By-Laws, who shall manage and administer the business, operation and affairs of the Community Association on behalf of the Owners. Individual members of the Board of Directors shall be referred to as Directors.

(d) "By-Laws" means the governing regulations adopted pursuant to this Declaration for the regulation and management of the Property and administration of the Community Association, including any amendments thereto adopted from time to time.

(e) "Common Expenses" means and includes expenses for which the Owners are liable as provided herein, including, but not limited to, expenses of administration, maintenance, repair and replacement of the Community Facilities, expenses or liabilities agreed upon as common by the Owners, expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, and all other expenses or charges levied or to be levied pursuant to this Declaration or the By-Laws against all Owners.

(f) "Community Facilities" shall include the open space areas, the storm water management system and detention basin and drainage areas, the sewer laterals connecting the individual Dwellings to the sewer main, street lighting, roads and sidewalks and any other portion of the Property not included in any Lot, to the extent such facilities are neither dedicated nor to be dedicated to the Township, and all other facilities which the Community Association may hereafter own, acquire or construct.

(g) "Dwelling" means any structure erected or to be erected on the Property intended to be used for residential purposes.

(h) "Eligible Mortgagee" means the holder, insurer or guarantor of a first mortgage lien on one or more Dwellings or Lots who shall have provided to the Community Association a statement of its name, address and the Dwelling(s) against which it holds, insures or guarantees a first mortgage lien.

(i) "Limited Charges" means charges which the Community Association shall have the right to assess against any one or more Dwellings to provide services which are exclusively for those Dwellings.

(j) "Lot" means the separate and subdivided parcel of land which is shown on the filed and recorded Plan approved by the Township upon which a Dwelling is or will be erected.

(k) "Members" means all Owners and the Declarant, as Members of the Community Association.

(l) "Owner" means the record owner, whether one or more persons or entities, of fee simple title to any Lot which is situate within the Property, but excluding those persons having an interest merely as security for the performance of an obligation and excluding the Declarant.

(m) "Plan" means the Final Subdivision Plan, approved by East Bradford Township and recorded in the Office of the Recorder of Deeds in and for Chester County, Pennsylvania, on \_\_\_\_\_, in Plan Book \_\_\_\_\_ showing the Property.

(n) "Property" means the real property located in the Township and subjected to this Declaration from time to time by Declarant. Initially, the Property shall be the real property described on Exhibit A attached hereto.

(o) "Township" shall mean East Bradford Township, Chester County, Pennsylvania.

SECTION 4. Applicability; Interpretation.

(a) This Declaration shall be applicable to the Property. All present and future Owners and occupants of Dwellings and Lots and each of their tenants, guests, licensees, servants, agents, employees, and any other person or persons who shall be permitted to use the Community Facilities described in this Declaration, shall be subject to this Declaration, the By-Laws and any rules and regulations which the Board of Directors shall promulgate from time to time to govern the conduct of the Owners and occupancy of the Property. Ownership, rental or occupancy of any of the Dwellings in the Property shall be conclusively deemed to mean that the Owner, tenant or occupant has accepted, ratified and will comply with this Declaration, the By-Laws and any rules and regulations of the Community Association.

(b) In the event of a conflict of interpretation between the provisions set forth in the By-Laws and this Declaration, this Declaration shall govern, except to the extent this Declaration is inconsistent with applicable law.

SECTION 5. Owners' Use; No Waiver of Use; No Alterations.

(a) Every Owner shall have the right of ingress, egress and regress over and the right of enjoyment in and to the Community Facilities, which right shall be appurtenant to each Dwelling and shall pass with title to every Dwelling, subject, nevertheless, to the other provisions of this Declaration. Each Owner shall make use of the Community Facilities at his own risk.

(b) No Owner may exempt himself from liability with respect to the payment of Assessments levied by the Community Association, nor release his Dwelling from the liens created for non-payment of Assessments by waiver of the use or enjoyment of the Community Facilities, by abandonment of his Dwelling, by any conveyance or covenant severing the rights and benefits from the Dwelling, or otherwise. The obligation to pay Assessments is absolute and unconditional and, in addition to being a covenant running with the land, is a personal obligation of each Owner and shall not be subject to set-offs or counterclaims.

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(c) No Owner may make any changes, additions, improvements or alterations of any kind or do any work to any of the Community Facilities. No Owner shall impair any easement within the Community Facilities without the unanimous consent of all of the Owners affected thereby.

SECTION 6. The Community Association.

(a) The Community Association is the governing body for all of the Owners and is responsible for (i) the maintenance, repair, replacement, management, operation and administration of

the Community Facilities; (ii) any additions or improvements to the Community Facilities; (iii) lawn cutting and fertilization on the Community Facilities; and (iv) street scape landscaping including bushes, plants and trees on the Community Facilities. Neither Declarant nor the Community Association will be responsible for snow or ice removal from any portion of the Community Facilities except the roadways, the sidewalks along the roadways and the sidewalk connecting the Property to Shropshire Drive, and each Owner shall defend, indemnify and hold Declarant, the Association and their respective officers and agents harmless from any suits, claims, liabilities, costs and expenses (including, without limitation, attorney fees) incurred by any of them due to any injury to person or property sustained by an Owner or his guests or invitees as a result of snow or ice anywhere on the Property.

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(b) Nothing herein contained shall be construed so as to preclude the Community Association from delegating the duties described in this Section to a manager or agent or to other persons, firms or corporations, subject to the authority of the Community Association. The Common Expenses incurred or to be incurred for the utility services, maintenance, repair, replacement, management, operation and use of the Community Facilities and the making of any additions or improvements thereto shall be assessed by the Community Association against and collected from the Owners in accordance with Section 13 hereof. Common Expenses benefitting fewer than all of the Dwellings may be assessed exclusively against the Dwellings benefited.

(c) The time and extent of the foregoing maintenance, repair and replacement obligations of the Community Association shall be determined solely by the Board of Directors. Except as specified in Subsection 6(a) above, all aspects of repair, maintenance and replacement of all portions of an Owner's Lot or Dwelling shall be the responsibility of the Owner and all maintenance, repair and replacement of portions of the Community Facilities shall be the responsibility of the Community Association; provided, however, that any costs incurred by the Community Association in connection with any of the foregoing maintenance, repair or replacement items which may arise in connection with the negligence of the Owner(s) or occupant(s) of any particular Dwelling(s) shall be charged as Limited Charges to those Owner(s).

(d) To the extent maintenance, repair and replacement by an Owner may involve possible damage to the Community Facilities or other Dwellings, the work shall be performed only with the prior consent of the Board of Directors or its duly authorized agent, except in the case of an emergency, subject to the requirements of the Board of Directors.

(e) The Board of Directors shall have the right to impose rules and regulations governing the use and care of

portions of the Dwellings, Lots and Community Facilities to the extent reasonably related to the Community Association's maintenance, repair and replacement obligations hereunder. In addition, the Board of Directors is expressly authorized, in addition to any other enforcement powers it may have hereunder or by operation of law, to levy and collect fines for violations of this Declaration, the By-Laws or any rules or regulations promulgated by the Board. Such fines shall be in such amounts as the Board may from time to time determine in its discretion, subject to the express provisions hereof.

(f) The Declarant does not intend to offer the roads, the storm water management system or any other Community Facilities for dedication to the Township. The Declarant does intend to offer for dedication to East Bradford Township the sanitary sewage collection system servicing the Property (but not the laterals connecting the sewer main to the Dwellings, which shall be maintained by the Association), and such dedication shall include easements over, under and through the Community Facilities to permit the Township to maintain the sanitary sewage collection system.

SECTION 7. Membership in the Community Association.

(a) All persons upon acceptance of the deed to their Dwellings shall become Members of the Community Association and shall be obligated to pay all Assessments levied by the Community Association against their Dwellings. Except as otherwise provided, membership in the Community Association shall be limited to the Owners of Dwellings subjected to this Declaration and the Declarant. Every Owner, as a Member of the Community Association, shall be entitled to all of the rights and shall be bound by all of the obligations accompanying membership.

(b) There shall be two classes of Members in the Community Association: Owners and Declarant.

(i) Owners shall be entitled to one (1) vote for each Dwelling they own in the Property.

(ii) Declarant shall have three (3) votes for each Lot in the Property which the Declarant owns (determined in accordance with Section 8(c)), which shall be converted to one (1) vote for each Lot in the Property owned by Declarant upon the earlier to occur of either of the following events:

(A) When the total number of votes outstanding among Owners equals the total number of votes held by Declarant (counted as three votes per Lot owned by Declarant); or

(B) The expiration of seven (7) years from the initial recordation of this Declaration.

(c) When more than one person holds an interest in any Dwelling, all persons holding such interest shall be one Member collectively, and the vote for the Dwelling shall be exercised as provided in Section 7(b) hereof and in the By-Laws. In no event shall more than the votes as described in Subsection (b) above be cast with respect to any Dwelling.

(d) Notwithstanding any other provision of this Declaration or the By-Laws, no action shall be taken or adopted by the Community Association which would in any way affect any of the rights, privileges, powers or options of the Declarant (including, but not limited to, development of the Property or the marketing program of the Declarant) without the prior written approval of the Declarant.

(e) An Owner shall be deemed to be "in good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Community Association if, and only if, he shall have fully paid all Assessments made or levied against him or against his Dwelling by the Board of Directors as hereinafter provided, together with all interest, costs of collection, attorneys' fees, penalties and other expenses, if any, properly chargeable to him or against his Dwelling, at least five (5) days prior to the date fixed for the annual or special meeting.

(f) In the event that an Owner shall lease or permit another to occupy his Dwelling in accordance with the provisions of this Declaration, the tenant or occupant shall be permitted to use and enjoy the Community Facilities but shall not vote in the affairs of the Community Association, except when the Owner shall permit the tenant or occupant to exercise the proxy vote of the Owner.

(g) Every lawful transfer of title to a Dwelling shall include membership in the Community Association and, upon making this transfer, the previous Owner's membership shall automatically terminate. Except as otherwise expressly provided, membership in the Community Association may not be assigned or transferred without the transfer of legal title to a Dwelling and any attempt at assignment or transfer thereof shall be void and of no effect.

(h) If a Dwelling is owned by more than one person and there is a conflict between or among the Owners of the Dwelling as to how the vote associated with the Dwelling should be cast, the vote shall be deemed included for purposes of determining a quorum but the conflicting votes cast by Owners of the Dwelling shall otherwise void the vote associated with the Dwelling. If a Dwelling is owned by a corporation, the officer or employee thereof entitled to cast the vote(s) of the Dwelling for the corporation shall be designated in a certificate for this purpose, signed by the president or vice-president, and attested to by the secretary or assistant secretary of the corporation, and submitted to the Secretary of the Community Association.