

HIGHLANDS AT MECHUMS RIVER

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

THIS DECLARATION is made this 10th day of August, 1991 by DAVID H. PETTIT, TRUSTEE OF THE MECHUM RIVER LAND TRUST under agreement dated July 1, 1989, herein the "Declarant".

WITNESSETH:

WHEREAS, Declarant is the holder of legal title to certain real property (hereinthe "Property") located in the White Hall Magisterial District of Albemarle County, Virginia, which is more particularly described as set forth in Schedule A attached hereto and recorded herewith; and

WHEREAS, Declarant has subdivided the Property into seventy six (76) lots numbered Lot 75 through Lot 150 to be served by state maintained roads accessing off of U. S. Route 240 as shown on plat (herein the "Plat") captioned "Subdivision Plat of Highlands at Mechums River Lots 75 Thru 150" by Roger W. Ray & Assoc., Inc. C.L.S., dated October 16, 1990, last revised July 16, 1991 of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed book 1176, pages 344 to 356; and

WHEREAS, Declarant will convey the said Property, subject to certain covenants, conditions, restrictions, easements, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the Property described above (including any additional property added pursuant to Article II, Section 2) shall be held, sold and conveyed subject to the

following covenants, conditions, restrictions, easements, reservations, liens and charges (and any valid amendments or supplements hereto), all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property and which shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I - DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

Section 1. "Association" shall mean and refer to Highlands at Mechums River Owners Association, Inc., its successors and assigns.

Section 2. "Property" shall mean and refer to that certain real property herein described on Schedule A, and such additions thereto as may hereafter be brought within the jurisdiction of the Association and made subject to this Declaration by Supplementary Declaration.

Section 3. "Common Areas" shall mean all real property owned by the Declarant or the Association for the common use and enjoyment of the members of the Association and shown on any recorded subdivision plats of the Property as Common Area or Open Space.

Section 4. "Lot" shall mean and refer to Lots 75 through 150, inclusive, as shown on the Plat and any plot of land within the Property numerically designated, shown or described on any subsequently recorded plats of Highlands at Mechums River (With the exception of Common Area or streets) which are made subject to this Declaration by Supplemental Declaration.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to David M. Pettit, Trustee of Mechum River Land Trust under agreement dated July 1, 1989, his successors and assigns as Declarant appointed by recorded instrument.

Section 8. "Declaration" shall mean and refer to the covenants, conditions, restrictions, easements, reservations, liens and charges and all other provisions herein set forth in this entire document, as the same may from time to time be amended or supplemented.

Section 9. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 10. "Streets" shall mean and refer to the entire right of way on the Plat for the streets, roads or circles on the Property which provide access between the Lots and U.S. Route 240 and as shown and described on other subdivision plats of Highlands at Mechums River made subject to this Declaration by Supplemental Declaration. The Streets on the Plat are to be called Highlands Drive, Mechum River Road, Cloverdale Court, and Grassy Knoll.

Section 11. "Architectural Control Board" or "ACB" shall mean and refer to the board established in Article VII herein for the purpose of regulating the external design, appearance and use of the Common Area, Lots and improvements thereon.

Section 12. "Craig" shall mean and refer to Craig Builders of Albemarle, Inc., a Virginia corporation, and its successors or assigns.

Section 13. "Republic" shall mean and refer to Republic Homes Investment Corp., a Virginia corporation, and its successors or assigns.

ARTICLE II - PROPERTY SUBJECT TO DECLARATION

Section 1 - Existing Property. The real property which at this time is and shall be held, transferred, sold, conveyed, given, leased, devised, inherited and occupied subject to the covenants, conditions, restrictions, easements, reservations, liens and charges set forth in the Declaration is the Property as described herein in Schedule A as subdivided by the Plat recorded in Deed Book 1176, pages 344 to 356.

Section 2 - Additions to Existing Property. Declarant shall have the right (but not the obligation) without further consent of the Association or of other Owners to bring within the plan and operation of the Declaration and the jurisdiction of the Association other real property in the vicinity of the Property. To accomplish this, the Declarant shall first obtain the approval of the County of Albemarle, if required, and then shall record one or more Supplementary Declarations with respect to the real property being added. A Supplementary Declaration shall be executed by the Declarant and recorded in the Clerk's Office for the Circuit Court for Albemarle county, Virginia. A Supplementary Declaration shall extend the operation and

effect of this Declaration and the Jurisdiction of the Association to any added real property which may also be referred to as "Highlands at Mechums River".

ARTICLE III - ASSOCIATION

Section 1 - Duties. Declarant has or will incorporate under the laws of the commonwealth of Virginia a non-stock corporation to be known as Highlands at Mechums River Owners Association, Inc. to which shall be delegated the powers of owning, maintaining and administering the Common Area including, but not limited to, storm water detention and runoff control; maintaining the Lots as set forth herein; administering and enforcing the covenants, conditions, restrictions, easements and reservation. set forth herein; collecting and disbursing the assessments and charges hereinafter created; and promoting the health, safety, common good and general welfare of the residents of Highlands at Mechums River.

Section 2 - Membership. Every Owner of a Lot shall be a Member of the Association. In addition, Declarant shall be a Member of the Association so far as Declarant owns any Lot or any or the Property. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot (or Property in the cane of Declarant) shall be the sole qualification for membership.

Section 3 - Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners of Lots with the exception of Class B Members. Class A Members shall be entitled to one vote for each Lot owned by said Class A Member. In the event that more than one person or entity holds such interest in any Lat. all such persons or entities shall be Members

but the vote for such Lot shall be exercised as they determine among themselves, but in no event shall more than one vote be cast with respect to any such Lot owned by a Class A Member.

Class B. The Class B Member shall be the Declarant or his successors and assigns as Declarant appointed by recorded instrument. The Class B Member shall be entitled to three hundred fifty (350) votes provided Declarant owns any Lot or any of the Property whether or not actually divided into a Lot. Additionally, the Class B Member shall be entitled to one (1) vote for each Lot owned by the Declarant. Declarant's Class B membership shall cease and be converted to Class A ownership on the earlier of: (a) December 31, 2001; or (b) the date on which Declarant has transferred to Class A Members all of the Lots on any then recorded plats of Highlands at Mechums River.

Section 4 - Board of Directors. The Board of Directors of the Association shall be elected by majority vote of the Members as set forth in the By-Laws of the Association in accordance with their voting rights specified in Section 3 hereof.

Section 5 - Powers and Duties of the Board of Directors. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may take any such action on behalf of the Association except that required to be exercised or done by the Members of the Association.

Section 6 - Powers and Duties of the Association. The powers and duties of the Association shall be those set forth in this Declaration and in the Articles of Incorporation and the By-Laws of the Association, as the same may be amended from time to time.

Section 7 - Quorum. At any duly called meeting of the Association, a quorum for the conduct of business shall exist if at least 50% of the total possible votes (total votes of Class A and Class B) are represented either in person by Members or by written proxies signed by the Members.

ARTICLE IV - COMMON AREA AND STREETS

Section 1 - Composition of Common Area. The Common Area consists of all areas shown and described as Common Area or Open Space as shown on any recorded plat of any portion of Highlands at Mechums River and made subject to this Declaration.

Section 2 - Title to Common Area. Declarant hereby declares that it will convey fee simple title to the Common Area to the Association free and clear of all liens and encumbrances, except those set forth herein.

Section 3 - Members' Easements of Enjoyment in Common Area. Each Member, his immediate family, guests and tenants shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to this Declaration and further subject to the following provisions:

(a) the right of the Association to limit the number or guests of Members and to place other reasonable restrictions upon the use of the Common Area;

(b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility, if any, situated upon the Common Area, if the need arises;

(c) the right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage

said Common Area, and the rights of such mortgagee in said properties shall be subordinate to the rights of the Members hereunder;

(d) the right of the Association to suspend the voting rights and right to use of the recreational facilities, if any, and/or Association provided services by a Member for any period during which any assessment against his Lot remains unpaid; and

(e) the right of the Association to convey or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. Except for easements granted pursuant to Section 4 hereof, no such conveyance or transfer of Common Area shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes has been recorded, agreeing to such conveyance or transfer, provided written notice of the proposed action is sent to every Member not less than 10 days nor more than 30 days in advance.

Section 4 - Common Area Easements. The Board of Directors of the Association may grant and convey any easements in the Common Area in addition to those shown on recorded subdivision plats.

Section 5 - Streets. There are shown on the subdivision Plat certain 75' and 50' rights of way (labeled Highlands Drive and Grassy Knoll) which are dedicated to public use (herein referred to as "Streets"). The Declarant shall cause the subdivision roads to be constructed within said rights of way with said roads to be built to Virginia Department of Transportation (VDOT) standards for secondary roads. Except as otherwise provided herein, the entire cost of the construction and maintenance of the subdivision roads shall be borne by the Declarant or his successor until said roads are accepted by VDOT into the State Secondary System of Highways for maintenance purposes, if ever. Until such time, each Owner shall have the right to use the streets for ingress and egress to U.S. Route 240 for himself, his family, invitees, guests, tenants, successors or assigns.

ARTICLE V - EASEMENTS

Section 1 - Drainage and Utility Easements. Declarant reserves unto himself, his successors and assigns, a perpetual, alienable and releaseable easement and right of way on, above, and underground through all areas subject to this Declaration and any Supplementary Declaration, whether within the boundaries of Lots or Common Areas, excepting only such land either designated by the ACB as approved building sites or upon which a structure approved by the ACB is constructed. The purpose of said easement shall be to construct, maintain, inspect, regrade, replace and repair vegetation, road shoulders, lines, wires, cables, conduits, sewers, pipes, water mains and other suitable equipment and facilities for the conveyance of water, sewer, gas, telephone, electricity, television cable, exterior lighting, storm water and other utilities and public Conveniences, for any purpose required by the County of Albemarle or VDOT in conjunction with the acceptance of the Streets into the State system for maintenance, and for storm and surface water drainage, including pipes, ditches, culverts, swales and other suitable facilities for the disposition of storm and surface water drainage together with the right of ingress and egress to all such facilities and easements for the construction and maintenance thereof. Note number 13 on the Plat refers only to the specific water and sewer easements shown and specifically located thereon, and not to the general easements reserved by the preceding sentences.

As used herein, the phrase "land designated by the ACB as approved building sites" shall mean (i) the area under buildings, patios, walks, decks, porches or other improvements constructed by Declarant, Craig or the agents, contractors or subcontractors of either, (ii) the area under buildings, patios, walks, decks, porches or other improvements constructed by Republic, and (iii) the area under other buildings, patios, walks, decks,

porches or other improvements, the location of which is approved by the ACB in accordance with Article VII herein. The easements provided for herein shall include the right to cut any trees, brush and shrubbery, dig or grade any soil and take any other similar action as reasonably necessary. The rights herein reserved may be exercised by any licensee of Declarant, but shall not be deemed to impose any obligation upon Declarant to provide or maintain or be responsible for the lapse or temporary interruption of services except as herein and otherwise provided. Any damage to the Property resulting from the use of the easements hereby reserved shall be promptly repaired at the expense of the party causing such damage.

Section 2 - Party Wall. Each wall built as a part of the original construction of any structure upon the Property subject to this Declaration which is placed upon the dividing line between Lots shall constitute a party wall and both of the adjacent Lot Owners divided by the wall shall have the right to equally use for all purposes the party wall as their exterior building wall. The cost of reasonable repair and maintenance of the party wall shall be shared equally by the adjacent Lot Owners divided by the wall who make use of the wall. IF a party wall is destroyed or damaged by fire or other casualty, either Owner who has used the wall may repair or restore it and the other Owner who used the party wall shall thereafter contribute 50% to the cost of repair or restoration thereof, without prejudice, however, to the right of either such Owner to call for a larger contribution from the other Owner under any theory regarding liability for negligent or willful acts or omissions. The right of any Owner who used the party wall to contribution from any other Owner who used such wall herein shall be appurtenant to and run with the land and therefore pass to such Owner's successors in title.

Section 3 - Joint Driveway Easement. The Declarant intends that each two adjacent Lots shall be served by a single driveway providing vehicular and pedestrian ingress and egress between the Lots and the Streets. There is hereby created, for the benefit of both of the adjacent Lots served by the joint driveway, an appurtenant non-exclusive access easement for the benefit of the Owners of both of the adjacent Lots. The

easement shall be 20' wide and centered on the joint driveway as initially constructed. The length of the easement on each such Lot shall be from the Street to such point where the joint driveway leaves such Lot to provide a separate driveway extension or parking area for the adjacent Lot. The initial standard for the joint driveways shall be a gravel road, reasonably maintained to provide access by passenger automobiles. This standard may be changed by agreement in writing signed by both of the adjacent Lot Owners served by the joint driveway and filed with the Association.

Each of the adjacent Lot owners served by the joint driveway shall be responsible for one-half of the cost of repairs and maintenance of the Joint driveway to the applicable standard and for one-half of any agreed Improvements. Both Lot owners shall pay their share within 30 days after a bill for such services is received. If not timely paid, interest at 18% per annum and reasonable attorney's fees shall be added to the share due from the defaulting Lot Owner and the paying Lot Owner may bring an action at law to collect same. There shall be a continuing lien upon each of the adjacent Lots to secure payment of their share of the proper charges associated with the joint driveway, which lien shall be subject to the lien of any deed of trust or Association lien unless and until there is a default in payment and a Notice of Lien is recorded in the Clerk's Office for the Circuit Court of Albemarle County. A recorded Notice of Lien may be foreclosed in the manner as if it were a Memorandum of mechanic's lien.

ARTICLE VI - COVENANT FOR ASSESSMENTS

Section 1 - Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned or to be created within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessment. or charges to be collected on a monthly basis therein "Annual Assessments", (2) special assessments for capital improvements, such assessments to

be fixed, established, and collected from time to time as hereinafter provided (herein "Special Assessments"), and (3) assessments for correction of noncompliance with this Declaration and the implementation of such corrections by the Association to be fixed, established and collected From time to time as hereinafter provided (herein "Correction Assessments"). All of the above categories of assessments are collectively referred to as "Assessments". Assessments, together with such interest thereon and costs and reasonable attorney's fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made in the manner as hereinafter provided, and subject to certain prior liens upon the Property as hereinafter provided in Section 8 of this Article. Each Assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the owner of such property assessed at the time when the Assessment fell due. The personal obligation shall not pass to such Owner's successors in title unless expressly assumed by them in writing or unless a Notice of lien is recorded as set forth in Section 8 hereof.

Section 2 - Purpose of Assessments. Annual Assessments levied by the Association shall be used for the purpose of promoting the enjoyment, health, safety, and welfare of the residents in the Property and in particular for the repair, improvement, provision, maintenance, enhancement and replacement of the Common Areas, drainage facilities, signs, landscaping, ground., fencing, exterior lighting, sprinkler system, mailboxes, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area. Annual Assessments shall also be used for establishing reasonable reserves for maintenance and capital expenditures.

The Association shall use such Annual and Special Assessments, to the extent such Assessments are sufficient funds, for the general purposes stated above, and in addition thereto, at such times and in such manner as determined by the Board of Directors, the Association shall:

(a) maintain all Common Areas including storm water detention or runoff control facilities not publicly owned, if any.

(b) operate such recreational facilities, if any, as it deems fit and proper and make such extra charges as it deems proper for the use of these recreational facilities.

(c) provide lawn mowing and general yard maintenance (including lawn fertilizing and shrubbery trimming) in the front and side yards of all Lots. The Association will not maintain the rear yard of any Lot unless it voluntarily elects to do so in writing signed by each member of the Board of Directors. The rear boundary of a "side yard" shall be a line extending from the main rear corner of the dwelling on the Lot to the side property line approximately parallel to the Street on which the dwelling fronts, unless a different interpretation is determined by the Board of Directors to be more harmonious with the adjacent Lots. Should questions arise about what portions of a Lot or Lots constitute the "side yard" or the "rear yard", then these issues shall be determined conclusively for all purposes by the Board of Directors.

(d) provide exterior maintenance (including replacement), all as and when deemed necessary by the Board of Directors, for wear and tear of siding, including painting, and of roofs, gutters, downspouts and exterior trim. The Association shall not be responsible for exterior repairs or maintenance required by casualty loss.

(a) provide termite control procedures as and when it deems necessary.

(f) provide snow removal from the Streets until such time as they may be accepted into the State Secondary System for maintenance.

(g) provide, maintain and replace as necessary such Common Area signs, fencing, lighting, landscaping and sprinkler systems as deemed appropriate by the Board of Directors and maintain in effect maintenance bonds as may be required by VDOT for landscaping or median maintenance.

(h) be in charge of the general control of the entire Property, and may make any reasonable regulations consistent with the purposes stated herein for control at such and prevention of nuisances.

(i) maintain liability insurance for Common Areas And pay any and all taxes on the Common Area as levied by the appropriate jurisdictional agency.

(j) attempt to establish and maintain reasonable reserves to accomplish all of the above.

Section 3 - Basis and Maximum of Annual Assessments.

(a) The initial maximum Annual Assessment for Lots improved by a dwelling upon which a certificate of occupancy has been issued (herein "Improved Lots") shall be assessed on a monthly basis at \$25.00 per month. The Annual Assessment for unimproved Lots (no certificate of occupancy issued) shall always be assessed on a monthly basis at one-fifth (20%) of that for an Improved Lot (initially \$5.00 per month). Owners shall commence paying assessments as Improved Lots on the first day of the month following issuance of a certificate of occupancy or upon a finding by the Board of Directors that the dwelling is substantially complete, whichever shall first occur. Annual Assessments may be increased by up to ten percent (10%) per year effective January 1 of each year (commencing January 1, 1993) without a vote of the Members, by the Board of Directors, after due consideration of current costs and needs of the Association.

(b) Any increase in the Annual Assessments requested by the Board of Directors in excess of the ten percent (10%) increase described in Section 3(a) above must be approved by a majority vote of the Members who are voting in person or by proxy at a meeting duly called for this purpose. The number of votes of Members shall be determined by Article III, Section 3.

Section 4 - Special Assessments. The Association may levy in any assessment year, a Special Assessment applicable to that year only for all Lots, for the purpose of defraying, in whole or in part, an unexpected or unusually large expense or anticipated expense, the cost of any construction or reconstruction, an unexpected repair or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, or for any other reason found by the Board of the Directors to be in the best interests of the Association. Any Special Assessment must be approved by a two-thirds (2/3) vote of the Members who are voting in person or by proxy at a meeting duly called for this purpose. The number of votes of Members shall be determined by Article III, Section 3. The Association shall provide written notice of the Special Assessment and the date or dates upon which it shall be due and payable to each owner at the property address or the owner's last known address on file with The Association.

Section 5 - Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Improved Lots and at a separate uniform rate for all unimproved Lots which shall not exceed 1/5th of that for Improved Lots. Annual and Special Assessments shall be collected on a monthly basis unless the Board of Directors determines otherwise. Correction Assessments shall be fixed on a case-by-case basis and need not be uniform, whether or not the Lot is an Improved Lot.

Section 6 - Date of Commencement of Annual Assessments Due Dates. The Annual Assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of

a Lot to an Owner. The first Annual Assessment shall be prorated according to the number of months remaining in the calendar year. The Board of Directors shall endeavor to fix the amount of the Annual Assessment against each Lot by January 31 of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every owner subject thereto at the property address or the last known address of the Owner on file with the Association. Unless otherwise established by the Board of Directors, the Annual Assessments shall be due in advance in twelve (12) equal monthly installments on the first day of each month commencing in January, unless other due dates are established by the Board of Directors, and the Annual Assessment shall be prorated where sale is made between the annual January 1 reassessment dates. The Association shall, upon written request by an owner at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 7 - Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessments (or monthly installments thereof) which are not paid when due shall be delinquent. If the Assessment is not paid within thirty (30) days after the due date, it shall bear interest from the date of delinquency until paid at eighteen percent (18%) per annum and all costs of collection, including reasonable attorney's fees shall also be payable. The Association may bring an action at law against the Owner personally obligated and/or it may foreclose the lien against the Lot. No owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 8 - Lien for Payment of Assessments and Subordination of Lien to First and Second Mortgages. There shall be a continuing lien upon each of the Lots herein, in order to secure the payment of the Assessments (including interest, costs of collection and reasonable attorney's fees) provided under this Declaration, but such lien shall be subject to and subordinate to any first and second deeds of trust placed on

the lot at any time prior to perfection of the lien by filing in the Clerk's Office for the Circuit Court of the county of Albemarle a verified Memorandum of Lien in accordance with 55-516 of the Code of Virginia. Prior to filing a Memorandum of Lien, ten (10) days written notice of the Association's intent to file such a Memorandum shall be given to the Owner by certified mail at the property address or at his last known address on file with the Association. The Association may thereafter perfect its lien by filing a Memorandum of Lien in the Clerk's Office aforesaid prior to the expiration of six (6) months from the time the delinquent Assessments became due and payable. After the lien is perfected, it shall have priority over all subsequent liens and encumbrances except as set forth in 55-516 of the Code of Virginia. No suit to enforce any lien shall be brought after twenty-four (24) months from the time when the Memorandum of Lien was recorded as set forth in 55-516(E). A statement from the Association showing the balance due on any Assessment shall be prima facie proof of the current Assessment balance due and delinquency, if any, due on a particular Lot.

Section 9 - Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments created herein: (a) all properties dedicated to and accepted by a local utility or public authority, such as Virginia Power, VDOT, Centel, Albemarle County Service Authority or Rivanna Water and Sewer Authority; (b) the Common Area; and (c) all properties (except Lots) owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Virginia. However, no land or improvements devoted to dwelling use shall be exempt for said Assessments.

Section 10 - Correction Assessments. The Association or the ACB may impose non-uniform Correction Assessments upon any Lot and its owner in the manner set forth in Article VIII, Section 2 or Article IX.

ARTICLE VII - ARCHITECTURAL CONTROL

Section 1 - Purpose. An Architectural Control Board (herein "ACB") shall regulate the external design, appearance, use, location and maintenance of improvement. and landscaping on any Lot or the Common Area, other than improvements constructed or landscaping done by Declarant or Craig, their agents, contractors or subcontractors, in such as manner so as to preserve and enhance values, maintain a harmonious relationship among structures and the natural vegetation and topography and to preserve the general character and color, tone and architectural compatibility of the area as originally constructed. To further this purpose, dwellings on adjacent Lots which are separated by party walls shall be painted the same color for siding and trim and shall have the same roof shingle color and window type.

Section 2 - Composition of Architectural Control Board. For so long as Declarant owns any Lot or Property, the Architectural Control Board shall consist of three persons appointed by Declarant or Craig. Such persons may, but need not, be Members of the Association. Thereafter, the power to appoint members of the ACB shall be transferred to the Association which shall appoint three of its Members to the ACB. The members of the ACB shall serve at the pleasure of the entity which appointed them and accordingly ACB members may be replaced at any time for any reason whatsoever.

Section 3 - Required Approval to Commence Work.

(a) No exterior improvements, alterations, repairs, change of paint or stain color, change of roof color, excavations, changes in grade, clearing, major landscaping or other work which in any way alters any Lot from its natural or improved state on the date when said Lot was first conveyed in fee by Declarant shall be made or done upon the Property without the prior written conditional approval signed by each member of the ACB, except as otherwise provided herein. No building, fence, exterior wall, residence or other structures or exterior changes to any existing structures upon the Property shall be commenced or made until

given prior written conditional approval signed by each member of the ACB, except as otherwise provided herein.

(b) Notwithstanding the above, neither Declarant nor Craig shall be required to seek or obtain the consent or approval (either conditional or final) of the ACB or of the Association for any work, including but not limited to any improvements, changes, repairs, alterations, painting, construction, grading or landscaping performed by Declarant, Craig or their agents, contractors and subcontractors.

Section 4 - Procedure. None of the improvements, changes or other work described in detail in Article VII, Section 3(a) above shall be commenced until plans and specifications therefor showing the nature, size, kind, shape, height, materials, colors and location of the same shall have been submitted to the ACB and conditionally approved in a writing signed by each member of the ACE after consideration of the details of the submission and the purpose of the ACB as set forth herein. The Board of Directors may set a fee payable to the Association for reviews by the ACB in conjunction with requests for conditional and final approvals. In addition to the items set forth herein, the ACB may adopt additional procedures or standards as to the information it requires to be submitted to it with any request for approval.

Section 5 - Conditional Approval Presumption. In the event that the ACB fails to approve, modify or disapprove in writing a request for approval required herein within 60 days after plans, specifications or other appropriate materials have been submitted in writing to it, the submitted plans and specifications shall be deemed to have been conditionally approved. The burden shall be upon the owner to show the date of the submission and that the plans and specifications were properly submitted to the ACB.

Section 6 - Conditional and Final Approval. Preconstruction approvals granted by the ACB herein shall be deemed to be conditional approvals. They may become final approvals upon the ACB's inspection of the

actual completion of the changes or improvements or repairs and finding them to be as set forth in the plans and specifications submitted to it. In the event that the actual completed changes, improvements or repairs do not, in the judgment of the ACB, conform to the plans and specifications approved by it, then the ACB's approval, whether given in writing or by presumption, may be withdrawn. It shall be incumbent upon the owner to notify the ACB in writing within 30 days after the completion of work that he requests final approval. The ACB shall then have 30 days to inspect and grant or refuse final approval in writing. If final approval is refused, the owner shall make changes and resubmit until final approval is obtained.

Section 7 - Final Approval Presumption. In the event that appropriate equitable action, together with the filing of a lis pendens, has not been commenced within 180 days after the completion of any construction, improvements or alterations, it shall be conclusively presumed that such construction, improvements or alterations have received final approval by the ACB.

Section 8 - No Approval. Should an Owner commence any work which requires ACB approval without its conditional approval or complete any work without seeking ACB final approval within 30 days of completion, the ACB, the Association or any Member may take appropriate legal or equitable action and may cause a lis pendens to be filed against such owner's Lot, except as set forth herein. Furthermore, the ACB or the Association has the right (but not the obligation) to correct any violation and impose Correction Assessments as set forth in Article VIII, Section 2.

ARTICLE VIII - USE RESTRICTIONS

Section 1 - Limitation on Use of Lots and Common Area. The Lots and Common Area shall be occupied and used as follows:

(a) Residential Use. No Lot shall be used for any purpose other than as a single family private residence. Specifically, no Lot shall be used for the conduct of any business, commercial or professional enterprise. For the purposes of this Declaration, the term "single family" shall mean: (i) an individual; or (ii) two or more persons related by blood, marriage, adoption or guardianship living together as a single housekeeping unit; or (iii) no more than two persons who are not all related by blood, marriage, adoption or guardianship living together as a single housekeeping unit.

(b) Common Area Use. There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior consent of the Association. Nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the Association. No waste will be permitted in the Common Area. Notwithstanding the above, Declarant, Craig and Republic and their contractors and subcontractors may use, obstruct or store personal property, materials or vehicles on the Common Area during such time as they may be engaged in construction on the Property.

(c) Nuisance. No noxious, boisterous or offensive activity shall be carried On upon any Lot or in the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any other owner or a fire hazard or safety hazard to any other Other or to any improvement. The Board of Directors shall have the authority to determine in writing whether any activity conducted upon any Lot constitutes a nuisance upon the submission to it of a complaint in writing by any owner regarding such activity. The Association is given full authority and power to abate any nuisance found to be existing any giving the Owner written notice specifying the nature of the nuisance provided that the Owner has failed to abate said nuisance within a reasonable time after notice.

(d) Liability Insurance. Nothing shall be done or kept in any Lot or the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his Lot or in the Common Area which will result in the cancellation of insurance on any Lot or any part of the Common Area, or which would be in violation of any law.

(e) Signs. No sign of any kind (including For Sales signs) shall be displayed to the public view on or from any Lot, the Common Area, or on or from within any structure on any Lot, except those signs used by Declarant, Craig or Republic as "for sale" signs, "sold" signs, Lot designation and direction signs, site signs, and the subdivision entrance signs, street signs and traffic control signs.

(f) Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept in any Lot or in the Common Area, except that no more than a total of two dogs, cats or other domesticated household pets (collectively "Household Pets") may be kept on each Lot, subject to rules and regulations adopted by the Association. No Household Pet shall be permitted off the Lot occupied by such Household Pet's owner except on a leash. Owners of Household Pets shall promptly clean up and properly dispose of said pet's feces wherever deposited on the Property. No pit bull dogs or dogs having any percentage of pit bull breed in them shall be permitted upon any Lot or Common Area.

(g) Fences. No fence may be erected upon any Lot in the front or side yards. If approved by the ACB, fences may be erected in the back yards of Lots provided that no fence shall extend closer to a Street than the rear corner of the dwelling on the Lot. In cases of hardship, this restriction on front and/or side yard fences may be waived by a written waiver signed by each member of the ACB. The "front" shall be that side of the dwelling on a Lot facing, or most nearly facing, a Street which is not parallel to the party wall. Should

a question about the location of the front, side or rear yard arise, it shall be conclusively determined by the Board of Directors as set forth in Article VI, Section 2(c).

(h) Trash. Trash cans, barrels and containers must be maintained within ACS approved screened bins concealed from view from the Streets and adjacent Lots. Trash pick-up shall take place only at locations as are approved or designated by the Association. Street side trash pick-up shall not be permitted.

(i) Antennas. No exterior or roof antennas of any kind or description may be erected or maintained on any Lot or Common Area. No satellite dishes exceeding two (2) feet in diameter may be erected or maintained on any Lot or Common Area. No transmitting or receiving equipment which interferes with television, radio or other communications reception of other Owners shall be used or permitted upon any Lot.

(j) Trees. No lying tree with a diameter greater than two inches measured at three feet from the ground upon any Lot may be cut down or removed after the conveyance of the Lot from the Declarant without the prior express written permission signed by each member of the ACB. A landscape plan shall be submitted with the plans and specifications for cutting, such plan to show existing trees and shrubs and to clearly indicate those to be removed. Regardless of size, trees planted by Declarant or Craig or the agents, contractors or subcontractors of either in the Common Area may not be cut down or removed without prior express written permission signed by each member of the ACB.

(k) Clothes Drying. No clothing, laundry or wash shall be aired or dried on any portion of a Lot exposed to view from any other Lot, the Common Area or any Street.

(1) Inoperable Vehicles. No inoperable vehicle shall remain on the Property for more than 48 hours. The Association may conclusively define what is an inoperable motor vehicle.

(m) Vehicles. Vehicles of any kind or description which do not have a current license and a valid inspection sticker shall not be kept or maintained on any Lot, Street or on the Common Area. The maximum number of vehicles which may be maintained or stored on any Lot (excluding those stored in garages) shall be three (3).

(n) Recreational and Other Vehicles. No mobile home, trailer, camper, bus, recreational vehicle, dune buggy, tow truck, tractor, backhoe, boat, trailer or truck over 3/4 ton rated capacity shall be placed, stored or parked on any Lot, Street or Common Area in the Property or adjacent thereto, either temporarily or permanently. Additionally, the Association shall have the power to regulate or prohibit the placement, storage or parking, whether temporary or permanent, within the Property of any vehicle which in the opinion of the majority of the Board of Directors detracts from the general aesthetic character and harmony of Highlands at Mechums River by reason or: (i) the general disrepair or dilapidated state of such vehicle, (ii) the types or quantities of materials or items stored on or within such vehicle, or (iii) the unusual or tasteless exterior appearance of such vehicle. The provisions of this section shall in no way limit or proscribe the rights of Declarant, Craig and Republic and their agents, contractors and subcontractors to park vehicles related to construction activities upon the Property.

(o) Temporary Structures. No structure of temporary character, tent or trailer shall be used on any Lot or the Common Area at any time as a residence.

(p) Toys, Bicycles, Equipment. All toys, bicycles, tricycles, lawn and garden implements and machines, and the like shall be kept and stored out of sight from other Lots and/or Streets from sunset to sunrise each day.

(q) Drainage. No Owner shall unreasonably interfere with the natural drainage of surface water from hi. Lot to the detriment of any other Lot.

(r) Firewood. No more than a cord of firewood may be stored at any time on any Lot. All woodpiles shall be in the rear of the Lot no closer than 10 feet to any structure used as a residence and either uncovered or covered with tarpaulins of dark (green or black) color, properly secured.

(s) Woodstoves. No woodstove (including free standing and fireplace insert) shall be installed, maintained or used on any Lot.

(t) Mailboxes. No mailbox shall be erected or maintained nor shall the exterior appearance of any mailbox be altered on or adjacent to any Lot until the proposed mailbox design, color and location have been approved in writing signed by each member of the ACB. The provisions of this section shall not apply to mailboxes erected by Craig, Republic, their agents, contractors or subcontractors.

(u) Storage Tanks. No underground storage tanks shall be placed in any Lot or Common Area, unless permitted by writing signed by each member of the ACB.

(v) Exterior Appearance. Every Owner shall be responsible for a well maintained exterior appearance of his Lot and improvements thereto, including, but not limited to, reasonable maintenance of lawn and shrubbery in those areas not maintained by the Association and maintenance of the Improvements

to the extent not the responsibility of the Association. To comply with this mandate, each Owner must at least maintain and mow the grass in the rear yard of his Lot so that it does not exceed six inches in length. Further, each owner shall maintain all decks, porches and patios in a neat, orderly and well maintained fashion and shall not use them for storage.

Section 2 - Correction Assessments and Remedies. In the event that any Owner shall violate or fail to comply with the Architectural Control provisions set forth in Article VII or violate or fail to comply with any one or more of the Use Restrictions set forth in Section 1 of this Article VIII (herein collectively the "Violations"), such Owner may be liable for Correction Assessments provided that such Owner shall have been sent prior written notification by the ACB or Association or their agents, employees, or attorneys (hand delivered or sent by registered or certified mail to the property address or the Owner's last known address on file with the Association) of such Violation(s). In the event such Violation(s) is not stopped, halted or corrected (within the time set forth as set forth in such written notification) and continues, then, without further notice, the ACB or Association (or their agents, contractors or employees) are hereby irrevocably granted permission to come upon the Lot of said Owner and may cause such Violation(s) to be fully or partially stopped, halted or corrected, without liability for so doing, and may cause any and all costs incurred (including interest and attorneys' fees) in connection therewith to be charged as a Correction Assessment to such Owner. The ACB or the Association have the right (but not the obligation) to correct the Violation(s) or in their discretion to partially correct such Violation(s). Correction Assessments may be collected as other Assessments in any of the manners specified in Article VI hereof, including suit at law or in equity or by filing a notice of assessment lien as herein provided. The remedy herein provided shall be in addition to any other remedy provided or allowed by law or in equity and shall not be deemed an exclusive remedy. Election of one remedy (whether herein specified or allowed or otherwise) shall not act as a bar to the subsequent or concurrent use of other available remedies.

ARTICLE IX - CASUALTY DAMAGE TO LOTS

Section 1 - Obligation to Rebuild. In the event that any structure, or any portion thereof, on any Lot shall be damaged or destroyed by fire, windstorm, or other casualty, the Owner of such Lot shall be responsible for and shall bear the cost of the rebuilding, reconstruction and/or restoration of such structure to the same standards, condition, appearance and specifications, including color and grade of wood, as existed prior to its damage or destruction. The rebuilding, reconstruction and/or restoration of any damaged and/or destroyed structure shall be commenced within sixty (60) days of such damage and/or destruction, and once commenced shall be diligently pursued to completion, and in any case shall be completed within six (6) months from date of commencement thereof. In the event that such Owner shall fail to so reconstruct, rebuild and/or restore such damaged or destroyed structure for which he or it is responsible in a manner satisfactory to the Board of Directors, the Association after thirty (30) days prior written notice to such Owner at the property address or the Owner's last known address on file with the Association and upon affirmative vote of a majority of the Board of Directors shall have the right (but not the obligation) to reconstruct, rebuild and/or restore such damaged or destroyed structure to the same standards, condition, appearance and specifications as existed prior to its damage or destruction, and the cost thereof (including interest and attorney's fees) shall be assessed against the Owner of such structure as a Correction Assessment.

Section 2 - Insurance. The Owner of each Improved Lot or Lot on which a dwelling is under construction shall maintain in full force and effect an all risks hazard or homeowners insurance policy covering the improvements on said Owner's Lot against loss or damage due to fire, explosion, windstorm, casualty or other insurable cause to the full replacement cost of such improvements. Each Owner shall provide and maintain a valid certificate of such insurance in favor of the Association. In the event that any Owner fails to maintain such insurance on the improvements on their Lot or fails to provide the Association with such a certificate, the Association, after five days written notice, shall have the right, but not the

obligation, to procure such insurance in the name of the owner and assess the direct charges therefor together with an administrative fee of \$250.00 against the Owner as a Correction Assessment.

ARTICLE X - GENERAL PROVISIONS

Section 1 - Enforcement. The Association shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions, restrictions, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or Supplementary Declaration and may seek damages for violations of such provisions. Before the Association seeks injunctive relief against any Owner, the Owner shall be given the opportunity for a hearing before the Board of Directors. Fourteen (14) days prior written notice of a hearing shall be given to the Owner by hand delivery or certified mail return receipt requested to the property address or the owner's last known address on file with the Association. An owner may also seek to enforce all covenants, etc. against another Owner. Failure by the Association or by any Owner to enforce any covenant, condition, restriction, lien or charge herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2 - Fees and Costs. The Association, in seeking enforcement of the provisions of this Declaration or damages due to violation thereof, shall be awarded court costs and reasonable attorney's fees, if it substantially prevails.

Section 3 - Severability. Invalidation of any one or more of the provisions of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 4 - Prohibited Discrimination. The Declarant and every Owner agree that no transfer of any interest or offer to acquire any interest in any Lot shall be refused by Declarant or Owner or agent thereof to any person because of race, color, religion, sex or national origin, nor shall Declarant or any Owner make unavailable or deny the use or any interest in the Property to any person because of race, color, religion, sex or national original. No provision of this Declaration shall be used to discriminate against any person by reason of such person's race, color, religion, sex or national origin and any such use is hereby declared illegal, void, and unenforceable and is specifically disclaimed.

Section 5 - Amendment. The covenants, conditions, restrictions and reservations of this Declaration may be modified or amended during the first twenty (20) year period by an instrument signed by Declarant after being approved by a more than two-thirds (2/3) vote of the Members who are voting in person or by proxy at a meeting duly called for this purpose. After said period this Declaration may only be modified or amended by an instrument signed by more than two-thirds (2/3) of the Lot Owners. Any modification or amendment must be properly recorded.

Section 6 - Duration. The covenants, conditions, restrictions and reservations of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years unless modified, amended or rescinded.

Section 7 - Trustee Disclaimer. Declarant, legal title holder, executes this Agreement not personally but as Trustee, it being understood by all parties that David H. Pettit personally has no responsibility or liability, either express or implied, for performance of the covenants and agreements set forth herein. This disclaimer

of personal liability does not, however, limit the liability or responsibility of the Mechum River Land Trust and its assets.

SCHEDULE A

to

HIGHLANDS AT MECHUMS RIVER

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

Property Description:

All that certain tract of land in the White Ball Magisterial District of Albemarle County, Virginia containing 24.8396 acres, more or less, designated as "Highlands at Mechums River, Section 1", and shown on plot of Roger W. Ray & Assoc., Inc. dated October 16, 1990, revised July 16, 1991 captioned "Subdivision Plat of Highlands at Mechums River Lots 75 Thru 150", which plat is of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 1176, pages 344 to 356, BEING a portion of all those certain tracts or parcels of land situated in Albemarle County, Virginia, on the north and south sides of State Route 240, and on the south side of State Route 680, shown as T.M. 57-29 containing 173.17 acres, T.M. 57-29D containing 16.68 acres, and Parcel X containing .10 acre, on a plat prepared by R. W. Ray, R. O. Snow & Assoc., Inc., dated September 28, 1989, and recorded in the Clerk's Office of the Circuit Court of Albemarle County, in Deed Book 1134, pages 76 and 77, as were conveyed to George Harrison Gilliam, Trustee of the Mechum River Land Trust, dated July 1, 1989 by deed from William W. Harrison, Jr., as Trustee under the provisions of the Pierremont Farm Land Trust, said deed dated October 2, 1989, recorded October 5, 1989 in the aforesaid Clerk's Office in Deed Book 1070, page 427. David H. Pettit was substituted for George Harrison Gilliam as Trustee of the Mechum River Land Trust by Appointment dated December 1, 1990 of record in the aforesaid Clerk's Office in Deed Book 1133, page 370.