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DECLARATION OF COMMON INTEREST COMMUNITY

FOR

VILLAGE AT SLEEPY HOLLOW

**a residential Planned Community in
Monongalia County, West Virginia**

THIS DECLARATION OF COMMON INTEREST COMMUNITY FOR VILLAGE AT SLEEPY HOLLOW, effective the 30th day of June, 2005, by Sleepy Hollow Properties, LLC, a West Virginia limited liability company, (hereinafter referred to as "DECLARANT"), the owner of certain real estate and improvements for itself and its grantees and assigns, hereby make the following declaration:

I. SUBMISSION TO COMMON INTEREST COMMUNITY OWNERSHIP:

Declarant does hereby submit as a Planned Community the real estate dedicated hereby, together with all roadways, improvements and other permanent fixtures now and later situated thereon and thereof and all rights and privileges pertaining thereto (hereinafter referred to as "Subdivision") to the Common Interest Community (hereinafter referred to as "CIC") form of ownership in the manner provided for by Chapter 36B of the West Virginia Code, as amended to the date hereof (the "Uniform Common Interest Ownership Act").

II. SUBDIVISION NAME AND LOCATION:

The name by which this Subdivision is to be identified is Village at Sleepy Hollow. The property comprising the Subdivision is located in Clinton Tax District, Monongalia County, West Virginia.

III. THE LAND:

The Subdivision is being developed in multi-lot Phases and only one such Phase, namely Phase I, is dedicated to the Subdivision hereby. Additional real estate comprised of Units, Phases, Common Elements and Limited Common Elements may be added to the Subdivision by subsequent dedication and the recordation in the Monongalia County Clerk's Office of Additional Maps and Plats.

Phase I, of the Subdivision is hereby dedicated as depicted and shown on that certain Map or Plat entitled Phase 1 Plat of Village at Sleepy Hollow, Sleepy Hollow Properties, LLC, prepared by Potesta & Associates, Inc., dated April, 2005, and recorded in the Office of the Clerk of the

County Commission of Monongalia County, West Virginia, in Map Cabinet D in Envelope No. 32A.

Total acreage of parent tracts	
Total acreage dedicated as Phase I	16.834 Acres
Remaining parent tract acreage not dedicated as Sleepy Hollow Subdivision but which may be dedicated as future Units	51.663

Total acreage of Phase I	16.834 Acres
Number of Units in Phase I	14 Units
Total acreage of all Units in Phase I	14 Acres
Total acreage of Common Elements in Phase I	2.83 Acres
Total acreage of Limited Common Elements in Phase I	0

Phase I is depicted on the map or plat attached as **Exhibit A** and recorded as aforesaid and is comprised of part of the real property owned by Declarant and described on **Exhibit B**. Declarant reserves the right to develop some or all of the real estate described and identified on **Exhibit B**, and also all adjoining tracts of real estate described on **Exhibit C**, as additional Phases in the Subdivision, and to create additional Units, Common Elements and Limited Common Elements thereon from time to time by recording amendments to this Declaration and recording additional maps or plats. The Declarant reserves the privilege but has no duty to exercise such rights and such future Phases, Units, Common Elements and Limited Common Elements, if dedicated to the Subdivision, shall be subject to the covenants, restrictions, limitations and conditions set forth herein. Declarant reserves the right to impose additional restrictions on such future Phases, Units, Common Elements and Limited Common Elements as may be reasonable or beneficial to Declarant as more particularly set forth herein below. Any portion of the real estate described in **Exhibits B and C** which is not dedicated as a Phase in the Subdivision is not subject to this Declaration except to the extent that the declarant has: (1) reserved the right to add such real estate to the Subdivision at a later date; and (2) Declarant has reserved rights, rights-of-way and easements in this Declaration for the benefit of said real estate.

IV. DEFINITIONS:

Definitions of some common terms further defined and used herein and referred to in other related documents are as follows, unless, as used elsewhere, the text or context in which such terms as

used indicates another contrary or more specific definition:

1. Association: Sleepy Hollow Community Association, Inc., a non-profit corporation, its successors and assigns, which Association of Unit Owners is organized as and shall be the governing body for the maintenance, repair, replacement, administration and operation of the Subdivision.
2. Board: The Board of Directors of the Association herein designated to act on behalf of the Association as the directors are duly elected or appointed in accordance with the Articles of Incorporation and the By-Laws of the Association, neither of which Articles or By-Laws may be inconsistent with this Declaration and this Declaration shall govern in the event of any dispute or conflict between such documents.
3. Builder: Any entity which purchases one or more Units for the purpose of constructing improvements for resale to consumers in the ordinary course of its business, or which purchases one or more parcels of land for further subdivision, development and/or resale in the ordinary course of its business. Declarant reserves the right to determine when and whether a purchaser qualifies as a Builder.
4. Building Control Committee: Initially, a Committee of the Declarant appointed to set and maintain construction standards in the Subdivision (including Construction Standards as defined herein and such Construction Guidelines as may be from time to time established by the Declarant or Association) and to approve or disapprove construction plans and specifications for all buildings, structures, driveways, walls, fences, drainage systems, utility systems, walkways and all other improvements of all sorts, including trees and foliage, which may be erected, placed or cultivated on any Unit. The Building Control Committee is vested with power and authority to make all approvals and said authority shall be exclusive to the Building Control Committee. Declarant shall assigns all of its BCC Rights, powers and authority to the Association not later than when the Declarant no longer owns any Unit in the Subdivision. Beginning at the time of such assignment, the Building Control Committee shall be a committee of the Association.
5. BCC Rights: The right initially vested in the Declarant, and eventually to be vested in the Association, to administer, approve, and establish guidelines for all improvements and construction on any Unit. BCC Rights are initially reserved to the Declarant and shall be assigned to the Association prior to the sale of Declarant's final Unit in the Subdivision. Because BCC Rights are independent rights reserved to the Declarant due to Declarant's business interests and investments in the Subdivision, BCC Rights are independent and separate from Declarant's initial control of the Association, which said control must terminate as set forth hereinbelow. Declarant's BCC Rights may continue after termination of Declarant's control of

the Association. Declarant's BCC Rights shall be assigned by Declarant to Association not later than when Declarant no longer owns any Unit in the Subdivision.

6. By-Laws: The By-Laws of the Association as the same may be amended from time to time and which govern the daily operation of the Association to the extent not specified in the Declaration and Articles of Incorporation. To the extent that there is any dispute or conflict between the provisions of the By-Laws and the Articles of Incorporation, the Articles of Incorporation shall govern.
7. Common Elements: All dedicated portions of the Subdivision other than the Units, including, without limitation, all roadways, all easements dedicated or reserved to the Association, and all the improvements and appurtenances thereto, central utilities and services, and areas of common use. References to "Common Elements" on the Plat are solely for general information, and do not define or limit the Common Elements contrary to this document. Rather, depictions on the plat are physical representations of the actual metes and bounds of the Common Elements dedicated hereby. Limited Common Elements, as hereinafter defined, are a subvariety of Common Elements.
8. Common Expense(s): Expenditures made by, or financial liabilities of, the Association, including but not limited to costs incurred by the Association in the management, operation, maintenance and upkeep of the Common Elements and Limited Common Elements. Common Expenses also include the cost of insurance, administrative fees, taxes and all other costs reasonably incurred by the Association in fulfillment of its obligations hereunder. Limited Common Expenses, as hereinafter defined, are a subcategory of Common Expenses.
9. Common Expense Liability: The liability apportioned to each Unit by this Declaration for the Common Expenses of the Association.
10. Common Interest Community: A Common Interest Community is a group of Units, for which a person, by virtue of his ownership of a Unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvements of real estate described in this Declaration other than a Unit. "Ownership of a Unit" does not include holding a leasehold interest of less than twenty (20) years in a Unit, including renewal options. The Common Interest Community is only those Units, Common Elements and Limited Common Elements which have been dedicated to the common interest community form of ownership by recordation of this Declaration, or amendment to this Declaration (including appurtenant maps or plats). Land which may be dedicated in the future is not part of the Common Interest Community.
11. Construction Guidelines: Rules and Regulations of the Association pertaining to changes, modifications or improvements made to the exterior of a Unit or dwelling. Construction

Guidelines differ from Construction Standards set forth herein to the extent that Construction Guidelines will be implemented from time to time by the Association or Declarant after the recordation of this document.

12. Construction Standards: Protective and restrictive covenants governing, limiting and setting the criteria for any change, modification or improvement made to the exterior of a Unit or dwelling. Construction Standards are set forth in Article X hereinbelow.
13. Declarant: Sleepy Hollow Properties, LLC, and its successors and assigns, excluding as successors and assigns all purchasers and lien holders of any Unit and their successors and assigns.
14. Declaration: This Document and any amendments thereto, properly recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia. This Declaration, combined with other instruments described herein and amendments thereto, shall be deemed to create a CIC and portions thereof which may be added from time to time.
15. Dedicate, Dedication, Dedicated: Recordation in the office of the Clerk of the County Commission of Monongalia County, West Virginia, of this Declaration or any amendment hereto whereby Declarant makes real property part of one or more Phases of the Subdivision and by operation of said Declaration or amendment, the real property must be owned, held, transferred, sold, granted, conveyed, leased, and occupied subject to the conditions, covenants, restrictions, exceptions, reservations, easements, rights of way, and limitations set forth and contained in this Declaration or any amendments hereto.
16. Development Rights: Any rights or combination of rights reserved by Declarant in the Declaration to (1) add real estate to a Subdivision; (2) create Units and Common Elements within the Subdivision; (3) subdivide Units or convert Units into Common Elements; (4) add real estate to, or withdraw real estate from, the Subdivision, or (5) withdraw Common Elements, or any part thereof, and develop the same into Units or add the same to Units.
17. Dispose or Disposition: A voluntary transfer to a purchaser of any legal or equitable interest in a Unit, but the term does not include the transfer or release of a security interest.
18. Governing Documents: Collectively and individually, this Declaration (including the Construction Standards set forth herein) and all Exhibits and amendments hereto, the By-Laws, Articles of Incorporation, Construction Guidelines hereafter specified by the Association or Declarant, and Rules and Regulations of the Association.
19. Limited Common Elements: Those Common Elements which are dedicated for use by less

than all Units.

20. Limited Common Expense: Those Common Expenses which are attributable exclusively to Limited Common Elements. Limited Common Expenses are payable by only those Units which are allocated use, enjoyment and benefit of Limited Common Elements.
21. Limited Common Expense Liability: The liability apportioned by this Declaration to Units entitled to use of Limited Common Elements for the cost of the Limited Common Expenses.
22. Member: Any and every person or entity which is a Unit Owner as hereinafter defined.
23. Patio-Homes and Patio Home Units: Declarant reserves the right to dedicate certain Phases of the Subdivision for construction of smaller single family dwellings known as "Patio-Homes" which do not exceed two (2) stories in above ground elevation, and the Units on which Patio-Homes are constructed are "Patio-Home Units". Patio-Homes may be detached single family dwellings or Patio-Homes may be attached by a common, shared or "party-wall". All provisions of these covenants shall be applicable to Patio-Homes and Patio-Home Units except to the extent specifically set forth herein or otherwise in the Amendment to this Declaration by which the Phase containing Patio-Home Units is dedicated. Patio-Home Units will be slightly larger than the Patio-Home and the land surrounding Patio-Homes will be a Limited Common Element dedicated to and for the exclusive use and enjoyment of the Patio-Home Units, with the cost of maintaining said land a Limited Common Expense allocated to only the Patio-Homes Units.
24. Plats: Those plats of survey and plans of the Subdivision heretofore described and recorded in the aforesaid Clerk's Office, together with those plats of the Subdivision hereafter recorded in said Clerk's Office, and any amendments thereto later filed of record in said Clerk's Office.
25. Sewage Treatment Facility: The Declarant is, at the dedication of Phase I, attempting to obtain all requisite approvals for an on-site comprehensive sewage treatment facility which, if installed, will be a Limited Common Element to be owned by the Association and which will service less than all Units in the Subdivision. The final determination as to whether a Sewage Treatment Facility will be installed will be based on financial feasibility of constructing, maintaining and operating the facility with the cost of constructing the Sewage Treatment Facility, if built, to be factored into the initial sales price of all Units serviced by the same. At the execution hereof, it is the intent of the Declarant that the Sewage Treatment Facility will not service Units in Phase I because the topography of the Subdivision does not facilitate gravity flow from Phase I to the Sewage Treatment Facility and Units in Phase I are of sufficient size to support on-site Unit septic systems sufficient to accommodate sewage from each Unit. Unless Declarant designates to the contrary when each subsequent Phase is dedicated, all subsequent Phases

shall be serviced by the Sewage Treatment facility, and the cost of maintaining, operating and replacing said facility shall be a Limited Common Expense allocated to only those Units entitled to utilize the Sewage Treatment Facility.

26. Smiths: Robert C. Smith and Helen L. Smith, the current owners of land contiguous to the Subdivision and former owners of land being developed as part of the Subdivision.
27. Smith Covenants: The use restrictions set forth in that certain Right-of-Way and Restrictive Covenant Agreement by and between Round Table Development, LLC, and Robert C. Smith and Helen L. Smith and which is recorded in the Office of said Clerk in Deed Book No. 1279 at Page No. 531
28. Smith Property: That certain real estate owned by Smiths and more particularly described and identified on **Exhibit D**.
29. Special Declarant's Rights: Rights expressly reserved for the benefit of a Declarant to (i) complete improvements indicated on plats and plans filed with the Declaration; (ii) exercise any Development Right; (iii) maintain sales offices, management offices, and signs advertising the Subdivision and model Units and model homes; (iv) use easements through the Common Elements for the purpose of making improvements within the Subdivision or within real estate that may be added to the Subdivision; (v) merge or consolidate the Subdivision with another Subdivision of the same form of ownership; and (vi) appoint or remove any officer of the Association or any Board of Directors member during any period of Declarant's control.
30. Unit: A physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described. A Unit shall be one lot. EACH UNIT SHALL BE DEEMED TO CONTAIN AS APPURTENANT TO ITS OWNERSHIP AN UNDIVIDED FRACTIONAL INTEREST IN THE COMMON ELEMENTS, AND A FRACTIONAL LIABILITY FOR COMMON EXPENSES AS DETERMINED BY ARTICLE VIII.
31. Unit Owner: Any and every record owner, whether one or more persons or entities, of a fee interest in any Unit, excluding those holding an interest merely as security for performance of an obligation, and including, in respect to all unsold Units, as a Unit Owner the Declarant.

V. THE DECLARANT AND DEVELOPMENT OF THE SUBDIVISION:

1. Declarant is the owner of all land dedicated as Phase I in the Subdivision. The Subdivision is comprised of Units or lots which will eventually be owned by individuals and Common Elements such

as roadways, drainage system and easements which will benefit all Units and will be owned by the Association. Declarant will complete paving to the roadways, all improvements to the Common Elements, and installation of underground utilities to each unit as set forth below. With the exception of those services to be provided by Declarant, the Unit Owners are responsible for all maintenance, improvement and upkeep of the Units and the Association is responsible for all maintenance, improvement and upkeep of the Common Elements.

2. Any land dedicated as a Common Element will be deeded from Declarant to the Association prior to completion of the Subdivision and it is not necessary that Declarant complete all improvements to Common Elements prior to delivery of such deed.

3. Declarant Rights: Declarant excepts and reserves from the land dedicated to the Subdivision, the following perpetual rights both appurtenant to its ownership of Units in the Subdivision and also as appurtenant to its vested interest as Declarant and owner of land which may be, but has not yet been, dedicated for development of the Subdivision:

- A. To complete improvements including, but not limited to those improvements indicated on plats and plans filed with the Declaration;
- B. To maintain sales offices, management offices, and signs advertising the Subdivision, Units and models;
- C. To use easements through the Common Elements, Limited Common Elements and Units for the purpose of making improvements within the Subdivision or within real estate that may be added to the Subdivision and to grant others the right to do so;
- D. To merge or consolidate a Subdivision with another Subdivision of the same form of ownership;
- E. To appoint or remove any officer of the Association or any Board of Directors member during any period of Declarant's control;
- F. To appoint or remove a majority of members of the Building Control Committee of the Association during any period that Declarant owns at least one (1) Unit in the Subdivision and thus the BCC is initially a committee of the Declarant rather than the Association. Also the right to assign all BCC Rights and control of the Building Control Committee to the Association at which time the BCC shall be only a committee of the Association;
- G. To approve all revisions and modifications to the Construction Guidelines and Rules

