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Ketterline 1994

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS

Phase II

THIS DECLARATION is made on September 8<sup>th</sup>, 1994, by  
P.O.S.C., Inc. (Declarant) and Ketterline Builders, Inc.

RECITALS

WHEREAS, Declarant is the owner of certain property in the Silver Spring Township, County of Cumberland, Commonwealth of Pennsylvania, which is more particularly described on the attached Exhibit "A," which exhibit is attached hereto and made a part hereof.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and that shall run with the real property, and be binding on all parties having any right, title, or interest in the described properties or any part of the properties, their heirs, successors, and assigns, and shall inure to the benefit of each Owner of the property.

ARTICLE 1. DEFINITIONS

1.1 "Association" shall mean and refer to Southfield Crossing Homeowners' Association II, Inc., its successors and assigns.

1.2 "Properties" shall mean and refer to that certain real property described in Exhibit "A" attached hereto and additions to that property that may be brought within the jurisdiction of the Association.

1.3 "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as set forth on Exhibit "B," which is attached hereto and made a part hereof.

1.4 "Lot" shall mean and refer to any plot of land shown on any recorded subdivision map of the Properties with the exception of the Common Area.

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

1.6 "Declarant" shall mean and refer to P.O.S.C., Inc., its successors and assigns if its successors and assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

1.7 "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

## ARTICLE 2. PROPERTY RIGHTS

### OWNERS' EASEMENTS OF ENJOYMENT

2.0.1 Every Owner shall have a right and easement of enjoyment in and to the Common Area that shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

2.0.1.1 The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated in the Common Area.

2.0.1.2 The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his or her lot remains unpaid; and for a period not to exceed sixty days for any infraction of its published rules and regulations after hearing by the Board of Directors of the Association.

2.0.1.3 The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purposes and subject to the conditions that may be agreed to by the members. No dedication or transfer shall be effective unless an instrument signed by two-thirds of each class of members agreeing to the dedication or transfer has been recorded.

### DELEGATION OF USE

2.0.2 Any owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to the Common Area and facilities to the members of his or her family, his or her tenants, or contract purchasers who reside on the property.

## ARTICLE 3. MEMBERSHIP

### Association Membership Mandatory

3.0.1 Every person or entity who is a record owner of a fee or undivided fee interest in any lot that is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot that is subject to assessment by the Association.

## Classes of Membership

3.0.2 The Association shall have one class of voting membership:

### Class A

3.0.2.1 Class A members shall be all owners (as defined in the Declaration) and all owners shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for the lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

## ARTICLE 4. COVENANT FOR MAINTENANCE ASSESSMENTS

### Creation of Lien and Personal Obligation of Assessments.

4.0.1 The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed for the Lot, whether or not it is expressed in the deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, these assessments to be established and collected as provided in this Article. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

### Purpose of Assessments.

4.0.2 The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes

situated upon the Properties.

#### Annual Assessment.

4.0.2.1 The Board of Directors may fix the annual assessment.

#### Special Assessments for Capital Improvements.

4.0.2.2 In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related to the Common Area, provided that any assessment shall have the assent of two-thirds of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

#### Notice and Quorum for Any Action Authorized Under Paragraphs 4.0.2.1 and 4.0.2.2

4.0.3 Any Action authorized under Paragraphs 4.0.2.1 and 4.0.2.2 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than thirty nor more than sixty days in advance of the meeting. At the first meeting called, the presence of members or of proxies entitled to cast 60 percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No subsequent meeting shall be held more than sixty days following the preceding meeting.


#### Uniform Rate of Assessment.

4.0.4 Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

#### Date of Commencement of Annual Assessments: Due Dates.

4.0.5 The annual assessments provided for in this Article shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner

subject to the assessment. The due dates shall be established by the Board of Directors. The Association shall, on demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

 **Effect of Nonpayment of Assessments: Remedies of Association.**

4.0.6 Any assessment not paid within thirty days after the due date shall bear interest from the due date at the rate of 8 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for in this Article by nonuse of the Common Area or abandonment of his or her Lot. Mortgagees are not required to collect assessments. Failure to pay assessments does not constitute a default under a mortgage encumbering a Lot.

**Subordination of Lien to Mortgages.**

4.0.7 The lien of the assessments provided for in this Article shall be subordinate to the lien of any mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu of foreclosure, shall extinguish the lien of the assessments as to payments that became due prior to the sale or transfer. No sale or transfer shall relieve the Lot from liability for any assessments subsequently becoming due or from any resulting assessment lien.

**ARTICLE 5. ARCHITECTURAL CONTROL**

5.0.1 No building, fence, wall, or other structure shall be commenced, erected, or maintained on the Properties, nor shall any exterior addition to or change or alteration in the Properties be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by Declarant or an agent appointed by Declarant. In the event Declarant no longer owns any of the property subject to the terms of this Declaration, then the Board of Directors of the Association, or an architectural committee composed of three or more representatives appointed by the Board shall review plans and specifications and render approvals pursuant to the terms of this paragraph and the other provisions in this Declaration referring to an Owners' Committee. In the event the Declarant or its agent, or the Board, or its designated committee, fails to approve or disapprove the design and location within thirty days after the plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The entity reviewing plans and

specifications pursuant to this paragraph and paragraphs 6.02, 6.03, 6.04 and 6.06 herein shall be known as the "Owners' Committee." The acting Owners' Committee referred to in this paragraph shall also be the Owners' Committee as referred to in paragraph 6.0.18 herein.

#### ARTICLE 6. USE RESTRICTIONS

6.0.1 No unit shall be used for any other purpose other than a private dwelling for the unit owner or for the individual(s) to whom the unit owner has leased the unit, subject to the provisions of the Declaration and By-Laws.

6.0.2 No trailer, tent, shack, shed or other outbuilding, except as hereinafter provided, shall be erected or maintained on any of the said lots, either temporarily or permanently, and no residence of a temporary character shall be erected or permitted on any of said lots. A garden shed may be erected upon approval of Owners' Committee.

6.0.3 The exterior features, including colors, of any dwelling structure or garage shall not be remodeled or changed until complete plans, sketches and designs of such changes are submitted to the Owners' Committee and approved by it.

6.0.4 No trade, business or profession shall be conducted or carried on in any of the units without the prior written approval of the Owners' Committee; and nothing shall be done or carried on in any of the units which shall be, or may become, a nuisance or annoyance to the owners or occupiers of other units. A determination of any matters under this paragraph 4 shall be by the Owners' Committee and shall be binding on all persons if made reasonably and in good faith.

6.0.5 No sign shall be displayed during the construction or sale of units except the realtor's sales sign and the realtor's open house sign.

*fence permits*  
6.0.6 No fence shall be erected without approval by the Owners' Committee. Any fence must conform to Township or other governmental specifications. No fence shall be allowed in front of units. No above ground pools shall be allowed.

6.0.7 No animals or poultry of any kind other than domestic household pets shall be kept and maintained on any part of the property or in any unit. Dogs and cats may not be kept, bred or maintained for any commercial use or purpose. Permitted household pets may not be outside units or courtyards except when they are on a leash and accompanied by a person. Household pets must reside in the unit (not the garage). Household pets may not permanently reside in the courtyard. No permanent animal structures are allowed.

6.0.8 Trash, garbage and other waste shall be maintained in receptacles located in the courtyard or in the garage. Trash cans must be placed in the street no sooner than the night before pickup, and cans must be removed the same day of pick up. No article of personal property belonging to any unit owner except grills, patio furniture and the like may be stored in the courtyard.

6.0.9 The Common Elements shall be used only for the furnishing of services and facilities for which they are reasonably suited and which are incident to the use and occupancy of the units. Unit owners or occupants of units shall not place or cause to be placed in the public walkways, parking lots or other Common Elements, any furniture, packages or objects of any kind.

6.0.10 Boats, recreational vehicles, trailers and the like shall be stored in the garages. No unit owner may use the common area to repair, modify, tear down or do other mechanical work to vehicles. Partially dismantled vehicles or junk vehicles may not be parked, abandoned or stored on the common area. A junk vehicle is defined as a vehicle not bearing a correct Pennsylvania inspection sticker.

6.0.11 No television or radio aerials or antennas shall be installed on any lot or on the exterior of any part of any dwelling, garage or other building.

6.0.12 The yard maintenance, including keeping the grass cut, is the responsibility of the owner whether he occupies or leases the unit. If a yard is not maintained, action may be taken by the Owners' Association to maintain the yard and assess the owner for the costs thereof.

6.0.13 Unit owners shall exercise care to avoid unnecessary noise or the use of musical instruments, radios, television and amplifiers that may disturb other unit owners.

6.0.14 No unit owner shall post any advertisements or posters of any kind outside the unit except as authorized by the Committee.

6.0.15 No unit owner shall hang garments, rugs or similar objects from the windows or from any of the facades of the units.

6.0.16 No unit owner shall shake or clean dust rags, mops or similar objects from the windows of the unit or clean rugs or similar objects by beating them on the exterior part of the unit.

6.0.17 No unit owner shall act so as to interfere unreasonably with the peace and enjoyment of the unit owners of other units.

6.0.18 The Owners' Committee may from time to time promulgate rules and regulations concerning the use and enjoyment of the property, subject to the right of the unit owners Association to change such Rules and Regulations. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Unit Owners' and occupants by the Executive Board promptly after the adoption of such Rules and Regulations or any amendments thereto.

6.0.19 The invalidation of any one of the foregoing restrictions or condition by a court shall in no wise affect any of the other provisions herein which shall be and remain in full force and effect.

#### ARTICLE 7. GENERAL PROVISIONS.

##### Enforcement.

7.0.1 The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so in the future.

##### Severability.

7.0.2 Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions that shall remain in full force and effect.

##### Amendment.

7.0.3 The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten years. This Declaration may be amended during the first twenty-year period by an instrument signed by not less than 90 percent of the lot Owners, and thereafter by an instrument signed by not less than 75 percent of the Lot Owners. Any amendment must be recorded.

##### Annexation.

7.0.4 Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds of each class of members.

Federal Housing Administration/Veterans

## Administration Approval.

7.0.5 As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration (FHA) or the Veterans Administration (VA): annexation of additional properties, dedication of Common Area, and amendment of Covenants, Conditions and Restrictions. The Association has no Class B membership.

## ARTICLE 8. PARTY WALLS

### General Rules of Law to Apply.

8.0.1 Each wall that is built as part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

#### Sharing of Repair and Maintenance.

8.0.2 The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to their use.

#### Destruction by Fire or Other Casualty.

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

#### Weatherproofing.

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

#### Right of Contribution Runs With Land.

8.0.5 The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to the Owner's successors in title.

Arbitration.

8.0.6 In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and the chosen arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE 9. EXTERIOR MAINTENANCE



9.0.1 In the event an Owner of any Lot in the Properties shall fail to maintain the premises and improvements situated on the Lot in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds vote of the Board of Directors, shall have the right, through its agents and employees, to enter on the parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected on the Lot. The cost of the exterior maintenance shall be added to and become part of the assessment to which the Lot is subject.

Ketterline Builders, Inc. joins in this Declaration as the owner of lots 21-A and 21-B in Phase II of Southfield Crossing.

Executed on the 8th day of September, 1994.

Witness:

[Handwritten signature]

P.O.S.C., Inc., by:

[Handwritten signature: Robert Potteiger]  
Robert Potteiger, President

[Handwritten signature]

Ketterline Builders, Inc. by:

[Handwritten signature]


COMMONWEALTH OF PENNSYLVANIA )

COUNTY OF DeWitt )

AND NOW, this 8th day of September, 1994, before me a Notary Public in and for the above County and Commonwealth, personally appeared Robert Potteiger, who acknowledged himself to be the President of P.O.S.C., Inc., a Corporation, and that being authorized to do so as such corporate

officer executed the foregoing instrument for the purposes therein contained on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

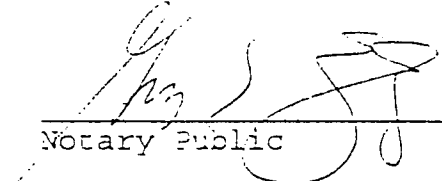
  
\_\_\_\_\_  
Notary Public  
(SEAL)  
My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF Dauphin )

NOTARIAL SEAL  
GEORGE E. ZIMMERMAN, JR., Notary Public  
Harrisburg, Dauphin County  
My Commission Expires April 10, 1997

AND NOW, this 8th day of September, 1994, before me a Notary Public in and for the above County and Commonwealth, personally appeared Robert E. Justice, who acknowledged himself to be the Secretary of Ketterline Builders, Inc., a Corporation, and that being authorized to do so as such corporate officer executed the foregoing instrument for the purposes therein contained on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
\_\_\_\_\_  
Notary Public  
(SEAL)

My Commission Expires:

NOTARIAL SEAL  
GEORGE E. ZIMMERMAN, JR., Notary Public  
Harrisburg, Dauphin County  
My Commission Expires April 10, 1997

EXHIBIT "A"  
(Properties)

All that certain piece or parcel of land known as Southfield Crossing, Phase II, located in Silver Spring Township, Cumberland County as shown in Plan Book 65, Page 131 recorded in the Office of the Recorder of Deeds in and for Cumberland County, Pennsylvania.

EXHIBIT "B"  
(Common Area)

All those certain lots known as Lots 22, 23 and 24, Southfield Crossing, Phase II, located in Silver Spring Township, Cumberland County as shown in Plan Book 65, Page 131 recorded in the Office of the Recorder of Deeds in and for Cumberland County, Pennsylvania.

ROBERT E. ZIEGLER  
RECORDER OF DEEDS  
CUMBERLAND COUNTY - PA  
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