

DECLARATION OF PROTECTIVE COVENANTS  
FOR  
POTOMAC OVERLOOK ESTATES

This Declaration of Protective Covenants, (hereinafter referred to as "Declaration") is made this \_\_\_ day of \_\_\_\_\_ 2021, by Potomac Rock Estates, LLC (hereinafter referred to as "Declarant").

WHEREAS, Declarant is the owner of certain real property, located in Berkeley County, West Virginia (hereinafter referred to as the "Properties") and desires to create thereon a residential community consisting of single-family homes with common areas and facilities for the benefit of said community; and

WHEREAS, Declarant has established a general plan for the improvement and development of the Properties into a subdivision known as Potomac Overlook Estates (hereinafter referred to as "Subdivision" to provide for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community property and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges herein created; and

WHEREAS, Declarant now desires to establish a uniform standard of rights, conditions, covenants, easements, reservations and restrictions which shall run with the land and bind the respective heirs, assigns and successors in interest of the present owner thereof. Each and every one of these rights, conditions, covenants, easements, reservations, and restrictions being for the benefit of each Owner of each lot in the Subdivision, or any interest in any lot therein, shall inure to and pass with each and every lot. All deeds to Lots or parcels within Potomac Overlook Estates shall incorporate this Declaration by reference thereto and by citation of the recording this Declaration in the Office of the Clerk of the Circuit Court of Berkeley County, West Virginia; and

WHEREAS, this Declaration is intended to create a common interest community as defined in the West Virginia Uniform Common Interest Ownership Act, Chapter 36B, West Virginia Statute (the Act), et seq., but which shall not be subject to the Act pursuant to Chapter 36B, Article 1, Section 203(2) of the Act, except Sections 105,106, 107, and 114 of Article 1 of the Act.

NOW THEREFORE, Declarant hereby declares that the real property described in Schedule A-1 hereof, and such additions thereto as may hereinafter be made pursuant to Article VII hereof, is and shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth.

## ARTICLE I DEFINITIONS

As used herein, the following terms shall have the meaning ascribed to them below:

The term "Allowed Use" shall mean and refer to any use of any land subject to this Declaration, including dwelling units and structures, which are permitted by this Declaration.

The term "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of that nonprofit association to be known as Potomac Overlook Estates Community Association, Inc.

The term "Association" shall mean and refer to the Potomac Overlook Estates Community Association, Inc., a West Virginia or Virginia non-stock, non-profit corporation to be organized under the laws of the state of West Virginia for the benefit of owners of lots in the subdivision and to exercise those powers and duties as listed in its Articles of Incorporation, including the duty to maintain the common areas of the subdivision, administering and enforcing the covenant and restrictions, and collecting and disbursing the assessments, charges and liens.

The term "ARC Board" shall mean and refer to the individual or individuals designated by Declarant from time to time during the period of Declarant control, or as otherwise constituted pursuant to Article XIII of this Declaration to perform the architectural review and approval functions specified and described in this Declaration and the Guidelines.

The term "Board of Directors" shall mean and refer to the Board of Directors of the Association.

The term "Boat Ramp" shall refer to the ramp constructed in the Open Space that provides boat, kayak, canoe and other watercraft access to the Potomac River, to be used primarily by lot owners and their guests of Potomac Overlook Estates.

The term "Common Area" or "Common Element" shall mean all interests in real property and any improvements thereto, which may at any given time be owned by the Association. This term expressly includes any real property over which the Association is grantee or beneficiary of an easement of use which is for the common use and enjoyment of the members of the Association.

The term "County" shall mean and refer to Berkeley County, West Virginia, the County Commission and the Planning Commission of Berkeley County, West Virginia, and their respective successors and assigns.

The term "Declarant" shall mean and refer to Potomac Rock Estates, LLC, and its successors and assigns or any other person or entity that Potomac Rock Estates LLC so designates in writing. The recording of such designation need not be required in order for such designation to be effective.

The term "Declarant Rights and Obligations" shall mean and refer to the rights, reservations, easements, interests, exemptions, privileges, powers and/or duties reserved or given to the Declarant pursuant to this Declaration. The Declarant's Rights and Obligations shall extend until the first to occur of (i) the conveyance of all Lots subject this Declaration to Owners other than the Declarant, or (ii) fifteen (15) years after the recordation of this Declaration. The Declarant may, however, elect to earlier terminate all or any portion of the Declarant's Rights and Obligations by the recordation of a written instrument in the Office of the Clerk of the County Commission of Berkeley County, West Virginia, expressing the Declarant's express intention to relinquish all or any portion of the Declarant's Rights and Obligations. The term during which the Declarant's Rights and Obligations are in effect is sometimes referred to in this Declaration as the "Declarant's Rights and Obligations Period."

The term "Declaration" shall mean and refer to this Declaration and the rights, conditions, covenants, easements, reservations and restrictions set forth in this Declaration, all as they may be amended from time to time.

The term "Dock" shall refer to all docks inclusive of boat slips which serve lot owners of the subdivision, primarily, which shall be located along the river frontage of the subdivision.

The term "Dwelling Unit", shall mean and refer to a structure situated on a Lot that has been designed, approved by the ARC Board, and constructed, and is intended to be used as a single family residence.

The term "Governing Documents" shall mean and refer to, collectively, this Declaration, the Guidelines, the Association's Articles of Incorporation, the Association's Bylaws, and any Rules and Regulations enacted pursuant thereto.

The term "Guidelines" shall refer to the document "Design Guidelines for Potomac Overlook Estates" as amended from time to time.

The term "Lot" or "Lots" shall mean and refer to any plot of land shown upon any recorded subdivision map or final plat of Potomac Overlook Estates except for the common areas.

The term "Open Space" shall mean that portion of the Subdivision, which is or will be subject to open space easements as shown on the Preliminary Plan Phase II, prepared by Gordon Associates and approved by the Berkeley County Planning Commission on December 12, 2014, as amended, and which easements and open space will be transferred

to the Association by the Declarant.

The term "Owner" shall mean every person or entity who holds the record title to any Lot or Residue which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation until such party has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

The term "Plan" shall mean the approved Preliminary Plan Phase I prepared by Gordon Associates, Inc., approved by the Berkeley County Planning Commission on December 12, 2014, with Administrative Plan Change approved by the Berkeley County Planning Commission on June 7, 2018, and Preliminary Plan Phase II prepared by Gordon Associates, Inc., and approved by the Berkeley County Planning Commission on December 12, 2014, with Administrative Plan Change approved by the Berkeley County Planning Commission on June 7, 2018, and as amended thereafter.

The term "Properties" shall mean and refer to the real property described in Schedule A-1 attached hereto with such additional property as is hereinafter subjected to this Declaration by an amended, supplemental or supplementary Declaration pursuant to Article VII.

The term "Recreation Facilities" shall mean any structure such as walking path, a canoe rack, boat slip, boat ramp, picnic table, or other like amenity located on Common Areas which are for the primary use and enjoyment of Owners or their immediate family and guests.

The term "Recreational Vehicles and Related Equipment" shall mean and include each of the following: RV, motor coach, campers of any type, jet ski, all terrain vehicle, three wheeler, utility trailer, fifth wheel, camping trailer, tents of any type, pop up trailer, canopy, boat, gator, mopeds, lawn mower, tractor, golf cart, canoe, kayak, pontoons, snowmobile, and dune buggy.

The term "Residences" shall mean and refer to both the Lot and the dwelling situated upon the Lot.

The term "Lot owner" shall mean and refer to both the Lot owner and if the residence is being leased, to the tenants.

The term "Rules and Regulations" shall refer to those practices, procedures, rules, limitations, and prohibitions, adopted and implemented from time to time by the Board of Directors of the Association, and which are continually subject to change, addition, or elimination from time to time.

The term "Unit" shall have the same meaning and be synonymous with the term "Lot".

The term "Utilities" shall mean any component related to the wastewater treatment system,

including but not limited to a wastewater treatment plant, discharge line, collection system and individual grinder pumps.

ARTICLE II  
MAXIMUM NUMBER OF UNITS; BOUNDARIES

Potomac Overlook Estates will be completed in phases. The Declarant reserves the right to create up to a total of thirty-five (35) units or single-family lots. Boundaries and identifying numbers for each Lot created by the Declaration are as shown on the Plan and Plats of record. The Declarant reserves the right to create additional lots through mergers of recorded lots with ensuing vacation of lot lines, and subdivision of portions of existing lots to create new recorded lots. At no time, however, will the total number of recorded lots exceed thirty-five.

ARTICLE III  
PROPERTY RIGHTS

Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject to this Declaration as it may be amended from time to time and subject to any restrictions or limitations contained in any deed conveying such property to the Association. Any Owner may delegate his or her right of enjoyment to the members of his or her resident family, tenants, members and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with any Rules and Regulations it may adopt. An Owner who leases his or her Residence shall be deemed to have temporarily delegated all such rights to the Owner's lessee during the term of the lease.

Declarant reserves the right to amend this Declaration in any and all regards unilaterally at any time prior to the conveyance of two (2) Lots. Declarant reserves the right to amend this Declaration unilaterally thereafter so long as it holds an unexpired option to expand the community pursuant to Article VII hereof, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for Potomac Overlook Estates desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for Potomac Overlook Estates.

ARTICLE IV  
COMMON ELEMENTS

The Common Area is identified upon the Final Plats of record and Schedule B hereof.

ARTICLE V  
MEMBERSHIP AND VOTING RIGHTS

A. Every Owner, as defined in Article 1, shall be deemed to have a membership in the Association. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member subject to the provisions of this Declaration and the By-Laws. The membership rights of a Lot owned by a corporation, limited liability company, trust, or partnership shall be exercised by a single individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the By-Laws.

B. The Association shall have two (2) classes of membership, Class “A” and Class “B”, as follows:

(i) Class “A”. Class “A” Members shall be all Owners with the exception of the Class “B” Member, if any.

Class “A” Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership under Section 1 hereof; and there shall be only one (1) vote per Lot.

In any situation where more than one (1) person holds the interest in such Lot, the vote for such Lot shall be exercised as those persons determined among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such written advice, the Lot’s vote shall be suspended if more than one (1) person seeks to exercise it.

(ii) Class “B”. The Class “B” Members shall be the Declarant. The rights of the Class “B” Members, including the right to approve actions taken under this Declaration and the By-Laws, are specified elsewhere in the Declaration and the By-Laws. The Class “B” Members shall be entitled to appoint a majority of the members of the Board of Directors and the ARC Board during the Declarant’s Rights and Obligations Period. After termination of the Declarant’s Rights and Obligations Period, the Class “B” Member shall have a right to disapprove actions of the Board of Directors and any committee as provided in this Declaration or the By-Laws. The Class “B” membership shall terminate and become converted to Class “A” Membership upon the earlier of:

(a) Expiration of the Declarant’s Rights and Obligations Periods; or

(b) When, in its discretion, the Declarant so determines.

C. Any specified percentage, or portion of Lots or Owners, unless otherwise

stated in the governing documents, means the specified percentage, portion, or fraction of all the votes as allocated according to the number of Lots listed in the most current Schedule A. As Lots are added to the Common Interest Community, each Lot shall continue to have one equal vote.

## ARTICLE VI INSURANCE AND OBLIGATION TO REPAIR

A. Once a majority of the Lots are held by Owners other than the Declarant, the Association's Board of Directors, or its authorized agent, shall obtain casualty insurance, if reasonably priced and available, for all insurable improvements. The board shall also obtain a public liability policy covering the Common Areas, the Association and its membership for all damage or injury caused by the negligence of the Association. The Board may also obtain insurance to defend and indemnify the officers and directors of the Association for its negligent acts or omissions in such amounts as the Board deem appropriate. All insurance premiums shall be a Common Expenses and allocated equally according to the number of Lots listed in the most current Schedule A which are held by Owners other than the Declarant. Lots owned by the Declarant shall be exempt from the payment from Insurance.

B. Subject only to the rights of an institutional holder of first mortgage lien on a damaged residence or improvement on any Lot, the insurance proceeds from any insurance policy covering the damages residence or other improvement shall be first applied to the repair, restoration, remediation or replacement of the residence. If the proceeds are insufficient to pay for the repair, restoration, remediation or replacement, of the damaged residence or other improvement, the Owner shall be responsible for the payment of the deficiency to complete eth repair, restoration, remediation or replacement. Such repair, restoration, remediation or replacement shall be completed within twelve month of the date of the loss. If the damaged residence or other improvement is not repaired, restored, remediated or replaced as required hereunder, then that portion of the damaged structure or improvement remaining on the Lot shall be removed in the entirety from the Lot and Properties and the Lot shall be returned to its original natural state, graded, seeded and maintained by the Owner.

## ARTICLE VII DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

- A. The Declarant reserves the following Development Rights:
- (a) The right by amendment or supplement to add real estate to the Properties. The real estate to which this development right applies is all of that real property set forth in Schedule A-1 hereof, the Plan and Plats of record for the Subdivision.
  - (b) The right by amendment to create Lots and common areas in the Properties. The

common areas, lots and their sizes, as estimated by engineering professionals, which are presently in planning for possible inclusion are set forth on Schedule A-2 hereof.

(c) The right by amendment to this Declaration to withdraw real estate from the Properties.

(d) The right by amendment to subdivide and combine Lots or convert Lots into common area.

(e) The right to construct Utilities and underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Properties for the purpose of furnishing utility and other services to all Lots or common areas. The Declarant also reserves the right to withdraw, modify and grant easements, to public and private utility companies or servicers and to convey improvements within those easements anywhere in the Properties.

B. The Development Rights reserved in Paragraph A above must be exercised during the Declarant's Rights and Obligations Period.

C. Any of the Development Rights set forth in Paragraph A above may be exercised with respect to different parcels of real estate within the Common Interest Community at different times. However, no assurances are made by the Declarant as to the portions where the Declarant will exercise its Development Rights or the order in which such portions, or all of the real estate, will be developed. The exercise of Development Rights as to some portions will not obligate the Declarant to exercise them as to other portions of the real estate within the Common Interest Community.

D. The quality of construction of any Residences to be created on a Lot shall be consistent with the quality of the Residences erected in the initial phase of the Properties. Styles of Architecture and Design may change but shall always be consistent with the community standard.

E. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community.

(i) To complete Improvements indicated on Plats and Plan filed or referenced in the Declaration;

(ii) To exercise a Development Right reserved in the Declaration;

(iii) To maintain sales offices, management offices, construction offices, signs advertising the Common Interest Community, and models;



(iv) To use easements through the Common Areas for the purpose of making Improvements within the Common Interest Community or within the real estate which may be added to the Common Interest Community;

(v) To appoint or remove an officer of the Association or a member of the Board of Directors or ARC Board during the period of Declarant control;

The special Declarant rights specified in Section (E) (i) through (v) shall apply to the Real estate defined as the Properties under this Declaration and that real estate shown upon Schedule A-1 hereof, and all of that additional real estate added to the common interest community in accordance with Article VII hereof.

F. As long as the Declarant is a Lot Owner, the Declarant and its duly authorized agent, representatives and employees may maintain any Lot owned by the Declarant or any portion of the Common Area as a model Unit or sales office or management office.

G. Subject to the provisions of this Declaration, the Declarant has an easement through the Common Area as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights.

H. Lot Owners have an easement in the Common Area for purpose of access to their Lot and to use the Common Area and all real estate that must become Common Area for all other purposes.

I. The Declarant reserves the right to post signs and displays in the Common Area to promote sales of Lots, and to conduct general sales, administrative and maintenance activities in a manner as will not unreasonably disturb the rights of Lot Owners.

J. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the premises that has not been represented as property of the Association. The Declarant reserves the right to remove from the property any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

K. (i) Subject to Subsection (ii) of this paragraph: There shall be a period of Declarant control of the Association, during which the Declarant, or person designated by the Declarant, may appoint and remove the officers and members of the Board of Directors, and have all other such rights of control as are set forth in this Declaration. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of that period, but in that event the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(ii) Not later than sixty (60) days after conveyance of seventy-five percent (75%)

of the Lots that may be created to Owners other than a Declarant, at least one member and not less than one-third percent (33-1/3%) of the members of the Board of Directors must be elected by Unit Owners other than the Declarant.

(iii) Not later than the termination of any period of Declarant control, the Unit Owners shall elect a Board of Directors of at least three members, all of whom shall be Lot Owners. The Board of Directors shall elect from among them the officers. The Board members and officers shall take office upon election.

L. Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any Special Declarant Right may be exercised by the Declarant so long as the Declarant (i) is obligated under any warranty or obligation, (ii) holds a Development right to create additional Lots or Common Areas, (iii) owns any Lot; or (iv) owns any Security Interest in any Units; or (v) for fifteen years after the recording of this Declaration, whichever is earliest.

M. Neither the Association nor any Lot Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

#### ARTICLE VIII DECLARANT'S RIGHT TO SUBJECT PROPERTY TO DECLARATION

A. The real property which shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration shall be as described in this Declaration and/or one or more Supplementary Declarations recorded by the Declarant among the Land Records.

B. All Common Area and completed facilities must be annexed within the jurisdiction of the Association by the Declarant in accordance with the terms and conditions of any approved regulatory plans, as may be amended from time to time, and must otherwise be in accordance with the terms of any regulatory plan requirements, including a phasing schedule, as may be amended. The Declarant reserves the right to seek an amendment to any regulatory plan for the purpose of modifying the location or amount of real property comprising the Common Area and for the purpose of modifying the improvements to be constructed on the Common Area which amendment shall be reviewed by the appropriate governmental authorities in accordance with applicable law. Such amendment shall be effective only if approved by the appropriate governmental authorities.

#### ARTICLE IX RESPONSIBILITIES OF THE ASSOCIATION

A. The Association shall be responsible for the exclusive management and control of the common area and all improvements thereupon and shall keep it in good, clean, attractive, and sanitary condition, order, and repair consistent with the terms hereof and the community's standards. The maintenance shall include, but need not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, all of the landscaping, flora, structures, and improvements situated upon the Common Area.

B. The Association is responsible for the maintenance, preservation and architectural control of all Lots and Easements as prescribed in this Declaration, maintenance and repair of storm drainage facilities and easements, private roads, as well as those responsibilities contained in the Articles of Incorporation.

C. It is the responsibility of the Association to maintain the 200 foot Preservation Area located back from the mean high water level of the Potomac River, as reflected on the record plats and Plan, and all other personal property and materials owned by the Association.

D. The Association may maintain property it does not own if the Board of Directors determines that it is necessary or desirable to maintain the community standard.

E. Any person authorized by the Association shall have the right of access to all portions of the Properties for the purpose of performing exterior maintenance; for the purpose of correcting any condition threatening a Lot, Residence or the Common Area, and for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing, replacing utility meters and related pipes, valves, meters, wires and equipment, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Owner. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, and with such force as is apparently necessary to gain entrance, whether or not the Owner is present at the time.

F. Each Owner will reimburse the Association for any damages to the Common Areas caused intentionally, negligently, or by his or her failure to properly maintain, repair, or make replacements to his or her Residence. The Association will be responsible for damage to Residences caused intentionally, negligently, or by its failure to maintain, repair, or make replacements to the Common Area. If such expense is caused by misconduct, it will be assessed following notice and hearing.

G. In cases where the Association has gained entrance to a unit in response to an emergency, the Association shall be responsible only for securing the premises following the emergency, and shall not be responsible to the owner for any damages caused to the Residence in gaining entrance or in otherwise responding to the emergency. The Owner shall be responsible for making all repairs to the Residence which result from the emergency and shall hold the Association harmless from any damages resulting therefrom.

H. The Association, through its Board of Directors, may acquire, hold, and dispose of

tangible and intangible personal property. The Association acting through its Board of Directors shall accept any real or personal property, leasehold, or other property interest within the Properties conveyed to it by the Declarant.

I. The Association, through its Board of Directors may make, amend, add, eliminate and enforce reasonable rules, practices, and procedures governing the use of the Properties and Common Areas, which Rules and Regulations must be consistent with the rights and duties established by this Declaration.

J. The Association, through its Board of Directors, may impose sanctions for violations including violations of the covenants and restrictions, bylaws, the Guidelines, or the Rules and Regulations of the Association. The sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the Common Area. Any monetary sanction shall be alien against the Lot and also be the personal obligation of the Lot owner.

K. The Association, through its Board of Directors, shall have a right to allow Berkeley County to enforce ordinances on the Properties for the benefit of its members.

L. The Association, through its Board of Directors, may exercise any other right or privilege given to it expressly in this Declaration or privilege reasonably implied from the existence of nay right or privilege given to it herein, or reasonably necessary to effectuate or carry out any other right or privilege.

ARTICLE X  
RESTRAINT ON ALIENATION AND LIMITATIONS ON USE AND  
DEVELOPMENT OF LOTS

A. Once legally created by Declarant, no Lot shall be conveyed pursuant to a co-op or time-share plan or be further subdivided, or its boundary lines changed without Declarant's prior written consent during the Declarant's Rights and Obligations Period. Notwithstanding the foregoing, Declarant shall have the right and authority to take such other steps as are reasonably necessary to re-subdivide or create new Lots that are suitable and fit to accommodate dwelling units, or other allowed uses as per the Berkeley County Subdivision Ordinance. Such steps may include, but not limited to, the relocation of easements, walkways and rights-of-way to conform to the boundaries of said re-platted or newly created Lot or Lots.

B. All driveways and entrances to Lots shall be designed and constructed in accordance with the road, driveway and entrance standards set forth in the Guidelines, and all Lots shall be developed in accordance with the site/landscape standards set forth in the Guidelines. Driveway entrances and layouts shall be reviewed and approved by the Board on an individual basis. Each Owner's driveway shall be designed to uphold and enhance the established community character and standards. Notwithstanding any other provision

contained in the Declaration, all restrictions, setbacks and easements imposed upon the Property by any applicable governmental authority shall be deemed to be incorporated herein and made a part hereof; provided however, that to the extent that the foregoing matters are less restrictive than the terms of this Declaration, the terms of this Declaration shall govern and control.

C. No improvements, additions, alterations, repairs, replacements, enhancements, change of paint colors, excavations, changes in grade or other work that in any way alters the exterior of any Lot from its natural or unimproved state, existing on the date such Lot was first subject to this Declaration, or the improvements located on such Lot, shall be made or done without the prior written approval of the ARC Board. No building, residence, garage, patio, porch, gazebo, fence, wall or landscaping in lieu thereof, pool, slab, court, deck, portico, pergola, shed, barn, ramp, terrace, playset, treehouse, or other structure of any type shall be placed upon, constructed, commenced, erected, maintained, improved, altered, replaced, made or done on such Lot without the prior written approval of the ARC Board.

D. Each Owner shall develop not more than one (1) Dwelling Unit on any one Lot, and any such dwelling unit must have an interior living area (exclusive of the size of any patios, decks, porches, garages, and other similar exterior structures or improvements), of at least two thousand (2,000) square feet. Exceptions for a lesser interior size and for the building of a standalone in-law-suite may be considered and made on a case-by-case basis by the ARC Board; provided however that it is of the same material and appearance as the Dwelling Unit and there already exists a Dwelling Unit on the Lot. No dwelling unit shall have a height in excess of thirty-five (35) feet over the foundation slab of the Property. The County code for building height overrides the 35 feet restriction in previous sentence. Exceptions to height limitations may be considered on a case-by-case basis by the ARC Board for non-dwelling units. All building materials, roofing materials, exterior colors and fixtures, exterior lighting and overall building design and placement shall meet in all respects, the standards and criteria set forth in the Guidelines. No mobile or portable homes, manufactured housing, house trailer, camping trailer, single wide or double wide trailers, prefabricated homes, modular homes, or panel homes, or like structures regardless of nomenclature used to describe it are permitted on any Lot.

E. Any Dwelling Unit, accessory building or shed, garage, in-law-suite (if permitted) or other structure shall be subject to the review and written approval of the ARC Board prior to construction. Each Lot shall have not more than one Dwelling Unit, one accessory building or shed, one garage, and one in-law-suite (if permitted). No accessory building or shed, garage, in-law-suite (if permitted) or other structure shall be permitted on any Lot until such time as the Dwelling Unit is completed on the Lot. No mobile or temporary structures or shelters, of any kind, including, but not limited to, tents of any kind, screen houses, canopies of any kind, camper tops, and other like items similar in design or purpose, shall be permitted on any Lot, temporarily or permanently.

F. Nothing herein shall be deemed to prevent an owner from renting or leasing a Dwelling Unit to, provided that any such lease shall be in writing. The lease must incorporate by reference and be made subject to all of the provisions of the Governing Documents. The lease must also provide that any failure by an occupant, not the Owner, to comply with the terms of the Governing Documents shall constitute a violation of the terms of such lease and cause for termination of the tenancy. A violation of this covenant by the tenant or tenant's guest shall also be the violation of the Lot's Owner under this Declaration. The lease document shall have the provision for cancellation of the lease in case of noise, especially when folks are sleep, or when the tenants are making too much noise and making other Residence uncomfortable. Shorter than three (3) months rental requires HOA sign-off, because of noise control. The "Guest House" which is located between lot 5 and 6, presently has obtained the HOA sign-off for short term rental. Once an HOA sign-off is obtained, it can NOT be negated in future times, because the lot is built with the intention of short term rental. No other lot will be given short-term rental sign-off until HOA is taken over by the 75% of the home owners, then they can decide if HOA should give additional short-term rentals permissions or not.

G. No portion of the Properties shall be used for the building of, maintenance of or repair of motor vehicles, lawnmowers, boats, or other motorized items of personal property.

H. Lot shall not contain any carport, nor shall any Lot contain a garage for storage of less than two (2) automobiles. There shall be one garage per Lot. The garage may be attached or detached, provided it is of the same exterior and roof materials as the existing Dwelling Unit and provided its location, design, and size are approved by the ARC Board.

- A detached/attached garage for owners with car collections will be permitted as an exception, once the ARC Board verifies that the garage will be used for a legitimate high-end car collections purposes; and the exterior design of the detached/attached garage has an upscale look so that it does not deter the valuation of other neighboring home owners.

I. The only animals permitted to be kept on any Lot are domesticated dogs and cats, not to exceed three (3) in total number, provided they are maintained as house pets and are not kept or bred for commercial purposes. Dogs must be leashed when on the Common Areas. No dog houses, kennels or runs are permitted on the Properties. The Association, through the Board of Directors, shall have the authority to prohibit or regulate loud or noisy pets. Horses, ponies, mules, pigs, chickens, goats, llamas, and any and all other livestock, farm animals and exotic pets are prohibited from being upon any Lot.

J. No clotheslines or other clothes drying apparatus shall be permitted on any Lot without the ARC Board's prior written consent.

K. No exterior antennae or other apparatus for the transmission or reception of television, radio, or other signals of any kind shall be installed, maintained or used on any

Lot, save for some satellite dishes or those antenna protected under the Telecommunications Act of 1996, as amended; provided that prior to installation of the antennae, the Owner shall submit a written request for its placement to the ARC Board accompanied by written documentation showing it to be a protected antennae. The Federal Communications Commission (“FCC”), established guidelines for installations of satellite dishes and antennas. Satellite Dishes must comply with the current ruling of the FCC. Satellite dishes and solar panels must be located and screened to the fullest extent possible in order to maintain the aesthetics of Potomac Overlook Estates. The burden is on the Owner to comply. The ARC Board shall approve the color, location and appropriate screening of any antennae, solar panels or satellite receiving dishes prior to installation based on the following guidelines:

- a. The devices must be as small in number and size as possible to accomplish working service.
  - b. The device should be located in an area of the Lot where it is compatible with the natural setting of the house and neighborhood.
  - c. The devices should be of a color and material, which are reasonably compatible with the color, and materials of the home.
  - d. The devices must not adversely affect the safety of others or the reception of radios, internet service and television sets of neighbors.
  - e. The installation location should not negatively affect the front façade of the house or the neighborhood.
- L. Storage, collection and disposal of trash shall be in compliance with the Rules and Regulations. All trash and garbage cans shall be contained within enclosures, and such enclosures shall be screened from public view.
- M. No trash, litter, boxes, cans, implements, machinery, bins, carts, barrels, lumber, or building materials shall be permitted to remain exposed to any residence except as necessary during a reasonable construction period.
- N. No signs of any type, except customary name and address signs meeting the standards established in the Guidelines, and permitted except for one "For Sale" sign, the dimensions of which may not exceed six (6) square feet, shall be displayed to public view on any Lot without the ARC Board's prior written approval.
- O. If a cluster mailbox is not installed by the Association on the Properties, then the Owner may install a mailboxes and newspaper tubes meeting the standards established in the Guidelines.
- P. No decorative object such as sculptures, birdbaths, statuary, fountains, flagpoles

etc., shall be placed on that portion of any Lot which faces any road without the ARC Board's prior written approval.

Q. All fences, walls and enclosures, including any planting intended to serve as such, must be approved by the ARC Board as to location, material, height, and design. Fencing is permitted only in the rear yards and within set back areas. No fence, wall, tree, hedge or shrub planting shall be erected or maintained in such a manner as to obstruct sight lines for vehicular traffic. Any fence, wall or enclosure built on any Lot shall be maintained in a proper manner so as not to detract from the value and desirability of surrounding property. No solid or wire fencing shall be permitted. No chain link fences shall be allowed, except that chain link fences shall be permitted around tennis courts, or a pickleball court, as long as such fences are coated in a vinyl like material colored of dark green, or brown. Tennis courts, or a pickleball court are for homeowner use and not for public use.

R. No substance, thing or material shall be stored, kept upon or allowed to accumulate upon any Lot that will emit fumes, glare, excessive heat, vibration, gases, chemicals, dust, smoke, or foul, noxious, poisonous or obnoxious odors, or that will cause any noise that might disturb the peace, quiet, comfort or serenity of the owners or occupants of the other lots. No trash, garbage, yard waste or other waste shall be stored, kept upon or allowed to accumulate upon any Lot, except in sanitary containers, and fixed facilities and containers for temporary storage or disposal of such trash, garbage and other waste shall be kept in a clean and sanitary condition. No burning of trash, debris or yard waste shall be permitted on the Properties by open fire or incinerator.

S. No septic tank, seepage pit, drainage field or other sewage disposal unit shall be constructed or installed on any Lot unless it is of sufficient capacity for the intended purpose and approved by the appropriate governmental agencies and the ARC Board, and such disposal units shall be maintained by the Owner so that there is no odor, overflow, seepage or erosion there from, nor any drainage therefrom onto any other lots, any public or private streets or roads, or any other property.

T. Selective thinning of trees and removal of dead or diseased vegetation is allowed. Selective clearing to provide a view is allowed only with approval of the ARC Board. Clear cutting of existing vegetation outside the immediate building envelope, including driveway, house, outbuildings drain field and recreational facilities, is prohibited. Removal of invasive non-native plant species is allowed conditioned on restoration with native plants and materials.

U. No noxious, illegal, hazardous, dangerous, or offensive use or activity shall be conducted upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any Lots, occupants or owners by reason of unsightliness, an unclean condition or which is otherwise visually offensive to a reasonable lot owner and limits or interferes with the use, comfort or enjoyment of the owners or occupants of other lots.



V. Except for any easements or rights of way established by any plat of the Subdivision or any portion thereof, no Lot or any portion thereof shall be used for or as a means of vehicular access to any adjoining Lot without the prior written consent and authorization of the ARC Board.

W. Hunting and the discharge of firearms for recreation, practice or sport within Potomac Overlook Estates is prohibited.

X. No vehicles with a gross vehicular weight in excess of fifteen thousand (15,000) lbs., tractor trailers, buses, farm tractors, vans, minibus, construction equipment, commercial equipment or machinery may be present on any Lot or Common Area, except those construction vehicles and equipment necessary during any period of construction which shall be limited to the six month construction period provided for herein. No unlicensed or unregistered motor vehicle of weight shall be permitted on any Lot unless it is in a garage. Recreational Vehicles and Related Equipment may be kept on a Lot pursuant to the Rules and Regulations. Any permitted or limited use, presence, and storage of Recreational Vehicles and Related Equipment upon the Properties under the Rules and Regulations is not guaranteed as the Rules and Regulations are subject to continual change, addition, or elimination from time to time. At no time however may the Rules and Regulations permit Recreational Vehicles and Related Equipment to be stored on the Properties unless fully screened or enclosed in a garage or storage building.

W. No drones, snowmobiles, motorcycles, mopeds, motorized bicycles, go carts, mini bikes, all terrain vehicles, three wheelers, dirt bikes, or similar motorized toys, devices or vehicles shall be permitted to be operated or used on the Common Areas or any Lot.

X. Outdoor lighting shall be of a type and installation such that no direct glare is visible from adjoining Lots.

Y. All storage tanks for use in connection with any residence, including tanks, for storage of fuels, must be buried or walled sufficiently to conceal them from view by other Residences, Roads and Common Areas as approved by the ARC Board.

Z. No beer, wine, liquor or other intoxicating beverage shall be sold or stored for sale on any Lot.

AA. No ponds or above ground pools or trampolines shall be permitted upon any Lot. All in ground pools must be approved by the ARC as to design, placement, and size.

BB. All Lots and Residences shall be maintained and cared for by the Owner in a manner consistent with the standards of design and quality originally established by Declarant and in a condition comparable to that of other first class residential subdivisions in the County. Specific restrictions on landscaping may be established in the Guidelines. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly maintained and mowed and trees and shrubs

shall be neatly trimmed.

CC. No immoral, improper, offensive, or unlawful use may be made of any Lot and Lot Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of West Virginia and all ordinances, rules and regulations of the County of Berkeley. A violating Owner shall hold the Association and other Owners harmless from all fines, penalties, costs and prosecutions from the violation thereof or noncompliance therewith.

DD. Each Lot shall provide for off street parking for at least two 7x18 size vehicles and its driveway shall be surfaced in compliance with the Guidelines, and shall contain an appropriate drainage culvert as needed.

EE. Parking on a Lot shall be limited to the garage and driveway. No parking shall be permitted on any Common Area, road, or right of way in the subdivision, except in those areas specifically marked or designated for parking by the Association. The Board shall have the right to issue Rules and Regulations regarding parking which may supersede the provisions contained herein.

FF. No person shall be permitted to camp for any period of time on any Lot and no person shall reside temporarily or permanently on any Lot in anything other than a fully completed Dwelling Unit. No person may undertake recreational activities upon or make use of a Lot until such time as a Dwelling Unit is completed on the Lot.

GG. Boats are not allowed to be parked in the street. They can be parked in the lot owner drive-way for a one or two days. For longer than that, they have to be parked in the HOA Maintenance building/parking/storage site.

HH. RVs are not allowed to be parked in the street or Lot owner driveway at any times. They have to be parked in the HOA Maintenance building/parking/storage site.

II. Moving storage can only be parked in the Lot owner driveway, for a specific period of time, upon getting written permission from HOA.

## ARTICLE XI EASEMENTS

A. In addition to any easements or rights of way established by any subdivision plat for Potomac Overlook Estates or any portion thereof, Declarant reserves unto itself and its successors and assigns a perpetual easement and right on and under the ground of the Property to erect, maintain and use permanent signage, landscaping, electrical, television, telephone and other communication lines, wire, cables and conduits, or sewers, water mains and other suitable means for the conveyance and use of electricity, telephone, television, sewer treatment, water, and other public conveniences or utilities on, in or under

each Lot. Such easements and rights of way shall be confined to thirty (30) feet from and within the perimeter of any Lot. Such rights may be exercised by any licensee or assignee of the Declarant, but this reservation shall not be construed to be an obligation of Declarant, or its successors and assigns to provide or maintain any utility service. All utility lines, wires, cables and conduits shall be run underground from the terminals provided by the utility company or Declarant to any structure on any lot and between structures on any Lot. Declarant shall not be liable for the cost of any such underground installation or the maintenance thereof.

B. During the Declarant's Rights and Obligations Period or for a period of five (5) years from the date of conveyance of each Lot whichever is longer, Declarant reserves to itself and its successors and assigns, an easement and right on, over and under the ground within that Lot to maintain and correct drainage for surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery, make any grading of the Lot or take any other similar action reasonably necessary, following which actions Declarant shall restore the affected Lot to its original condition with native plant species as near as practicable. Declarant shall give reasonable notice of intent to take such action to any affected Owner, unless in the opinion of Declarant an emergency exists that precludes such notice.

C. There hereby is created an easement in favor of the Association for ingress and egress on any Lot to: (1) inspect such property for alleged violations of the Governing Documents and/or compliance with architectural standards and/or approved plans for alterations and improvements; and (2) perform such maintenance as is required by this Declaration of such lots; provided that, except in emergency situations, the owner of such lot is given notice of the purpose and time of inspection in advance thereof and such inspection is performed during reasonable hours.

D. Declarant reserves to itself and its successors and assigns a nonexclusive easement over all lots for a distance of thirty, (30), feet behind any lot line that parallels a street or road, for the purpose of maintaining any such road, including slope maintenance and grading required for same, erecting and maintaining street intersection signs, directional signs, temporary promotional signs, plantings, street lights, entrance features and or theme areas, lighting, stone woods or masonry wall features and related landscaping. Exercise of this easement shall be with the consent of the Owner of the affected Lot, or the Board if said Owner does not consent.

## ARTICLE XII CONSERVATION RESTRICTIONS

A. For the purpose of ensuring that Potomac Overlook Estates be developed in an environmentally sensitive manner, the following restrictions are imposed upon the two hundred (200) foot Preservation Area located along the bank of the Potomac River as shown on the Plat and Plan. The Association shall be responsible for all maintenance and

development of the conservation easement area on any Lot. The Declarant, at its sole discretion, may undertake a conservation and/or habitat enhancement program within the conservation easement during the Declarant's Rights and Obligations Period. In addition, either the Declarant or the Association may locate a natural trail within the conservation easement. Use of any hard surface such as asphalt, concrete, brick or stone is prohibited for any trail located within the conservation easement.

1. No permanent structure of any type shall be built, constructed, or placed within the two hundred (200) foot conservation easement located along the Potomac River, with the sole exception of a boat ramp, kayak/canoe racks, barbecue equipment, and facilities which serve the Association primarily if built by the Declarant or the Association, which shall serve Potomac Overlook Estates, primarily.
2. There shall be no burning, mowing, cutting, plowing, tilling or destruction of trees, shrubs, grasses or other vegetation except for (1) removal of dead, insect infested or diseased vegetation, (2) removal of trees damming or backing up the normal flow of the Potomac River, (3) removal of invasive species, and (4) restoration of forest or wildlife habitat.
3. Cutting of woodlands will be limited to selective thinning and only allowed as a part of a tree forestation program developed by a certified forester and in consultation with the County and/or State forester.
4. No materials may be dumped, placed, applied or stored on the conservation easement including but not limited to ashes, sawdust, bark trash, garbage, rubbish, dredge soil, chemicals, oils, fuels, pesticides, fertilizers, abandoned tools, watercraft, vehicles, appliances or machines.
5. Excavation, dredging, mining and removal of loam, gravel, soil, rock, sand, coal, petroleum and other materials are prohibited except for the purpose of combating erosion or flooding.
6. Benches, gazebos and other structures, to be located in the 25 foot HOA strip in front of a lot, may be allowed by the adjacent lot owner upon approval by the ARC. A gazebo/structure with roof may require a county permit as well.
7. No camping is allowed in front of any lots in the HOA area, by the river. Lot owner's kid may camp for a night or two, to have fun.
8. No fishing is allowed in front of a lot, except by the lot owner, in the HOA area.
9. No dumping of any kind in the meadow area, by the river.

10. No garage, shed, or storage of any kind in the meadow area, by the river.
11. All benches/chairs, etc. placed in front of a lot by the river, have to be anchored/bolted to the ground, so if there is a flooding, the benches/chairs do not ravel down the river.
12. All bushes, and trees less than or equal 4 inches, can be clear cut to get a clear view of the river. The bottom branches of larger trees can be cut to 30+ feet from the ground to clear the view of Kitchen/Living room/etc. to the river.
13. The trees on the river edge can not be clear cut without approval of the HOA. The stump needs to remain in the ground to hold river edge. However, all the bushes and trees less than 4 inches can be cleared from the river edge.

B. The following restrictions shall be imposed on the first twenty-five (25) feet from the mean high-water mark of the Potomac River. The sole exception to the following restrictions shall be for boat and dock access, if any, to the river maintained within fifty (50) feet by the Association. This access area shall be limited to the greatest degree possible.

1. There shall be absolutely no cutting of any trees within this restricted area with the exception of those which are dead, invasive or insect infested. Periodic pruning of trees is allowed.
2. Access to this restricted area shall be limited to pedestrian use of any trail, repair of any trail, construction of riverbank restoration facilities, designated sitting and observation areas.
3. Association reserves the right to place a walking trail along the ½ mile of the river edge.

ARTICLE XIII  
ARCHITECTURAL REVIEW COMMITTEE BOARD  
DEVELOPMENT APPROVAL PROCEDURES

A. For the purpose of further insuring the development of Potomac Overlook Estates as an area of high standards and first class residences and other allowed uses, and notwithstanding the below requirements for approval by the Architectural Review Committee Board, Declarant reserves the power to control the architectural type and style, the materials of construction and the location on each Lot of any and all buildings, structures or other improvements during the Declarant's Rights and Obligations Period. All improvements on the Lots shall be designed and constructed in accordance with the architectural structures standards set forth in the Guidelines. All landscaping or

plantings on the Lots shall be designed and constructed in accordance with the landscaping standards set forth in the Guidelines. Whether or not a provision therefore is specifically stated in the conveyance of a Lot, the owner or occupant of each and every Lot, by acceptance of title thereto or by taking possession thereof, covenants and agrees that no building, structure, construction, landscaping or other improvement or activity shall be placed upon or undertaken with respect to such Lot unless and until the plans and specifications therefore and lot plan have been submitted to and approved in writing by the Architectural Review Committee Board or ARC Board in accordance with the review and approval procedures described in this Declaration and the Guidelines. Denial of approval of plans and specifications and plot plans by the ARC Board may be based on any ground, including aesthetic reasons that shall be determined in the sole, uncontrolled and unfettered discretion of the ARC Board. No alteration in the exterior appearance, design or construction of the building, structures or other improvements placed on a Lot pursuant to this Declaration shall be made without similar prior approval of the ARC Board.

B. The ARC Board shall regulate the external design, appearance and location of the Lots and improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. The primary, although not exclusive, purpose of the ARC Board is to control matters that are visible from the streets and roads of Potomac Overlook Estates, and streets, roads and areas that are external to Potomac Overlook Estates. In furtherance thereof, the Board shall:

1. Review and approve, modify or disapprove written applications of owners for improvements or additions to Lots, dwelling units, or other existing structures or facilities;
2. In accordance with the Rules and Regulations and the Bylaws of the Association, monitor Lots for compliance with the architectural and landscaping standards and design criteria adopted by the ARC Board from time to time;
3. Adopt architectural and landscaping standards and design criteria and modify the Guidelines;
4. Adopt procedures and protocols for the exercise of its duties; and
5. Maintain complete and accurate records of all actions taken.

C. The review process of the ARC Board shall contain four stages as follows:

1. **Pre-design Meeting.** In the event an Owner intends to construct or otherwise effect any improvements or additions to a Lot as referenced in the Guidelines or Declaration, to cut trees or otherwise alter or remove any portion of a Lot from its natural, unimproved state, the Owner or his or her representative must meet with the ARC Board prior to the design process. At this meeting, the ARC Board will

review with the Owner the requirements of the Declaration and these Guidelines, the design procedures and design criteria and any applicable rules and regulations. If the Owner is proposing to construct any improvements, then such improvements are to be sited on the Owner's Lot.

2. Preliminary Design Review. The Owner must submit a site plan, floor plan, elevations, color scheme, material samples and landscaping plan, in accordance with any procedures or protocols adopted by the ARC Board, for preliminary review. The ARC Board will make specific comments and recommendations and may request modifications to such plan. If the Owner satisfies the requested modifications, the ARC Board will give preliminary approval to the Owner's plans.

3. Final Plan Approval. The Owner must submit final plans, in accordance with any procedures or protocols adopted by the ARC Board, prior to constructing or effecting the proposed improvements or other alterations. In addition to any other requirements adopted by the ARC Board, the final plans must contain the following:

- a. Elevations, (1/8" or 1/4" = 1').
- b. Floor plans, (1/4" = 1') showing the interior square footage, porches, decks, and garages.
- c. Material and finish schedules.
- d. Site plan, (1" = 20'), indicating the location of buildings, driveways, walkways, patios and pools, contour lines, drain fields, wells and setbacks.
- e. Landscaping Plan, (1" = 20'), indicating all contour lines and the location of plantings, plant materials, sidewalks, driveways, patios, walls and areas in their natural unimproved, un-cleared state.
- f. Exterior materials.

After review of such plans and a review of the building location staked in the field, if applicable, the ARC Board will inform the Owner of its approval or disapproval of the final plans. The ARC Board will use its best efforts to approve or disapprove the Owner's final plans thirty days (30) after submission. No Owner however may erect, under any circumstances, any building, structure or other improvement that violates any of the provisions of the Declaration or Guidelines. Upon the ARC Board's approval of an Owner's final plans, the Owner will have a right to obtain from the ARC a writing evidencing and attesting to ARC Board approval of the Owner's plans, specifications and Lot plans. The Owner must also obtain all required governmental permits before proceeding.

4. Final Site Inspection. Upon substantial completion of the improvements or alterations, the ARC Board will make a field inspection and inform the Owner of any nonconformity with the approved final plans. The Owner will rectify any nonconformity the ARC Board might note.

D. Declarant or its successors and assigns shall have the full power and authority to select, appoint, terminate or reappoint the members of the ARC Board during the Declarant's Rights and Obligations Period. The ARC Board initially shall consist of three (3) members. After the expiration of the Declarant's Rights and Obligations Period, all privileges, powers, rights and authority previously exercised by and vested in the Board shall be exercised by and vested in the Association which shall have the right to appoint the ARC Board or to exercise such authority itself.

E. No excavation or alteration of a Lot shall be made, nor any construction or landscaping started, nor any materials stored thereon, until the ARC Board's written approval has been obtained. All construction and landscaping shall be undertaken in accordance with the Guidelines. All construction and landscaping shall be completed within twelve (12) months from the start thereof; provided, however, that the ARC Board may extend such time when, in its sole opinion, the conditions warrant such extension. No dwelling unit, or building permitted as an allowed use, may, during the course of construction or at any time prior to its being fully completed in accordance with the approved plans and specifications, be occupied. No temporary house, temporary dwelling, temporary garage, temporary outbuilding, trailer home, shanty, mobile home, relocatable, demountable or other movable dwelling, tent or any structure of a temporary nature shall be used at any time for residential purposes. No temporary structure of any type shall be constructed, maintained or used on any Lot other than as is absolutely necessary in connection with the approved construction or landscaping on such Lot, and then only with the prior written approval of the ARC Board during such construction or landscaping and for a maximum of thirty (30) days after its completion.

F. All construction and landscaping shall be undertaken by licensed, "Class A" contractors whose performance of services on any Lot has been approved in advance by the ARC Board.

G. Prior to issuance of final approval of the plans, Owner shall provide a five thousand-dollar (\$5,000.00) deposit to be held in escrow by the Association, during the construction period. Upon completion of construction and final inspection by the ARC Board, the Owner will be informed if any damage has been done to roads, utilities, landscaping or other Association owned and maintained infrastructure. Upon notification, the Owner is required to repair all damage identified by the ARC Board or the Association. If after sixty days the damage has not been repaired, the Association has the option of using the funds held in escrow to undertake the repairs. Upon completion of the repair, all funds which remain in escrow shall be released to the Owner.



ARTICLE XIV  
MAINTENANCE OF PROPERTY

A. Each Owner shall keep all Lots owned by him or her, and all improvements therein or thereon, in good order and repair and free of debris. Each Owner shall maintain grass, at a maximum height of three inches (3"). All maintenance and repair work are to be undertaken in a manner and with such frequency as is consistent with the established community character and standards

B. Each Owner shall promptly repair and restore to its original condition, at his or her cost, any road, driveway or other improvement damaged by motorized or other equipment used in such Owner's construction or improvement of his or her Lot or while in route to or from said Lot.

C. It is the responsibility of each Lot Owner to maintain the open space easement on his or her Lot in accordance with the provisions of the Deed of Open Space recorded contemporaneously herewith among the land records of Berkeley County.

D. In the event that an Owner fails to maintain the premises and the improvements situated on his or her Lot as provided herein or shall fail to repair any damaged street, road or improvement, the Association, after written notice to the Owner, shall have the right to enter upon said Lot to correct drainage and to repair, maintain and restore the Lot and exterior of the buildings and any other improvements erected thereon or to undertake the repair of any damaged street, road or improvement. All costs related to such correction, repair or restoration shall become a restoration assessment upon such lot, pursuant to Article XII of this Declaration, and as such shall be regarded as any other assessment with respect to lien rights of the Association and remedies provided in this Declaration herein for nonpayment.

ARTICLE XV  
ASSESSMENTS AND USER FEES

A. For the purpose of maintaining traffic control, general planting within the easement areas established pursuant to this Declaration, maintaining and repairing all private streets and roads serving Potomac Overlook Estates, including snow removal, and providing all common community services of every kind and nature required or desired to serve Potomac Overlook Estates for the general use and benefit of all Owners, each and every Owner of a Lot, by accepting a deed, whether or not it shall be so expressed in such deed, agrees to and shall become and be a member of and subject to the obligations and duly enacted by-laws and rules of the Association, a nonprofit corporation to be organized under the laws of the State of West Virginia and to be known as Potomac Overlook Estates Owners Association Inc.

B. The Declarant except as hereinafter provided for each Lot owned by it within The Properties hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay the Association: (1) annual assessments or charges; (2) special assessments for general capital improvements, and (3) restoration assessments, to be fixed, established, and collected from time to time as provided herein. The annual assessments, special assessments, and restoration assessments, together with such interest thereon and costs of collection thereof as hereinafter provided including reasonable attorney's fees incurred, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof including reasonably attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

C. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and the Residences situated upon the Properties, including, but no limited to, the payment of taxes and insurance thereon and repair, replacement, and additions, thereto, and for the costs of labor, equipment, materials, management, and supervision thereof.

D. **The initial Annual Assessment shall be Nine Hundred Dollars (\$900.00) per Lot for the lot owner**, exclusive of insurance premiums paid by the Association and optional user fees. From and after January 1, 2020, the Annual Assessments may be increased or decreased by vote of the Board of Directors of the Association. The Board shall at least annually review current maintenance costs, and replacement costs including a reasonable depreciation reserve and insurance costs, including property, general liability and directors and officers liability, if any, and the future needs of the Association and based on said review may increase or decrease the assessments. PROVIDED HOWEVER, that the annual average Common Expense Liability of each Lot, exclusive of optional user fees and any insurance premiums paid by the Association, shall not exceed \$300.00 as adjusted pursuant to Section 114, of Article 1 of Chapter 36B of the West Virginia Code, to wit: Adjustment of dollars amounts under the West Virginia Uniform Common Interest Ownership Act.

- Sewage fee is a pass thru for each homeowner when the house is built. For now, a 3rd party sewage servicing company, and eventually the county may decide to take over. It is estimated the fee to be around \$50/month, at present time. This is not a profit center for HOA and a pass thru cost to the home owner. So, if the total maintenance fee is \$1000 per month, for example, then \$1,000 is divided by 30+ homeowners, and each home owner pay their share.
- The HOA does not collect HOA or Annual Assessment fee for the lots which are not sold yet by the Declarant. The HOA fee kicks in once a lot

is not owned by the Declarant.

E. In addition to the Annual Assessments authorized by this Declaration, the Association may levy in any assessment year a special assessment, applicable for not more than 8 consecutive years, for the purpose of defraying, in whole or in part, the costs of any construction or reconstruction, unexpected to repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto; PROVIDED THAT any such assessment shall have the consent of 60% of the Association Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

F. The quorum required for any action authorized by Article XV, Section E hereof shall be as follows:

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

G. The Annual Assessments provided for herein shall commence on the date of this Declaration. It shall be due and owing at the time that a Lot or Residence is transferred from Declarant to any other person.

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

I. The amount of the Annual Assessment which may be levied for the balance remaining in the first year of assessment shall be an amount of which bears the same relationship to the annual assessment provided for in Article XV, Section D hereof as the remaining number of days in the year. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

J. The date of any special assessment under Article XV, Section E hereof shall be fixed in the resolutions authorizing such assessment.

K. The Association may levy a restoration assessment upon any lot whose Owner fails to maintain such lot, as provided in Article XI, or who fails to provide such maintenance

funds as may be required under the terms of this Declaration. Restoration assessments shall be limited to the amount necessary to meet the cost of restoration or deficiency in required funds and the cost of collection thereof.

L. All sums assessed against any Lot pursuant to this Declaration shall be the personal obligation of the person who was the Owner of such Lot at the time the assessment was made, and his grantee, if any, shall be jointly and severally liable for such portion thereof as may be due at the time of conveyance. Failure of any Owner to pay any assessment imposed by the Association shall give the Association the rights set forth below in Paragraph E and shall cause such Owner to lose his or her vote in the Association while he or she is in arrears, and the Association may deny such Owner and his or her family and guests the use of Common Areas and any Recreation Facilities maintained by the Association. Such assessments, together with the interest, late charges, costs and attorney's fees as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot excepting only: (1) tax liens in favor of the County; and (2) all sums unpaid on a first mortgage of record.

M. Any assessments that are not paid when due shall be declared delinquent. Any assessment delinquent for a period of more than thirty (30) days shall incur a late charge equal to ten percent (10%) of the delinquent assessments. The Association shall cause a notice of delinquency to be given to any Owner who has not paid within thirty (30) days following the due date. If the assessment is not paid within forty-five (45) days of the due date, the lien described in Paragraph D above shall be enforceable, the lien shall include the late charge, interest on the principal amount due from the date first due and payable at a rate to be determined by the Board of Directors, which in no event shall be greater than eighteen percent (18%) and any reasonable attorney's fees and costs incurred by the Association as a result of the delinquency or lien. In the event the assessment remains unpaid for forty-five (45) days after it is due, the Association, as the Board of Directors shall determine, may (1) file a notice of lien in the Office of the Clerk of the County Commission of Berkeley County, West Virginia, or (2) institute suit to collect such amounts or to foreclose on the lien, or both. Each Owner, by accepting a deed to a Lot, vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Paragraph shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein, including, by way of illustration but not limitation, by abandonment of the Lot. Notwithstanding anything in the foregoing paragraph to the contrary, in foreclosing on any lien on any Lot the Association shall comply with the applicable provisions required by law.

N. Owner consents to the Association providing notice to any institutional holder of

the first mortgage of any delinquency in the payment of assessments or charges owed by an Owner subject to the Mortgage holder, where such delinquency has continued for a period of sixty (60) days; provided further, any holder of a first Mortgage, upon written request, is entitled to written notice from the Association of any default in the performance by an Owner of any obligation under the Declaration of By-Laws of the Association which is not cured within sixty (60) days;

## ARTICLE XVI VOTING RIGHTS OF THE ASSOCIATION

A. During the period of Declarant Control of the Association, the Association shall have two classes of voting membership, with the following voting rights.

CLASS A. Class A members shall be Owners of lots other than the Declarant. Subject to the limitations during the Declarant Control Period, Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership in Article I of the Articles of Incorporation. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for each Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

CLASS B. The Class B Member shall be the Declarant, its successors and assigns. The Class B Member shall be entitled to one (1) vote for each Lot in which it holds the interest required for membership by Article I of the Articles of Incorporation. The Class B Member shall become a Class A member after the expiration of the period of Declarant Control of the Association.

B. The Class B Member shall appoint the initial Directors, and shall reappoint, remove and replace members of the Board at will during the Declarant Control Period. This provision is intended to ensure Declarant's full control of the Board of Directors and the Association during the Declarant Control Period.

C. After the Declarant Control Period, the Association and the voting rights of its members shall be governed by its Articles of Incorporation and its Bylaws.

## ARTICLE XVII ENFORCEMENT

A. For violation of this Declaration, the Guidelines or the Rules and Regulations, the Association shall have the power to impose reasonable fines that shall constitute a lien

upon the Owner's Lot and to suspend the Owner's right to vote in the Association. Such suspension may be for the duration of the infraction and may continue for an additional period thereafter not to exceed thirty (30) days. The Association, however, shall not impose a fine, suspend voting or infringe upon any other rights of an Owner or other occupant for violations of the Rules and Regulations unless and until the following procedure is followed:

(1) Demand - Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying the alleged violation, the action required to abate the violation and a time period, not less than fifteen (15) days, during which the violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a sanction after notice and hearing if the violation is continuing;

(2) Notice - At any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule or regulation is subsequently violated, the Board of Directors shall serve the violator with written notice of a hearing to be held by the Board of Directors, which notice shall state the nature of the alleged violation, the time and place of the hearing, which time shall not be less than fifteen (15) days from the giving of the notice, and invitation to attend the hearing and produce any statement, evidence and witnesses on his or her behalf and the proposed sanction to be imposed. The notice may be delivered by personal process or by certified mail, and the proof of mailing shall satisfy the notice requirement if returned unclaimed or refused;

(3) Hearing - The hearing shall be held pursuant to the notice affording the Owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the Association's agent, director or officer who delivered or mailed such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

B. Each Owner and occupant of a Lot shall comply strictly with the Governing Documents, as the same may be amended from time to time, and with the rights, conditions, covenants, reservations and restrictions set forth in this Declaration and in the deed or contract to said Lot. The Declarant may impose fines or other sanctions as provided for in Paragraph A above, collection of which shall be as provided in Article XIII of this Declaration. To prevent the breach of, or to enforce any of the rights, conditions, covenants, reservations and restriction herein set forth, Declarant and its successors and assigns and the Association, (but not any individual Owner or occupant) shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to enforce the

observance of this declaration, the Guidelines or any other Governing Document, or any of them, in addition to an action for damages; and in no event shall failure of Declarant or the Association to enforce such matters at the time of any violation be deemed to be a waiver of any subsequent violations.

C. If any judicial cause of action is brought or defended by the Association against an Owner or occupant to prevent the breach of, or to enforce any of the rights, conditions, covenants, reservations and restrictions of this Declaration, the Guidelines, or the Rules and Regulations, the Association shall be entitled to recover its reasonable attorneys fees and costs thereof as part of any judgment or award.

### ARTICLE XVIII WASTEWATER TREATMENT

A. All lots will be served by a communal wastewater disposal system. The system has been designed and constructed so that each lot will have its own individual grinder pump. The grinder pump will send waste through a force main to a communal wastewater treatment facility located on the Open Space Parcel as shown on the plats and Plan. Once waste has been treated to the level of treatment required by the West Virginia Department of Health and Human Services, the West Virginia Department of Environmental Protection, and the United States Army Corps of Engineers, it will then be discharged into the Potomac River. The Association shall own all components of the wastewater treatment system except the individual grinder pumps, including, but not limited to the treatment plant, collection system, pumps, disinfection facility, aeration facility, and discharge facility, and shall be responsible for maintenance of all facilities related to the communal wastewater treatment and disposal system. The Association shall inspect each individual system, the frequency of which shall be established by the facilities manual developed in concert with the construction of the facilities. The cost of repair or replacement of any individual grinder pump shall be borne by the individual lot owner. Individual lot owners shall pay the Association for the installation of the grinder pump constructed on his or her lot. An easement for the location of the individual grinder pumps, trunk lines and access to such shall be recorded at the time of installation and/or submission of a building permit in order to best delineate such.

B. Upon issuance of a building permit by Berkeley County for the construction of a home on each lot, each lot owner shall pay to the Declarant a user/connection fee of Seven Thousand Five Hundred Dollars, (\$7,500) for use of and connection to the communal wastewater treatment and disposal system. If after thirty days from the issuance of said building permit the connection fee has not be paid to the Declarant, a penalty of 10% will be added to the connection fee. If after thirty days the connection fee has not been paid, interest on the outstanding payment shall accrue at a rate of 18% per annum. An occupancy permit shall not be granted until the connection fee and any outstanding penalties and interest have been paid. For existing lot owners and upcoming lot owners who place a deposit before 4/1/2021, this fee is waived.

C. Each homeowner, once a home is built, shall contribute a \$50 per month optional user fee, to a fund set up solely for the maintenance of the wastewater treatment system for the users of that system. Funds in this account shall be used exclusively for the cost of maintenance, inspections, replacement costs, etc., for the wastewater treatment plant, trunk line, pumps, disinfection facility, aeration facility, and discharge facility. An individual homeowner whose individual grinder pump needs either repair or replacement, shall have ninety (90) days to fully repay the HOA wastewater treatment fund. After ninety days, should the homeowner not have repaid the cost in full, interest shall accrue at a rate of 18% per annum. The HOA may avail itself of all provisions of Article X of this Declaration.

D. It is anticipated that the wastewater treatment facilities, except for the individual grinder pumps and collection system, will be operated and maintained through agreement with the Berkeley County Public Service Sewer District or licensed private contractor who maintains and operates similar facilities in Berkeley or Jefferson Counties. Declarant during the Declarant's Rights and Obligations Period reserves the right to dedicate ownership of the wastewater treatment, disinfection, aeration and discharge facilities to the Berkeley County Public Service Sewer District or other third party through separate agreement. Once the Declarant's Rights and Obligation Period has expired, the HOA may elect to dedicate ownership of the wastewater treatment, disinfection, aeration and discharge facilities to the Berkeley County Public Service Sewer District or other third party through separate agreement.

E. A treatment plant operator selected by the Declarant, or the HOA after the Declarant's Rights and Obligation Period has expired, shall operate and maintain the wastewater treatment facilities. It is the obligation of all lot owners to pay a pro rata share of the operation and maintenance expenses, commencing six months from the date of closing on the purchase of a lot. Should the Berkeley County Public Sewer Service District operate and maintain the treatment facilities, it will issue a monthly invoice to the individual property owner directly.

F. If a homeowner decides to discharge any swimming pool water or other like sources of water into the treatment plant, first approval of the HOA is required, and second there will be additional charges.

#### ARTICLE XIX Boat Ramp/Docks

A. Potomac Rock Estates is designed to be a Potomac River waterfront community, providing passive and active recreation opportunities for its residents. The boat ramp will be owned and maintained by the HOA. It shall be governed by a set of rules and regulations created for the sole purpose of ensuring the ramp is well maintained, well governed and well capitalized.

B. Access to both boat ramp and docks will be limited to lot owners and their



immediate guests. Lot owners who intend to have ten (10) or more guests use the facilities located on the HOA lot, including the docks and boat ramp, must be on site when guests access the facilities. It is required that any lot owner who plans on having ten (10) or more guests use the dock and ramp facilities must inform the HOA three days prior to the date of anticipated use.

C. Only boats owned or leased by lot owners, and their guests, may access the boat ramp or boat dock located on the Properties. Optional user fees will be assessed to lot owners making use of the boat dock. Guests are prohibited from using the boat dock or boat ramp without Lot owner being present.

D. Lot owner and their guest may be given an opportunity to lease perpetual or annual access to a boat dock from the Declarant. Declarant shall establish the price of perpetual access to a dock at the time of the transaction. This does not apply to the Lot owners who bought and built their own private dock.

E. Each fall all docks will be removed and stored on the Maintenance building/parking/storage area. Each spring all docks will be installed on the river. Both installation and removal will be done by the Association. There is a nominal fee to store the docks during the off season.

F. The cost of annual installation, removal, storage and maintenance of docks shall be borne solely by lot owners who access the dock and the Declarant. Under no circumstance are lot owners who do not use the dock required to pay for installation, removal, and maintenance.

G. A Dock entitlement may be added to the title of the property at the time of the settlement or later by the settlement company (Crawford Law firm). This entitlement can NOT be sold and/or transferred to be used by another lot owner of this community, or anyone else outside of this community. Only the Potomac Rock Estates LLC can sell, buy-back, and transfer Dock entitlement and/or ownership to a lot owner of this community via Crawford Law firm settlement company.

H. Five Dock entitlement is reserved for the Maintenance building/parking/storage site located in Parcel A, and access of the boat ramp for the boats parked in the Maintenance building/parking/storage site is only permitted by Maintenance building approved staff. The community will have two docks for lot owners, and the Maintenance building/parking/storage site will have its own separate dock(s) for the purpose of moving boats in/out of the Maintenance building/parking/storage site, and also leasing perpetual dock to the Lot owner and their guests. Access to the boat ramp is only for the lot owners, and lot owner's guest accompanied by the lot owner. Meaning that a non-residence are not allowed to use the boat ramp, or wonder around the community without supervision of a Maintenance building staff, or without lot owner being present.

## ARTICLE XX

## MISCELLANEOUS

A. Use of a builder recommended by Declarant is strongly encouraged. Should a lot owner wish to use a builder not recommended by Declarant, Declarant must approve of the alternative builder, approval not to be unreasonably withheld. Declarant must approve of an alternative builder and provide written approval, prior to ARC Board approval of final design plans.

- At present time, the recommended builder by the ARC Board is “Kubic Construction”.
- The ARC Board presently recommends having a single builder at site to be able to address home owner issues with a single point of contact.  
Issues like:
  - Construction noise when folks are sleep
  - Cleaning & damaging the street while the construction is going on
  - Connection to the central sewer system
  - Repairs, once the home owner warranty expires
- For specialized home buildings, for example, Lindal home construction,
  - The material & architectural drawing will be purchased from the authorized Lindal homes dealer, i.e.: “Cedar Images Inc.”.
  - The framing will be done in coordination with the authorized Lindal homes dealer, i.e.: “Cedar Images Inc.”.
  - Except framing, the remaining build will be done by Kubic Construction.

B. All builders of any residence must have the requisite permits and licenses necessary to undertake residential construction, and be in good standing in Berkeley County, West Virginia.

C. No provision in any deed, or in any agreement or understanding, written or otherwise, made by any Owner or group of Owners, in any manner, directly or indirectly, providing against residential occupancy or participation in any allowed use, or lot ownership by any individual solely because of race, creed, religious preference, gender orientation, color, sex, or national origin shall be valid.

D. All rights, conditions, covenants, reservations, restrictions and obligations set forth in this Declaration shall run with the land and shall be binding upon all parties and persons claiming under them for a period ending December 31, 2038, after which time it may be amended by an instrument signed by the then Owners of two-thirds (2/3) of the lots. No amendment shall be valid while Declarant owns any lots, however, unless Declarant assents to such amendment in writing. Any amendment must be properly recorded in the Office of the Clerk of the Circuit Court of Berkeley County, West Virginia.

E. Declarant or the Association may establish reasonable Rules and Regulations, (including policies and procedures) for Potomac Overlook Estates. Copies of the Rules

and Regulations, (and any amendments thereto), shall be furnished by the Association to all Owners prior to their effective date. The Rules and Regulations shall be binding upon the Owners and their families, tenants, agents, licensees and invitees until and unless the Rules and Regulations, or any rule or regulation, be specifically canceled or modified.

F. Each and every one of the rights, conditions, covenants, reservations and restrictions contained herein shall be considered to be independent and separate, and invalidation of any one or more of them for any reason shall in no way affect any of the other rights, conditions, covenants, reservations or restrictions, which shall remain in full force and effect.

G. If an Owner sells, transfers, mortgages or executes a deed for the Owner's lot, the Owner will be required to give to the Association, in writing, the name and address of the purchaser, transferee or Mortgagee of the Lot. Prior to consummating any sale, conveyance, transfer or mortgage of his lot, an Owner shall be obligated to obtain from the Association a certificate that the Owner has paid all assessments due and owing from the Owner with respect to the lot and that the Owner, the Lot and all improvements made to or constructed or installed on the Lot are in complete compliance with the provisions of the Governing Documents. If the Owner is in default in the payment of any assessment or in the compliance with any provision of the Governing Documents, the Association shall indicate on such certificate the nature of the default and any actions necessary to cure the default. The Association shall issue such certificate within fifteen (15) days of any written request from an Owner.

H. No Owner shall use the words "Potomac Overlook Estates", "Potomac Overlook Estates Subdivision" or "Potomac Overlook Estates Homeowners Association" or any derivative thereof to identify or maintain any internet or social media group, blog, page, or like platform. The use thereof shall be reserved for the Association. However, Owners may use the terms "Potomac Overlook Estates" or "Potomac Overlook Estates Homeowners Association" in printed or promotional matters where such term is used solely to specify that particular property is located within Potomac Overlook Estates.

- a) Declarant reserves the right to adjust the size and boundary of Parcel A at any time during the Declarant Control Period so long as the HOA owns and maintains the wastewater treatment plant and the property surrounding such, the access road to the Potomac River and the 200 foot eased portion located along the Potomac River.
- b) Declarant may at any time during the Declarant Control Period, agree to lease the portion of Parcel A which is located on the south side of the stream which runs near the Southern Boundary and empties into the Potomac, for ten dollars per five years with five year automatic renewable options. The purpose of the leased area will be for Declarant to construct an HOA Maintenance building/parking/storage site to be used primarily by Lot owners of Potomac Overlook Estates, and their guests, for storage of boats and RVs. Declarant shall be responsible for the operation and maintenance of the Maintenance

building/parking/storage site. Users of the Maintenance building/parking/storage site shall pay an annual fee to be determined by the Declarant. Insurance coverage of the Maintenance building/parking/storage site will be covered by the HOA. It is the responsibility of each lot/home owner who uses the Maintenance building/parking/storage site to maintain their own insurance for their respective boats and or RVs. The lot/home owners get the first priority to use this Maintenance building/parking/storage site, however, if the boat parking spaces were not being fully utilized, the lot owner's guest can lease the boat storage. Any lot owner guest who has a parked boat in the Maintenance building/parking/storage has to be escorted in and out of the community at all times. The lot owner guests are not allowed to walk on the boat ramp or come inside the community, and take his/her boat and dropped in the river without the presence of lot owner or a staff from the Maintenance building.

- c) When the HOA is taken over by the home owners, the home owners controlled HOA shall not create new restrictions which would negatively impact the marketability of the Declarant remaining un-sold lots. Declarant reserves the right to be grandfathered and governed by the HOA written as of 9/1/2021, for the remaining un-sold lots. In case of home owners controlled HOA deviation from 9/1/2021 and imposing restrictions on the un-sold lots, and a legal challenge by the Declarant, home owners controlled HOA shall pay all costs of attorney's fees of the Declarant.

K. No judicial proceeding shall be brought by the Association unless approved by a vote of seventy-five percent of the Lot Owners. This section shall not apply however to actions brought by the Association to enforce the provisions of this Declaration or the Governing Documents (including, without limitation the foreclosure of liens, the imposition and collection of assessments, fines, and user fees), proceedings involving ad valorem taxation, or counterclaims brought by the Association in any proceeding brought against it. This provision shall not be amended unless such amendment is made by the Declarant.

IN WITNESS WHEREOF, Potomac Rock Estates LLC has caused this Declaration of Restrictive Covenants for Potomac Overlook Estates to be executed, under seal, by its duly authorized representative.

WITNESS the following signatures and seals:

**Potomac Rock Estates, LLC,  
a Virginia Limited Liability Company,**

by: \_\_\_\_\_

**Ardeshir Sassan,  
The Sole Member of the Board of Managers of Potomac Rock Estates, LLC,  
a Virginia Limited Liability Company**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by **Ardeshir Sassan, as Sole Member of the Board of Managers of Potomac Rock Estates, LLC, a Virginia Limited Liability Company**, on behalf of said limited liability company.

My commission expires: \_\_\_\_\_.

**(SEAL)**

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

SCHEDULE A-1

All of Phases 1 and 2, Section 1 of Potomac Overlook Estates as shown upon that Final Plat recorded January 7, 2019 in Plat Cabinet 18, slide 188 (containing Lots 6,17, and 18)

All of Phases 1 and 2, Section 1 of Potomac Overlook Estates as shown upon that Final Plat recorded January 7, 2019 in Plat Cabinet 18, slide 190 (containing Lots 15,16, and open space A)

All of Phases 1 and 2, Section 2 of Potomac Overlook Estates as shown upon that Final Plat recorded January 7, 2019 in Plat Cabinet 18, slide 192 (containing Lots 31-34)

All of Phases 1 and 2, Section 3 of Potomac Overlook Estates as shown upon that Final Plat recorded January 7, 2019 in Plat Cabinet 18, slide 194 (containing Lots 11-13 and 35)

All of Phase 1, Section 4 of Potomac Overlook Estates as shown upon that Final Plat recorded January 7, 2019 in Plat Cabinet 18, slide 196 (containing Lots 2-5)

**SCHEDULE A-2**

(Below sizes are provided by the engineering firm. Please consider it approximate)

<b>Lot #</b>	<b>Square Feet</b>	<b>Acres</b>
1	121,693	2.8
2	128,837	3.0
3	122,015	2.8
4	157,992	3.6
5	162,603	3.7
6	165,514	3.8
7	128,775	3.0
8	132,081	3.0
9	130,988	3.0
10	145,955	3.4
11	124,740	2.9
12	122,261	2.8
13	123,458	2.8
14	196,320	4.5
15	49,619	1.1
16	43,563	1.0
17	43,565	1.0
18	43,567	1.0
19	45,738	1.1
20	50,924	1.2
21	48,688	1.1
22	46,523	1.1
23	51,975	1.2
24	49,113	1.1
25	78,688	1.8
26	67,602	1.6
27	58,912	1.4
28	65,331	1.5
29	69,156	1.6
30	72,631	1.7
31	77,194	1.8
32	97,335	2.2
33	91,157	2.1
34	99,195	2.3
35	120,238	2.8
<b>Open Space Parcel A (*)</b>	<b>308,409</b>	<b>7.1</b>

(\*) : In HOA area, Parcel A size will be reduced in size by: (I) On the south side of the stream there will be leased area for a Maintenance building to be constructed for parking of boats & RVs. (II) An additional lot is extracted from this HOA area, since so far 3 lot owners have merged 2 lots to build a single home.

## SCHEDULE B

### COMMON ELEMENTS

Items below are common elements of all lot owners who comprise the Potomac Overlook Estates Community Association. All elements are to be maintained in equal proportion by all lots which comprise the Association. Elements may be added, reduced, or eliminated at any time by the Declarant, its successors and assigns, or the Association upon termination of the Declarant Control Period.

1. Boat Ramp
2. Community Fencing
3. Community Landscaping
4. Community wastewater treatment facilities, (unless dedicated)
5. Eased conservation area
6. Entrance median
7. Entrance Signage
8. Interior roads and rights of way with shoulders and ditches
  - o Tess Circle
  - o Indigo Drive
  - o Gillespie Court
  - o Coltrane Court
  - o Agnese Court
9. Landscape furniture, (benches, tables, etc.)
10. Landscaping well, (if developed)
11. Open space parcel A
12. Open space parcel well, (if developed)
13. River Access Road
14. Sanitary sewer lines
15. Storm water management facilities
16. The Maintenance building/parking/storage site, in Parcel A, is not part of Common Elements



SCHEDULE C

**Potomac Overlook Estates HOA LLC**  
**LAND LEASE AGREEMENT**

Per request from multiple existing lot owners  
**For building a new Indoor Boat Storage area, and a Maintenance Building, for the community**

(please refer to this document for further details)