

## SCHEDULE "B"

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS

RANDOLPH WILLIAMS, INC., a Virginia corporation, the Declarant, is the owner of certain property in the County of Fairfax, State of Virginia, which is more particularly described on the attached Schedule "A".

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

## ARTICLE I

## DEFINITIONS

Section 1. "Association" shall mean and refer to KINGSTREAM COMMUNITY COUNCIL, INC., a Virginia corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean and refer to all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described on the plat, a copy of which is attached hereto.

Section 5. "Lot" shall mean and refer to the Lots in Sections 3-B and 3-C, KINGSTREAM Subdivision as shown upon the recorded subdivision plat, with the exception of Common Area.

Section 6. "Declarant" shall mean and refer to RANDOLPH WILLIAMS, INC., a Virginia corporation, its successors and assigns, if such successors or assigns acquire more than one undeveloped Lot from the Declarant for the purpose of development.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owners Easements of Enjoyment: Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against the Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.

No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Notwithstanding the other provisions of this Declaration, all right, title and interest in and to the Common Area shall be subject to the provisions and requirements of the lawful ordinances of the County of Fairfax, Virginia, existing on the date of this Declaration.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 1989.

#### ARTICLE IV

##### COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, 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 interest, costs, and reasonable attorneys' 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. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessment levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and for the improvements and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be Ten Dollars (\$10.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be the same as the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment may be increased by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in part or in whole, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4-A. Notwithstanding any other provisions contained herein, the assessments for the Class B members will be as set forth hereinbelow; provided the Declarant funds all budget deficits and maintains the Common Area at no cost to the Homeowners Association:

(a) Twenty-five percent (25%) of the assessments established herein for unoccupied lots.

(b) Full assessments established herein on any dwellings for which a Residential Use Permit has been issued.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments:  
Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first monthly assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the monthly assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of

the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments:

Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring action at law against the Owner personally obligated to pay the same, or bring an action at law against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The

lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, material and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more

representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The Declarant does not have to meet the requirements of the Architectural Control provisions.

#### ARTICLE VI

##### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The Covenants and restrictions of this Declaration shall run with the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years. This Declaration may be amended during the first twenty- (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. No amendment shall be effective unless the amending instrument is signed by at least one Lot Owner who is a Class A member. Any amendment must be recorded.



Section 4. Annexation. (a) Within twenty-one (21) years from the date of this Declaration, additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members; (b) Additional Land, however, may be annexed by the Declarant without the consent of members within five (5) years from the date of this instrument.

Section 5. Consent of Veterans Administration and Federal Housing Authority. Notwithstanding anything to the contrary contained herein and provided that any lot in the project is then encumbered by a deed of trust or mortgage which is guaranteed by the Veterans Administration or Federal Housing Authority and, provided, further, that there are then Class B memberships of the Association outstanding, neither the members, the Board of Directors, nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the Veterans Administration and the Federal Housing Authority:

- (a) abandon, partition, subdivide, encumber, sell or transfer any of the Common Areas and community facilities; provided, however, that the granting of rights of way, easements and the like for public utilities or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or
- (b) abandon or terminate this Declaration; or
- (c) modify or amend any material or substantive provision of this Declaration or the Bylaws of the Association.

RECORDED W/CERTIFICATE ANNEXED

1983 DEC - 2 PM 3:39

FAIRFAX COUNTY, VA.

with plat attach

9  
available for disclosure packet requirements.