

120012429

Tax Map No.
See attached Exhibit "A"

AMENDED AND RESTATED
DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS
OF
WESTMORELAND

This Amended and Restated Declaration is made this 4th day of June, 2012 by Westmoreland Owners Association, Inc., a Virginia nonstock corporation, and the owners of Lots in Westmoreland listed on Exhibit "A", (collectively "Grantors").

WITNESSETH:

WHEREAS, Charter, L.L.C., a Virginia limited liability company, (the "Declarant") subjected certain real property as shown on a plat entitled "SUBDIVISION PLAT OF WESTMORELAND, SECTION 1, OWNER/DEVELOPER: CHARTER, L.L.C., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" prepared by AES Consulting Engineers, dated September, 1994 and recorded in the Office of the Clerk of the Circuit Court for the City of Williamsburg and the County of James City, Virginia in Plat Book 60, page 11 ("Section 1 Plat") to that certain Declaration of Conditions, Covenants and Restrictions of Westmoreland (the "Section 1 Declaration") recorded October 7, 1994 in the Office of the Clerk of the Circuit Court for the City of Williamsburg and the County of James City, Virginia in Deed Book 709, Page 522;

WHEREAS, the Declarant subjected certain real property as shown on a plat entitled "SUBDIVISION PLAT OF WESTMORELAND, SECTION 2, OWNER/DEVELOPER: CHARTER, L.L.C., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" prepared by AES Consulting Engineers, dated December, 1996 and recorded in the Office of the Clerk of the Circuit Court for the City of Williamsburg and the County of James City, Virginia in Plat Book 66, page 46 ("Section 2 Plat") to that certain Declaration of Conditions, Covenants and Restrictions of Westmoreland (the "Section 2 Declaration") recorded April 18, 1997 in the Office of the Clerk of the Circuit Court for the City of Williamsburg and the County of James City, Virginia as Instrument No. 970006076;

WHEREAS, the Declarant subjected certain real property as shown on a plat entitled "SUBDIVISION PLAT OF WESTMORELAND, SECTION 3, OWNER/DEVELOPER: CHARTER, L.L.C., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" prepared by AES Consulting Engineers, dated June 21, 2001 and recorded in the Office of the Clerk of the Circuit Court for the City of Williamsburg and the County of James City, Virginia in Plat Book 87, page 96 ("Section 3 Plat") to that certain Declaration of Conditions, Covenants and Restrictions of Westmoreland (the "Section 3 Declaration") recorded October 3, 2002 in the Office of the Clerk of the Circuit Court for the City of Williamsburg and the County of James City, Virginia as Instrument

✓ Prepared by Tarley Robinson, PLC
and return to: 4808 Courthouse Street, Suite 102
Williamsburg, VA 23188

*Amended and Restated Declaration
Westmoreland Owners Association, Inc.*

Page 1 of 19

No. 020022834;

WHEREAS, the Declarant filed a Deed of Affirmation of Declarations of Conditions, Covenants, and Restrictions dated April 1, 2005 and recorded April 15, 2005 in the Office of the Clerk of the Circuit Court for the City of Williamsburg and the County of James City, Virginia in as Instrument No. 050008237;

WHEREAS, the Declarations set forth above run with the land and are binding on all parties having any right, title or interest in the Property or any part thereof, their heirs; successors and assigns;

WHEREAS, Article 8 of each Declaration permits each Declaration to be amended if agreed to by a majority of the Owners;

WHEREAS, Va. Code Ann. § 55-515.1(F) provides that agreement of the required majority of Owners to any amendment of the Declaration shall be evidenced by their execution of the amendment, or ratifications thereof, and the Amendment shall become effective when a copy of the amendment is recorded together with a certification, signed by the principal officer of the Association and attested by the Secretary of the Association, that the requisite majority of the Owners signed the amendment or ratifications thereof; and

WHEREAS, Article 14 of the Bylaws require approval by Lenders holding first mortgages when amending certain provisions of the Declaration; and

WHEREAS, the requisite majority of the Owners voted in favor of amending and restating the Declarations as one Declaration for Sections 1, 2, and 3 of Westmoreland, as set forth herein, and the approving Owners have executed a written ballot as ratification of this amendment; and

WHEREAS, pursuant to Va Code Ann. § 55-515.1(A), the Association is deemed to have received written consent of a Lender if the Association receives no written objection to the adoption of the amendment from the Lender within 60 days of the date notice is sent, and whereas notice was sent on March 23, 2012 and no written objections were received by the Association.

NOW, THEREFORE, the Grantors declare that the Property, as described herein, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions contained in this Amended and Restated Declaration of Conditions, Covenants and Restrictions (the "Declaration"), which are for protecting the value and desirability of the Properties, which shall run with the real property and be binding on all parties having any right, title or interest in the described properties, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

ARTICLE I DEFINITIONS

- 1.1 “Association” shall mean the Westmoreland Owners Association, Inc., its successors and assigns.
- 1.2 “Common Area” shall mean all real property, now owned or hereafter acquired, by the Association, including the improvements thereon, for the common use and enjoyment of the Owners and designated on the Plats, as referenced in the original Declarations and herein.
- 1.3 “Declarant” shall mean Charter, L.L.C., a Virginia limited liability company, its successors and assigns.
- 1.4 “Governing Documents” shall mean the Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations, as amended from time to time.
- 1.5 “Lot” shall mean and refer to any numbered lot or plot of land shown upon the Plats, as hereafter defined, with the exception of the Common Area and right of way areas.
- 1.6 “Owner” shall mean the record owner whether one or more persons or entities, of the fee simple title to any lot which is a part of the Property, including contract sellers, but excluding those having any interest as security for the performance of an obligation.
- 1.7 “Plat” shall collectively mean the subdivision plats identified above as the Section 1 Plat, the Section 2 Plat, and the Section 3 Plat.
- 1.8 “Property or Properties” shall mean the real property hereinbefore described, and such additions thereto as may hereafter be bought within the jurisdiction of the Association.

ARTICLE 2 COMMON AREA

- 2.1 Maintenance Responsibility of the Association. In accordance with the requirements of the Governing Documents and subject to the rights of the Owners as set forth in this Declaration, the Association shall be responsible for the management, maintenance, improvement, care, operation, repair, renovation, replacement, and control of the Common Areas and all improvements thereon, including related fixtures, personal property, and equipment, and shall keep the same in good, clean, and attractive condition, order, and repair. Unless otherwise determined by the Board of Directors, all repairs and replacements shall conform to the original construction and installation and shall be of equal or better quality.

- 2.2 Owners' Easements of Enjoyment. Subject to the provisions of the Governing Documents, 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 rights of the Association:
- 2.2.1 To establish reasonable rules and regulations as necessary with respect to use of the Common Areas and with respect to such other areas of responsibility assigned to the Association by the Declaration, except where expressly reserved by the Declaration to the Owners, to establish reasonable rules and regulations pertaining to Owners' guests, and to charge reasonable fees and dues for the use of the Common Areas and certain facilities;
 - 2.2.2 To suspend an Owner's right to use or benefit from any of the Common Areas for any period during which any assessments, charges, fees, or dues are more than 60 days past due, subject to any limitations in the Property Owners' Association Act (Va. Code Ann. § 55-508, *et seq*);
 - 2.2.3 To suspend an Owner's right to use or benefit from any of the Common Areas for any period during which any other violation of the Governing Documents by the Owner remains uncorrected after the last day of the period established for correction by the Association;
 - 2.2.4 To grant permits, licenses and easements under, through and over the Common Areas or other areas of Association responsibility for drainage, utilities, roads, access and other purposes which are reasonably necessary to the ongoing development and operation of the Properties, or as deemed by the Board of Directors to be in the best interest of the Association;
 - 2.2.5 To dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be desired by the Association;
 - 2.2.6 To sell, lease, exchange, dispose of, encumber, or mortgage all or any part of the Common Area in accordance with the Governing Documents;
 - 2.2.7 To enter into shared use and maintenance agreements.
- 2.3 Delegation of Use. Any Owner may delegate his right of enjoyment in and to the Common Area to the members of his family who reside with the Owner, his tenants, or contract purchasers who reside on the Property.

- 2.4 Damage or Destruction of Common Area by Owner. In the event any Common Area or improvement thereon is damaged or destroyed by an Owner, his tenants, guests, licensees, agents, or members of his family, the Association may repair such damage at the Owner's expense. The Association may repair such damage in a good and workmanlike manner in conformance with the original plans and specifications of the area or improvement involved, or as the Common Area or improvement may have been modified or altered, at the discretion of the Board of Directors. The cost of such repairs shall become an Individual Assessment, as described more particularly in Section 4.7 herein, upon the Lot of such Owner and shall constitute a lien upon such Owner's Lot and be collectible in the same manner as other assessments as set forth in Article 4 herein. The foregoing obligation is not absolute in that the Owner shall be released of liability for such costs to the extent that the costs are covered by the proceeds of the Association's insurance policies but only if such release of liability will not invalidate such insurance.
- 2.5 Eminent Domain Condemnation. Each Owner hereby irrevocably appoints the Board of Directors as his agent and attorney-in-fact to pursue and settle all claims arising out of the taking of any of the Common Area by eminent domain or condemnation.

ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS

- 3.1 Membership. Every person or entity, whether one or more persons or entities, who is a record owner of the fee simple title to any Lot as described on the recorded plats for the Properties referenced in the Declaration, shall be a Member of the Association. Membership is appurtenant to and may not be separated from the ownership of any Lot.
- 3.2 Voting. Each Member is entitled to one vote for each Lot owned. When more than one person or entity is the record Owner of a Lot, 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. Voting shall be as set forth in the Bylaws.

ARTICLE 4 COVENANT AND MAINTENANCE ASSESSMENTS

- 4.1 Creation of the Lien and Personal Obligation for Fees and Assessments. The Declarant, for each Lot owned within the Property, covenanted in the original Declarations, 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 to the Association: (i) Annual Assessments or charges; and (ii) Special Assessments, and (iii) Individual Assessments (collectively "Assessments"), such Assessments to be established and collected as hereinafter provided. The covenant

to pay Assessments is hereby reaffirmed. The Assessments, together with interest, late fees, costs of collection, reasonable attorney's fees and court costs, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such charge is made. Each such Assessment, together with interest, late fees, costs of collection, reasonable attorney's fees and court costs, shall also be the personal obligation of the person who was the Owner of such Lot 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. No Owner may avoid liability for Assessments by non use of the Common Area or by abandonment of his Lot. A Lot shall not be subject to Annual or Special Assessments until transferred by the Declarant.

- 4.2 Other Assessments. As set forth in the Property Owners' Association Act (Va. Code Ann. § 55-508, *et seq*), this Declaration, or the Bylaws, the Board of Directors has the power and authority to establish Annual Assessments, Special Assessments, and Individual Assessments. The Board of Directors shall determine the date each Assessment is due and may permit an Assessment to be paid in installments extending beyond the fiscal year in which it is imposed.
- 4.3 Purpose of Assessments. The Annual and Special Assessments levied by the Association shall be used exclusively for the management, maintenance, improvement, care, operation, renovation, repair and replacement of the Common Area; for the procurement of insurance for the Association; for the establishment of reserves with respect to Association obligations; for the discharge of such other obligations of the Association imposed or assumed by the Association pursuant to the Governing Documents; for the administration of the Association; and to promote the recreation, health, safety and welfare of the Owners of the Property.
- 4.4 Annual Assessment. The amount of Annual Assessments shall be based on the annual budget adopted by the Board pursuant to the Bylaws.
- 4.5 Date of Commencement of Annual Assessments: Due Dates. The Board of Directors shall fix the amount of the Annual 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.

- 4.6 Special Assessments. The Board of Directors may levy, for any fiscal year, a Special Assessment applicable to that year, but not longer than the following year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, and if the purpose in doing so is found by the Board of Directors to be in the best interest of the Association. Effective January 1, 2012, any Special Assessment in excess of ten percent (10%) of the Annual Assessment shall require the affirmative vote of sixty-seven percent (67%) of the Members voting at a duly called meeting at which a quorum of the Members is present in person or by proxy. Notwithstanding the foregoing, in the event of an emergency or unforeseen circumstances, the Board of Directors may levy a Special Assessment without Member approval provided that the Board determines that a Special Assessment under such circumstances is in the best interest of the Association.
- 4.7 Individual Assessments. Individual Assessments shall be those expenses directly related to maintenance or a service provided to one or more Lots, whether at the request of the Owner thereof or as an exercise of an Association remedy, as set forth in Sections 2.4 and 8.3 herein, and shall also include violation charges levied pursuant to the Governing Documents and Va. Code Ann. § 55-513(B). If an Individual Assessment is levied on multiple Lots owned by one Owner it shall be allocated among that Owner's Lots as the Board of Directors directs or, in the absence of such direction, equally among such Lots. Notwithstanding the concept of Individual Assessments, the Association is not obligated to provide any service or maintenance to Lots except as expressly provided in the Governing Documents.
- 4.8 Capital Assessment. Upon closing of the sale of any Lot, the purchasing Owner shall pay to the Association, in addition to and not as an advance payment of any other Assessment, a Capital Assessment of \$300.00 or such amount as set from time to time by the Board of Directors of the Association. The Board of Directors is specifically authorized to determine the amount of the Capital Assessment by resolution.
- 4.9 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 or as otherwise determined by the Board.
- 4.10 Nonpayment of Assessments. The Assessment liens provided for in this Declaration may be perfected, enforced, and foreclosed in the manner provided by Va. Code Ann. § 55-516. A statement from the Association showing the balance due on any Assessment shall be *prima facie* proof of the current Assessment balance and the delinquency, if any, due on a particular Lot. The Association may

also bring an action at law against any Owner personally obligated to pay the same, either in the first instance or for a deficiency judgment following foreclosure. Late fees, interest (as set by the Board of Directors from time to time) from the due date, all costs of collection, reasonable attorneys' fees in a minimum amount of 25% of the amount due, and court costs shall be added to the amount of such Assessment and shall be secured by the assessment lien. The Board of Directors is authorized to establish, from time to time, the amount of the late fees and the interest rate to be charged to the account. Upon the failure of an Owner to pay any installment when due, the Board of Directors may accelerate the remaining year's installments and declare the entire amount due and payable.

- 4.11 Subordination of the Lien to Mortgages. The lien of the charges provided for herein shall be subordinate to the lien of any prior recorded mortgage or deed of trust. Sale or transfer of any Lot shall not affect the lien for charges. However, the sale or transfer of any Lot by foreclosure of a first mortgage or deed of trust shall extinguish the lien of such charges as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any charges thereafter becoming due or from the lien thereof.

ARTICLE 5 ARCHITECTURAL CONTROL

- 5.1 Architectural Review Committee. The Board of Directors shall appoint an Architectural Review Committee ("ARC") for the purpose of reviewing and approving or disapproving all plans submitted by Owners in accordance with this Article and any Architectural Standards as hereafter defined. The Board of Directors shall determine the number of persons to serve on the ARC and the length of their terms.
- 5.2 Architectural Standards. The ARC shall recommend Architectural Standards to the Board of Directors which shall include standards for guidelines, review fee, requirements and rules and regulations governing the process and construction of improvements. The Board shall have the authority to adopt, implement, and enforce Architectural Standards as recommended by the ARC, or as promulgated by the Board of Directors, including the ability to require the payment of a review fee. The Architectural Standards are enforceable, pursuant to the terms hereof, as if set forth herein in full.
- 5.3 Approval of Plans. The ARC shall not knowingly approve the plans for any improvement that would clearly violate any of the applicable provisions of the Governing Documents. In all other respects, the ARC may exercise its sole discretion in determining whether to approve or disapprove any plans, including, without limitation, the location of an improvement to a Lot. Nothing contained in this

Declaration shall require the ARC to approve the plans for improvements or landscaping on a Lot on the grounds that the same or a similar layout, design, and/or other aspects of such improvements or landscaping are substantially the same as the layout, design, and other aspects of improvements or landscaping approved by the ARC for another Lot.

- 5.4 Variances. The ARC shall have the authority to recommend to the Board of Directors that a reasonable variance or adjustment from the restrictions and requirements contained herein or in this Declaration be granted to an Owner in order to overcome practical difficulties and to prevent unnecessary hardships, provided such variance or adjustment will not be materially detrimental to neighboring Lots or defeat the general purpose of the requirements and restrictions. The Board of Directors, in its sole discretion, shall make the decision on granting the variance or adjustment and the decision of the Board of Directors shall be final.
- 5.5 No Improvement to be Constructed Without Approval. No improvement shall be constructed, erected, installed, or maintained on any Lot, nor shall any improvement be altered, enlarged, demolished, or removed in a manner that alters the exterior appearance, including paint color, of the improvement or of the Lot on which it is situated, unless the plans therefor have been approved by the ARC. After the plans have been approved, all improvements shall be constructed, erected, installed, maintained, altered, enlarged, demolished, or removed strictly in accordance with the approved plans. Upon commencing the construction, erection, installation, alteration, enlargement, demolition, or removal of an improvement, all of the work related thereto shall be carried on with reasonable diligence and dispatch and in accordance with the construction schedule approved by the ARC.
- 5.6 Single Family Dwellings. No more than one single family residence may be erected on any Lot, and the use of the residence shall be limited to a single family.
- 5.7 Fences. Fences are permitted as approved by the ARC. No plywood, chainlink, wire or other utility type fences are permitted. Dog runs are permitted as approved by the ARC and may use chain link fence if limited in size to 120 square feet and located and screened as required by the ARC. Fences are not permitted in front of the front plane of the residence. Fences along the front plane of the residence shall not exceed four (4) feet in height. All other fences shall not exceed six (6) feet in height, except that this restriction shall not apply to any privacy fence built to enclose a patio immediately adjacent to the residence.
- 5.8 Limitation of Liability. The ARC's approval of any plans or requirement that the plans be modified shall not constitute a warranty or representation by the ARC or

the Association or the Board of the adequacy, technical sufficiency, or safety of the improvements described in such plans, as the same may be modified; and the Association and the ARC shall have no liability whatsoever for the failure of the plans or the improvements to comply with applicable building codes, laws, and ordinances or to comply with sound engineering, architectural, or construction practices. In no event shall the Association, its Board or the ARC have any liability whatsoever to any Owner, Mortgagee, contractor, builder, or other party for any costs or damages, consequential or otherwise, that may be incurred or suffered on account of the ARC's approval, disapproval, or conditional approval of any plans.

ARTICLE 6 USE RESTRICTIONS

- 6.1 Residential Use. Each Lot shall be used exclusively for residential purposes and no building shall be erected, altered, placed or permitted to remain thereon other than one single family residence.
- 6.2 Home Occupations. No Lot shall be used for any business, commercial, manufacturing, mercantile, storing, vending or any other non-residential purpose; however, an Owner may maintain an office in the dwelling constructed on such Owner's Lot if (i) the occupation or activity is conducted entirely within the dwelling; (ii) the occupation requires no external alterations or the use of outdoor storage of machinery or equipment that creates noise, odor, smoke, dust or glare or is dangerous or otherwise detrimental to persons residing in the home or in adjacent property; (iii) no exterior evidence of the occupation or activity exists; (iv) no articles are displayed or otherwise offered for sale upon the Lot; (v) there is no equipment or process inside that may disrupt neighboring dwellings; (vi) such office generates no significant increase in traffic by clients, customers or other persons related to the business; (vii) the Owner applies for approval of the use by making application to the Board of Directors.
- 6.3 Nuisance, Compliance with Laws. No improper, offensive, or unlawful use shall be made of the Property or any part thereof. All valid laws, zoning ordinances, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by, and at the sole expense of the Owner, or the Association, whichever shall have the obligation for the upkeep of such portion of the Property and, if the Association, then the cost of such compliance shall be an Assessment as set forth herein.
- 6.4 Pets. No stables of any kind shall be maintained on the Properties. Except as set forth below, no animals, livestock or poultry of any kind shall be kept or maintained on any Lot. Dogs, cats, or other usual household pets may be kept or

maintained if they do not constitute an unreasonable annoyance to other Owners and they are not kept or maintained for commercial purposes; provided however, that the Association may make rules and regulations regarding such household pets, including the maximum number thereof and the definition of "usual household pets." All pets must be kept under the control of their Owner when they are outside the Owner's premises and must not become a nuisance to other residents.

- 6.5 Signs. No sign of any type shall be displayed to public view on any Lot or the Common Area without the prior written consent of the ARC, except that one sign not more than six square feet in size which advertises the home or Lot for sale or rent shall be permitted without the necessity of seeking ARC approval.
- 6.6 Antennae, Satellite Dishes. Satellite dishes of one meter or less in diameter and antennae are permitted subject to the following recommendations and guidelines: Rooftop antennae are permitted although attic installation is encouraged. Antennae and Satellite Dish supports are limited to a maximum of 12 feet above the roof line per FCC recommendations. All wiring for permitted antennae and satellite dishes must be properly secured and in some instances may need to be concealed. The color options, if available for a satellite dish, should complement the basic colors of the dwelling following the same guidelines as exterior painting. Otherwise, the color should remain as originally purchased in neutral colors, i.e. black, gray or tan. There shall be no commercial advertising on the satellite dish other than the brand name. Based on the required positioning to receive transmissions, antennae and satellite dishes shall be placed in an inconspicuous location and shall not be placed in areas where they would constitute a safety hazard. Antennae and satellite dishes shall not be placed on any Common Areas.
- 6.7 Vehicles. No vehicles shall be parked or maintained on Common Area. Overnight parking on the street is prohibited except on an emergency basis. No more than four un-garaged vehicles will be permitted to be consistently parked on the premises of any Lot, and these must be in the driveway or on a parking apron off of the driveway. The un-garaged vehicles are limited to licensed and operable automobiles, mini-vans, and pick-up trucks, sport utility vehicles and jeeps not exceeding 3/4 ton capacity.
- 6.8 Construction and Oversized Vehicles. Construction or oversized vehicles shall be garaged, except vehicles or equipment being used for construction of improvements on a Lot, as permitted by the ARC. Oversized vehicles are vehicles that are unable to fit in a regular-size parking space, or those vehicles exceeding 3/4 ton capacity.
- 6.9 Boats, Trailers, etc. Boats or personal watercraft, trailers, campers, recreational vehicles, and similar vehicles or equipment shall be garaged.

- 6.10 Parking Variance. The Board of Directors, in its sole discretion, may grant a variance to an Owner to permit the parking of a boat, personal watercraft, trailer, camper, recreational vehicle or similar vehicle or equipment behind the residence on the Lot, provided, that the it is parked on a concrete pad, and the Owner provides screening as determined by the ARC so the item is not visible or unsightly from the street or neighboring properties.
- 6.11 Outdoor Drying. No clotheslines or drying apparatus shall be installed or placed on a Lot, nor shall any clothes or other wash be placed or allowed to remain outside of any home or other structure except as approved by the ARC.
- 6.12 Solar Panels. Installation of solar or energy panels requires approval by the ARC. No solar or energy panels are permitted if they are visible from the street or from any other residence.
- 6.13 Outbuildings, Temporary Structures. No shed, shack, trailer, tent or other temporary or moveable building or structure of any kind shall be erected on or permitted to remain on Lot except as may be permitted by the ARC during construction. Temporary construction trailers, storage pods, and portable lavatories are permitted on the Lot during the period of construction provided, that they are screened as required by the ARC, and kept in a neat and orderly fashion.
- 6.14 Trash, Litter. No accumulation or storage of litter, refuse, bulk materials, or trash of any kind shall be permitted on any Lot. Trash, garbage and litter shall be kept in sanitary containers which shall be screened from view. Incinerators are not permitted. The Board of Directors may contract with one or more trash collection companies exclusively to serve all of the Lots, and the costs thereof may be paid by invoice sent directly to the Owner or defrayed through Annual Assessments on such Lots, as determined by the Board of Directors.
- 6.15 Specific Assessments for Exterior Maintenance. Each Owner shall maintain his Lot and the exterior of any improvements thereon in a neat and orderly manner. Landscaping and grass shall be maintained in a neat and orderly manner, including the timely cutting of grass and the proper pruning of trees and shrubs. The exterior of the home or any related structures on any Lot shall be kept in a good state of maintenance by the Owner, including such cleaning, painting, staining, repairing or replacing as necessary to maintain the aesthetic appearance of the home and related structures to the standard when initially constructed. Should any Owner fail to maintain his Lot and/or improvements thereon as required by this paragraph, the Association may take action as set forth in Section 8.3 herein.

- 6.16 Hazardous Uses. Nothing shall be done or kept on the Property that will increase the rate of insurance for the Common Area or any part thereof without the prior written consent of the Board of Directors; including, without limitation, any activities which are unsafe or hazardous with respect to any person or property. No person shall permit anything to be done or kept on the Property which will result in the cancellation of any insurance on the Common Area or any part thereof or which would be in violation of any law, regulation, or administrative ruling. Each Owner shall comply with all federal, state, and local statutes, regulations, ordinances, or other rules intended to protect the public health and welfare as related to land, water, groundwater, air, or other aspects of the natural environment: the "Environmental Laws." Environmental Laws shall include, but are not limited to, those laws regulating the use, generation, storage, or disposal of hazardous substances, wastes, and materials (collectively, "Hazardous Materials").
- 6.17 Subdivision of Lots. No Lot shall be subdivided into two or more Lots. The boundary lines of a Lot shall not be changed or vacated to result in the elimination or addition of a Lot.
- 6.18 Rules and Regulations. The Board of Directors shall have the power to adopt, amend, and enforce Rules and Regulations which restrict and regulate the use and enjoyment of the Property or any portions thereof and which may supplement, but may not be inconsistent with, the provisions of the Governing Documents. The Properties shall be occupied and used in compliance with the Rules and Regulations. Changes to the Rules and Regulations shall be published to the Owners by mail or by electronic transmission prior to the effective date.

ARTICLE 7 EASEMENTS

- 7.1 Easements. Easements shown on the plat for streets, drainage, utilities, screening, beautification, conservation or recreation are for the benefit of the Owners.
- 7.2 Conservation Easements and Open Space. No home may be constructed in any area identified as a Conservation Easement/Open Space. Outbuildings, walkways, terracing or landscaping may be permitted with the prior approval of the Architectural Review Committee. Those areas identified as Open Spaces 1, 2, 3 and 5 are natural open space easements dedicated to James City County, and such areas shall remain in a natural undisturbed state except as otherwise permitted in the easement agreement with James City County, Virginia.
- 7.3 Right of Ways. A perpetual easement and right of way was reserved in the original Declarations and is hereby affirmed, over and along the streets, roads, lanes, avenues, sidewalks, and driveways shown on the plat, for purposes of the (I) installation, operation, and maintenance of underground wires, pipes, fixtures,

conduits and the necessary attachments thereto, for electricity, telephone, sewer, water, gas and any other utility; and (ii) ingress and egress for pedestrians and vehicles.

ARTICLE 8 ENFORCEMENT

- 8.1 Right to Enforce. The Association, or any other Owner shall have the right to enforce against any other Owner or the Association, by any proceeding at law or in equity, all restrictions, easements, conditions, covenants, reservations, liens, and charges now or hereafter imposed by decision of the Association or by the provisions of this Declaration or other Governing Documents. The cost incurred in taking such action and the attorney's fees, collection costs, and court costs incurred therein shall constitute an Individual Assessment upon the defaulting Owner's Lot and shall be collectible in the manner provided in Article 4 herein for the payment of Assessments. Failure by the Association or any Owner to enforce any provision of the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.
- 8.2 Property Owners' Association Act. The Board of Directors shall have the power, to (i) suspend an Owner's right to use facilities or services, including utility services, provided directly through the Association for nonpayment of Assessments which are more than 60 days past due, to the extent that access to the Lot through the Common Areas is not precluded and provided that such suspension shall not endanger the health, safety, or property of any Owner, tenant, or occupant and (ii) assess charges against any Owner for any violation of the Declaration or rules and regulations for which the Owner or his family members, tenants, guests, or other invitees are responsible, provided, that the Board of Directors complies with the procedure set forth in Va. Code Ann. § 55-513, as amended.
- 8.3 Association Action. If any Owner shall fail to keep such Owner's Lot in as good repair and condition as when initially constructed and accepted by the ACC, normal wear and tear excepted, and in a neat and orderly condition consistent with the Governing Documents, then the Board of Directors may, pursuant to resolution, give notice to the Owner of the condition identified, specifying generally the action to be taken to rectify that condition. If the Owner fails to take the actions specified by the Board of Directors or to otherwise rectify the condition within thirty (30) days after the date the notice is given, or such other period as may be specified in the notice should the circumstances warrant a different time period, the Board of Directors shall have the right to rectify that condition by taking such action or by causing such action to be taken as was specified in the notice. Such right shall include, without limitation, the right: (i) to mow the grass thereon; (ii) to remove any debris therefrom; (iii) to trim or prune any hedge or planting that, in the opinion of the Board of Directors, by reason of its location or height or the manner in which it has

been permitted to grow, is detrimental to the enjoyment of adjoining property or is unattractive in appearance; (iv) to clean, paint, stain, repair or replace any improvement; and (v) to do any and all things necessary or desirable in the opinion of the Board of Directors to place such Lot and the improvements thereon, in a neat and attractive condition consistent with the intention of this Declaration, or to address any potential safety hazard. The costs incurred in rectifying that condition shall be assessed against such Owner's Lot and the improvements thereon, in accordance with Article 4 hereof. The Owner shall reimburse the Association within thirty (30) days after receipt of a statement for such expenses from the Board.

- 8.4 Waiver. Failure by the Association or any Owner to enforce any provision of this Declaration or any Supplemental Declaration shall in no event be deemed a waiver of the right to do so thereafter. In addition, should any person violate or attempt to violate any of said covenants, restrictions, conditions or reservations, the Association or any Owner may prosecute by a proceeding at law or in equity against the person or persons violating or attempting to violate any such covenant, restriction, condition or reservation, either to prevent him or them from so doing, or to recover damages or other costs for such violation.

ARTICLE 9 GENERAL

- 9.1 Severability. Invalidation of any one of these covenants or restrictions by legislation, judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.
- 9.2 Complementarity of Governing Documents and Incorporation by Reference. The Governing Documents shall be construed together and shall be deemed to incorporate one another. Any requirements as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any of the other. Any provision of any Governing Document referenced in any other Governing Document with the intent to incorporate the provisions of the Governing Document shall be deemed incorporated therein, as if set forth in full.
- 9.3 Amendment. This Declaration may be amended at any time upon the approval of not less than fifty-one percent (51%) of the Owners. Agreement of the required majority of Owners shall be evidenced by the written ballots of the Members at a duly called meeting of the Association, and the recording of the amendment together with a certification signed by the principal officer of the Association and attested by the Secretary of the Association that the requisite majority of Owners approved the amendment. Any amendment shall be effective upon recording.

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed by Russell Hill, President of the Westmoreland Owners Association, Inc. and attested by Heidi Anderson, the Secretary, who certify that a majority of the Owners voted in favor of this Amendment as evidenced on the written ballots submitted at the duly called meeting of the members on May 30, 2012.

WESTMORELAND OWNERS ASSOCIATION, INC.

By: Russell Hill
Russell Hill, President

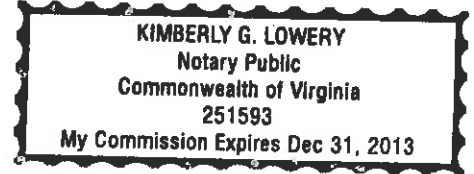
ATTEST:
Heidi Anderson
Heidi Anderson, Secretary

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF JAMES CITY, to-wit:

The foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions of Westmoreland was acknowledged before me this 4th day of June, 2012 by Russell Hill, President of Westmoreland Owners Association, Inc. on behalf of the corporation.

My commission expires:

Kimberly G. Lowery
Notary Public

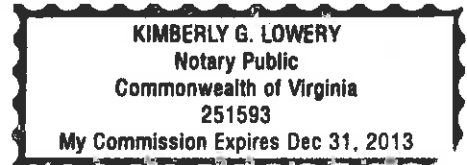


COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF JAMES CITY, to-wit:

The foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions of Westmoreland was acknowledged before me this 4th day of June, 2012 by Heidi Anderson, Secretary of the Westmoreland Owners Association, Inc. on behalf of the corporation.

My commission expires:

Kimberly G. Lowery
Notary Public



*Amended and Restated Declaration
Westmoreland Owners Association, Inc.*

Exhibit A

Tax map No.	Owner	Legal Description
3240700017	ALMAZAN, MANUEL D	Lot 17 Section 1 Westmoreland
3240700018	ARMSTRONG, DAVID S & MARLENE A	Lot 18 Section 1 Westmoreland
3240700014	BEATTY, JOEL C JR & EVANS, KIM L	Lot 14 Section 1 Westmoreland
3241600028	BERNECKER, MARK W & AMY W	Lot 28 Section 3 Westmoreland
3241600022	BURGDORF, KARL F DAVIE & BEVERLY M	Lot 22 Section 3 Westmoreland
3241600016	CARROLL, STEPHEN P & LEIGH ANN M.	Lot 16 Section 3 Westmoreland
3240700002	CASHIN, MARTIN J & DONNA P	Lot 2 Section 1 Westmoreland
3241600001	CHARTER, L L C	Lot 1 Section 3 Westmoreland
3241100011	CHARTER, L L C	Lot 11 Section 2 Westmoreland
3241100012	CHARTER, L L C	Lot 12 Section 2 Westmoreland
3241600018	CHARTER, L L C	Lot 18 Section 3 Westmoreland
3241600034	CHARTER, L L C	Lot 34 Section 3 Westmoreland
3241600035	CHARTER, L L C	Lot 35 Section 3 Westmoreland
3240700009	CHARTER, L L C	Lot 9 Section 1 Westmoreland
3241100001A	CHARTER, L L C	Parcel AA S-2 Westmoreland
3241600015	COLLINS, DAVID E & TAMMI M	Lot 15 Section 3 Westmoreland
3241100014	CONTI, ANTHONY T & HELEN L	Lot 14 Section 2 Westmoreland
3241600008	COOPER, BONNIE L	Lot 8 Section 3 Westmoreland
3241100029	CORBIN, CECIL W & BRIGIETTE A	Lot 29 Section 2 Westmoreland
3241600005	COTE, DONALD M. & CAROL Y., TRUSTEES UNDER A CERTAIN REVOCABLE LIVING TRUST ESTABLISHED BY THE GRANTORS ON THE 24TH DAY OF FEBRUARY 2010, AND KNOWN AS THE COTE REVOCABLE ("TRUST")	Lot 5 Section 3 Westmoreland
3241100025	COTE, TIMOTHY A. & DANIELLE B., TRUSTEES UNDER A CERTAIN REVOCABLE LIVING TRUST ESTABLISHED BY THE GRANTORS ON THE 2ND DAY OF NOVEMBER 2005, AND KNOWN AS THE COTE REVOCABLE LIVING TRUST ("TRUST")	Lot 25 Section 2 Westmoreland
3241100025	The COTE REVOCABLE LIVING TRUST	Lot 25 Section 2 Westmoreland
3241100013	COX, JODY A	Lot 13 Section 2 Westmoreland
3240700005	EAREHART, HAROLD E	Lot 5 Section 1 Westmoreland
3241600017	FAISANT, JESSE & LAUREN	Lot 17 Section 3 Westmoreland
3241600026	FAJARDO, J.E. & MARIA E. AS TRUSTEES OF THE J.E.FAJARDO REVOCABLE TRUST, DATED JUNE 27, 2008	Lot 26 Section 3 Westmoreland
3241600026	FAJARDO, MARIA E. AND J.E. AS TRUSTEES OF THE MARIA E. FAJARDO REVOCABLE TRUST, DATED JUNE 27, 2008	
3241100021	FARAGLIA, GREGORY S JR & JULIET B	Lot 21 Section 2 Westmoreland
3241100019	FRECHETTE, KEITH J & KELLY T	Lot 19 Section 2 Westmoreland
3241100004	GILLEN, THOMAS J & STACIE L	Lot 4 Section 2 Westmoreland
3241100020	GOLDBECK, CLARENCE J. & GRACE E., TRUSTEES UNDER A DECLARATION OF TRUST DATED JANUARY 21, 2002	Lot 20 Section 2 Westmoreland
3241100020	CONDON, DWIGHT D & AMY F	Lot 20 Section 2 Westmoreland
3221300010	GORMAN, FRANK & HELEN S	Lot 10 Section 3 Westmoreland
3241100010	GRAHAM, WILLIAM ALAN & MARGUERITE BE	Lot 10 Section 2 Westmoreland

Exhibit A

Tax map No.	Owner	Legal Description
3241600006	GRIMES, ANDREA S., SOLE TRUSTEE, OR HER SUCCESSOR IN TRUST, UNDER THE ANDREA S. GRIMES LIVING TRUST DATED APRIL 11, 2011	Lot 6 Section 3 Westmoreland
3241600004	GWALTNEY, DOROTHY G.; GWALTNEY, WILLIAM A., JR.; AND GWALTNEY, JESSE L., TRUSTEES OF THE DOROTHY G. GWALTNEY REVOCABLE TRUST U/A DTD OCTOBER 29, 1999	Lot 4 Section 3 Westmoreland
3240700006	HALL, EDWIN L, JR & CHARLOTTE H.	Lot 6 Section 1 Westmoreland
3241100022	HARTMAN, OLIVIA S	Lot 22 Section 2 Westmoreland
3241600013	HEGEMAN, CHRISTOPHER MARK & JULITA G	Lot 13 Section 3 Westmoreland
3241600031	HERRON, F. DALE AND ANNEMARIE, TRUSTEES UNDER THE HERRON TRUST DATED SEPTEMBER 22, 1997	Lot 31 Section 3 Westmoreland
3241600019	HEW, GERALD M & BARBARA E	Lot 19 Section 3 Westmoreland
3241600007	HIESTAND, F BRIAN & ELIZABETH L	Lot 7 Section 3 Westmoreland
3240700004	HILL, RUSSELL P & SHIRLEY M	Lot 4 Section 1 Westmoreland
3240700010	KAHN, SYLVIA R. AND KAHN, CHARLES J., SUCCESSOR TRUSTEES UNDER THE JACQUIN KAHN ADMINISTRATIVE TRUST, DATED AUGUST 16, 2010	Lot 10 Section 1 Westmoreland
3240700008	KINLEY, SUSAN E & JOHN DOUGLAS	Lot 8 Section 1 Westmoreland
3221300012	KOWUN, OH-KYUNG	Lot 12 Section 3 Westmoreland
3241600014	JAMES, BRYAN S & KRISTI D	Lot 14 Section 3 Westmoreland
3240700007	LEITCH, THOMAS G & LEIGH, REGINA K	Lot 7 Section 1 Westmoreland
3241600002	LEVITT, LISA G & BENAVIDES, HECTOR	Lot 2 Section 3 Westmoreland
3221300011	LINDSEY, BRADLEY P & CAMILLE M	Lot 11 Section 3 Westmoreland
3241600032	MALPASS, DAVID L & RITA M	Lot 32 Section 2 Westmoreland
3241100008	MARSHALL, CLARENCE J & GWENEVERE R	Lot 8 Section 2 Westmoreland
3241100003	MARSTON, SHAWN M & IVETA	Lot 3 Section 2 Westmoreland
3240700012	MARTENSON, DONALD W & DIANE M	Lot 12 Section 1 Westmoreland
3241100026	CECELIC, JOSEPH K & AMY R	Lot 26 Section 2 Westmoreland
3241600020	JONES, DAVID M & JANET C	Lot 20 Section 3 Westmoreland
3241600003	MILLS, KENNETH V	Lot 3 Section 3 Westmoreland
3241600024	MINNELLA, DENNIS S. AND DEBRAH, TRUSTEES, OR THEIR SUCCESSORS IN TRUST, UNDER THE MINNELLA LIVING TRUST DATED MAY 31, 2011	Lot 24 Section 3 Westmoreland
3241100018	MUNN, JERRY WALTON, TRUSTEE UNDER THE JERRY WALTON MUNN REVOCABLE TRUST, DATED DECEMBER 14, 1999	Lot 18 Section 2 Westmoreland
3240700001	MURER, BRIAN D; SR & MURER, PATRICE M.	Lot 1 Section 1 Westmoreland
3240700011	NOFFSINGER, THEODORE J., III AND BEVERLY A., TRUSTEES, OR THEIR SUCCESSORS IN TRUST, UNDER THE NOFFSINGER LIVING TRUST DATED JUNE 30, 2008	Lot 11 Section 1 Westmoreland
3241600029	OSTROWSKI, ROBERT ANTHONY & IDA ROSE	Lot 29 Section 3 Westmoreland
3241100027	PARR, RUSSELL F. AND MARY L., TRUSTEES OF THE RUSSELL F. PARR AND MARY L. PARR LIVING TRUST DATED FEBRUARY 21, 2006 AND ANY AMENDMENTS THERETO	Lot 27 Section 2 Westmoreland

Exhibit A

Tax map No.	Owner	Legal Description
3241100005	PARSONS, BRIAN D & KELLY A	Lot 5 Section 2 Westmoreland
3241600009	PATEL, ATULBHAI D & ASMITA A	Lot 9 Section 3 Westmoreland
3241600009	PATEL, ATUL DAHYABHAI and ASMITABEN ATUL	Lot 9 Section 3 Westmoreland
3241100016	RAPOPORT, RONALD & PATRICIA W	Lot 16 Section 2 Westmoreland
3241100030	RINNER, ALBERT & DEBORAH S	Lot 30 Section 2 Westmoreland
3241100023	ROBERTSON, GEORGE D & MARY JANE	Lot 23 Section 2 Westmoreland
3240700003	ROBINSON, ARTHUR L & LISA	Lot 3 Section 1 Westmoreland
3240700015	RODGERS, ALBERTA S	Lot 15 Section 1 Westmoreland
3241600027	SCHUMACHER, ERIC J & VICTORIA M	Lot 27 Section 3 Westmoreland
3241600033	SCOTT, RICHARD L & CONNIE P	Lot 33 Section 3 Westmoreland
3241600025	SHATA, MIRA & MOHAMED H	Lot 25 Section 3 Westmoreland
3241100028	SIMPSON, LANNY J & SHARYN	Lot 28 Section 2 Westmoreland
3241600030	SNODGRASS, RANDY L & BONNIE	Lot 30 Section 3 Westmoreland
3241100002	STEWART, RANDOLPH N & PATRICIA J	Lot 2 Section 2 Westmoreland
3240700013	STOCKMASTER, DAVID A & ANDERSON, HEIDI M	Lot 13 Section 1 Westmoreland
3240700016	THOMAS, MARSHALL S & KIM LIEN	Lot 16 Section 1 Westmoreland
3241100015	VAN DYKE, JOHN D & PATRICIA E	Lot 15 Section 2 Westmoreland
3241600023	VICK, WILLIAM WAYNE JR & TERESA BYRUM	Lot 23 Section 3 Westmoreland
3241100009	VOGT, NATHAN M & ERICA C	Lot 9 Section 2 Westmoreland
3241100024	WAGNER, RONALD J & JOANE C	Lot 24 Section 2 Westmoreland
3241100006	WANG, HEA	Lot 6 Section 2 Westmoreland
3241100007	WANG, WELLINGTON JR & STACY A	Lot 7 Section 2 Westmoreland
3241600021	WELLS, DENNIS W & MARY JANE P	Lot 21 Section 3 Westmoreland
3241600001A	WESTMORELAND OWNERS ASSOCIATION	Open Space S-3 Westmoreland
3241100001B	WESTMORELAND OWNERS ASSOCIATION	Open Space/Coservation Easement S-2 Westmoreland
3241100001	WORD, JAMES T & AUDREY A	Lot 1 Section 2 Westmoreland
3241100017	YOUNG, ROBERT B. AND CLARISSA C., AND THEIR SUCCESSORS AS TRUSTEES, OF TE ROBERT B. AND CLARISSA C. YOUNG JOINT REVOCABLE TRUST NO. 1 DATED FEBRUARY 3, 1993	Lot 17 Section 2 Westmoreland

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
 This document was admitted to record on 11 June 2012
 at 2:24 AM/PM. The taxes imposed by Virginia Code
 Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk