

044072

(Part of) Tax Parcel No. 11-046.00-028
This instrument prepared by and to be
returned to: Richard P. Beck, Esquire
Morris, James, Hitchens & Williams
P.O. Box 2306, Wilmington, DE 19899

97 APR 25 P 4: 07.0

RECORDS & CLERK
OFFICE OF DEEDS
NEW CASTLE CO. DE

BRENNAN ESTATES

BK 2262 PG 0167

**FIRST AMENDMENT
TO
DECLARATION OF RESTRICTIONS**

WHEREAS, by Declaration of Restrictions dated October 14, 1996 (the "Declaration"), recorded in the Office of the Recorder of Deeds in and for New Castle County, Delaware, in Deed Book 2185, Page 247, Blenheim Brennan, L.L.C., a Delaware limited liability company ("Declarant"), imposed certain restrictive covenants, easements and agreements upon and with respect to Lots 106 through and including 342 (the "Lots"), and all streets, drainage areas and open spaces (hereinafter collectively "Common Area") appurtenant thereto, as shown on Microfilm No. 12612 (the "Plan") in the Office aforesaid, and as outlined on a portion of the Plan appended as Exhibit "A" to the Declaration (such Lots and Common Area being collectively called "Brennan Estates, Phase 1" or the "Community" or the "Planned Unit Development"); and

WHEREAS, in order to satisfy certain requirements imposed by one or more agencies of the federal government (Department of Housing and Urban Development, hereinafter "HUD", and Veterans Administration, hereinafter "VA", being collectively called "HUD/VA") as a condition of insuring homeowner mortgages on Lots, certain provisions must be added to the Declaration, and certain clarifications of the Declaration should be made; and

WHEREAS, Declarant reserved the right to amend the Declaration so long as Declarant holds title to at least twenty-five percent (25%) of the Lots, and Declarant continues to hold title to all of the Lots;

6/9/52

NOW, THEREFORE, intending hereby for itself, its successors, assigns, grantees and all subsequent Lot Owners, legal or equitable ("Owners") to be legally bound under seal, and further intending that the Declaration as hereby amended shall impose covenants, reservations, restrictions, easements, limitations and agreements upon the Community which shall run with the land, Declarant hereby amends the Declaration as follows:

A. Legal Description. A legal description for the Community (e.g., the Planned Unit Development), expressed in terms of courses and distances is appended hereto as Exhibit 1 and made a part hereof and of the Declaration by reference.

B. Required Consents. Notwithstanding any other provision to the contrary, so long as the Declarant, its successors or assigns (not including, however, Declarant's grantees in the ordinary course of selling Lots to third party homebuyers) has a majority vote or otherwise controls such matters, annexation of additional properties, dedication of Common Area (except as and when required by applicable law), further amendment of the Declaration insofar as it is applicable to the Community or Planned Unit Development, and amendment to the Bylaws of the Brennan Estates Homeowners Maintenance Corporation (the "Association"), but only insofar as applicable to Community and Lot Owners therein as defined in the Declaration, shall require HUD/VA prior approval whenever any mortgage against any Lot is insured by HUD/VA (an "insured mortgage"). Notwithstanding any other provision to the contrary, any further amendment to the Declaration or to the Corporation's Articles of Incorporation, and any future mortgaging or conveyancing of Common Area (except conveyance by Declarant to the Association) shall require at least a two-thirds (2/3) vote of the Lot Owners in the Community

other than Declarant, its successors or assigns, as defined in the Declaration, whenever any mortgage against any such Lot is insured by HUD/VA.

C. Clarifications/Confirmations. Without implying that the Declaration as previously recorded provided otherwise, Declarant hereby confirms that (i) all Lots in the Community or Planned Unit Development are and shall be subject to the covenants and other provisions of the Declaration as hereby amended and are subject to the Maintenance Declaration recorded against Brennan Estates for the benefit of New Castle County when the Plan was approved; (ii) every Owner has a right and easement of enjoyment to the Common Area, which right and easement of enjoyment is and shall be appurtenant to each Owner's title to his, her or its Lot or Lots; (iii) the lien of any assessment, and any other lien obtained under or pursuant to the Declaration and the Maintenance Declaration is and shall be subordinate to the lien of any first mortgage against any Lot; (iv) mortgagees are not and shall not be required to collect assessments; (v) neither the Declaration, the Maintenance Declaration, nor the Association's Articles of Incorporation or Bylaws does or shall make an Owner's failure to pay assessments a default under such Owner's mortgage against his, her or its Lot; (vi) each Lot Owner is and shall be assured automatic membership and voting rights in the Association with respect to the Community; (vii) each Lot Owner is and shall be empowered to enforce the Declaration with respect to the Community in accordance with its terms and conditions; (viii) if ingress or egress to any residence is through any Common Area, conveyance or encumbrance of such Common Area is and shall be subject to an easement providing for and preserving such right of ingress and egress; (ix) absolute liability is not and shall not be imposed on Lot Owners for damage to any Common Area or Lot in the Community; and (x) the Declarant's special voting rights and

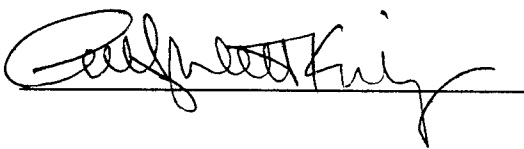
control over the Community shall cease and the Declarant shall have the same vote with respect to the Community as any other Owners of Lots in the Community upon the earlier of (a) conveyance of seventy-five percent (75%) of the Lots in the Community to third party homeowners, or (b) the expiration of three (3) years from the date when the first such Lot was conveyed; provided, that nothing herein shall affect the Declarant's special voting rights and control with respect to, and/or based on, any lots or lands in Brennan Estates located outside of the Community.

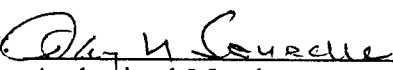
D. Effect of Amendment. As hereby amended, the provisions of the Declaration are hereby ratified and confirmed. Nothing herein shall affect any Lots, Common Area or other portions of Brennan Estates lying outside the Community as defined and delineated in the Declaration, and described in Exhibit 1 to this Amendment.

IN WITNESS WHEREOF, Declarant has caused this First Amendment to be duly executed, sealed, witnessed, acknowledged and delivered for recordation, as of this 9th day of April, 1997.

In the Presence of:

BLENHEIM BRENNAN, L.L.C.



By:  (SEAL)
Authorized Member

STATE OF DELAWARE)
: SS.
NEW CASTLE COUNTY)

BE IT REMEMBERED, that on this 9th day of April, 1997, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, Jay N. Sonecha, Authorized Member of Blenheim Brennan, L.L.C., a Delaware limited liability company, party to this Indenture, personally known to me to be such, and acknowledged this Indenture to be his act and deed and the act and deed of said limited liability company, that the signature of the Authorized Member thereto is in his own proper handwriting, and that his act of sealing, executing, acknowledging and delivering said Indenture was duly authorized by the limited liability company.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Dana A. Mattia
Notary Public **DANA A. MATTIA**
Print Name: **NOTARY PUBLIC, DELAWARE**
My Commission Expires: ~~APPOINTED MAY 18, 1995~~
~~EXPIRES MAY 17, 1999~~

EXHIBIT 1

BEGINNING at the point of intersection of the northeasterly side of Brennan Boulevard (80 foot wide right-of-way) with the northwesterly side of a 60 foot wide Delmarva Power Company right-of-way; thence from said point of Beginning along said northeasterly side of Brennan Boulevard the following two (2) described courses and distances: (1) North 42 degrees 01 minutes 00 seconds West, 37.91 feet to a point of curvature, and (2) northwesterly along a 1,340.00 feet radius curve to the left, said curve having a chord bearing of North 59 degrees 39 minutes 43 seconds West, and a chord distance of 812.37 feet, an arc distance of 825.35 feet to a point; thence leaving said northeasterly side of Brennan Boulevard through lands designated "Private Open Space", in part, and along lands of "Amberwood"--Microfilm No. 10313, in part, North 03 degrees 08 minutes 12 seconds West, 1,225.49 feet to a point, a corner in common with "Amberwood Section 3"--Microfilm No. 12523; thence along lands of said "Amberwood Section 3", North 83 degrees 58 minutes 48 seconds East, 2,415.88 feet to a point along the southwesterly side of Delaware State Route 896 (width varies); thence thereby the following two (2) described courses and distances: (1) southeasterly along a 11,174.16 feet radius curve to the right, said curve having a chord bearing of South 03 degrees 36 minutes 11 seconds East and a chord distance of 178.50 feet, an arc distance of 178.50 feet to a point of tangency, and (2) South 03 degrees 08 minutes 44 seconds East, 956.66 feet to a point, a corner in common with lands designated "Lands Dedicated to Delaware Department of Transportation for Future Interchange by This Plan"; thence along said lands designated "Lands Dedicated to Delaware Department of Transportation for Future Interchange by This Plan", the following two (2) described courses and distances: (1) southwesterly along a 816.47 feet radius curve to the right, said curve having a chord bearing of South 11 degrees 12 minutes 04 seconds West, and a chord distance of 404.62 feet, an arc distance of 408.88 feet to a point, and (2) South 25 degrees 32 minutes 51 seconds West, 267.88 feet to a point along the aforementioned northwesterly side of a 60 foot wide Delmarva Power Company right-of-way; thence thereby South 84 degrees 27 minutes 17 seconds West, 1,485.55 feet to the point and place of Beginning.