

CEDAR POINTE WATER ASSOCIATION

THIS AGREEMENT, made this ____ day of ____, 1989, by and between ROBERT B. BRAGG, III and BARBARA M. BRAGG, husband and wife, ("Braggs"), parties of the first part, and _____, ("lot owners"), parties of the second part,

W I T N E S S E T H :

WHEREAS, the Braggs are developing a subdivision in White Stone Magisterial District, Lancaster County, Virginia, known as "Cedar Pointe"; and

WHEREAS, the Braggs have installed a water system in the subdivision; which water system consists of one or more well facilities at least one of which is located on the northwest corner of Lot #19 in the Cedar Pointe subdivision and the other shall be located on Lot #19 close to the utility easement or on another lot in the Cedar Pointe subdivision, together with the pipes, pumps, and other equipment necessary to operate a water system; and

WHEREAS, the parties desire to create an understanding as to the management and operation of the water system described above;

WHEREAS, the parties hereto intend that this agreement between them shall be a covenant running with the respective

lands of the parties hereto;

NOW, THEREFORE, the Braggs and the lot owners in consideration of the mutual benefits accruing to the parties do hereby agree as follows:

1. The Braggs do hereby agree to install a good and sufficient water system to supply water to twenty lots in the subdivision for reasonable domestic use, including, without limitation private swimming pools, upon sale of all the lots in the subdivision or upon the commencement of construction on any one (1) lot in the subdivision, whichever occurs first. The parties of the first part have installed one well facility to supply water to ten lots in the subdivision. Once there have been ten hook-ups to the water system, the parties of the first part shall install an additional well facility to serve the remaining ten hook-ups provided for herein. The 20th lot has not been platted, but shall be located north of Lot #18 in the subdivision. At which time, the water system shall consist of two well facilities, together with the pipes, pumps, and other equipment necessary to operate a water system and shall operate as two separate systems to satisfy the requirements of the State Health Department for private community water systems. In lieu of installing the second well facility described herein, the Braggs shall have the option of bringing the first well facility to state specifications for a public water system with adequate storage and capacity to serve the 20 hook-ups.

2. The lot owners agree to pay to the Braggs a hook up fee to be determined by the Braggs for the central water system in the subdivision, upon the signing of this agreement, and do agree to use the water system.

3. The Braggs agree that there shall be no more than twenty hook-ups on the water system.

4. The lot owners by becoming parties to this agreement have become owners of a fractional interest in the water system, their interest being that expressed by a fraction of which the numerator is one and the denominator is the number of lot owners in Cedar Pointe who have become owners of a fractional interest in the water system by signing agreements with the Braggs. Each cotenancy shall count as a single lot owner. The parties hereto agree that the Braggs shall have the right to add other lot owners in Cedar Pointe as fractional owners in the water system, thereby varying the fractional ownership of the lot owners under this agreement from time to time; provided, however, that no more than twenty owners shall become owners of fractional interests in the water system (viz. the smallest fractional ownership shall be $1/20$). Provided further, that the Braggs shall have a right to acquire fractional interests in the water system by paying the required hook up fee and signing an agreement with themselves for any lots in Cedar Pointe which are owned by them, subject to the overall twenty lot limitation.

5. All lot owners who own a fractional interest in the water system shall be members of the association, with one vote being allotted to each lot in Cedar Pointe served by the water system.

6. There shall be an annual meeting of the association to be held in January of each year at which a manager of the association shall be elected to serve for the term of one year or until such time as his successor has been elected. The outgoing manager shall serve as the assistant manager. At the first meeting of the association both the manager and the assistant manager shall be elected.

7. At each annual meeting the outgoing manager shall give a financial report of the income and expenses of the association for the previous year and shall also present to the association such other matters as would be of interest to the efficient and proper operation of the water system.

8. Notice of the annual meeting or any special meeting shall be given in writing at the last known address of the lot owners at least fourteen days in advance to each of the lot owners by the manager. At least 1/3 of the lot owners shall be present in person or by proxy in order that a quorum be present to transact business. The manager or lot owners holding a total of at least three votes in the association may call a special meeting by giving notice according to this paragraph. Meetings shall be held at a convenient place in the Cedar Pointe subdivision. A majority of those present at

a meeting having a quorum shall determine all issues to come before the association at that meeting.

9. There shall be an annual fee established by the association and collected by the manager and placed in a separate special account for such purpose to pay the ongoing operating costs of the water system. This amount may be changed at any annual or special meeting of the association.

10. Until such time as the annual fee has been established by the association, the ongoing operating costs and maintenance of the water system shall be paid equally by all lot owners hooked on and using the water system. However, no lot owner hooked on and using the water system shall be required to pay more than \$300.00 per year, except as herein provided, for the costs of ongoing operation and maintenance. The \$300.00 in payments shall be applied first to ongoing operating costs (i.e. electricity charges) and then to general maintenance of the water system. Should repairs be necessary for which the annual operating and maintenance fees are not sufficient to cover, the costs of these repairs shall be paid in equal shares by all lot owners who are members of the association whether actually using the system or not.

11. Special assessments may be levied by the manager for purposes necessary to the operation of the system which would include, but are not limited to, such extraordinary expenses as major repairs of the equipment, replacement of

any equipment, or additional equipment as may be required by the county, state or other governmental agencies. Special assessments shall not exceed the sum of \$100.00 per year, for each lot owner. If the manager believes that a larger special assessment is required then a special meeting shall be called for considering the special assessment and the decision of the lot owners at such meeting shall be binding upon the manager.

12. The Braggs and the successor association shall have the right to discontinue temporarily the flow of water in the mains at all points of delivery in order to repair, maintain, improve or replace the mains, pumps, wells, or other parts of the water system.

13. The maintenance of the pipe from the central mains to each of the lot owner's point of connection shall be borne by the respective lot owner and shall not be the responsibility of the association. Each lot owner agrees that all leaks and other water failure on the property of each lot owner shall be fixed immediately so as not to endanger the water supply to the other lot owners or to put an undue burden on the equipment of the water system.

14. The obligation of the Braggs, their successors and assigns, including, without limitation, the association, to furnish water service hereunder is limited to the capacity, quantity, and quality of water that the parties of the first part, their successors and assigns, including, without

limitation, the association shall have available from the proposed well and water system. The Braggs, their successors and assigns, including, without limitation, the association, shall be responsible only to make available to the lot owners, their successors and assigns, such water at such pressure and of such quality as may be available at the point of delivery from time to time as a result of the normal operation of the water distribution system proposed hereunder.

15. The lot owners, for themselves, their successors and assigns, shall not assert any claim hereunder against the Braggs, their successors or assigns, including, without limitation, the association, for any loss or damage which may result from the inadequacy, quality, or non-availability of water, as to both pressure, quality and quantity from the water system.

16. In the event that any lot owner does not pay his annual fee or special assessment as provided for in this agreement within ninety days of the date of such payment is due, or is otherwise not in compliance with the terms of this agreement, then the water service to that lot owner shall be disconnected and shall not be reconnected until such fees and assessments are paid in full as well as a reconnection fee of \$100.00. Each lot owner gives the manager or assistant manager of the association the right to enter upon his or her property for the purposes of disconnecting the water supply

in the event of such nonpayment or noncompliance with the terms of this agreement.

17. The rights and obligations under this agreement shall pass to each purchaser or grantee of the land now owned by the undersigned lot owners. The rights hereunder shall pass with the deed of conveyance without further action by either the association or the purchaser. The rights in and to the water system are an appurtenance to the property to each of the lot owners and by the acceptance of the recordation of the deed of conveyance the new lot owner is deemed to be obligated to the payment fees and assessments herein and to be a recipient of the benefits of the water system.

18. The Braggs shall have the right to drill and operate any additional wells necessary to operate the water system efficiently. The necessity for additional wells shall be determined solely by the Braggs.

19. The parties hereto do further grant unto each other non-exclusive easements in, over and upon their respective properties, to be used in common with others for the continued maintenance and operation, including repairs and replacement of the aforesaid well or wells, pumping equipment, other equipment and water mains, including the right to enter upon the property where such equipment and mains are located for the purpose of maintenance, repair, operation and replacement of the water system, which

easements and profits shall be appurtenant to all properties served thereby.

20. The parties hereto agree that this agreement, in conjunction with the other agreements made pursuant to paragraph #4 hereunder, shall constitute the Articles of Association of the Cedar Pointe Water Association.

WITNESS the following signatures and seals:

_____(SEAL)
ROBERT B. BRAGG, III

_____(SEAL)
BARBARA M. BRAGG

_____(SEAL)

_____(SEAL)

STATE OF VIRGINIA
COUNTY OF LANCASTER, to-wit:

The foregoing instrument was acknowledged before me this
____ day of _____, 1989, by Robert B. Bragg, III.

My commission expires: _____.

Notary Public

STATE OF VIRGINIA
COUNTY OF LANCASTER, to-wit:

The foregoing instrument was acknowledged before me this
____ day of _____, 1989, by Barbara M. Bragg.

My commission expires: _____.

Notary Public

STATE OF VIRGINIA
COUNTY OF LANCASTER, to-wit:

The foregoing instrument was acknowledged before me this
____ day of _____, 1989, by _____.

My commission expires: _____.

Notary Public

STATE OF VIRGINIA
COUNTY OF LANCASTER, to-wit:

The foregoing instrument was acknowledged before me this
____ day of _____, 1988, by _____.

My commission expires: _____.

Notary Public

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