

**CPS-7 APPLICATION**

**WOODSCAPE NORTH HOMEOWNERS ASSOCIATION II INC.**

**PROPERTY LOCATED IN THE TOWN OF MOREAU,  
COUNTY OF SARATOGA, STATE OF NEW YORK**

**NUMBER OF LOTS/HOMES:** 53

**VALUE OF ASSOCIATION PROPERTY:** \$10,000

**SPONSOR:** THE MICHAELS GROUP, LLC  
10 BLACKSMITH DRIVE  
MALTA, NY 12020

**THIS COOPERATIVE POLICY STATEMENT #7 (CPS-7) APPLICATION IS THE SPONSOR'S ENTIRE OFFER TO SELL MEMBERSHIP INTERESTS IN WOODSCAPE II HOMEOWNERS' ASSOCIATION, INC. NEW YORK STATE LAW REQUIRES THAT SPONSOR PROVIDE ALL OF THE MATERIAL INFORMATION CONTAINED IN THIS APPLICATION PRIOR TO SELLING OR OFFERING TO SELL ANY MEMBERSHIP INTERESTS. FILING WITH THE NEW YORK STATE DEPARTMENT OF LAW DOES NOT MEAN THAT THE DEPARTMENT OR ANY OTHER GOVERNMENT AGENCY HAS APPROVED THIS APPLICATION.**

**DATE OF ACCEPTANCE FOR FILING:** \_\_\_\_\_

**CPS-7 APPLICATION FILE NUMBER:** \_\_\_\_\_



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO  
Attorney General

ERIC CORNGOLD  
Executive Deputy Attorney General  
Division of Economic Justice

KENNETH E. DEMARIO  
Bureau Chief  
Real Estate Finance Bureau

Donald Zee, Esq.  
1 Winners Circle, Suite 140  
Albany, New York 12205

July 10, 2009

Re: Woodscape North II Homeowner's Association, Inc.  
Woodscape Drive, Moreau, New York  
Saratoga County, New York  
File No.: HO-09-0009

Dear Mr. Zee :

The Department of Law is in receipt of your application for CPS-7 treatment dated February 6, 2009, for the above-captioned homeowner's association.

Based upon the affidavit and supporting documentation submitted by you in connection with the application, such CPS-7 treatment is granted as of our date of receipt of February 9, 2009. Accordingly, no enforcement action will be taken against you for failure to file an offering plan in compliance with General Business Law Section 352-e, provided that you are in full compliance with your representations made in the CPS-7 application.

The granting of CPS-7 treatment is on such terms and conditions as the Department of Law may impose, in its discretion, in order to protect the public interest. It is based solely on the information provided in the application. Any material misstatement or omission of a material fact in the application may render the CPS-7 treatment void ab initio and may subject you to enforcement action.

The granting of this CPS-7 treatment shall not be construed to be a waiver of, or limitation on, the Attorney General's authority to take enforcement action for violations of Article 23-A of the General Business Law and other applicable provisions of law.

Very Truly yours,



Joseph A. Wilson  
Assistant Attorney General

FILING RECEIPT

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ENTITY NAME: WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.

DOCUMENT TYPE: INCORPORATION (NOT-FOR-PROFIT)

TYPE: A COUNTY: SARA

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FILED: 08/15/2008 DURATION: PERPETUAL CASH#: 080815000265 FILM #: 080815000244

FILER:

EXIST DATE

-----  
DONALD ZEE, P.C.  
1 WINNERS CIRCLE - SUITE 140

COPY

-----  
08/15/2008

ALBANY, NY 12205

ADDRESS FOR PROCESS:

-----  
THE CORPORATION  
C/O DONALD ZEE, P.C.  
ALBANY, NY 12205

1 WINNERS CIRCLE, SUITE 140

REGISTERED AGENT:



=====

SERVICE COMPANY: \*\* NO SERVICE COMPANY \*\*

SERVICE CODE: 00

=====

FEES	75.00
FILING	75.00
TAX	0.00
CERT	0.00
COPIES	0.00
HANDLING	0.00

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PAYMENTS	75.00
CASH	0.00
CHECK	75.00
CHARGE	0.00
DRAWDOWN	0.00
OPAL	0.00
REFUND	0.00

=====

DOS-1025 (04/2007)

COPY

CERTIFICATE OF INCORPORATION  
OF  
WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.

Under Section 402 of the Not-for-Profit Corporation Law

The undersigned, for the purpose of forming a corporation under Section 402 of the Not-for Profit Corporation Law, hereby certifies:

1. The name of the corporation is Woodscape North Homeowners' Association II, Inc.
2. The corporation is a corporation as defined in subparagraph (a) (5) of Section 102 (Definitions) of the Not-for-Profit Corporation Law. The corporation has not been formed for pecuniary profit or financial gain, and no part of the assets, income, or profit of the corporation is distributable to, or inure to the benefit of, its members, directors, or officers except to the extent permitted under the Not-for-Profit Corporation Law.
3. The purpose or purposes for which the corporation is to be formed are to provide for the maintenance, preservation, and architectural control of the real property in the Town of Moreau, County of Saratoga, and State of New York, known as "Woodscape Phase 2" subdivision, and to promote the health, safety and welfare of the residents of the subdivision within which the above-described property is located and any additions thereto as may hereafter be brought within the jurisdiction of the corporation for this purpose of annexation, as provided for in the Declaration (as hereinafter defined), and for this purpose to:
  - a. Exercise all of the powers and privileges and to perform all of the duties and obligations of the corporation; and as the same may provide, said Declaration being incorporated herein as if set forth at length;
  - b. Fix, levy, collect, and enforce payment of, by any lawful means, all charges or assessments pursuant to and to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the corporation, including all licenses, taxes, or governmental charges levied or imposed against the property of the corporation;
  - c. Acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the corporation subject to the zoning regulations of the Town of Moreau;



- d. Borrow money, and with assent of two-thirds (2/3) of the members, mortgage, pledge, encumber, or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred;
  - e. Dedicate, sell, or transfer all or any part of its property or any interest therein to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided that no such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of the members agreeing to such dedication, sale, or transfer;
  - f. Participate in mergers and consolidations with other not-for-profit corporations organized for the same purposes, or annex additional residential property and common areas and reserve for the common use and enjoyment of its members; provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of the members; and
  - g. Have and to exercise any and all powers, rights and privileges which a corporation organized under the Not-for-Profit Corporation Law of the State of New York by law may now or hereafter have or exercise.
- 4. In addition to the foregoing corporation purposes, the corporation shall have all of the general powers set forth in Section 202 of the Not-for-Profit Corporation Law, together with the power to solicit and receive grants, bequests, and contributions for the corporate purposes.
  - 5. Notwithstanding any other provision of these articles, the corporation is organized and operated exclusively to provide for the acquisition, construction, management, maintenance, and care of the corporate property, as specified in Section 528 (c) (1) (A) and 528 (c) (3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a "residential real estate management association" exempt from Federal income tax under Sections 528 (a), 528 (c) (1) (A), and 528(c) (3) of the Internal Revenue Code of 1954, as amended.
  - 6. No substantial part of the activities of the corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, or participating in, or intervening in (including the publication or distribution of statements), and political campaign on behalf of any candidate for public office.
  - 7. The corporation is a Type A corporation as defined in Section 201 of the Not-for-Profit Corporation Law.
  - 8. The office of the corporation will be located in Saratoga County, New York.
  - 9. Every person or entity who is a record owner of a fee or undivided fee interest (an "Owner") in any plot of land (a "Lot") shown upon the Map of the

subdivision, including contract sellers, shall be a member of the corporation. The foregoing is not intended to include persons or entities who hold any interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from the ownership of any Lot which is subject to assessment by the corporation.

10. The names and addresses of the initial directors under the first annual meeting are:

John H. Michaels            10 Blacksmith Drive, Malta, New York 12020

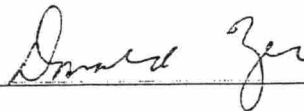
J. David Michaels           10 Blacksmith Drive, Malta, New York 12020

Heidi A. Harkins            10 Blacksmith Drive, Malta, New York 12020

11. The affairs of the corporation shall be managed by a board of not less than three (3) or more than five (5) directors. The number of directors may be changed by amendment of the Certificate of Incorporation.
12. The meetings of the Board of Directors shall be held only in the State of New York.
13. The corporation may be dissolved upon the written and signed assent of not less than two-thirds (2/3) of the members. Upon dissolution of the corporation, other than incident to a merger or consolidation, all of the remaining assets and property of the corporation shall, after necessary expenses thereof, be distributed to such organizations as shall qualify under Section 528 (c) (1) (A) or 528 (c) (3) of the Internal Revenue Code of 1954, as amended, subject to an order of a Justice of the Supreme Court of the State of New York; or the federal government, or to a state or local government, for a public purpose; or to another organization to be used in such a manner as in the judgment of a Justice of the Supreme Court of the State of New York will best accomplish the general purposes for which this corporation was formed.
14. Amendment to this Certificate of Incorporation shall require the assent of two-thirds (2/3) of the members.
15. The Secretary of State of the State of New York shall be designated as the agent of the corporation under whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process served upon him is as follows:
- Woodscape North Homeowners' Association II, Inc.  
c/o Donald Zee, P.C.  
1 Winners Circle, Suite 140  
Albany, New York 12205
16. Nothing contained in this certificate shall authorize or empower the corporation to perform or engage in any act or practice prohibited by the General Business Law, Section 340 or any anti-monopoly statute of the State of New York.

17. The incorporator is eighteen years of age or over.

IN WITNESS WHEREOF, this Certificate has been signed by the Incorporator this 13<sup>th</sup> day of August, 2008.

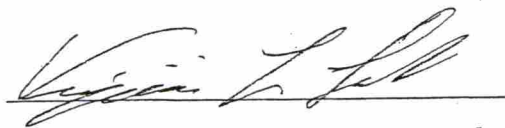


Donald Zee, Esquire  
Donald Zee, P.C.  
I Winners Circle - Suite 140  
Albany, New York 12205

STATE OF NEW YORK }

COUNTY OF ALBANY } ss.:

On this 13<sup>th</sup> day of August, 2008, before me, the undersigned, a notary public in and for said state, personally appeared Donald Zee, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public - State of New York

VIRGINIA L. LAMB  
Notary Public, State of New York  
No. 479668  
Qualified in Schoharie County  
Commission Expires June 9, 2011



CERTIFICATE OF INCORPORATION  
OF  
WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.

Under Section 402 of the  
Not-for-Profit Corporation Law

Donald Zee, P.C.  
I Winners Circle - Suite 140  
Albany, NY 12205  
(518) 489-9423



Saratoga County - State of New York  
Kathleen A. Marchione - SARATOGA COUNTY CLERK  
COUNTY CLERKS RECORDING PAGE  
THIS PAGE IS PART OF THE INSTRUMENT



RECEIPT NO. : 2007211306924

Instr #: 2007030865  
Rec Date: 08/09/2007 11:34:12 AM  
Doc Grp: D  
Descrip: DEED  
Num Pgs: 4

Party1: BAKER G ROBERT  
Party2: MICHAELS GROUP LLC

Recording:

Pages	9.00
Cover Sheet Fee	10.00
Recording Fee	5.00
Names	0.50
TP 584	5.00
RP 5217 - County	9.00
RP 5217 - State - All Oth	156.00
Education Fee	20.00

Revenue Stamp Amount 1520.00

Total: 1734.50

\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*

\*\*\*\*\* Transfer Tax \*\*\*\*\*

Transfer Tax# : 215

Consideration: 380000.00  
Transfer Tax: 1520.00

Record and Return To:

TOBIN AND GRIFFERTY  
678 TROY SCHENECTADY RD  
LATHAM NY 12110

2103-30459

#1520

NY DEED - Executor's

2007030865

8/9/2007 11:34:12 AM

DEED

Kathleen A Marchione Saratoga Co Clerk

RECORDED

THIS INDENTURE, Made the 3<sup>rd</sup> day of August, 2007,

BETWEEN G. ROBERT BAKER residing at 35 Potter Road, Gansevoort, New York, as executor of the Estate of George R. Baker, late of the Town of Moreau, Saratoga County, New York, deceased,

Party of the first part, and

THE MICHAELS GROUP, LLC, a New York corporation with its principal office at 10 Blacksmith Drive, Malta, New York,

Party of the second part,

That the Party of the first part, by virtue of the power and authority given in and by the said Last Will and Testament, and in consideration of \$380,000.00 lawful money of the United States, and other good and valuable consideration paid by the Party of the second part, does hereby grant and release unto the Party of the second part, its heirs, successors and assigns forever,

See Schedule A annexed hereto

TOGETHER with the appurtenances and also all of the estate which the said Testator had at the time of his decease, in said premises, And also the estate therein, which the Party of the first part has power to convey or dispose of, whether individually, or by virtue of said Will or otherwise.

TO HAVE AND TO HOLD the premises herein granted unto the Party of the second part, its heirs, successors and assigns forever.

AND said Party of the first part covenants that he has not done or suffered anything whereby the said premises have been encumbered in any way whatever.

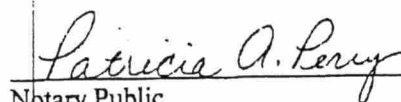
That in compliance with Section 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements and will apply the same first to the payment of the cost of the improvements before using any part of the total of the same for any other purpose.

IN WITNESS WHEREOF, the Party of the first part has executed this Deed on the day and year first above written.

  
G. Robert Baker, Executor

STATE OF NEW YORK )  
COUNTY OF SARATOGA) ss.:

On the 3<sup>rd</sup> day of August, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared **G. ROBERT BAKER**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

  
Notary Public

Patricia A. Perry  
Notary Public, State of New York  
Warren County-No. 4769393  
My Commission Expires 2/28/2011

ALL THAT TRACT OR PARCEL OF LAND situate, lying and being in the Town of Moreau, County of Saratoga and State of New York, on a map entitled "Woodscape Residential Cluster Subdivision Phase II", prepared for The Michael's Group L.L.C., dated February 23, 2006 and last revised April 27, 2006, as prepared by Ivan Zdrahal Associates, PLLC Engineering and Planning and filed In the Saratoga County Clerk's Office on March 21, 2007 as Map W-439 A-M.

Being a portion of the same premises described in a deed to George R. Baker from Glens Falls National Bank dated November 1, 1977 and recorded in the Saratoga County Clerk's Office November 9, 1977 in Book 976 of Deeds at Page 1105.

Also being a portion of the same premises described in a deed to George R. Baker from Elizabeth Baker, Eleanor Longcor, David Barrows, Paul Barrows, Dale Barrows, Roger Barrows, Joyce Barile and Nora Baker dated January 18, 1988 and recorded in the Saratoga County Clerk's Office on September 15, 1988 in Book 1243 of Deeds at Page 175.

George R. Baker died a resident of the Town of Moreau, Saratoga County, New York on June 21, 1990. The Last Will and Testament of George R. Baker dated September 8, 1989 was admitted to probate in Surrogate's Court of Saratoga County on October 9, 1990.

Exception therefrom:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Moreau, County of Saratoga and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Reservoir Road at the northwest corner of the parcel of property described in a Deed from Raymond Jacobie and Grace M. Jacobie, his wife to George R. Baker and Charles H. Baker dated March 30, 1910 and recorded in the Saratoga County Clerk's Office on March 31, 1910 in Book 273 of Deeds at page 111 and running from said point of beginning in a southwesterly direction along the westerly boundary of the premises described in the previously mentioned Deed for a distance of 1107 feet to a point; thence in a easterly direction for a distance of 1060.97 feet to a point; thence in a northerly direction for a distance of 782.77 feet to a point in the southerly bounds of Reservoir Road; thence in a westerly direction along the southerly bounds of Reservoir Road for a distance of 278.20 feet to the point or place of beginning. Containing 12.013 acres be the same more or less.


Schedule A (Description)

**RECORD AND RETURN TO:**  
Tobin and Grifferty, P.C.  
678 Troy-Schenectady Road  
Latham, NY 12110



Saratoga County  
COUNTY CLERK'S RECORDING PAGE

RECEIPT NO.: 001063336

INDEXED BY: 

SCANNED BY:

RECORDING:	
Cost Filing Fee (RCD Deed)	5.00
Cover Sheet Fee (Deed)	10.00
Education Fee	20.00
RP5217 Fee	165.00
TP584 Fee (Filing Fee)	5.00
Transfer Tax Fee	960.00
Markoffs	
Names	.50
Pages	6.00

TOTAL: 1,171.50

\*\*\*\*\*NOTICE: THIS IS NOT A BILL \*\*\*\*\*

STATE OF NEW YORK  
SARATOGA COUNTY CLERK

RECORDED ON 11/09/2005 AT 13:53:00

IN BOOK OF DEEDS PAGE 00128 OF 01738

Kathleen A. Marchione  
SARATOGA COUNTY CLERK

BOOK OF DEEDS

BOOK 01738 PAGE 00128

NO. PAGES 2

INSTRUMENT CODE: DEDC

INSTRUMENT NO.: 200602604

TRANSFER TAX

Transfer Tax 960.00

Transfer Tax# 200602604

THIS PAGE IS PART OF THE INSTRUMENT

2503-30461

**EXECUTOR'S DEED**

THIS INDENTURE made this 30<sup>th</sup> day of September, in the year 2005,

BETWEEN

**JEANNE E. BAKER, As Executrix of the Estate of Elizabeth Baker,**  
residing at 8 First Street, South Glens Falls, NY 12803,

Party of the First Part, and

**THE MICHAELS GROUP, LLC.,** a Corporation with offices at 10 Blacksmith Drive,  
Malta, NY 12020,

Party of the Second Part.

**WITNESSETH**, that the party of the first part, by virtue of the power and authority to her given in and by the said Last Will and Testament of Elizabeth Baker, and in consideration of Two Hundred Forty Thousand Dollars (\$240,000.00) lawful money of the United States, paid by the party of the second part, does hereby grant, convey and release unto the party of the second part, their heirs and assigns forever:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Moreau, County of Saratoga and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Reservoir Road at the northwest corner of the parcel of property described in a deed from Raymond Jacobie and Grace M. Jacobie, his wife, to George R. Baker and Charles H. Baker dated March 30, 1910 and recorded in the Saratoga County Clerk's Office on March 31, 1910 in Book 273 of Deeds at Page 111, and running from said point of beginning in a southwesterly direction along the westerly boundary of the premises described in the previously mentioned deed for a distance of 1107' feet to a point; thence in an easterly direction for a distance of 1060.97' feet to a point; thence in a northerly direction for a distance of 782.77' feet to a point in the southerly bounds of Reservoir Road; thence in a westerly direction along the southerly bounds of Reservoir Road for a distance of 278.20' feet to the point or place of beginning. Containing 12.013 acres be the same more or less.

BEING the same premises conveyed by George R. Baker to Elizabeth Baker by deed dated September 2, 1988, and recorded in the Saratoga County Clerk's Office on September 15, 1988 in Book 1243 of Deeds at Page 179.

Elizabeth Baker died September 6, 2003. Jeanne Baker was duly appointed Executrix of the Estate of Elizabeth Baker and Letters Testamentary issued by Saratoga County Surrogate's Court on October 14, 2003.

**TOGETHER** with the appurtenances, and also all the estate which the said Testatrix had at the time of her decease, in said premises, and also the estate therein, which the party of the first part has or had power to convey or dispose of, whether individually, or by virtue of said Will or otherwise.

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, their heirs and assigns forever.

**AND** the party of the first part covenants that she has not done or suffered anything whereby the said premises have been encumbered in any way whatever.

RECORDED AND RETURNED  
TOBIN AND GRIFFERTY  
1 EXECUTIVE CENTRE DRIVE  
ALBANY, NY 12203

1738 PG: 0128

FILED 11/09/2005 1:53 PM  
Volume 01738 Page 00128  
Saratoga County Clerk  
1200602604


THAT, in compliance with Sec. 13 of the Lien Law, the grantor will receive consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

IN WITNESS WHEREOF, the party of the first part has hereunto set her hand and seal the day and year first above written.

  
JEANNE E. BAKER, Executrix  
L.S.

STATE OF NEW YORK )  
):SS:  
COUNTY OF WARREN )

On this 30<sup>th</sup> day of September, 2005, before me, the undersigned, personally appeared JEANNE E. BAKER, Executrix of the Estate of Elizabeth Baker, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public  
WILLIAM A. BACAS  
Notary Public, State of New York  
Qualified in Warren County  
No: 0123225 Expires: 9/30/07

R&R:

RECORD AND RETURN TO:  
TOBIN AND GRIFFERTY  
1 EXECUTIVE CENTRE DRIVE  
ALBANY, NY 12203

**DECLARATION  
OF  
PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS,  
EASEMENTS, CHARGES AND LIENS  
OF  
WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.**

**SPONSOR:**                   **THE MICHAELS GROUP, LLC  
10 BLACKSMITH DRIVE  
MALTA, NEW YORK 12020**

**DATE OF DECLARATION:** \_\_\_\_\_, 2009

**DONALD ZEE**  
Attorney for Sponsor

**DONALD ZEE, P. C.**  
I WINNERS CIRCLE - SUITE 140  
ALBANY, NEW YORK 12205  
TELEPHONE (518) 489-9423



DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS, RESTRICTIONS, EASEMENTS,  
CHARGES AND LIENS  
OF  
WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.

THIS DECLARATION, and all Amendments thereto, made and dated the \_\_\_\_ day of \_\_\_\_\_, 2009, by THE MICHAELS GROUP, LLC., with offices at 10 Blacksmith Drive, Malta, New York 12020, hereinafter being referred to as "Sponsor,"

WITNESSETH:

WHEREAS, the Sponsor is the owner of certain parcels of real property located in the Town of Moreau, Saratoga County, New York along Reservoir Rd. and Woodscape Drive, said parcel being more particularly bounded and described at Schedule A, attached hereto and by reference made a part hereof, and

WHEREAS, the said premises described at Schedule A herein consists of approximately 47.04+- acres of land, 16.06+- acres of which will be deeded to the Homeowners' Association, 5.74 +/- acres will be deeded to the Town of Moreau, and the balance of 25.24+- acres upon which will be constructed up to 53 single family detached homes. The Association will be responsible for all maintenance of commonly owned land by the Association as well as arranging for "Maintenance Free Homes" (basic lawn and snow maintenance) for owners of 33 Homes located along Amber Lane and Woodscape Drive as shown on the Subdivision Map and as outlined in the budget contained within this Offering, and

WHEREAS, the Sponsor desires that the amenities of the lands described be available for use by the residents of the community known as Woodscape II, and

WHEREAS, the Sponsor also desires to provide for the preservation of the values and amenities in said residential community and, to this end, hereby subjects the real property described in Schedule A to the Covenants, Conditions, Restrictions, Easements, Charges and Liens (sometimes hereinafter referred to as the "Covenants, Conditions and Restrictions") hereinafter set forth, each and all of which is and are for the benefit of said Property and each Member of the Association referred to herein, and to provide for the future subjection of such other areas as may not be initially developed to such Covenants, Conditions and Restrictions, and

WHEREAS, the Sponsor has deemed it desirable for the efficient preservation of the values and amenities in said residential community to create an organization to which should be delegated and assigned the powers of (i) maintaining and administering the Association Property and facilities; (ii) administering and enforcing the Covenants, Conditions and Restrictions; and (iii) collecting and disbursing the assessments and charges hereinafter created, and

WHEREAS, the Sponsor has incorporated WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC. under the Not-for-Profit Corporation Law of the State of New York for the purpose of exercising the aforesaid functions,

NOW, THEREFORE, the Sponsor, for themselves, their successors and assigns, declare that the real property described in Article II of this Declaration, more particularly described and set forth in Schedule A attached hereto, is and shall be held, transferred, sold, conveyed and occupied subject to the Covenants, Conditions, Restrictions, Easements, Charges and Liens hereinafter set forth.

## ARTICLE I DEFINITIONS

Section 1.01. Definitions. The following words, phrases or terms when used in this Declaration or in any Supplemental Declaration shall, unless the context otherwise prohibits, have the following meanings:

- (a) ASSESSMENTS shall mean and refer to charges for the maintenance and operation of Association Property as described in Article V of this Declaration and includes Special Assessments for capital improvements, maintenance assessments and any other charges deemed to be assessments pursuant to the Declaration and By-Laws.
- (b) ASSOCIATION or HOMEOWNERS' ASSOCIATION shall mean and refer to WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.
- (c) ASSOCIATION PROPERTY shall mean and refer to all land, improvements existing and to be erected thereon, more fully described attached hereto as Schedule "B" and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection herewith, heretofore or hereafter owned by the WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC., as are subject to this Declaration.
- (d) BOARD OF DIRECTORS shall mean and refer to the Board of Directors elected by the Members and/or appointed by the Sponsor to administer the affairs of the Homeowners' Association, and sometimes referred to as the "Board."
- (e) BY-LAWS shall mean and refer to the By-Laws of the Homeowners' Association as attached hereto as Schedule "C," as the same may be amended from time to time.
- (f) DECLARATION shall mean and refer to this document of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens of WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC., as the same may be supplemented, extended or amended from time to time.
- (g) HOME shall mean and refer to each completed dwelling unit structure (as evidenced by a Certificate of Occupancy issued by the Town of Moreau). By accepting delivery of a deed conveying title to such a Home, the grantee automatically becomes a member of the WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC. Said membership is mandatory. Unless the context clearly indicates otherwise, the term "Home" shall be deemed to include the term "Lot" All of such completed dwelling Homes are collectively



referred to as the "Homes".

- (h) LAND shall mean and refer to the real property as is subject to this Declaration located in the Town of Moreau, Saratoga County, New York, more particularly described in Schedule "A" attached hereto and made a part hereof.
- (i) LOT shall mean and refer to any portion of the Land (with the exception of Association property) which is (i) identified or intended to be identified as a separate parcel on the tax records of the Town of Moreau, Saratoga County, New York, or (ii) shown as a separate Lot upon any recorded or filed subdivision map in the Saratoga County Clerk's Office.
- (j) MEMBER shall mean and refer to each holder of membership interest in the Association, as such interests are set forth and described in Article III hereof.
- (k) OFFERING PLAN or PLAN shall mean and refer to the Offering Plan filed with the Department of Law relating to the Association and any amendments thereto.
- (l) OWNER shall mean and refer to the holder of record title, whether one or more persons or entities, of (i) fee simple title to any Home, whether or not such holder actually resides in such Home; or (ii) the fee interest in any Home subject to the Declaration, and shall include the Sponsor with respect to any unsold Home(s). All such Owners are collectively called "Home Owners".
- (m) PERSON shall mean and refer to an individual, a corporation, a partnership, a trust, an unincorporated organization or any other entity.
- (n) PROPERTY shall mean the land subject to this Declaration as described in Schedule A of this Declaration.
- (o) RULES AND REGULATIONS shall mean and refer to the Rules and Regulations of the Association governing the use and care of the Association Property as may be set forth in this Declaration, the By-Laws or promulgated by the Sponsor or the Board of Directors pursuant to the By-Laws, as the same may be amended from time to time.
- (p) PLAN shall mean and refer to the Subdivision Plan attached hereto as Schedule "D".
- (q) SPONSOR shall mean and refer to THE MICHAELS GROUP, LLC., its successors and assigns.
- (r) TRANSFER OF CONTROL DATE shall mean and refer to the date on which (i) the Sponsor has transferred title to all Homes in the residential community, or (ii) five (5) years after the Sponsor has recorded this Declaration, whichever first occurs.
- (s) HOME shall mean and refer to each completed dwelling unit structure (as evidenced by a Certificate of Occupancy issued by the Town of Moreau). By accepting delivery of a deed conveying title to such a Home, the grantee automatically becomes a member of the WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC. Said membership is mandatory. Unless the context clearly indicates otherwise, the term "Home" shall be deemed to include the term "Lot". All of such completed dwelling Homes are collectively referred to as the "Homes".

ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION:  
ADDITIONS THERETO

Section 2.01. The Property. The real property to be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Town of Moreau, Saratoga County, New York, all of which property is more particularly described in Schedule "A" attached hereto and made a part hereof.

Section 2.02. Additional Property. (a) Subject to Subparagraph (b) of this Section, upon approval in writing of the Association pursuant to a vote of its members as provided in its By-Laws, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association may do so.

(b) Notwithstanding the above, the Sponsor may extend this Declaration to all or any portion of land more particularly described and set forth on the Subdivision Plan attached hereto as Schedule "D", without obtaining the approval of the members of the Association, by the recording in the Saratoga County Clerk's Office of a Supplemental Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens with respect to the additional property and by filing a copy of the Supplemental Declaration with the New York State Department of Law. Such amendment shall also be served on all Home Owners and Purchasers.

(c) Such supplemental Declaration shall extend the scope of the Covenants, Conditions and Restrictions of this Declaration to such additional lands and the owners of such lands to assessments for their proportionate share of the expenses of the Association. The Supplemental Declaration may contain such complementary additions and modifications of this Declaration as may be necessary to reflect the different character, if any, of the added property as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplemental Declaration revoke, modify or add to the Covenants, Conditions and Restrictions establishing this Declaration within the Property.

(d) Until the Transfer of Control Date, the provisions of this Section 2.02 may not be amended without the prior written consent of the Sponsor.

Section 2.03. Mergers. Upon a merger or consolidation of the Association with another Association as provided in the Association's Certificate of Incorporation or By-Laws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or alternatively, the properties, rights and obligations of another Association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated Association may administer the Covenants, Conditions and Restrictions established by this Declaration within the Property, together with the Covenants, Conditions and Restrictions established upon any other properties. No such merger or consolidation, however, shall affect any revocation, change or addition to the Covenants, Conditions and Restrictions established by this Declaration within the Property except as hereinafter provided.



ARTICLE III  
THE ASSOCIATION: STRUCTURE AND MEMBERSHIP

Section 3.01. Formation of the Association. Pursuant to the Not-for-Profit Corporation Law of the State of New York, the Sponsor has formed the Association to own, operate and maintain the Association Property, enforce the Covenants, Conditions and Restrictions set forth in this Declaration and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration, the Certificate of Incorporation and By-Laws of the Association, as the same may be amended from time to time. Subject to the additional limitations provided in this Declaration, the By-Laws and the Certificate of Incorporation, the Association shall have all the powers and be subject to the limitations of a not-for-profit corporation as contained in the New York State Not-For-Profit Corporation Law, as the same may be amended from time to time.

Section 3.02. Membership. Subject to the language contained in Section 2.02, the Association shall have as its Members all Owners of Homes located upon lots as shown the Subdivision Map attached as Schedule D. All Owners shall, upon becoming such, be deemed automatically to have become members and there shall be no other qualification for membership. Membership shall be appurtenant to, and shall not be separated from, the ownership of the interest described in the definition of the word "Owner" as found in Article I of this Declaration. Ownership of such Home shall be the sole qualification for membership.

Section 3.03. Holder of Security Interest Not a Member. Any person or entity which holds an interest in a Home merely as security for the performance of an obligation shall not be a Member and shall have no voting rights.

Section 3.04. Sponsor's Written Consent Necessary for Certain Actions Taken by Board of Directors. (a) Notwithstanding anything to the contrary contained in this Declaration, until the Transfer of Control Date, the Board of Directors may not, without the Sponsor's prior written consent, which consent will not unreasonably be withheld, except for necessary repairs, alterations, additions or improvements required by law or by any government agency or the Board of Fire Underwriters: (i) make any repair, addition, alteration or improvement to the Association Property; (ii) assess any amount for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund in excess of an amount equal to the proportion of the then existing budget which the amount of reserves in the initial budget of estimated expenses for the Association bears to the total amount of such initial budget of estimated expenses; (iii) hire any employee in addition to the employees, if any, provided for in the initial budget of the Association; (iv) enter into any service or maintenance contract for work not provided for in the initial budget, except for the maintenance of an improvement not in existence or owned by the Association at the time of filing of this Declaration; (v) borrow money on behalf of the Association; or (vi) reduce the quantity or quality of services or maintenance of the Property.

(b) This Section shall not be amended without the prior written consent of the Sponsor until the Transfer of Control Date.

ARTICLE IV  
PROPERTY RIGHTS AND EASEMENTS

Section 4.01. Dedication of Association Property. (a) The Sponsor will convey, or cause to be conveyed, to the Association subsequent to the recording of this Declaration and at or prior to the conveyance of the first Home, the Association Property, for the use and enjoyment of the Members, their guests, tenants, lessees, licensees and invitees.

(b) The Association must accept any such conveyance made by the Sponsor for a nominal consideration of



One (\$1.00) Dollar. The conveyance of such lands to the Association shall state that such land has been designated as Association Property for the purpose of this Section 4.01. No portion of the Property shall be subject to the rights and easements of enjoyment and privileges hereinafter granted unless and until the same shall have been so designated and the above described conveyance recorded in the Saratoga County Clerk's Office in accordance with the procedure provided herein.

Section 4.02. Right and Easement of Enjoyment in Association Property.

(a) Every Member (and such Member's guests, licensees, tenants and invitees) shall have a right and easement of enjoyment in and to all Association Property. Such easements shall be appurtenant to and shall pass with the interests of a Member. All such rights, easements and privileges, shall be subject, however, to the rights of the Association as set forth in Section 4.03 herein and the rights of the Sponsor as set forth in Sections 4.07 and 4.08 herein.

(b) Every Member (and such Member's guests, licensees, tenants and invitees) shall have an easement for ingress and egress over all Association Property. These easements will be subject to the rights of the Association as set forth in Section 4.03 of this Declaration; provided, however, that a conveyance or encumbrance referred to in Section 4.03(c) hereof shall be subject to said easement of each Member for ingress and egress.

(c) The Association Property shall be subject to an easement for encroachments created by construction, settling and overhang of the Buildings or other improvements as designed or constructed. A valid easement for said encroachments and for the maintenance of same, so long as they stand, shall and does exist.

Section 4.03. Rights of Association. With respect to the Association Property, and in accordance with the Certificate of Incorporation and the By-Laws of the Association, the Board of Directors of the Association shall have the right:

(a) To grant easements or rights of way to any public utility corporation, governmental agency or political subdivision or cable television company or franchisee with or without monetary consideration and to convey Association Property to any governmental agency or political subdivision, in fee simple or otherwise, with or without consideration.

(b) To dedicate or transfer all or any part of the land which it owns for such purposes and subject to such conditions as may be agreed to by the Association and the transferee, subject to the following:

(i) such a conveyance shall require the consent of two-thirds ( $2/3$ ) of all Members other than the Sponsor;

(ii) any conveyance by the Association prior to the transfer of title to all Homes by the Sponsor, shall also require the prior written approval of the Sponsor unless the Sponsor waives such right in a written agreement recorded in the Saratoga County Clerk's Office; and

(iii) no such conveyance shall be made if first mortgagees of one-third ( $1/3$ ) or more of the Homes advise the Association in writing, prior to the date set for voting on the proposed conveyance, that they are opposed to such conveyance, which opposition must not be unreasonable. Written notice of any proposed conveyance shall be sent to all first mortgagees not less than thirty (30) days nor more than ninety (90) days prior to the date set for voting on the proposed conveyance.

(c) To enter into agreements, reciprocal or otherwise, with other associations, condominiums and cooperatives for the use of, or sharing of, Association Property. Such agreements shall require the consent of two-thirds ( $2/3$ ) of all Members other than the Sponsor.



(d) To borrow funds from any recognized lending institution, and in conjunction therewith, mortgage its properties. No such mortgage, however, shall encumber or otherwise interfere with the easement of ingress and egress of the Members as described in this Article. The amount, terms, rate or rates of all borrowing and Provisions of all agreements with noteholders shall be subject to the approval of at least two-thirds (2/3) of the entire Board of Directors of the Association.

(e) To contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management agreements with trusts, condominiums, cooperatives and other associations both within and without the Property. Such agreements shall require the consent of two-thirds (2/3) of the entire Board of Directors of the Association.

(f) To charge reasonable fees for the use of Association Property by non-Members.

(g) To promulgate rules and regulations relating to the operation and maintenance of Association Property and the Lots.

Until the Transfer of Control Date, the Board of Directors may not exercise such rights as those set forth in subparagraphs (a), (b), (c), (d), (e) and (f) of this Section 4.03 without the prior written consent of the Sponsor.

Section 4.04. Maintenance of Association Facilities. In order to preserve and enhance the values and amenities of the Property, the Association shall at all times maintain the Association Property and facilities in good repair and condition and shall operate such Association Property and facilities in accordance with high standards.

Section 4.05. Rights of Association with Respect to the Property. With respect to all real property described in Schedule "A" of this Declaration and any other real property acquired subsequent hereto, the Association and its Members shall have an easement and right of way:

(a) For ingress and egress by vehicles or on foot in, through, over, under and across the roadways, driveways and walkways, now existing and/or which may be constructed in the future, for the Members of the Association and their guests, employees, licensees and invitees (except those areas which are restricted in use to a particular Owner or Person);

(b) To connect with and make use of utility lines, wires, pipes and conduits (including but not necessarily limited to storm and sanitary sewers, drainage, water, electric, telephone, and cable television) and to maintain, repair and replace same, subject to any approvals required by any governmental or municipal agency or department.

(c) For the construction, maintenance, repair and replacement of such other utility lines (including but not limited to the storm and sanitary sewers, drainage, water, electric, telephone, and cable television) which the Association deems necessary to service its Property, provided such lines do not substantially and materially interfere (temporary inconvenience shall not be prohibited) with the rights of the residents of the Homes, subject to any approvals required by any governmental or municipal agency or department. The cost of any such construction, repair, maintenance or replacement as provided for in this Section shall be at the sole cost and expense of the Association.

Section 4.06. Environmental Consideration. In carrying out its responsibilities in enforcing the provisions of this Declaration, the Association shall consider the environmental impact of any existing or proposed activities on the Property or any portion thereof and may, in their discretion, establish standards or guidelines aimed at reducing or eliminating any activities which could have adverse environmental impact or take affirmative action to improve the quality of the environment, and shall comply with all applicable



laws, rules and regulations.

Section 4.07. Rights of Sponsor With Respect to Association Property. (a) With respect to Association Property, the Sponsor shall have the right, until the marketing and sale of all existing or Projected Homes is completed, provided the rights of the Members are not substantially and materially restricted (except for temporary inconvenience):

- (i) to grant and reserve easements and rights-of-way for the installation, maintenance, repair, replacement and inspection of utility lines, wires, pipes and conduits, including, but not necessarily limited to: sewer, drainage, water, electric, telephone, and cable television to serve any property set forth in Schedule "D" hereof even if such property should not be added to the scope of this Declaration;
  - (ii) to connect with and make use of utility lines, wires, pipes and conduits located on the Association Property for the benefit of any property set forth in Schedule "D" hereof or any additional lands even if such property should not be added to the scope of this Declaration;
  - (iii) to use the Association property for ingress and egress and for the storage of building materials;
  - (iv) to have prospective Purchasers and others visit and use the Association Property;
  - (v) to maintain a construction office on the Association Property;
  - (vi) to determine the grading, elevation and design (including reversal of the building layout and number of floors) of the plot and buildings to fit into the general pattern of the development, together with the right to alter interior layouts to suit individual Purchasers, provided such alterations do not materially affect the Association property, to change the configuration of type and number of Homes within a Building, providing the Building shall remain compatible with the existing Buildings, and to alter location on the site if the grade and/or contour of the land so requires;
  - (vii) to grant to itself or to others such easements and rights-of-way as maybe reasonably needed for the orderly development of any other property, if any, even if such other property should not be added to the scope of this Declaration; and
  - (viii) to grant to itself or to others such easements and rights of way as maybe reasonably necessary to complete the construction and installation of the Association property, when, as and if needed.
- (b) In the event there are encroachments created by construction, settling and overhang of the Buildings or other improvements as designed or constructed, easements are reserved over the adjoining lots or common area for such purpose as the case may be. A valid easement for said encroachments and for the maintenance of same, so long as they stand, shall and does exist.
- (c) Minor violations of building setback, sidelines and common area may be waived at any time by the Sponsor and such action on the part of the Sponsor shall be binding upon, and be considered the act of all grantees.
- (d) The conditions, covenants, easements, restrictions, rights and obligations may be amended, modified or rescinded at any time and from time to time by the Sponsor or the Association, as the case may be, which shall administer, regulate and enforce the various conditions, covenants and obligations herein.
- (e) The easements, rights-of-way and other rights reserved herein shall be permanent, shall run with the land and shall be binding upon and for the benefit of the Association, the Sponsor and their successors and assigns. With respect to its exercise of the above rights, the Sponsor agrees (i) to repair any damages



resulting from construction within a reasonable time after the completion of development or when such rights are no longer needed by the Sponsor, whichever first occurs, and (ii) until development has been completed, to hold the Association harmless from all liabilities which are directly caused by the Sponsor' rights hereunder.

This Section shall not be amended without the prior written consent of the Sponsor until the Transfer of Control Date.

Section 4.08. Easements Reserved to Sponsor for Benefit of Additional Property.

(a) Easements are reserved herein over all property covered by this Declaration for the benefit of other lands, if any, shown on the Subdivision Plan set forth in Schedule "D" of this Declaration for the following purposes:

(i) Ingress and egress by vehicle or on foot over roadways, driveways and walkways now existing or hereafter constructed on the Association property;

(ii) To connect with and make use of utility lines, wires, pipes and conduits (including but not limited to storm and sanitary sewers, drainage, water, electric, telephone, and cable television) and to maintain, repair and replace same, subject to any approvals required by any governmental or municipal agency or Department;

(iii) For the construction, maintenance, repair and replacement of such other utility lines (including but not limited to the storm and sanitary sewers, drainage, water, electric, telephone, and cable television) which the owners of the other lands reasonably deem necessary to service their property, provided such lines do not substantially and materially interfere (temporary inconvenience shall not be prohibited) with the rights of the residents of the Homes, subject to any approvals required by any governmental or municipal agency or department. The cost of any such construction, repair, maintenance or replacement as provided for in this Section shall be at the sole cost and expense of the owners of the other lands;

(iv) Sponsor reserves an easement over Association Property to attach utilities for connection to adjoining property whether currently owned by Sponsor or purchased by Sponsor in the future. Sponsor, upon accomplishing the connection of utilities to adjoining property, whether currently owned by Sponsor or purchased by Sponsor in the future, will return the Association Property to its original condition.

(b) Upon connection of lines and/or facilities servicing such land area comprising any additional property, should such lands not be added to the scope of this Declaration, such lands shall be responsible for the payment to the Association of a fair share of the cost of operation, maintenance, repair and replacement of those lines and facilities servicing such lands, if any.

Section 4.09. Compliance and Arbitration. Should any Owner, members of such owner's family, its employees, guests, lessees, licensees or other invitees fail to comply with any of the provisions of this Declaration, the By-Laws or Rules and Regulations, as such may be amended from time to time, the following procedures shall be implemented to obtain compliance:

(a) A committee of three (3) shall be appointed by the Board of Directors and designated the Compliance Committee to serve at the pleasure of the Board of Directors.

(b) The Compliance Committee shall first undertake to obtain compliance with the Rules and Regulations informally, by discussing violations of the same with the person or persons violating them, and seeking to obtain future compliance, or correction of the on-going violations.

(c) Should this informal procedure prove unsatisfactory or not secure future compliance, the Compliance



Committee shall then send a written notice to the person violating a Rule or Regulation, and if such person is not an Owner, to the Owner responsible for the violator, notifying him of the claimed violation, and requesting, as the case may require, either a correction of the violation, or an assurance that similar violations will not occur in the future. Such notice shall establish a date for compliance.

(d) Should such notice obtain the requested compliance, that will dispose of the matter, unless the same or a similar violation of the Rules and Regulations thereafter recurs.

(e) Should such notice not obtain the requested compliance within the time requested, the Compliance Committee shall then be authorized, at its discretion, to establish a monetary and/or non-monetary penalty, the amount and/or severity of which shall be reasonably related to the violation and to the aim of deterring similar violations in the future by the same or any other person. Such fine shall become a binding personal obligation of the violator if an Owner, or of the Owner responsible for such violator. Failure to correct the condition or situation which leads to the first fine, for a period of twenty (20) days after the initial fine becomes due and payable shall constitute a second offense. Notice of the imposition of such fine or fines shall be mailed to the violator and/or the Owner responsible for such violator, and shall be paid to the Association within ten (10) days unless the violator requests the right to arbitrate the matter within the ten (10) days before the Arbitration Committee, as hereinafter set forth. Should the fine not be paid within the ten (10) days, or if a request to arbitrate is not received within the said ten (10) days, the amount of the fine shall be added to the owner's Assessments on the first of the month following the termination of the ten (10) day period above set forth, and shall be a lien upon the Owner's Home.

(f) The Arbitration Committee must consist of three members of the Association. Each Party shall select an arbitrator and the two arbitrators shall select the third.

(i) No person may serve as a Neutral in any arbitration under these Rules in which that person has any financial or personal interest in the result of arbitration. Any person designated as a Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral after receipt of that Neutral's Bias Disclosure, such Neutral shall be replaced in the same manner in which that Neutral was selected.

(ii) There shall be no stenographic record of the proceedings.

(iii) The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties.

(g) Should the violator, or the Owner responsible for the violator request the right to arbitrate the imposition of the non-monetary penalty or extent of a fine, as above set forth, he shall do so in writing, directed to the Board of Directors, within ten (10) days of his receipt of notice of the imposition of said fine. The Board of Directors shall promptly forward the same to the Arbitration Committee which shall meet within twenty (20) days thereafter, on notice to the alleged violator, to hear and dispose of the matter. At such hearing, the alleged violator and/or the Owner responsible for such violator, and one (1) or more members of the Compliance Committee maybe present and be heard. A decision on the matter shall be made by the Arbitration Committee, by a majority vote, within ten (10) days following said hearing and shall be promptly communicated to the alleged violator and/or the Owner responsible for such violator. If the decision of the Arbitration Committee is to uphold the determination of the Compliance Committee, the provision relating to the payment and enforcement thereof set forth in subparagraph (e) above shall apply. If their decision is in favor of the alleged violator, no fine will be imposed. The decision of the Arbitration Committee shall, to the extent permitted by law, be final and binding upon all parties.

h) In the event the violator is a person other than an Owner or a member of such Owner's immediate



family, copies of all notices required to be given to the violator under this Declaration, the By-Laws or the Certificate of Incorporation, shall also be given to the Owner of the Home responsible for such violator.

Section 4.10. Distribution of Condemnation Awards. In the event all or part of the Association property, if any, is taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Association. The Board of Directors shall arrange for the repair and restoration of such Association Property and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. If there shall be a surplus of such proceeds, or if the Board of Directors shall elect not to repair or restore the Association property, then the proceeds shall be distributed in the same manner as insurance proceeds in accordance with Article XI of this Declaration.

In the event of any dispute with respect to the allocation of the award, the matter shall be submitted to arbitration in accordance with the arbitration statutes of the State of New York.

Section 4.11. Non-Discrimination by Association. Neither the Association nor any officer, director, agent, committee, member or committee member or employee thereof shall make unavailable or deny the occupancy or use of the Association property to any person or persons, or take any other action which discriminates on the basis of race, religion, color, sex, sexual orientation or national origin. This covenant shall run with the land and shall remain in effect without limitation in time.

## ARTICLE V ASSESSMENTS - ALLOCATION, LIEN AND LIABILITY

Section 5.01. Creation of the Lien. The Sponsor, for each Home owned by it within the community, which is within the scope of this Declaration, hereby covenants, and each Owner of any Home by acceptance of a deed or other instrument of conveyance therefore, whether or not it shall be expressed in such deed or other instrument, shall be deemed to covenant and agree to pay the Association:

- (a) Annual assessments of charges for the maintenance and operation of Association Property, including but not limited to, utility lines servicing the Property, lawn maintenance and snow removal of individual Homes and landscaped areas owned by the Association ("Maintenance Assessments"); and
- (b) Special assessments for capital improvements ("Special Assessments"); and
- (c) Property taxes on Association Property, if any, if such taxes are not included in the Assessments. The Maintenance Assessments and the Special Assessments together being referred to herein as "Assessments". The Assessments shall be fixed, established and collected from time to time as hereinafter provided.

Section 5.02. Basis. The Association's Board of Directors shall, from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Association and shall send a copy of the budget and any supplement to the budget to each Owner at least thirty (30) days prior to assessing the Owners thereon. The Board shall determine the total amount required, including the operational items such as insurance, repairs, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior years and capital improvements approved by the Board. The total annual requirements, and any supplemental requirements, shall be allocated between, assessed to, and paid by the Owners as follows:

Each Owner shall pay a portion of said requirements, the numerator of which shall be one (1) and the denominator of which shall be equal to the number of Homes subject to this Declaration of Covenants, Conditions and Restrictions. The Sponsor will be obligated for Assessments, including any supplemental

charges, on all Unsold Homes brought under the scope of this Declaration. However, the Sponsor's obligation for such Assessments on Unsold Homes shall be limited to the difference between the actual operating expenses of the Association, including reserves, if any, and Assessments levied on all Owners. In no event, however, will the Sponsor be required to make a deficiency contribution in an amount greater than it would otherwise be liable for if it were paying assessments on unsold Homes. The sum due the Association from each individual Home Owner shall constitute an Assessment of the Board of Directors, and unpaid Assessments shall constitute liens on the individual Homes, subject to foreclosure as hereinafter provided.

Section 5.03. Purpose. The purpose of the Maintenance Assessments shall be to fund the maintenance, repair, replacement and improvement of the Association Property and the promotion of the recreation, safety and welfare of the Owners, including, but not limited to:

- (a) the payment of taxes on the Association Property, if any;
- (b) any utility services to the Property, which are commonly metered or billed;
- (c) all casualty, liability and other insurance covering the Property, and the Association's officers, directors, and employees, if any, obtained pursuant to Article XI of this Declaration;
- (d) landscaped and green areas and any other facilities that may be added to the Association Property;
- (e) the cost of labor, equipment, materials, management and supervision thereof; accounting and record keeping of all Association financial transactions; and legal, architect, engineering and other professional fees and disbursements; and
- (f) costs associated with connection to, and use of, irrigation infrastructure pursuant to section 8.05 herein; and
- (g) costs associated with connection to, and use of, offsite stormwater infrastructure pursuant to section 8.05 herein; and
- (h) costs associated with inspection and maintenance of stormwater detention basins
- (h) such other needs as may arise and which the Board of Directors deems appropriate or desirable to meet.

Section 5.04. Date of Commencement and Notice Thereof. The Assessments provided for herein shall commence on the day the first Home is conveyed by the Sponsor to the initial purchaser. The first Assessments shall be adjusted according to the number of months remaining in the fiscal year as established by the Board of Directors and such Assessments shall thereafter be on a full year basis, payable monthly.

Section 5.05. Change in the Basis. (a) The Association may change the basis of determining the Maintenance Assessment by obtaining the vote of not less than two-thirds (2/3) of all Members, excluding the Sponsor, voting in person or by proxy except that: (i) until the Transfer of Control Date, any change in the basis of Assessments which adversely affects the interest or right of the Sponsor with respect to unsold Homes shall require the prior written consent of the Sponsor, which consent shall not be unreasonably withheld, and (ii) no such change shall be made if first Mortgagees of one-third (1/3) or more of the Homes advise the Association in writing, prior to the date or initial date set for voting on the proposed change, that they are opposed to such change, which opposition must be not unreasonable. Written notice of such change shall be sent to all Owners and first Mortgagees of Homes whose names appear on the records of the Association at least thirty (30) days in advance of the date or initial date set for voting thereon. A



written certification of any such change shall be executed by the Board of Directors and recorded in the Office of the Clerk of the County of Saratoga, State of New York.

(b) Any change in the basis of Assessments shall be equitable and non-discriminatory.

Section 5.06. Special Assessments for Capital Improvements. In addition to the annual Maintenance Assessment, the Association may levy a Special Assessment, payable in the year levied and/or the following year only, for the purpose of defraying, in whole or in part, the cost of any capital improvements, including without limitation, the construction, reconstruction, replacement, or repair of a capital nature to the Association Property, including the necessary fixtures and personal property related thereto; provided that for any Special Assessment for the construction (rather than reconstruction or replacement) of any capital improvement, and for any Special Assessment amounting to more than twenty-five (25%) of the then current amount of annual Maintenance Assessments, the consent of two-thirds (2/3rds) of the Members who are present in person or represented by proxy at a meeting duly called for this purpose is obtained. Written notice of such vote shall be sent to all Members at least thirty (30) days in advance setting forth the purpose of the meeting. The Association shall establish one or more due dates for each payment or partial payment of each Special Assessment and shall notify each Member thereof in writing at least thirty (30) days prior to the first such due date.

Section 5.07. Assessments: Personal Obligation of the Member and Lien on Home. The Assessments shall be paid when due. All sums assessed by the Board of Directors but unpaid, together with any accelerated installments, late charges (not exceeding ten percent of the amount of the overdue Assessment or portion thereof) and fees for violations of such Rules and Regulations as may be established by the Association By-Laws and interest thereon at such rate as may be fixed by the Board of Directors, from time to time (such rate not to exceed the maximum rate of interest then permitted by law), shall be the personal obligation of an Owner and shall constitute a lien upon the Owner's Home prior to all other liens except: (i) tax or assessment liens on the Home by the taxing subdivision of any governmental authority, including but not limited to state, county, city, town and school district taxing agencies; and (ii) all sums unpaid on any First Mortgage of record encumbering any Home. Assessments shall be levied on an annual basis and shall be due and payable on a monthly basis unless the Board of Directors establishes other periods for payment, except that, if an installment of Assessments is not paid within thirty (30) days from date due, the Board of Directors may accelerate the remaining installments, if any, upon notice thereof to the delinquent Owner. The Board of Directors may offer a discount on an Assessment if paid in full in advance. All costs and expenses incurred in collection of past due assessments, including reasonable attorneys' fees, shall also be the personal obligation of the Owner and shall be added to and constitute an Assessment payable by such Owner.

Section 5.08. Foreclosure of Lien for Unpaid Assessments. The lien for past due Assessments may be foreclosed by the Association in accordance with the laws of the State of New York in like manner as a mortgage on real property, and the Association shall also have the right to recover all costs incurred by it in pursuing such right, including reasonable attorneys' fees. In the event the proceeds of the foreclosure sale are not sufficient to pay such unpaid Assessments, the unpaid balance shall be charged equally to all Owners. However, where the holder of a First Mortgage of record, or other Purchaser of a Home at a foreclosure sale of a First Mortgage, obtains title to the Home as a result of foreclosure, or the First Mortgage holder obtains title by conveyance in lieu of foreclosure, such acquires of title, his successors or assigns, shall not be liable for, and the Home shall not be subject to a lien for the payment of Assessments chargeable to such Home which were assessed and became due prior to the acquisition of title to such Home by such acquires. In such event, the unpaid balance of Assessments shall be charged equally to all other Owners.

Section 5.09. Notice of Default. The Board of Directors, when giving notice to an Owner of a default in paying Assessments, may, at its option, or shall, at the request of a mortgagee, send a copy of such notice



to each holder of a mortgage covering such Home whose name and address appears on the Board's records. The Mortgagee shall have the right to cure the Owner's default with respect to the payment of said Assessments.

Section 5.10. No Exemption or Waiver of Assessments. Each Owner shall pay the Assessments assessed against him when due, and no Owner may exempt himself from liability for the payment of Assessments so assessed against him by waiver of the use or enjoyment of any of the Association Property or by the abandonment of his Home. However, no Owner shall be liable for the payment of any Assessments accruing subsequent to a sale, transfer or other conveyance by him of such Home made in accordance with Section 339-x of the Real Property Law or in accordance with the provisions of this Declaration and the accompanying By-Laws.

Section 5.11. Grantee to be Liable with Grantor for Unpaid Assessments. In any conveyance of a Home either by voluntary instrument, operation of law or judicial proceeding in accordance with this Declaration or the By-Laws, the Grantee of the Home shall be jointly and severally liable with the Grantor for any unpaid Assessments against the latter, assessed and due up to the time of the grant or conveyance without prejudice to the Grantee's right to receive from the Grantor the amounts paid by the Grantee therefore. "Grantee" as used herein shall not include either the holder of a First Mortgage of record or a Purchaser of a Home at a foreclosure sale of a First Mortgage.

Section 5.12. Right to Maintain Surplus. The Association shall not be obligated in any calendar year to spend all the sums collected by it in such year by way of assessments or otherwise, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Assessments in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors, in its absolute discretion, may determine to be desirable for the greater financial security and the more efficient effectuation of the purposes of the Association.

Section 5.13. Assessment Certificates. Upon written demand of an Owner or Lessee with respect to a Home which he owns or leases (or any prospective purchaser, lessee, occupant, mortgagee or title insurer of such Home), the Association shall, within a reasonable period of time, issue and furnish a certificate in writing signed by an officer or designee of the Association setting forth with respect to such Home as of the date of such certificate: (i) whether the Assessments, if any, have been paid; (ii) the amount of such Assessments, including interest and costs, if any, due and payable as of such date; and (iii) whether any other amounts or charges are owing to the Association, e.g., for the cost of extinguishing a violation of this Declaration, the By-Laws or the Rules and Regulations. A reasonable charge, as determined by the Board of Directors, may be made for the issuance of such certificates. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser or lessee of, or lender on, or title insurer of, the Home with respect to which such certificate has been issued.

Section 5.14. Exempt Property. Property subject to this Declaration shall be exempt from Assessment charges and liens created herein to the extent of any easements or other interest therein dedicated and accepted by local public authority and devoted to public use.

## ARTICLE VI MAINTENANCE, REPLACEMENT AND REPAIR

Section 6.01. Repairs and Maintenance by the Association.

(a) Except as specifically otherwise provided in this Section 6.01, all maintenance, repair, and replacements of the Association Property, including but not limited to; landscaped areas, parking areas, irrigation system, stormwater detention basins, exterior lighting, neighborhood signage and utility lines on



the Association Property and serving the Association Property, which are not the responsibility of a municipality, public authority, special district, utility company or cable television company, shall be the responsibility of, and shall be undertaken at the cost and expense of, the Association. In addition the Association shall arrange for basic lawn care and snow plowing service for owners of Lots 1 through 33 "Maintenance Free" Homes on Amber Lane and Woodscape Drive as outlined in the Budget of this offering.

**(b) Maintenance Free Homes: Owners of any "Maintenance Free Homes" homes will be responsible for minor exterior grounds maintenance which will include weeding of mulch beds, lawn and plant watering and maintaining or adding of any flower beds.**

(c) All Home Owners shall be responsible for their own internal and exterior maintenance of the dwelling including roof, siding and driveway repair and/or replacement.

(d) The Board of Directors may, upon the affirmative vote of not less than two-thirds (2/3) of the Members of the Association, may provide for additional maintenance with respect to the Property or other improvements and/or Lots, and for reserves for such capital items such as roof replacement and painting and/or staining of the exterior of the Homes. The cost of such shall then become an additional or Special Assessment as set forth in Article V of this Declaration.

(e) Subject to the provisions of Section 6.02 hereof, the cost of all maintenance, repair and replacements, performed by the Association shall be funded from Maintenance Assessments.

#### Section 6.02. Repairs and Maintenance Which Are Not The Responsibility of The Association

(a) Except as otherwise provided in Section 6.01 above, the Association shall not be responsible for (i) the maintenance, repair or replacement of any buildings, structures or landscaped areas not owned by the Association, or (ii) the maintenance, repair or replacements of any sewer lines, water lines or other utility lines not located on Association Property or which are maintained, repaired and replaced by a municipality, public authority, special district, utility company or cable television company.

(b) Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 6.01 above, but which is occasioned by a negligent or willful act or omission of an Owner or the Sponsor shall be made at the cost and expense of such Owner or Sponsor, as the case may be. If such maintenance, repair or replacement is performed by the Association, it shall not be regarded as a common expense, but shall rather be considered a special expense allocable to the Owner's Home and such cost shall be added to that Owner's Assessment and, as part of that Assessment, shall constitute a lien on the Home, to secure the payment thereof.

#### Section 6.03. Repairs and Maintenance Which Are The Responsibility of The Owners.

(a) Except as provided in Section 6.01 herein, each Owner shall be responsible for the maintenance, repair and/or replacement of the interior of their Home, together with the maintenance, repair and/or replacement of the exterior of their Home, driveway, sidewalk, lawn care and shrubs and trees within their Lot.

(b) The Owner of a Home with a fireplace shall be responsible, at their sole cost and expense, for maintaining the flue and chimney for such fireplace in a clean and safe condition.

(c) In the event an Owner fails to make necessary maintenance, replacement or repair to his Home which is considered necessary to protect any of the Property or any other Home, or maintain the value of the Property, the Board of Directors shall have the right to enter upon an Owner's Home to make such maintenance, replacement or repair upon ten (10) days' written notice to the Owner, or oral or written



notice of shorter duration in the event of an emergency, and to charge the Owner for the cost of all such maintenance, replacement or repair to the Owner's Home. The cost for such maintenance, replacement or repair to the Owner's Home provided by the Association shall constitute an assessment as defined in this Declaration and, in the event the Owner fails to make prompt payment, the Board of Directors shall be authorized to enforce this assessment as provided for in this Declaration. (See Article V)

(d) The Owner of a Home will be responsible to use and maintain their mailboxes provided by the Sponsor for their mail and newspaper delivery.

(e) Except as provided in Section 6.01 hereof, the Association shall not be responsible for the repair, replacement or maintenance of any water lines or other utility lines not servicing two or more Homes or which are maintained, repaired and/or replaced by a municipality, public authority, special district, utility company or cable television company.

(f) Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 6.01 hereof, but which is occasioned by a negligent or willful act or omission of an Owner, his guests, lessees, licensees or invitees, shall be made at the cost and expense of such Owner. If such maintenance, repair or replacement is performed by the Association, it shall be regarded as a special expense allocable to the Owner's Home and such cost shall be added to the Owner's Assessment and, as part of such Assessment, shall constitute a lien on the Home, to secure payment thereof.

Section 6.04. Quality and Frequency of Maintenance and Repairs. All maintenance, repair and replacement, whether or not performed by the Association, shall be of a quality and appearance consistent with the enhancement and preservation of the appearance and value of the Property. The Association may establish reasonable schedules and regulations for maintenance, repair and replacement, which schedules and regulations shall take into account the useful life of any painting and exterior materials and the enhancement and preservation of the appearance and value of the Property.

Section 6.05. Access for Repairs. The Association (and its employees, contractors and agents) shall, upon reasonable notice to the Owner and/or occupant, have the right to enter upon any portion of the Property and into and upon any Home or Lot, at any reasonable hour, to carry out its functions as provided for in this Declaration, except that in an emergency, the Association shall have the right, without notice, to enter upon any portion of the Property and into any Home to make necessary repairs or to prevent damage to any other Home or any portion of the Property.

## ARTICLE VII ARCHITECTURAL CONTROL

Section 7.01. Control by Association. After transfer of title by the Sponsor to any Home, or completed portion of the Property, enforcement of those provisions of this Declaration pertaining to the exterior appearance of the property and control over any change in use or any additions, -modifications or alterations to any exterior improvements on said Home or Lot or other portion of the Property shall be the responsibility of the Association, acting through the Architectural Committee as provided in Section 7.02 herein.

Section 7.02. Composition and Function of Architectural Committee.

The Architectural Committee shall be a permanent committee of the Association. It shall serve in an advisory capacity to the Board of Directors, with final approvals and/or enforcement resting solely with the



Board of Directors.

The committee shall be composed of three (3) or more persons (as determined by the Board of Directors), who shall be appointed for terms of two (2) years, subject to removal, with or without cause, by the affirmative vote of three-fourths (3/4) of the entire Board of Directors.

The Committee shall advise the Board of Directors on the following:

- (i) All proposed additions, modifications or alterations to Association Property;
- (ii) All proposed additions, modifications or alterations of the exterior of any Home, including exterior doors, garage doors and windows; and
- (iii) Perform such other functions as may be assigned by the Board of Directors from time to time.

Section 7.03. Submission of Plans to Architectural Committee. After transfer of title to any Home or other portion of the Property by the Sponsor, no exterior addition, modification or alteration shall be made on or to such Home or other portion of the Property or to the improvements located thereon, unless and until a plan or plans therefore, in such form and detail as the Architectural Committee requires, shall have been submitted to and reviewed by the Committee and approved by the Board of Directors. The Architectural Committee may charge and collect a reasonable fee for the examination of plans submitted for review, including any fees and reasonable expenses which may be charged by architects, engineers or attorneys retained by the Board of Directors in connection with the review of such plans.

Section 7.04. Basis for Recommendation of Disapproval of Plans by Architectural Committee. The Architectural Committee may recommend disapproval of any plans submitted for any of the following reasons:

- (a) Failure of such plans to comply with the Covenants and Restrictions contained in this Declaration;
- (b) Failure to include information in such plans as reasonably requested by the Architectural Committee;
- (c) Objection to the plan, exterior design, appearance of materials of any proposed improvements, including without limitation, colors or color scheme, finish, proportion and style of architecture;
- (d) Incompatibility of proposed improvements or use of proposed improvements with existing improvements or uses within the Property;
- (e) Failure of the applicant to furnish the Architectural Committee proof that insurance in the form and amount satisfactory to the Architectural Committee has been obtained and will be maintained for the appropriate period of time by the applicant.
- (f) Failure of proposed improvements to comply with any zoning, building, health or other governmental laws, codes, ordinances, and rules and regulations; or
- (g) Any other matter which, in the reasonable judgment of the Architectural Committee, would render the proposed improvement use or uses inconsistent or incompatible with the general plan of improvement of the Property, including any possible adverse impact on the use and enjoyment of the Property by any other Owner or occupant.

Section 7.05. Recommendation of Architectural Committee.

- (a) Upon recommendation to the Board of Directors for approval or qualified approval by the Architectural



Committee of any plans submitted pursuant to this Article, the Board of Directors shall vote upon such recommendations and notify the applicant, in writing, of its decision.

Upon a vote by the Board for approval, or qualified approval, the notification shall set forth any qualifications or conditions of such approval. The Board shall file a copy of such plans as approved in the Association's permanent records (together with such qualifications or conditions, if any) and, if requested by the applicant, shall provide the applicant with a copy of such plans bearing a notation of such approval or qualified approval.

Approval of any such plans shall not be deemed a waiver by the Board of Directors to disapprove similar plans or any of the features or elements included therein if such plans, features or elements are submitted for approval by other owners.

(b) Once plans have been approved for a Home, they may not be revoked unless the Board of Directors determines that: (i) the work currently being performed is not in substantial conformity with the approved plans or in good workmanlike manner; (ii) adequate insurance is not being maintained by the applicant; (iii) appropriate permits have not been obtained, maintained and/or complied with; or (iv) a period of six (6) months has passed from date of approval of the plans and the alterations, modifications or improvements have not been commenced.

Section 7.06 Written Notification of Disapproval. In any case where the Architectural Committee recommends disapproval of any plans submitted, and the Board of Directors votes in agreement of such disapproval, the Board of Directors shall notify the applicant in writing, accompanied by a statement of the grounds upon which such action was based as set forth in Section 7.04 hereof. In any such case, the Architectural Committee shall, if requested and if practicable, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

Section 7.07. Failure of Board of Directors to Act. If any applicant has not received notice from the Board of Directors approving (including qualified approval) or disapproving any plans within sixty (60) days after submission thereof, said applicant may notify the Board of Directors of that fact in writing. Such notice shall be sent by certified mail, return receipt requested. The plans shall be deemed approved by the Board of Directors twenty (20) days after the date of receipt of such notice if no decision is rendered by the Board of Directors within said twenty (20) day period.

Section 7.08. Liability. No action taken by the Architectural Committee or any member of a subcommittee, employee or agent thereof shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any building or other portion of the property. Neither the Association, the Board of Directors, the Architectural Committee, nor any member, subcommittee, employee or agent shall be liable to anyone submitting plans to them for approval, or to any Owner or any other person, in connection with a submission of plans, or the approval or disapproval thereof, including without limitation, mistakes in judgment, negligence or nonfeasance. Every person or other entity submitting plans to the Architectural Committee agrees, by submission of such plans, to defend, indemnify and hold harmless the Association, the Board of Directors and the Architectural Committee (or any officer, member of a subcommittee, employee or agent thereof) from any action, proceeding, suit or claim arising out of, or in connection with such submission.

Section 7.09. Architectural Standards Compliance Certificate. Upon written request of any Owner, Mortgagee, lessee, licensee or title insurer (or any prospective Owner, Mortgagee, lessee, licensee or title insurer) of a Home or other portion of the Property, title to which has been previously transferred from the Sponsor, the Board of Directors shall, within fifteen (15) days, issue and furnish to the person or entity making the request, a certificate in writing ("Architectural Standards Compliance Certificate"), signed by a member of the Board of Directors stating, as of the date of such Certificate, whether or not the Home or



other portion of the Property, or any improvements thereon, violates any of the provisions of the Declaration pertaining to the exterior appearance, design or maintenance and describing such violations, if any. A reasonable charge, determined by the Board of Directors, may be imposed for issuance of such Architectural Standards Compliance Certificate. Any such Architectural Standards Compliance Certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and the party to whom such Certificate was issued.

Section 7.10. Completion of Work by the Board of Directors. In the event the Board of Directors deems it necessary to complete work previously commenced by an Owner, or to otherwise protect the appearance, value or structural integrity of the Property, such amounts expended in connection with such repair shall become a binding personal obligation of the Owner and an additional Assessment payable by such Owner and shall become a lien against his Home, subject to the provisions of Article V herein.

Section 7.11 Approval by Architectural Committee Does Not Constitute Approval by Appropriate Governmental Agencies. In the event approval is granted by the Architectural Committee, said approval does not supersede approval required by any governmental agency including but not limited to, the Town Building Department, Town Planning and/or Zoning Boards, New York State Health Department, New York State Department of Environmental Conservation, New York State Department of Transportation, or any other governmental agency having jurisdiction on such actions contemplated by an applicant. Applicant agrees to copy the Architectural Review Board on all governmental approvals and or disapprovals prior to commencing the action.

## ARTICLE VIII COVENANTS AND RESTRICTIONS

### **Maintenance Free Homes Lots #1-33**

#### Section 8.01. Use of Homes.

##### (1) DWELLING PURPOSES ONLY:

Except as otherwise provided in this Declaration and the By-Laws, all Homes shall be used for residential purposes only and such purposes incidental and accessory thereof, provided, however, that prior to transfer of title by the Sponsor to all Homes, the Sponsor and/or the Sales Agent may use one or more Lots or Homes or other portions of Property for model Homes, a sales office and/or a construction office. This shall not preclude an Owner or occupant from maintaining an office within his Home providing no extraordinary traffic or parking results from such an office and no signs indicating the existence of such office are placed in any window of such Home or anywhere on the exterior of the Home or on the Lot.

##### (2) GARAGE AND GARAGE DOORS:

Garages may be used for vehicular parking and storage of personal property only and may not be modified for any other use. Occupants of Homes shall be required, to the extent practicable, to park motor vehicles owned by them, or under their control, in their garage and shall cause the garage door to be kept in a closed position, except for ingress and egress, whenever possible.

##### (3) AWNINGS AND WINDOW GUARDS:

No awnings, window guards or other exterior window and/or door coverings, decorative or protective, maybe installed without the prior written consent of the Board of Directors.

##### (4) TELEVISION AND RADIO ANTENNAS:

No outside television or radio antenna for any transmission or receiving purposes shall be erected upon any Home or Lot or other portion of the Property without the prior written approval of the Board of Directors



of the Association.

(5) SATELLITE DISHES:

No satellite dish of any type shall be installed so it is visible from any public highway. All satellite dishes shall be restricted to not more than 18" in diameter.

(6) MECHANICAL INSTALLATIONS:

No machinery, refrigeration or heating devices, other than those originally provided with the Home, or similar replacements of same shall be installed or operated in or about any Home without prior written permission of the Board of Directors. This provision does not apply to a ground mounted exterior air conditioner condenser unit.

Section 8.02. Pets. The Board of Directors may prohibit certain types of pets entirely. The Board of Directors shall have the right to require any Owner (or any lessee or family member or invitee of any Owner or lessee) to remove such pet from the Home and/or the Property, if in the opinion of the Board of Directors, acting in its sole discretion, such pet is creating a nuisance because, (e.g., the owner of the pet does not clean up after the animal, the animal is noisy or the animal is not properly controlled. ) In the case of a dog or cat, it must be kept leashed and not allowed to roam or run freely unless confined to a designated fenced area at the rear yard of a homeowner's lot. No doghouses shall be allowed.

Section 8.03. Parking

VEHICLES/TRAILERS: Recreational vehicles and trailers, including, but not limited to, boats, all-terrain vehicles, motorcycles, snowmobiles, or other such vehicles shall not be permitted on a lot unless stored in a Home Owner's garage or an approved storage shed. Motor homes shall not be permitted on any lot or driveway unless on a temporary basis and for not more than three (3) consecutive days.

OVERSIZED, COMMERCIAL AND/OR UNLICENSED VEHICLES: Unless used in connection with the construction or sale of Homes by the Sponsor or maintenance of the Property, oversized, commercial and/or unlicensed vehicles shall not be permitted to remain for more than three (3) consecutive nights on the Homeowner's lot unless garaged. Note: This does not apply to commercially licensed pick up trucks.

Section 8.04. Use of the Property

(1) ADVERTISING AND SIGNS

Except for signs erected by or with the permission of the Sponsor in connection with the initial marketing of Homes, no additional sign or other advertising device of any nature shall be placed for display to the public view on any Home, in any window of any Home, on any lot or other portion of the Property (including temporary signs advertising Homes for sale or rent by Owners, lessees or realtors) except with the consent of the Board of Directors.

(2) PROTECTIVE SCREENING AND FENCES

Any screen planting, fence enclosure or walls initially planted, installed or erected on the Property or lots shall not be removed or replaced by any Owner (other than the Sponsor) except with the prior written permission of the Board of Directors. Except for the foregoing, no fence, wall or screen planting of any kind shall be installed or erected upon any lot or other portion of the Property without the prior written permission of the Architectural Committee and/or Board of Directors.

(3) TREES/NO DISTURB BUFFER AREAS

After the transfer of control by the Sponsor of title to a Home or other portion of the Property, no trees exceeding 3" in diameter or other shrubs shall be removed from any such transferred lot or other portion of the Property, except for dead trees and shrubs, except with the prior written consent of the Board of Directors. All dead trees and shrubs on any lot shall be removed by the Owner of such lot, at the sole

expense of such Owner, promptly, to avoid any damage to any other Home, lot or other property. No owner may remove living trees or vegetation of any kind from Association Common Area or from pre-designated No Disturb Buffer Areas on any lot.

#### (4) OUTDOOR STORAGE

Temporary or permanent storage of any materials or items shall be inside the primary structure or inside an approved storage shed. This includes but is not limited to garden equipment, building materials, trash containers, automobiles parts, furniture, animal cages, propane tanks, signs, etc. A storage shed not exceeding 80 sq ft may be installed in the rear yard provided such building is of the same construction and color scheme as the Home and conforms to the Town of Moreau regulations. All storage shed locations, detailed plans and colors must be submitted to the Association Architectural Control Committee and/or Board of Directors for Approval in accordance with the Declaration.

#### (5) OUTDOOR REPAIR WORK

No extensive work on any motor vehicles, boats, trailers or other equipment of any kind shall be permitted on the Property.

#### (6) REFUSE DISPOSAL

Except for building materials being used during the course of construction or repair of any approved improvements, or by the Sponsor during the construction of the Homes, no lumber, metals, bulk materials, refuse or other waste material shall be kept, stored or allowed to accumulate outside the Home or its garage or on any portion of the Property. Recycling is mandatory in the Town of Moreau. The Board of Directors may, in its discretion, subject to the rules and regulations of the Town of Moreau, adopt and promulgate reasonable rules and regulations relating to size and type of containers permitted for refuse collection and disposal and the manner of storage of same on any portion of the property.

#### (7) SWIMMING POOLS OR OUTDOOR SPA TUBS

No swimming pools may be erected on any lot. Outdoor spa tubs may be allowed if located along the rear property in close proximity to the house structure. Any homeowner that wants to install a spa tub must submit a detailed plan to the Architectural Control Committee and/or Board of Directors for approval.

#### (8) FLAMMABLE SUBSTANCES

No flammable substances or articles deemed hazardous to life, limb or property shall be stored or permitted to be stored anywhere on the Property, in any Home, garage or on any lot.

#### (9) NOXIOUS OR OFFENSIVE ACTIVITIES

No noxious or offensive activity shall be carried out upon any portion of the Property or in any Home, or on any lot, nor shall anything be done thereon or therein that maybe or may become a nuisance or annoyance to other Owners or occupants.

### "Non-Maintenance Free Homes" Lots #34-55

#### Section 8.01. Use of Homes.

##### (1) DWELLING PURPOSES ONLY

Except as otherwise provided in this Declaration and the By-Laws, the Association Property and all Homes shall be used for residential purposes only and such purposes incidental and accessory thereof, provided, however, that prior to transfer of title by the Sponsor to all Homes, the Sponsor and/or the Sales Agent may use one or more Lots or Homes or other portions of Property for model Homes, a sales office and/or a construction office. This shall not preclude an Owner or occupant from maintaining an office within his Home providing no extraordinary traffic or parking results from such an office and no signs indicating the existence of such office are placed in any window of such Home or anywhere on the exterior of the Home



or on the Lot.

## (2) GARAGE AND GARAGE DOORS

Garages may be used for vehicular parking and storage of personal property only and may not be modified for any other use. Occupants of Homes shall be required, to the extent practicable, to park motor vehicles owned by them, or under their control, in their garage and shall cause the garage door to be kept in a closed position, except for ingress and egress, whenever possible.

## (3) AWNINGS AND WINDOW GUARDS

No awnings, window guards or other exterior window and/or door coverings, decorative or protective, maybe installed without the prior written consent of the Board of Directors.

## (4) TELEVISION AND RADIO ANTENNAS

No outside television or radio antenna for any transmission or receiving purposes shall be erected upon any Home or Lot or other portion of the Property without the prior written approval of the Board of Directors of the Association.

## (5) SATELLITE DISHES

No satellite dish of any type shall be installed so it is visible from any public highway. All satellite dishes shall be restricted to not more than 18" in diameter.

## (6) MECHANICAL INSTALLATIONS

No machinery, refrigeration or heating devises, other than those originally provided with the Home, or similar replacements of same shall be installed or operated in or about any Home without prior written permission of the Board of Directors. This provision does not apply to a ground mounted exterior air conditioner condenser unit.

Section 8.02. Pets. The Board of Directors may prohibit certain types of pets entirely. The Board of Directors shall have the right to require any Owner (or any lessee or family member or invitee of any Owner or lessee) to remove such pet from the Home and/or the Property, if in the opinion of the Board of Directors, acting in its sole discretion, such pet is creating a nuisance because, (e.g., the owner of the pet does not clean up after the animal, the animal is noisy or the animal is not properly controlled. ) In the case of a dog or cat, it must be kept leashed and not allowed to roam or run freely unless confined to a designated fenced-area at the rear yard of a homeowner's lot.

## Section 8.03. Parking

### RECREATIONAL VEHICLES/TRAILERS/MOTOR HOMES:

Recreational vehicles and trailers, including motorcycles, snowmobiles, all-terrain vehicles and boats (not exceeding twenty four (24) feet in length), or other such vehicles may be stored in a Homeowner's garage, an approved storage shed or in the rear yard provided only if the vehicle or trailer is not readily visible by any adjoining lot owner or from the street. Motor homes shall not be permitted on any lot or driveway unless for a temporary basis for not more than three (3) consecutive days.

### OVERSIZED, COMMERCIAL AND/OR UNLICENSED VEHICLES:

Unless used in connection with the construction or sale of Homes by the Sponsor, or maintenance of the Property, oversized, commercial and/or unlicensed vehicles shall not be permitted to remain for more that 3 consecutive nights on the Homeowner's lot unless garaged. Note: This does not apply to commercially licensed pick up trucks.

## Section 8.04. Use of the Property



(1) ADVERTISING AND SIGNS:

Except for signs erected by or with the permission of the Sponsor in connection with the initial marketing of Homes, no additional sign or other advertising device of any nature shall be placed for display to the public view on any Home, in any window of any Home, on any lot or other portion of the Property (including temporary signs advertising Homes for sale or rent by Owners, lessees or realtors) except with the consent of the Board of Directors.

(2) FENCES

Wood Cedar privacy fencing may be installed on a lot but will require obtaining Architectural Committee and/or the Board of Directors approval as to style, finish and location. No fence may exceed sixty (60) inches in height. Such fencing must also be in compliance with the Town of Moreau regulations. In no event shall fencing be located in the front yard area but may be located to the rear and/or the rear side yards up to a point parallel with the rear corners of the home.

(3) NO DISTURB BUFFER AREAS

No living trees or vegetation of any kind may be removed from Association Common Area or from pre-designated No Disturb Buffer Areas on any lot.

(4) OUTDOOR STORAGE

Temporary or permanent storage of any materials or items shall be inside the primary structure or inside an approved storage shed. This includes but is not limited to garden equipment, building materials, trash containers, automobiles parts, furniture, animal cages, propane tanks, signs, etc. A storage shed not exceeding 100 sq ft may be installed in the rear yard provided such building is of the same construction and color scheme as the Home and conforms to the Town of Moreau regulations. All storage shed locations, detailed plans and colors must be submitted to the Association Architectural Control Committee and/or Board of Directors for Approval in accordance with the Declaration.

(5) OUTDOOR REPAIR WORK

No extensive work on any motor vehicles, boats, trailers or other equipment of any kind shall be permitted on the Property.

(6) REFUSE DISPOSAL

Except for building materials being used during the course of construction or repair of any approved improvements, or by the Sponsor during the construction of the Homes, no lumber, metals, bulk materials, refuse or other waste material shall be kept, stored or allowed to accumulate outside the Home or its garage or on any portion of the Property. Recycling is mandatory in the Town of Moreau. The Board of Directors may, in its discretion, subject to the rules and regulations of the Town of Moreau, adopt and promulgate reasonable rules and regulations relating to size and type of containers permitted for refuse collection and disposal and the manner of storage of same on any portion of the property.

(7) OUTDOOR SWIMMING POOLS OR SPA TUBS

Swimming pools may be allowed in the rear of a Homeowner's lot. Outdoor spa tubs may be allowed if located along the rear property in close proximity to the house structure. Any homeowner that wants to install a spa tub or swimming pool must submit a detailed plan to the Architectural Control Committee and/or Board of Directors for approval. All installations must meet Town of Moreau and New York State regulations.

(8) FLAMMABLE SUBSTANCES

No flammable substances or articles deemed hazardous to life, limb or property shall be stored or permitted to be stored anywhere on the Property, in any Home, garage or on any lot.

(9) NOXIOUS OR OFFENSIVE ACTIVITIES

No noxious or offensive activity shall be carried out upon any portion of the Property or in any Home, or on any lot, nor shall anything be done thereon or therein that may be or may become a nuisance or annoyance to other Owners or occupants.

THE BOARD OF DIRECTORS MAY PROMULGATE SUCH OTHER RULES AND REGULATIONS, FROM TIME TO TIME, AS MAY BE NECESSARY TO PRESERVE AND ENHANCE THE PROPERTY OF WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.

Section 8.05. Other Covenants, Restrictions, and Easements. All property subject to this Declaration are further restricted and obligated as follows:

Use of Non-Association Irrigation Appurtenances

In order to provide adequate water supply for irrigation purposes to benefit Association Property, the Sponsor and/or Association may contract with the adjacent Woodscape North Homeowners' Association to access and utilize existing irrigation infrastructure including an existing pump house located upon property not subject to this Declaration. The Association shall be responsible for costs to access and utilize such offsite irrigation infrastructure.

Use of Non-Association Stormwater Infrastructure

In order to provide for adequate stormwater management and suitable drainage throughout the Property subject to this Declaration, the Sponsor and/or Association may obtain easements for connection to, and use of, existing stormwater and drainage infrastructure not located upon the Property subject to this Declaration. The Association shall be responsible for costs to access and utilize such offsite stormwater and irrigation infrastructure.

Inspection and Maintenance of Stormwater Detention Basins

The Association shall be responsible for the inspection and continual maintenance of the stormwater detention basins located upon the property.

ARTICLE IX  
DURATION, ENFORCEMENT AND AMENDMENT OF DECLARATION

Section 9.01. Duration. This Declaration shall continue until: (i) terminated by casualty loss, condemnation or eminent domain, or (ii) such time as withdrawal of the Property from the provisions of this Declaration is authorized by a vote of Owners by at least eighty percent (80%) of Authorized Votes. No such vote shall be effective without a written consent of Mortgagees, if any. Sponsor will not vote its interests appurtenant to Unsold Lots or Homes for such withdrawal unless at least eighty percent (80%) of all other Owners so elect for such withdrawal, at which time Sponsor may vote as he sees fit.

Section 9.02. Declaration Runs With the Land. The provisions of this Declaration shall bind the Property and shall be construed as running with the land and shall inure to the benefit of and be enforceable by the Sponsor and the Association (being hereby deemed the agent for all of its Members), and by any Owner, his respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity. As it may be impossible to measure monetarily the damages which may accrue to the beneficiaries hereof by reason of a violation of this Declaration, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.



Section 9.03. Enforceability.

(a) Each Member of the Association and each person or entity acquiring an interest in a Home or other portion of the Property, or otherwise occupying any portion of the Property (whether or not the deed, lease or any other instrument by which he becomes a Member or becomes subject to the provisions of this Declaration incorporates or refers to this Declaration) covenants and agrees for himself and for his heirs, successors and assigns, to observe, perform and be bound by the provisions of this Declaration, including personal responsibility for the payment of all charges which may become liens against his property and which become due while he is a Member of the Association or during any tenancy, and also covenants to incorporate this Declaration by reference in any deed, lease or other Instrument further transferring an interest in his Home or other portion of the Property.

(b) In addition or as an alternative to an action at law or suit in equity, the Board of Directors of the Association may, with respect to any violation of this Declaration or of the By-Laws or Rules and Regulations of the Association or of any committee of the Association, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and/or severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any other person. Monetary penalties imposed against a Member or Home occupant shall be deemed an Assessment against the Home of such Member or on which the Home occupied by such occupant is located and, as such, shall be a charge and continuing lien upon such Home, shall constitute a personal obligation of the Owner and shall be collectible in the same manner as Assessments under Article V of this Declaration.

Section 9.04. No Waiver for Failure to Enforce. The failure of any beneficiary hereof to enforce any provision of this Declaration shall in no event be construed as a waiver of the right by that beneficiary or any other to do so thereafter, as to the same or a similar violation occurring prior or subsequent thereto. No liability shall attach to the Sponsor, the Association (or any officer, Director, employee, Member, agent, committee or committee member thereof, or to any other person or organization for failure to enforce the provisions of this Declaration.

Section 9.05. Default Notices to be Sent to Mortgagees. Each Owner shall notify the Association of the name of the mortgagee of such Owner's Home, if any. Upon receipt of such notice, the Association shall thereafter provide such mortgagee with a duplicate copy of any notice of default sent to such Owner with regard to the violation by such Owner of any provision of this Declaration.

Section 9.06. Amendment. (a) Subject to Subparagraph (b) of this Section, this Declaration may be modified, altered or amended at any duly called meeting of Members provided that:

(i) notice of the meeting containing a full statement of the proposed modification, alteration, or amendment has been sent to all the Members on the books and records of the Association no less than thirty (30) days nor more fifty (50) days prior to the date of the meeting; and

(ii) Two-thirds (2/3) of all Members of the Association approve the change; and

(iii) An instrument evidencing the change is duly recorded in the Office of the Saratoga County Clerk. Such instrument need not contain the written consent of the required number of Members, but shall contain a certification by the Board of Directors of the Association that the consents required by this Section for such change have been received and filed with the Board of Directors.

(b) Until the Transfer of Control Date, the prior written consent of the Sponsor shall be required for any amendment which adversely affects a substantial interest or right of the Sponsor (as determined by the Sponsor in its sole judgment) to become effective, which consent may not be unreasonably withheld.



Section 9.07. Conflict with Municipal Laws. The protective Covenants, Conditions and Restrictions set forth herein shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, ordinances, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease.

Section 9.08. Attorney's Fees. Any party to a proceeding who succeeds in enforcing a Covenant, Condition or Restriction or enjoining the violation of a Covenant, Condition or Restriction against an Owner (or such Owner's tenant, lessee, licensee or invitee), shall be entitled to reasonable attorney's fees against such Owner.

Section 9.09. Change of Conditions. No change of conditions or circumstances shall operate to amend any of the provisions of this Declaration, and the same may be amended only in the manner provided herein.

Section 9.10. Member Responsible for Tenants. Any lease of a Home shall provide that the tenant shall comply in all respects with the terms of this Declaration, the By-Laws and Rules and Regulations, if any, of the Association. If a tenant is in violation of this Declaration, the By-Laws or Rules and Regulations, the Board of Directors shall so notify the Owner of such Home which such tenant occupies, in writing by certified mail, return receipt requested. If the violation is not cured or eviction proceedings commenced by the Owner against the tenant within fourteen (14) days after the Owner has received notice of such violation, the Board of Directors may pursue any remedies which it may have pursuant to this Declaration.

Section 9.11. Inspection and Entry Rights. Any agent of the Association may, at any reasonable time or times, upon not less than twenty-four (24) hours notice to the Owner and/or occupant, enter upon a Home or other portion of the Property to inspect the improvements thereon for the purpose of ascertaining whether the maintenance, construction or alteration of structures or other improvements thereon comply with this Declaration, or with the By-Laws or Rules and Regulations issued pursuant hereto. Neither the Association nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

Section 9.12. Abatement and Enjoining of Violations. The violation of any Rule or Regulation adopted by the Board of Directors, or the breach of the By-Laws or the breach of any provision of this Declaration, shall give the Board of Directors the right, in addition to any other rights set forth in this Declaration or the By-Laws:

(a) to enter the Home in which, or as to which, such violation or breach exists, subject to terms contained herein in this Section 9.13, and to summarily abate and/or remove the condition causing the violation at the expense of the defaulting Owner, and the Board of Directors (and its employees, contractors and agents) shall not thereby be deemed guilty in any manner of trespass;

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; and

(c) to establish a penalty in accordance with Section 9.15 herein. Notwithstanding anything to the contrary herein, the Board of Directors shall not alter or demolish any item of construction unless it shall have first instituted appropriate judicial proceedings. If, thirty (30) days after written notice of any such violation or breach has been given to the Board of Directors by any one or more Owners, and the Board of Directors has failed to take any action to remedy such violation or breach, then one or more aggrieved Owners shall have the right to enjoin, abate or remedy the continuance of any such violation or breach by appropriate legal proceedings at law or in equity. Prior to exercising such right, the Board of Directors, or the aggrieved Owner or Owners, as the case may be, shall, if reasonably possible, notify the Owner and the Mortgagee (if known) of the Home or Homes involved and provide a reasonable amount of time for the



cure of such violation or breach by the Owner or the Mortgagee.

Section 9.13. Obligation and Lien for Cost of Enforcement. If an action is successfully brought by the Association to extinguish a violation or breach of the Rules and Regulations, or to successfully enforce the provisions of this Declaration or the By-Laws, the cost of such action, including legal fees, shall become a binding personal obligation of the violator, if an Owner, or the Owner responsible for such violator and such cost shall also be a lien upon the Home or Homes of such Owner.

Section 9.14. Penalties and Fines. In addition or as an alternative to an action at law or suit in equity, the Board of Directors may, with respect to any violation of this Declaration, the By-Laws or the Rules and Regulations, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any other person. Monetary penalties imposed against an Owner or occupant shall be deemed an Assessment against the Home of such Owner and, as such, shall be a charge and continuing lien upon such Home, shall constitute a personal obligation of the Owner and shall be collectible in the same manner as Assessments and Special Assessments under the By-Laws and this Declaration.

## ARTICLE X GENERAL

Section 10.01. Headings and Captions. The headings and captions contained in this Declaration are for convenience only and shall not affect the meaning or interpretation of the content hereof.

Section 10.02. Invalidity of Declaration. The determination by any court that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provision hereof.

Section 10.03. Gender. The use of the masculine gender herein shall be deemed to include the masculine, feminine or neuter, and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 10.04. Right Reserved to Impose Additional Protective Covenants. The Sponsor reserves the right to record additional protective covenants and restrictions affecting the Property prior to the conveyance of any lands encumbered by this Declaration.

Section 10.05. Notice. Unless the By Laws provide for service of notice by electronic means, all notices hereunder shall be in writing and sent by mail, by depositing same in a post office or letter box, in a postpaid sealed wrapper, addressed, if to the Board of Directors, at the office of the Board of Directors and if to an Owner or Home Mortgagee, to the address of such Owner or Mortgagee as such address appears on the books of the Association and if to the Sponsor, to the address of the Sponsor as appears on the books of the Association. All notices shall be deemed to have been given when mailed, except notices of change of address, which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of this Declaration, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent of such notice. Notwithstanding the foregoing, in the event the By Laws authorize notice by electronic means, such authorization shall supersede and prevail over this section.

Section 10.06. Right of Association to Transfer Interest. Notwithstanding any other provision herein to the contrary, the Association and its successors, shall at all times have the absolute right to fully transfer, convey and assign its right, title and interest under this Declaration to any successor not-for-profit corporation. Upon such assignment, the successor corporation shall have all rights and be subject to all the



duties of the Association as set forth in this Declaration and shall be deemed to have agreed to be bound by all provisions hereof, to the same extent as if the successor corporation had been an original party and all references herein to the Board of Directors shall be deemed to refer to the Board of Directors of such successor corporation. Any such assignment shall be accepted by the successor corporation under written agreement pursuant to which the successor corporation expressly assumes all the duties and obligations of the Association. If, for any reason, the Association shall cease to exist without having first assigned its rights hereunder to a successor corporation, the Covenants, Conditions, Restrictions, Easements, Charges and Liens imposed hereunder shall, nevertheless, continue and any Member may petition a court of competent jurisdiction to appoint a trustee for the purpose of organizing a not-for-profit corporation to take over the duties and responsibilities of the Association, such corporation to exist subject to the conditions provided herein with respect to an assignment and delegation to a successor corporation.

Section 10.07. Right of Association to Transfer Functions. Unless otherwise specifically prohibited herein or within the Certificate of Incorporation or By-Laws of the Association, any and all functions of the Association shall be fully transferable in whole or in part to any other homeowners' association or similar entity.

Section 10.08. Notices to Mortgagees. Each Mortgagee, insurer or guarantor, upon written request therefore, shall be entitled to receive written notice from the Board of Directors of the occurrence of (1) any condemnation or casualty loss affecting a material portion of the Association Property or any Home and (ii) any proposed action which may not be taken or become effective if a specified percentage of mortgagees, insurers or guarantors objects thereto.

## ARTICLE XI INSURANCE TO BE CARRIED

Section 11.01. Insurance to be Carried. The Board of Directors of the Association shall obtain and maintain liability insurance.

Section 11.02. Insurance Carried By Owners. Each Owner shall, at such Owner's expense, obtain adequate insurance for full replacement cost of such Owner's Home and liability insurance for occurrences within the Home and on the Lot of such Owner. Evidence of such insurance shall be provided to the Board of Directors annually upon the anniversary date of the policy. Upon the lapse of such policy, the Board of Directors may obtain the required insurance and the cost of such shall constitute a Special Assessment against the defaulting Home, and as such, shall become a lien upon the Home, collectible in the same manner as other Assessments as set forth in Article V of this Declaration.

In the event of damage or destruction of any Home, the Owner of such Home shall arrange for prompt repair and restoration of the Home. Any such repair and/or restoration shall be in substantial accordance with the plans and specifications of the damaged improvements as originally built. Any substantial deviation therefrom shall require written submission of such deviations to the Architectural Control Committee and written approval from the Board of Directors in accordance with Article VIII of this Declaration. "Prompt repair and restoration" used herein shall mean repair and restoration to begin, weather permitting, not more than sixty (60) days from the date of receipt of the insurance proceeds by Owner of such Home, providing that if new or revised permits from a governmental authority are required, a reasonable time is allowed to procure such permits.

Section 11.03. Action Which May Increase Insurance Rates Prohibited. Under no circumstances shall an Owner permit or suffer anything to be done or left in such Owner's Home or garage which will increase insurance rates on such Home or on any other Home or Association Property. The penalty for violation shall be an Assessment against the Owner violating the provision of an amount equal to the increased



rate(s).

IN WITNESS WHEREFORE, the undersigned, being the Owner of real property subject to this Declaration, as may be supplemented, extended or amended from time to time, set their hands and seals the date stated below.

THE MICHAELS GROUP, LLC

By: \_\_\_\_\_  
J. David Michaels Date

STATE OF NEW YORK )  
COUNTY OF \_\_\_\_\_ ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ 2009, before me, the undersigned, a notary public in and for said state, personally appeared J. David Michaels, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

## LIENS, ENCUMBRANCES AND OTHER TITLE EXCEPTIONS

1. The terms, conditions, covenants, easements and provisions of this Declaration and By-Laws relating to the Association, include:

(A) Each Home, and the Association Property shall be subject to an easement for encroachments created by construction, settling and overhangs of the Homes, or other improvements as designed or constructed. A valid easement for said encroachments and for the maintenance of same, so long as they stand, shall and does exist.

(B) The Association shall have the right of access to each Home for maintenance, repair or replacement of any pipes, wires, conduits, drainage areas, public utility lines or cable television lines located on or within any Home and servicing any other Home.

(C) The terms, conditions, covenants, easements and provisions of this Declaration and the accompanying By-Laws include the easements and rights retained by Sponsor as provided in the foregoing Declaration.

2. Any state of facts shown on a survey of the land and buildings, provided such state of facts do not render title unmarketable.

3. Zoning, regulations and ordinances, and any amendments thereto, provided that neither the Building in which the Home is located nor its use as contemplated by the Plan are prohibited thereby.

4. New York State franchise taxes of any corporation in the chain of title, provided that any title insurance underwriting company or their agent is willing to insure that such taxes will not be collected out of the Home.

5. Sewer, water, electric, plumbing, heating, telephone, television and other utility easements and consents, if any, then or thereafter recorded, including the right to maintain and operate lines, pipes, ducts, wires, cables, conduits, connections, fittings, poles and distribution boxes in, over, under and upon the Property and the Buildings.

6. Leases or tenancies, and service, maintenance and license agreements affecting the Homes or portions of the Association Property, if any.

7. Water charges, if any, (but the Sponsor will be obligated to pay all such charges through the date preceding the date of the first closing of title to a Home).

8. Future installments of special assessments for improvements payable with Town and County Taxes.



9. Utility easements, rights of way and agreements granted to or made with the Town of Moreau, the Telephone Company, Niagara Mohawk Power Corporation, Time Warner Cable (the current television franchisee for the area), or any other utility companies or municipalities.

10. The lien of a purchase money mortgage, if any, obtained by Purchaser to finance the purchase of the Home.

11. Standard exceptions contained in the form of title insurance policy then issued by any title insurance company insuring Purchaser's title to the Home.

12. Such easements and/or rights-of-way as may have been granted by deed or recorded in the Office of the Saratoga County Clerk.

ALL OF THE ABOVE SHALL SURVIVE DELIVERY OF THE DEED.

## Schedule A

### PROPERTY SUBJECT TO DECLARATION



## Suggested description of Phase II Woodscape Residential Cluster Subdivision.

All that certain piece or parcel of land situate, lying and being in the Town of Moreau, County of Saratoga and the State of New York, more particularly bounded and described as follows: **BEGINNING** at a point in the southerly bounds of Reservoir Road at the northeast corner of lands now or formerly of John Murphy; thence running South 84 degrees, 53 minutes and 12 seconds East, along said Reservoir Road a distance of 278.30 feet to the northwest corner of the lands of Baker, being Lot 1 of the subdivision know as Timber Ridge; thence running South 11 degrees, 28 minutes and 40 seconds West, along said Lot 1, a distance of 191.18 feet to the southwesterly corner thereof; thence running on a division line between Phase I and Phase II, the following ten courses and distances:

- (1) South 11 degrees, 29 minutes and 23 seconds West, a distance of 591.57 feet;
- (2) North 72 degrees, 24 minutes and 05 seconds West, a distance of 316.04 feet;
- (3) South 17 degrees, 53 minutes and 55 seconds West, a distance of 188.76 feet;
- (4) South 10 degrees, 30 minutes and 32 seconds West, a distance of 60.00 feet;
- (5) South 06 degrees, 08 minutes and 43 seconds East, a distance of 213.88 feet;
- (6) South 17 degrees, 01 minutes and 26 seconds East, a distance of 172.00 feet;
- (7) South 03 degrees, 51 minutes and 46 seconds East, a distance of 60.00 feet;
- (8) running easterly along a curve to the left having radius of 330.00 feet, a distance of 67.61 feet;
- (9) South 48 degrees, 17 minutes and 39 seconds East, a distance of 239.14 feet;
- (10) South 04 degrees, 32 minutes and 45 seconds West, a distance of 78.34 feet to a point in the northerly bounds of Gregory Manor Subdivision; thence running along the same, North 85 degrees, 27 minutes and 15 seconds West, a distance of 253.34 feet; thence running North 83 degrees, 05 minutes and 42 seconds West, still along the northerly bounds of said Gregory Manor Subdivision, a distance of 1049.04 feet to the northwesterly corner thereof and the northeasterly corner of lands of Evergreen Communities; thence running along the same, North 86 degrees, 07 minutes and 25 seconds West, a distance of 1350.33 feet to an iron rod found in the ground for a corner at the northwesterly corner thereof; thence running along the northwesterly bounds of the 20<sup>th</sup> allotment of the Kataross Patent, the following six courses and distances:
- (1) North 60 degrees, 07 minutes and 27 seconds East, a distance of 624.26 feet;
- (2) North 61 degrees, 23 minutes and 47 seconds East, a distance of 25.60 feet;
- (3) North 63 degrees, 48 minutes and 55 seconds East, a distance of 352.23 feet;
- (4) North 63 degrees, 48 minutes and 15 seconds East, a distance of 199.68 feet;
- (5) North 62 degrees, 39 minutes and 27 seconds East, a distance of 702.35 feet;
- (6) North 62 degrees, 06 minutes and 25 seconds East, a distance of 1006.99 feet to the point and place of beginning, containing 47.04 acres of land to be the same more or less.

Bearings given in the above description refer to magnetic North.

SUBJECT to easements of record.

Van Dusen & Steves  
Land Surveyors  
NYS Lic. # 50135



## Schedule B

PROPERTY TO BE CONVEYED TO  
WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.  
(ASSOCIATION PROPERTY)

## Suggested description of Woodscape Open Space Parcel A.

All that certain piece or parcel of land situate, lying and being in the Town of Moreau, County of Saratoga and the State of New York, more particularly bounded and described as follows: **BEGINNING** at the most southwesterly corner of said Parcel A as shown on a map of the subdivision known as Woodscape Phase II by Van Dusen & Steves dated February 23, 2006, last revised April 27, 2006; running thence North 60 degrees, 07 minutes and 27 seconds East, along the easterly bounds of the lands now or formerly of Barody a distance of 624.26 feet to the northeasterly corner thereof; thence running North 61 degrees, 23 minutes and 47 seconds East, along the lands now or formerly of the Sweet Estate, a distance of 25.60 feet to the southwest corner of lands now or formerly of Reith; thence running along the same, North 63 degrees, 48 minutes and 55 seconds East, a distance of 352.23 feet to the southeasterly corner thereof; thence running North 63 degrees, 48 minutes and 15 seconds East, along the easterly bounds of lands now or formerly of Armstrong, a distance of 199.68 feet; thence running North 62 degrees, 39 minutes and 27 seconds East, along the easterly bounds of lands now or formerly of Long, Sweet Estate, Sweet, a distance of 702.35 feet; thence running North 62 degrees, 06 minutes and 25 seconds East, along the easterly bounds of said lands of Sweet, lands of Duane Reynolds, lands of Tardiff, lands of Baker Bros., lands of James Murphy, lands of Jared Murphy, and lands of John Murphy, a distance of 1006.99 feet to a point in the southerly bounds of Reservoir Road where the same is intersected by Amber Lane as shown on said map; thence running along a curve to the right having a radius of 25.00 feet, a distance of 39.27 feet; thence running along said Amber Lane, South 05 degrees, 06 minutes and 47 seconds West, a distance of 139.17 feet; thence running along a curve to the right having a radius of 150.00 feet, a distance of 130.67 feet to the northeast corner of Lot 1; thence running along the same, North 24 degrees, 49 minutes and 57 seconds West, a distance of 189.08 feet to the most northerly corner thereof; thence running South 62 degrees, 06 minutes and 24 seconds West, along the northwesterly bounds of Lots 1, 2, 3 and 4, a distance of 440.33 feet to the most westerly corner of said Lot 4; thence running South 19 degrees, 33 minutes and 11 seconds West, along the westerly bounds of Lots 5 and 6, a distance of 246.92 feet to the southwest corner of Lot 6; thence running South 17 degrees, 35 minutes and 55 seconds West, along the westerly bounds of Lot 7, a distance of 20.38 feet to the northeast corner of Lot 9; thence running North 72 degrees, 24 minutes and 05 seconds West, along the northerly bounds of Lot 9 and 10, a distance of 253.89 feet to the northerly corner of Lot 11; thence running South 62 degrees, 39 minutes and 27 seconds West, along Lots 11, 12 & 13, a distance of 407.09 feet; thence running South 41 degrees, 55 minutes and 14 seconds West, along the westerly bounds of Lots 14, 15, 16 and 17, a distance of 367.00 feet; thence running South 40 degrees, 22 minutes and 02 seconds East, along the southerly bounds of said Lot 17, a distance of 185.49 feet to the northwesterly bounds of Woodscape Drive; thence running southwesterly along said Woodscape Drive, along a curve to the right having a radius of 620.00 feet a distance of 252.78 feet to a cul-de-sac; thence running along a curve to the right having a radius of 40.00 feet, a distance of 56.18 feet; thence running along a curve to the left along said cul-de-sac, having a radius of



85.00 feet, a distance of 152.74 feet to the northeast corner of Lot 53 of said subdivision; thence running along the same, the following two courses and distances:

(1) North 41 degrees, 58 minutes and 56 seconds West, a distance of 78.63 feet;  
(2) South 62 degrees, 46 minutes and 50 seconds West, a distance of 265.00 feet; thence running South 29 degrees, 52 minutes and 33 seconds East, along the southerly bounds of Lot 53 and 52, a distance of 291.89 feet; thence running South 86 degrees, 07 minutes and 25 seconds East, still along the southerly bounds of Lots 52, 51, 50, 49 and 47, a distance of 690.87 feet; thence running South 83 degrees, 05 minutes and 42 seconds along the southerly bounds of Lots 47, 46, 45 and 44, a distance of 456.42 feet to the southeast corner of said Lot 44; thence running North 06 degrees, 54 minutes and 18 seconds East, along the easterly bounds thereof, a distance of 170.00 feet to the southerly bounds of Royal Pines Drive; thence running along the same, South 83 degrees, 05 minutes and 42 seconds East, a distance of 307.35 feet to the northwest corner of Lot 43; thence running along the same, South 06 degrees, 54 minutes and 18 seconds West, a distance of 170.00 feet to the southwesterly corner of said Lot 43; thence running South 83 degrees, 05 minutes and 42 seconds East, along the southerly bounds of Lots 43 and 42 and part of Lot 41, a distance of 285.45 feet; thence running South 85 degrees, 27 minutes and 15 seconds East, along the southerly bounds of Lot 41, a distance of 132.72 feet to an angle point therein for a corner; thence running North 41 degrees, 42 minutes and 21 seconds East, still along said Lot 41; a distance of 111.01 feet to the southwesterly bounds of Lot 44; thence running along the same, South 48 degrees, 17 minutes and 39 seconds East, a distance of 66.44 feet to the most southerly corner of said Lot 44 and southwesterly corner of Lot 43; thence running South 04 degrees, 32 minutes and 45 seconds West, a distance of 78.34 feet to the northerly bounds of lands now or formerly of Felton & Engessen; thence running along the same, along the northerly bounds of lands now or formerly of Sharpe, North 85 degrees, 27 minutes and 15 seconds West, a distance of 253.34 feet; thence running North 83 degrees, 05 minutes and 42 seconds West, along the northerly bounds of said lands of Sharpe, Reynolds, Hayes, Tolin, Underwood and Verney, a distance of 1049.04 feet to the northwest corner of said lands of Verney and the northerly corner of the lands of Abrams; thence running North 86 degrees, 27 minutes and 25 seconds West, along the northerly bounds of White Birch MHC, LLC, a distance of 1350.33 feet to the point and place of beginning, containing 10.55 acres of land to be the same more or less.

Bearings given in the above description refer to magnetic North.

SUBJECT to easements of record.

**OPEN SPACE PARCEL C**

**BEGINNING** at a point in the northerly bounds of Woodscape Drive, the southwest corner of the Playground area open space; thence running westerly along the northerly bounds of said Woodscape Drive along a curve to the right having a radius of 1470.00 feet a distance of 181.78 feet; thence running North 72 degrees, 24 minutes and 05 seconds West, a distance of 7.53 feet to the southeast corner of Amber Lane; thence running along Amber Lane, along a curve to the right having a radius of 25.00 feet, a distance of 39.27 feet; thence continuing along said Amber Lane, North 17 degrees, 35

minutes and 55 seconds East, a distance of 10.00 feet to the southwest corner of Lot 33; thence running along the same, South 72 degrees, 24 minutes and 05 seconds East, a distance of 180.00 feet to the southeasterly corner thereof; thence running North 17 degrees, 35 minutes and 55 seconds East, along the easterly bounds of said Lot 33 and 32, a distance of 180.0 feet; thence running North 37 degrees, 30 minutes and 39 seconds East, along the easterly bounds of Lot 31 and 30, a distance of 113.44 feet; thence running North 65 degrees, 10 minutes and 03 seconds East, along the easterly bounds of Lots 29 and 28, a distance of 180.00 feet; thence running North 54 degrees, 38 minutes and 38 seconds East, along the easterly bounds of Lot 27, a distance of 142.46 feet; thence running North 33 degrees, 49 minutes and 37 seconds East, along the easterly bounds of Lot 26, a distance of 142.57 feet to the easterly bounds of Phase II and the westerly bounds of Phase I as shown on said map; thence running along said Phase I, South 11 degrees, 29 minutes and 23 seconds West, a distance of 496.52 feet to the northeast corner of Lot 10 of Phase I; thence running North 72 degrees, 24 minutes and 05 seconds West, still along said phase line between Lots 1 and 2, a distance of 316.04 feet; thence running South 17 degrees, 35 minutes and 55 seconds West, along the westerly bounds of Phase I and the westerly bounds of Playground area open space, a distance of 188.76 feet to the point and place of beginning, containing 2.18 acres of land to be the same more or less.

Bearings given in the above description refer to magnetic North.

SUBJECT to easements of record.

#### **OPEN SPACE E**

**BEGINNING** at a point in the northerly bounds of Royal Pines Drive at the southwest corner of Lot 37; running thence North 83 degrees, 05 minutes and 42 seconds West, along the northerly bounds of Royal Pines Drive, a distance of 230.00 feet to the southeast corner of Lot 38; thence running North 06 degrees, 54 minutes and 18 seconds East, along said Lot 38, a distance of 170.00 feet to the northeasterly corner thereof; thence running North 83 degrees, 05 minutes and 42 seconds West, along the northerly bounds of Lot 38, 39 and 40, a distance of 301.23 feet; thence running North 42 degrees, 23 minutes and 06 seconds East, along the easterly bounds of Lot 19, a distance of 48.58 feet; thence running North 62 degrees, 57 minutes and 22 seconds East, along the easterly bounds of Lots 20 and 21, a distance of 117.37 feet; thence running South 85 degrees, 25 minutes and 29 seconds East, along the southerly bounds of Lot 22, a distance of 71.80 feet; thence running South 72 degrees, 24 minutes and 05 seconds East, along the southerly bounds of Lots 23 and 24, a distance of 180.00 feet; thence running North 17 degrees, 35 minutes and 55 seconds East, along the easterly bounds of Lot 24, a distance of 170.00 feet to the southerly bounds of Woodscape Drive; thence running along the same, South 72 degrees, 24 minutes and 05 seconds East, a distance of 80.00 feet to the northwest corner of Lot 34; thence running South 17 degrees, 35 minutes and 55 seconds West, along said Lot 34, a distance of 180.0 feet to the southwesterly corner thereof; thence running South 73 degrees, 53 minutes and 36 seconds East, along the southerly bounds thereof, a distance of 118.70 feet; thence running South 86 degrees, 52 minutes and 52 seconds East, along the southerly bounds of Lot 35, a distance of 156.77 feet to



the southeasterly corner thereof; thence running South 06 degrees, 08 minutes and 43 seconds East, along the phase line between Phase I and II, a distance of 42.42 feet to the northeast corner of Lot 36; thence running North 83 degrees, 05 minutes and 42 seconds West, along the northerly bounds of Lots 36 and 37, a distance of 202.87 feet; thence running South 06 degrees, 54 minutes and 18 seconds West, along said Lot 37, a distance of 170.00 feet to the point and place of beginning, containing 2.29 acres of land to be the same more or less.

Bearings given in the above description refer to magnetic North.

SUBJECT to easements of record.

Van Dusen & Steves  
Land Surveyors  
NYS Lic. # 50135

January 7, 2009

## Suggested description of Woodscape Open Space Parcel B.

All that certain piece or parcel of land situate, lying and being in the Town of Moreau, County of Saratoga and the State of New York, more particularly bounded and described as follows: **BEGINNING** at a point in the southerly bounds of Reservoir Road where the same is intersected by the easterly bounds of Amber Lane as shown on a subdivision map known as Woodscape Phase II by Van Dusen & Steves dated February 23, 2006, last revised April 27, 2006; running thence South 84 degrees, 53 minutes and 12 seconds East, along said Reservoir Road, a distance of 168.30 feet to the northeasterly corner thereof at the northwesterly corner of Lot 1 of the Baker Subdivision; thence running along the same, South 11 degrees, 28 minutes and 40 seconds West, a distance of 141.70 feet to the northeast corner of Lot 25 as shown on said map; thence running North 84 degrees, 53 minutes and 13 seconds West, a distance of 177.59 feet to the easterly bounds of said Amber Lane; thence running along the same, North 05 degrees, 06 minutes and 47 seconds East, a distance of 115.82 feet; thence running along a curve to the right having a radius of 25.00 feet, a distance of 39.27 feet to the point and place of beginning, containing 25, 981.00 square feet of land to be the same more or less.

Bearings given in the above description refer to magnetic North.

SUBJECT to easements of record.

Van Dusen & Steves  
Land Surveyors  
NYS Lic. # 50135



January 7, 2009

## Suggested description of lands of Woodscape Open Space Parcel D.

All that certain piece or parcel of land situate, lying and being in the Town of Moreau, County of Saratoga and the State of New York, more particularly bounded and described as follows: **BEGINNING** at a point in the westerly bounds of Amber Lane at the southeast corner of Lot 8 as shown on a subdivision map known as Woodscape Phase II by Van Dusen & Steves dated February 23, 2006, last revised April 27, 2006; running thence South 17 degrees, 35 minutes and 55 seconds West, along said Amber Lane, a distance of 10.00 feet to a point for a corner; thence running along a curve to the right having a radius of 25.00 feet, a distance of 39.27 feet to a point in the northerly bounds of Woodscape Drive; thence running along the same, North 72 degrees, 24 minutes and 05 seconds West, a distance of 155.00 feet to the southeast corner of Lot 9; thence running along the same, North 17 degrees, 35 minutes and 55 seconds East, a distance of 35.00 feet to the southwest corner of Lot 8; thence running along the same, South 72 degrees, 24 minutes and 05 seconds East, a distance of 180.00 feet to the point and place of beginning, containing 6166.00 square feet of land to be the same more or less.

Bearings given in the above description refer to magnetic North.

SUBJECT to easements of record.

Van Dusen & Steves  
Land Surveyors  
NYS Lic. # 50135

## Suggested description of Woodscape Open Space Parcel F.

All that certain piece or parcel of land situate, lying and being in the Town of Moreau, County of Saratoga and the State of New York, being Parcel F as shown on a subdivision map known as Woodscape Phase II by Van Dusen & Steves dated February 23, 2006, last revised April 27, 2006, more particularly bounded and described as follows: **BEGINNING** at a point in the easterly bounds of Woodscape Drive at the southwest corner of Lot 18 as shown on said map; thence running South 42 degrees, 04 minutes and 36 seconds East along the southerly bounds of said Lot 18, a distance of 164.40 feet to the southeasterly corner thereof in the westerly bounds of Lot 40; thence running along the same, South 21 degrees, 37 minutes and 47 seconds West, a distance of 41.32 feet to a point in the northerly bounds of Royal Pines Drive; thence running westerly along a curve to the right having a radius of 270.00 feet, a distance of 137.02 feet; thence continuing along said Royal Pines Drive, North 39 degrees, 17 minutes and 33 seconds West, a distance of 12.35 feet; thence running along a curve to the right having a radius 40.00 feet, a distance of 62.23 feet to a point in the southeasterly bounds of said Woodscape Drive; thence running along the same in a northerly direction along a curve to the left having a radius of 680.00 feet a distance of 22.77 feet to the point and place of beginning, containing 10, 075.00 square feet of land to be the same more or less.

Bearings given in the above description refer to magnetic North.

SUBJECT to easements of record.

Van Dusen & Steves  
Land Surveyors  
NYS Lic. # 50135



## Schedule C

### BY-LAWS OF THE WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.

BY-LAWS  
OF  
WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.

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**BY-LAWS  
OF  
WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.**

**ARTICLE I  
NAME, LOCATION AND MEMBERSHIP**

**Section 1.01. Name and Location.**

The name of the not-for-profit corporation, organized pursuant to the New York State Not-for-Profit Corporation Law, is the Woodscape North Homeowners' Association II, Inc., hereinafter referred to as the "Association". The Certificate of Incorporation was filed in the Office of the Secretary of State of the State of New York, on August 15, 2008. The Corporation (hereinafter referred to as the "Association") was organized for the purpose of taking title to the Property deeded, or to be deeded, to the Association and administering the operations of the Association. The principal office of the Association shall be located in the Town of Moreau, County of Saratoga and State of New York.

**Section 1.02. Applicability of By-Laws.**

The provisions of these By-Laws are applicable to the Property of the Association and the use thereof.

**Section 1.03. Personal Application.**

All present and future Owners, their guests, lessees, licensees, invitees and Mortgagees, and any other person having a right to use all or a portion of the Property by virtue of rights previously granted by deed and any other person who may use the facilities of the Property in any manner, are subject to these By-Laws and the Declaration and Rules and Regulations (as hereinafter defined).

**ARTICLE II  
DEFINITIONS**

**Section 2.01. Definitions.**

All capitalized terms herein, which are not separately defined or denominated herein shall have the meanings given to those terms in Article I of the Declaration.

**ARTICLE III  
OWNERS; VOTING RIGHTS**

**Section 3.01. Membership.**

The Association shall have as Members only Owners of Lots within the Woodscape North II community. All Owners shall be deemed automatically to have become Members upon



the date that title to the Lot is transferred to said Owner and there shall be no other qualification for membership. Membership, as set forth in Article III, Section 3.02 of the declaration, shall be appurtenant to, and shall not be separated from, the ownership any of the interests described in the definition of the word "Owner" as found in Article I of the Declaration. Any person or entity holding an interest in a Lot merely as security for the performance of an obligation shall not be a Member, as set forth in Article III, Section 3.03 of the Declaration.

#### **Section 3.02. Voting.**

In accordance with Section 611(e) of the New York State Not-for-Profit Corporation Law, each Owner (including the Sponsor, if the Sponsor shall then own or hold title to one (1) or more Lots) shall be entitled to one (1) vote, regardless of the number of Lots owned, at all meetings of Owners. In the event that any Lot is owned by more than one person, the vote shall be cast by the person named in an "Authorized Voting Owner Certificate" signed by all Owners of such Lot and filed with the Secretary of the Association. Such "Authorized Voting Owner Certificate" shall be valid until revoked by a subsequent Certificate. If such Certificate is not on file, the person first named on the deed by which title was obtained shall be the person considered the Authorized Voting Owner or Member.

A fiduciary shall be the Authorized Voting Member with respect to any Lot owned in a fiduciary capacity and a Certificate shall be filed with the Secretary.

Voting rights of any Owner delinquent in the payment of his or her Assessments may be suspended.

#### **Section 3.03. Right to Vote.**

At any meeting of Owners, every Authorized Voting Owner having the right to vote shall be entitled to vote in person, by mail (absentee ballot) or by a person, who need not be an Owner, designated by the Owner, to act as proxy on his or her behalf.

#### **Section 3.04. Proxies.**

All proxies shall be in writing and shall be filed with the Secretary no less than three (3) days prior to the commencement of the meeting at which the same are to be used. Such proxies shall only be valid for such meeting or subsequent adjourned meetings thereof. A notation of such proxies shall be made in the minutes of the meeting.

#### **Section 3.05. Absentee Ballot.**

All absentee ballots shall be in writing and shall be filed with the Secretary no less than three (2) days prior to the commencement of the meeting at which the same are to be used. Such absentee ballots shall be valid only for such meeting or subsequent adjourned meeting thereof. A notation of such absentee ballots shall be made in the minutes of the meeting.

**Section 3.06. Voting Regulations.**

The Board of Directors may make such regulations, consistent with the terms of the Declaration, the Certificate of Incorporation, these By-Laws and the Not-for-Profit Corporation Law of the State of New York, as it deems advisable for any meeting of the Owners in regard to proof of membership in the Association, evidence of right to vote, registration of Owners for voting purposes, the establishment of representative voting procedures and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

**Section 3.07. Sponsor's Right to Assign its Vote.**

The Sponsor may, subject to a duly filed amendment to the Offering Plan for the sale of the Lots, together with interests in the Association, assign its membership in the Association to any person, corporation, association, trust or other entity, and such assignee, and any future assignee of such membership, may take successive like assignments. Membership in the Association shall not otherwise be transferable or assignable.

## **ARTICLE IV MEETING OF OWNERS**

**Section 4.01. Annual Meeting.**

Upon the Transfer of Control Date the Sponsor shall notify all Owners that the first meeting of Owners shall be held within thirty (30) days thereafter. The annual Association meeting of Owners thereafter shall be held on or about the same date each succeeding year, at a time to be determined by the Board of Directors and at such place convenient to the Board of Directors and adequate in size to accommodate all Owners. Failure to hold an annual meeting at the designated time shall not terminate the Association's existence or otherwise affect valid acts of the Association. At such meetings, the Owners shall elect the Board in accordance with the provisions of Section 5.03 hereof and may transact such other business as may properly come before them.

Notwithstanding the foregoing, the date of the annual meeting may be changed by a simple majority vote of the Authorized Voting Owners at a duly called meeting of Owners, to such date as may be more convenient to the majority of Owners.

**Section 4.02. Special Meetings.**

It shall be the duty of the President to call a special meeting of the Owners, if so directed by resolution of the Board, or upon a petition presented to the Secretary signed by not less than forty percent (40%) of the Authorized Voting Owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.



#### **Section 4.03. Notice of Meetings.**

It shall be the duty of the Secretary to deliver via electronic mail (e-mail) or other suitable electronic means a notice of each annual or special meeting of the members. Such notice shall be sent at least ten (10) but no more than twenty (20) days prior to such meeting and shall state the purpose of the meeting as well as the time and location where the meeting is to be held. Electronic meeting notice shall be sent to each member of record at the electronic contact address provided to the Secretary by such member and to all mortgagees of a Home who have requested the same. Any member may elect to receive notice of meetings by U.S. Mail instead of electronically by advising the Secretary in writing of such preference. In any instance where the Secretary does not possess a valid electronic contact address for a Member, notice shall be served via U.S. Mail or personal delivery to the member's home or such other address provided to the Secretary by the member in writing.

#### **Section 4.04. Waiver of Notice.**

Whenever, under any provisions of these By-Laws, the Declaration, any agreement or instrument, or law, the Association, the Board or any committee is authorized to take any action after notice to any person, or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of such period of time, if at any time before or after such action is completed, the person entitled to such notice or entitled to participate in the action to be taken, or in the case of an Owner, by his or her duly authorized attorney-in fact, submit a signed waiver of notice of such requirement. The attendance of an Owner at a meeting, in person, by mail ballot or by proxy, without protesting at the commencement of the meeting the lack of notice of such meeting, shall also constitute a waiver of notice by such Owner.

#### **Section 4.05 Waiver and Consent.**

Wherever the vote of Owners at a meeting is required or permitted by any provision of the Declaration, these By-Laws or by law to be taken in connection with any action of the Association, the meeting and vote of the Owners may be dispensed with if all Owners who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

#### **Section 4.06. List of Owners.**

A list of Authorized Voting Owners and all Owners, as of a request date, certified by the Secretary of the Board responsible for its preparation, shall be produced at any meeting of Owners upon the request thereat, or prior thereto, of any Owner. If the right to vote at any meeting is challenged, the person presiding thereat shall require such list of Owners to be produced as evidence of the right of the persons challenged to vote at such meeting. All persons who appear from such list to be Authorized Voting Owners entitled to vote thereat, may vote at such meeting.

#### **Section 4.07. Quorum.**

Except as otherwise provided in these By-Laws, the presence in person, by absentee ballot or by proxy of Owner having thirty-three and one-third percent (33 1/3%) of the total Authorized Voting Owners shall constitute a quorum at all meetings of the Owners. If, however, such quorum shall not be present or represented at any meeting of Owners, the Authorized Voting Owners entitled to vote thereat, present in person or represented by proxy, shall have the power to adjourn the meeting, without notice other than announcement at the meeting. However, written notice of the adjourned meeting, when determined by the Board, shall be sent to all Owners. At the adjourned meeting, if a quorum is still not present and/or represented, fifty-one percent (51%) of those present or represented by proxy or mail ballot in voting in favor of any business which might have been transacted at the meeting originally called, shall constitute the passing of any such business.

#### **Section 4.08. Majority Vote.**

Members of the Board elected at any meeting of the Owners, shall, except as otherwise provided by law, of these By-Laws, be elected by a plurality of votes cast. All other actions shall be taken by vote of Owners by a majority of Authorized Votes cast at a meeting at which a quorum shall be present or represented by absentee ballot or proxy, except where a higher percentage vote, or other vote, is required by the Declaration, these By-Laws or by law. The term "majority of Owners" shall mean those Authorized Voting Owners having fifty-one percent (51%) or more of the total Authorized Votes cast in person, by absentee ballot or by proxy and voting at any meeting of Owners determined in accordance with the provisions of Section 3.02 of these By-Laws. Notwithstanding the foregoing, in the absence of a quorum, Section 4.07 herein shall form the basis for voting.

#### **Section 4.09. Order of Business at Meetings.**

The order of Business at all meetings of the Board or Owners shall follow Roberts Rules of Order and be as follows:

- a. Roll Call
- b. Proof of Notice of Meeting
- c. Reading of Minutes of Preceding Meeting
- d. Reports of Officers
- e. Reports of Board of Directors
- f. Reports of Committees
- g. Election of Members of the Board of Directors (when so required)
- h. Unfinished Business
- i. New Business.

### **ARTICLE V BOARD OF DIRECTORS**



**Section 5.01. Initial Board.**

The initial Board shall consist of three (3) persons designated by the Sponsor, who shall serve until the Transfer of Control.

**Section 5.02. Initial Board of Successors.**

Within approximately thirty (30) days after the Transfer of Control Date the first annual meeting of Owners shall be held and successors to the Initial Board shall be elected by Owners other than the Sponsor. Thereafter the Sponsor shall have no further right to elect any person to the Board.

**Section 5.03. Owner-Elected Board Members.**

At the first annual meeting of Owners held within approximately thirty (30) days after the Transfer of Control date, the Owners, other than the Sponsor, shall elect no less than three (3) nor more than five (5) persons to the Board as successors to the Initial Board.

All members elected by the Owners shall be in good standing and shall be: (i) Owners or spouses of Owners; (ii) a partner of a partnership Owner or First Mortgagee; (iii) officer or director of a corporate Owner or First Mortgagee; or (iv) a fiduciary.

Notwithstanding the foregoing, so long as the Sponsor has Unsold Lots, the Sponsor shall have the right, but not the obligation, to appoint one (1) person to the Board. However, such person shall be in addition to the members elected by the Owners and shall not be one of the three (3) or five (5) members so elected at the annual meeting and shall be such a member of the Board only until the initial transfer of title to the last home.

**Section 5.04. Nominations.**

- a. Nominations for election to the Board shall be made by the Nominating Committee, or in the absence of a Committee, by the Board. Nominations may also be made from the floor at the annual meeting of Owners, or by write-in.
- b. The Nominating Committee, or Board, as the case may be, shall make as many nominations for election to the Board as it shall, in its sole discretion, determine, but not less than the number of vacancies that are to be filled by the votes of Owners as provided in Section 5.03 herein.

**Section 5.05. Election and Term of Office.**

- a. At the first annual meeting of Owners a new Board shall be elected by the Owners, other than the Sponsor. If three (3) members are elected, then two (2) of such members shall serve for a term of two (2) years and one (1) shall

serve for a term of one (1) year. If five (5) members are elected, then three (3) of such elected Board members shall serve for a term of two (2) years and two (2) shall serve for a term of one (1) year. Thereafter, successors to these Board members shall serve for terms of two (2) years.

- b. At each annual meeting thereafter, the Owners shall elect succeeding members to the Board to fill the expired terms. Voting shall be by written ballot which shall: (i) set forth the number of vacancies to be filled; (ii) set forth the names of those nominated by the Nominating Committee to fill such vacancies; (iii) be signed by the Voting Member of the Lot and/or Townhome casting the vote; and (iv) contain space for nominations from the floor and/or write-ins for each vacancy.

#### **Section 5.06. Vacancies.**

Any vacancy of an Appointed Director shall be filled by appointment by Sponsor. Any vacancy in the Board of an Elected Director, caused by any reason, other than the removal of a member thereof by a vote of the Owners, shall be filled by vote of a majority of the remaining members at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board until the next annual meeting of the Owners or until a successor is elected.

#### **Section 5.07. Resignation.**

A member of the Board may resign at any time by giving written notice to the President and/or Secretary of the Board. Unless otherwise specified in the letter of resignation, the resignation shall take effect immediately upon receipt thereof by the President and/or Secretary of the Board and acceptance of the resignation shall not be necessary to make it effective.

#### **Section 5.08. Removal.**

Sponsor may, at its discretion, remove any Appointed Director and may appoint the successor to fill the unexpired term of the removed Director.

At any regular or special meeting of Owners, any one (1) or more of the members of the Board elected by the Owners may be removed with or without cause by a majority vote of Authorized Voting Owners and a successor may then and there or thereafter be elected by such Owners to fill the vacancy thus created. Any member of the Board whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting.

The Board may remove a member of the Board for failure to be in good standing with regard to the payment of Assessments and/or absence from three (3) consecutive duly called Board meetings, unless such absence is due to illness.



**Section 5.09. Compensation.**

No Member of the Board shall receive any compensation or salary for his or her services as members. However, any member of the Board may be reimbursed for his or her actual reasonable expenses incurred in the performance of his or her duties, providing prior approval has been granted by resolution of the majority of the members of the board. A member of the Board who serves in any other capacity, however, may receive compensation therefor, if otherwise entitled to compensation, providing prior approval has been granted by resolution of the majority of the members of the Board.

**Section 5.10. Regular Meetings.**

Regular meetings of the Board shall be held at least quarterly at such places and at such times convenient to the members of the Board, as may be designated from time to time, by resolution of the Board. Notice of regular meetings shall be given to each member of the Board personally, by mail, by fax or by telegram, at least five (5) days prior to the date set for such meeting. Any Owner wishing to address the Board at any such meeting shall notify the Secretary at least five (5) days in advance of the meeting, and indicate the subject to be addressed.

**Section 5.11. Special Meetings.**

Special meetings of the Board may be called at any time at the request of the President or any two (2) members of the Board upon no less than five (5) days notice to each member of the Board either personally, by mail, e-mail or fax, which notice shall specify the time, place and purpose of the meeting. The person or persons authorized to call such special meeting of the Board may fix any time and place convenient to the members of the Board.

**Section 5.12. Waiver of Notice.**

Any member of the Board may, at any time, waive notice of any meeting of the Board, in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance of a member of the Board at any special meeting of the Board, without protesting at the commencement of the meeting the lack of notice, shall constitute a waiver of notice by him or her of the time and place thereof. If all members of the Board are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 5.13. Quorum and Voting.**

At all meetings of the Board, a majority of the entire Board shall constitute a quorum for the transaction of business. Except in cases in which it is provided otherwise by statute, by the Certificate of Incorporation, the Declaration or these By-Laws, a vote of a majority of such quorum at a duly constituted meeting shall be sufficient to pass any measure. In the absence of a quorum, the members of the Board present may adjourn the meeting from time to time by a majority vote and without further notice, until a quorum shall attend. At

any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted as originally called.

#### **Section 5.14. Informal Action by Board.**

Any action required or permitted to be taken at a meeting of the Board or any committee thereof may be taken without a meeting, provided a written consent to such action is signed by all members of the Board or all members of such committee, as the case may be, provided, further, such written consent is filed with the minutes of proceedings of the Board or committee.

#### **Section 5.15. Powers and Duties.**

The Board may exercise all the powers of the Association, except such as are conferred upon or reserved to the Owners by statute, the Certificate of Incorporation, the Declaration or these By-Laws. The powers, duties and authority of the members of the Board shall specifically include, but shall not necessarily be limited to, the following:

- a. to establish and maintain such bank accounts as may be required for the operation of the Association.
- b. to determine, levy and collect Assessments, and expend such Assessments for the maintenance, repair, replacement and operation of the facilities, property and amenities of the Association, the Property;
- c. to operate, maintain, repair and replace the facilities and amenities of the Association, the Property;
- d. to procure and maintain adequate liability insurance covering the Association, its directors, officers, agents and employees if any; to procure and maintain adequate hazard insurance on such of the Association's real and personal properties, if any, as it deems appropriate as set forth in Article VIII of the Declaration;
- e. as required by the Declaration and/or these By-Laws, to repair, restore or alter the properties, real or personal, of the Association after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings;
- f. to employ and terminate the employment of employees, independent contractors and professionals, to purchase supplies and equipment, enter into contracts and generally have the powers of managers in connection with the matters set forth in the Certificate of Incorporation, the Declaration and these By-Laws;



- g. to adopt and publish rules and regulations governing the uses of Association Property and facilities, and the personal conduct of the Owners, members of Owners' families, lessees and invitees thereon, and establish penalties for infractions thereof;
- h. to collect delinquent Assessments by suit or otherwise, to abate nuisances and to enjoin or seek damages from Owners for violations of the provision of the Declaration, these By-Laws or any rules or regulations of the Association by such Owners and/or any Owner's family members, lessees and invitees;
- i. to file such federal, state or other tax returns on behalf of the Association as may be required and to pay any and all taxes owing by the Association;
- j. to declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive meetings of the Board, except for illness, or is delinquent for more than sixty (60) days in his or her financial obligations to the Association;
- k. to keep a complete record of the actions of the Board and the corporate affairs of the Association and to present a statement thereof to the Owners at the annual meeting of Owners;
- l. to issue, or cause to be issued, upon demand by any person, an "Assessment Certificate", as provided in the Declaration, setting forth the status of payment of Assessments and Special Assessments, if any, on any Lot as provided in the Declaration;
- m. to receive, by way of deed or gift, and hold any property of a real or personal nature;
- n. to purchase, or otherwise acquire, any real property upon the affirmative vote as set forth in Section 4.07 herein at any regular or special meeting thereof;
- o. to sell, lease or mortgage any real property belonging to the Association upon the affirmative vote as set forth in Section 4.07 herein at any regular or special meeting thereof;
- p. to exercise the rights and powers as set forth in Article IV of the Declaration;
- q. to exercise for the Association all powers, duties and authority vested or

delegated to the members of the Board and not reserved to the Owners by other provisions of these By-Laws, the Certificate of Incorporation and/or the Declaration; and,

- r. to establish such committees as the Board deems necessary, or are required by the Declaration of these By-Laws, for the operation of the Association and the Association Property.

#### **Section 5.16. Managing Agent and Manager.**

The Board may employ a Managing Agent and/or a manager, at a compensation established by the Board, to perform such duties and services as the Board shall authorize. Any contract entered into with a Managing Agent shall provide that: (i) the Managing Agent shall carry his or her own liability insurance and which shall include the Association as Obligee; (ii) provide that such contract may be terminated by the Board, without penalty, upon not less than sixty (60) days written notice after the initial term of the Agreement; and (iii) the Board shall indemnify the Managing Agent against all expenses and liabilities, including fees of counsel, reasonable incurred by, or imposed upon, the Managing Agent in connection with any proceeding to which the Managing Agent may be a party as a result of carrying out the instructions of the Board, except in such cases wherein the Managing Agent is guilty of willful misfeasance or malfeasance in the performance of his or her duties.

The foregoing right of indemnification shall be in addition to, and shall not be exclusive of, any rights to which the Managing Agent may otherwise be entitled. The Board and the Association shall indemnify and hold harmless the Managing Agent against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless such contract shall have been made in bad faith or contrary to the provisions of law, or the Declaration, or these By-Laws. It is intended that the Managing Agent shall have no liability with respect to any contracts made by the Board on behalf of the Association.

#### **Section 5.17. Indemnification of Members of the Board.**

Every member of the Board shall be, and is hereby, indemnified by the Association against all expenses and liabilities, including fees of counsel, reasonably incurred by, or imposed upon, such members of the Board in connection with any proceeding to which such a member may be a party, or in which such member of the Board may become involved by reason of being or having been a member of the Board at the time such expenses are incurred, except in such cases wherein the member is guilty of willful misfeasance or malfeasance in the performance of duties, provided that in the event of a settlement, the indemnification herein shall apply only when the Board approves such settlement as being in the best interests of the Association.

The foregoing right of indemnification shall be in addition to, and shall not be exclusive of,



any rights to which each such member of the Board may otherwise be entitled. The Association shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless such contract shall have been made in bath faith or contrary to the provisions of law, or the Declaration, or these By-Laws. It is intended that the board shall have no liability with respect to any contracts made by it on behalf of the Association.

## **ARTICLE VI OFFICERS**

### **Section 6.01. Officers.**

The Officers of the Association shall be a President (who shall be a member of the Board of Directors), one (1) or more Vice Presidents (the number thereof to be determined by the Board of Directors), a Secretary and a Treasurer and such other officers as may be elected by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

### **Section 6.02. Election.**

The election of officers shall take place at the first meeting of the Board following each annual meeting of Owners.

### **Section 6.03. Term and Vacancies.**

The officers of the Association shall be elected annually by the Board and each shall hold office until his or her successor shall have been duly elected, unless he or she shall sooner resign, or shall be removed or otherwise be disqualified to serve. The vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board for the unexpired portion of the term.

### **Section 6.04. Resignation and Removal.**

Any officer or member of the Board may be removed by the Board, with or without cause, whenever, in the judgment of the Board, the best interests of the Association will be served thereby. Any officer or member of the Board may resign at any time by giving written notice to the President and/or the Secretary of the Board. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

### **Section 6.05. President.**

The President shall be the chief executive officer, shall supervise the work of the other officers, shall preside at all meetings of Owners, and shall preside at all meetings of Board and Owners, and shall perform such other duties and functions as are usually vested in the office of the President of a not-for-profit corporation. The President may not also serve

simultaneously as any other officer.

**Section 6.06. Vice President.**

The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. The Vice President shall also perform such other duties as shall, from time to time, be assigned to him by the Board or the President.

**Section 6.07. Secretary.**

The Secretary shall cause notices of all meetings to be served as prescribed in these By-Laws, shall record the votes and keep the minutes of all meetings, shall have charge of the seal, if any, and corporate books and records of the Association, and the book of Mortgagees, and shall perform such other duties as are incident to the office of Secretary of a not-for-profit corporation, and as may be required of him by the Board or the President.

**Section 6.08. Treasurer.**

The Treasurer shall have the custody of all monies and securities belonging to the Association and shall be responsible for keeping full and accurate records and books of account, showing all receipts and disbursements, necessary for preparation of required financial reports. He shall account to the President and the Board, whenever they may require it, with respect to all of his transactions as Treasurer and of the financial condition of the Association, and shall in general perform all other duties incident to the office of Treasurer of a not-for-profit corporation.

**Section 6.09. Other Officers.**

The Board of Directors may elect such other officers as it shall deem desirable. Such officers shall have the authority and shall perform such duties prescribed from time to time by the Board of Directors.

**Section 6.10. Agreements, Contracts, Deeds, Checks and Other Instruments.**

All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any two (2) officers of the Board or, except as otherwise provided in Section 8.01 hereof, by such other person or persons as may be designated by the Board.

**ARTICLE VII  
COMMITTEE**

**Section 7.01. Committees.**

The Board of Directors, by resolution adopted by a majority of the members of the Board, may designate one or more committees, which committees, to the extent provided in the resolution, shall have and exercise the authority of the Board of Directors in the management of the affairs of the Association provided, however, that no such committee shall have the authority of the Board of Directors to approve an Amendment to the



Certificate of Incorporation of the Association, the Declaration or to these By-Laws or to plan a merger or consolidation or establish Assessments.

**Section 7.02. Committees of Owners.**

The committees of the Association could be a Site Committee, Nominating Committee, Compliance Committee or such other committees as the Board or Owners shall deem desirable. Each committee shall consist of a Chairperson and two or more Owners.

**Section 7.03. Rules.**

Each committee may adopt rules and regulations for its own government not inconsistent with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

**ARTICLE VIII  
FINANCE**

**Section 8.01. Checks.**

All checks, drafts and orders for payment of money, notes and other evidences of indebtedness, issued in the name of the Association shall be signed by two (2) Officers of the Board.

**Section 8.02. Fiscal Year.**

The fiscal year of the Association shall be the twelve (12) calendar months, ending at such time as may be deemed appropriate by the Board of Directors.

**Section 8.03. Annual Report and Budgets.**

An annual report of the receipts and expenditures of the Association, prepared by an independent public accountant, shall be rendered by the Board to all Owners, within four (4) months from the end of each fiscal year. Such annual financial statements shall either be an audit or review, but in no event shall such financial statements be a compilation.

The cost of the annual report and other services required by this Section 8.03 shall be included by the Board in the annual budget.

**ARTICLE IX  
BOOKS, RECORDS AND LEGAL DOCUMENTS**

**Section 9.01. Books and Records.**

The Declaration, these By-Laws, Certificate of Incorporation and other books and records and papers of the Association, or copies, shall, during reasonable business hours, upon reasonable notice, be subject to inspection by any Owner or agent of an Owner or mortgagee of Owner's interest in a Lot, at the principal office of the Association. The

Board of Directors may furnish copies of such documents to such parties and may charge reasonable fees to cover the cost of furnishing such copies.

**Section 9.02. Separate Account for Capital Reserve Funds.**

Any funds of the Association collected or designated as reserves for the replacement of capital items shall be segregated from all other funds of the Association in one (1) or more separate accounts. This shall not preclude the Association from segregating other portions of its funds in separate accounts for a specific purpose (e.g., reserves for non-capital items) or otherwise.

**ARTICLE X  
CORPORATE SEAL OPTION**

**Section 10.01. Corporate Seal Optional.**

The Association, if the Board chooses, shall have a corporate seal, bearing the name of the Association, the year of its incorporation and the words "New York".

**ARTICLE XI  
AMENDMENTS**

**Section 11.01. Amendments.**

Except as herein provided otherwise, these By-Laws may be modified, altered, amended or added to at any duly called meeting of Owners in the same manner as the Declaration.

Until Transfer of Control Date, the prior written consent of the Sponsor shall be required for any amendment which adversely affects a substantial interest or right of the Sponsor to become effective, which consent may not be unreasonably withheld.

**ARTICLE XII  
RULES AND COMPLIANCE AND ARBITRATION**

**Section 12.01. Compliance with Rules of the Association Pursuant to These By-Laws.**

Should any Owner, member of his or her family, his or her employees, guests, lessees, licensees or other invitees fail to comply with any of the provisions of these By-Laws or the rules and regulations, and as such may be amended from time to time, the procedures set forth in Section 4.09 of the Declaration shall be followed to obtain compliance.

**Section 12.02. Schedule of Penalties and Fines for Violations.**

Unless amended by the Board of Directors, the following penalties and fines shall apply for violations of protective covenants and restrictions contained within the Declaration, these By-laws, or any Rules and Regulations adopted by the Board of Directors.



Minor Violations- Minor violations include, but are not limited to, the following examples:

- Unapproved storm doors, gutters, awnings, rain diverters, air conditioners
- Miscellaneous unauthorized activities such as: signs, improper refuse disposal, excessive noise, failure to maintain lawn and grounds, etc.
- Parking of unlicensed, recreational, over-sized and/or commercial vehicles, or unauthorized vehicles

- First Notice: \$0 fine with a notice to comply within 20 days
- Second Notice: \$25 fine with a notice to comply within 20 days
- Third and all subsequent notices: \$50 additional fine and compliance within 20 days

Major Violations- Major violations involve unapproved and/or additions to property.

An Owner who makes major changes to the exterior of the property (for example, building a deck or patio) without written approval from the Board of Directors, or who receives approval but builds other or differently than what was approved (for example, larger or in a different location) will be required to do one or more of the following:

- restore the property to its original condition, or
- bring the property into compliance with the approved plan, or
- submit a new plan which may or may not be approved by the Board, or
- pay an automatic fine as follows:

- First Notice: \$0 fine with compliance within 30 days
- Second Notice: \$100 fine with compliance within 20 days
- Third and all subsequent notices \$250 additional fine and compliance within 20 days

Other Related Costs, Fees, Charges- Homeowner transgressions can create legal fees, professional inspection fees, court filing and related expenses which shall become the obligation of the responsible Owner and shall constitute a personal obligation of such Member and shall be collectible in the same manner as Assessments.

The Association preserves any other rights and remedies, as established in the Declaration, these By-Laws, or Rules and Regulations adopted for the correction of violations of community members.

### ARTICLE XIII

## **MISCELLANEOUS**

### **Section 13.01. Notices.**

Except as otherwise provided herein, all notices hereunder shall be in writing and, if to addressed to the Board, shall be sent to the office or electronic address thereof via postal mail, e-mail, facsimile, or web page submission, provided that the Board possesses the capability to receive communications in any such format. Notice to a Member or Mortgagee shall be sent via postal mail or e-mail to the address of such Member or Mortgagee as appears on the books of the Association. Any member may elect to receive notices by U.S. Mail in lieu of e-mail by advising the Secretary in writing. All notices shall be deemed to have been given when mailed or electronically transmitted, except notice of change of address, which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of the Declaration or these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice whether before or after the time stated therein, shall be deemed the equivalent of such notice.

### **Section 13.02. No Waiver for Failure to Enforce.**

No restriction, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

### **Section 13.03. Gender.**

The use of the masculine gender in these By-Laws shall be deemed to include the masculine, feminine or neuter and the use of the singular shall be deemed to include the plural, whenever the context so requires.

### **Section 13.04. Captions.**

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof.

### **Section 13.05. Severability.**

Should any part of these By-Laws be deemed void or become unenforceable at law or in equity, the validity, enforceability or effect of the balance of these By-Laws shall not be impaired or affected in any manner.

### **Section 13.06. Conflict with Certificate of Incorporation or the Declaration.**

In the case of any conflict between the Certificate of Incorporation and these By-Laws, the Certificate of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.



THE FOREGOING has been adopted as the By-Laws of the Woodscape North Homeowners' Association II, Inc., a corporation organized pursuant to the New York State Not-for-Profit Corporation Law, at the first meeting of the Board of Directors.

**WOODSCAPE NORTH HOMEOWNERS' ASSOCIATION II, INC.**

BY: \_\_\_\_\_  
Secretary

Dated: