EXHIBIT G

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS – OAKMONTE HOMEOWNERS' ASSOCIATION, INC.

(OAKMONTE SINGLE FAMILY CLUSTER DEVELOPMENT DECLARATION)

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DECLARATION

OF

PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS – OAKMONTE HOMEOWNERS' ASSOCIATION, INC.

(OAKMONTE SINGLE FAMILY CLUSTER DEVELOPMENT DECLARATION)

MADE BY: Oakmonte Single Family Homes, LLC
7 Van Auker Street
Rochester, New York 14608

DATED: _____, 2005

State Road – County Route 9
Town of Penfield
County of Monroe
State of New York

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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS - OAKMONTE HOMEOWNERS' ASSOCIATION, INC. (OAKMONTE SINGLE FAMILY CLUSTER DEVELOPMENT DECLARATION)

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SCHEDULE A Legal Description of Property Subject to the Declaration

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS - OAKMONTE HOMEOWNERS' ASSOCIATION, INC. (OAKMONTE SINGLE FAMILY CLUSTER DEVELOPMENT DECLARATION)

THIS DECLARATION, made this __ day of _____, 2005, by Oakmonte Single Family Homes, LLC, a New York limited liability company, having an office at 7 Van Auker Street, Rochester, New York 14608, being referred to hereinafter as "the Sponsor."

WITNESSETH

WHEREAS, the Sponsor is the owner of the real property described in Article II of this Declaration which the Sponsor desires to develop into a residential community known or to be known as Oakmonte Townhomes with open spaces and other common facilities for the benefit of said community; and

WHEREAS, the Sponsor desires to provide for the preservation of the values and amenities in said community and for the maintenance of said open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, the Sponsor desires that such real property be subdivided into lots upon which are, or will be constructed residential dwelling units, which lots and units will be individually owned, and the Sponsor desires that the open spaces and other common facilities shall remain available for the benefit of all members of the community; and

WHEREAS, the Sponsor has deemed it desirable, for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the powers of maintaining and administering the common property and facilities, maintaining the exteriors of the dwelling units, and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Sponsor has incorporated OAKMONTE HOMEOWNERS' ASSOCIATION, 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 itself, its successors and assigns, declares that the real property described in Section 2.01 hereof is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "covenants, conditions and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

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

A. "Association" shall mean and refer to OAKMONTE HOMEOWNERS' ASSOCIATION, INC.

B. "Association Property" shall mean and refer to all land, improvements and other properties heretofore or hereafter owned by the Association.

C. "Declaration" shall mean and refer to this document of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens – Oakmonte Homeowners' Association, Inc. (Oakmonte Single Family Cluster Development Declaration) as it may from time to time be supplemented, extended or amended in the manner provided for herein.

D. "Lot" shall mean and refer to any portion of the Property (with the exception of Association Property as heretofore defined) under the scope of this Declaration and (i) identified as a separate parcel on the tax records of the Town of Penfield or (ii) shown as a separate lot upon any recorded or filed subdivision map.

E. "Lot Owner" shall mean the owner of a "Lot".

F. "Owner" shall mean and refer to the holder of record title, whether one or more persons or entities, of the fee interest in any Lot or Unit, whether or not such holder actually resides in such Unit or on such Lot.

G. "Property" shall mean and refer to all properties as are subject to this Declaration.

H. "Recording Office" shall mean and refer to the office for the recording of land documents in the County in which the Property is located.

I. "Sponsor" shall mean and refer to Oakmonte Single Family Homes, LLC, its successors and assigns.

J. "Unit" shall mean and refer to a residential dwelling situated on a Lot.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01. Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Town of Penfield, County of Monroe and State of New York, all of which property shall be hereinafter referred to as the "Property". The real property subject to this Declaration is described in Schedule A attached hereto.

Section 2.02. Additional Property. No other lands ("Additional Property"), will become subject to this Declaration.

Section 2.03. Mergers. Upon a merger or consolidation of this Association with another association as provided in its 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 this Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants 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 effect any revocation, change or addition to the covenants established by this Declaration within the Property except as hereinafter provided.

ARTICLE III

THE ASSOCIATION
STRUCTURE, MEMBERSHIP, VOTING RIGHTS AND DIRECTORS

Section 3.01. Formation of the Association. Pursuant to the Not-for-Profit Corporation Law of New York, the Sponsor has formed Oakmonte Homeowners' Association, Inc. (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 and in 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 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. The Association shall have as members Lot Owners and the Sponsor for as long as the Sponsor holds title to a Lot. All Lot 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 any of the interests described in the definitions of the words "Lot Owner" and "Sponsor" as found in Article I of this Declaration.

Section 3.03. Voting; Mortgagee's Control of Votes. Each Lot Owner, including the Sponsor, shall be entitled to one (1) vote, except as otherwise provided in this Declaration. Notwithstanding anything to the contrary which may be contained in this Declaration, if an institutional first mortgage lender whose name appears on the records of the Association (i) holds a mortgage on a Lot which prohibits the mortgagor from voting contrary to the interest of the mortgagee, and (ii) notifies the Association prior to the date or initial date of canvass on the vote to be taken of its position on the matter being voted upon, a vote of the Lot Owner contrary to the position of such mortgage lender shall not be counted in such canvass.

Section 3.04. Lots Owned or Held by More Than One Person or by a Corporation. When any Lot is owned or held by more than one person as tenants by the entirety, in joint or common ownership or interest, such Owners shall collectively be entitled to only one (1) vote and if such Owners cannot jointly agree as to how that vote should be cast, no vote shall be allowed.

In the case of a corporate Lot Owner, votes may be cast by an appropriate officer of such corporation.

In the case of a partnership or limited liability company Lot Owner, the Lot Owner's vote may be cast by a general partner of the partnership or a manager or authorized member of a limited liability company.

Section 3.05. Holder of Security Interest Not a Member. Any person or entity which holds an interest in a Lot or Unit merely as security for the performance of an obligation shall not be a member.

Section 3.06. Assigning Right to Vote. Subject to the filing of an amendment to the offering plan filed with the New York State Department of Law, pursuant to which the Sponsor has offered interests in the Association, the Sponsor may assign its right to vote in the Association to any person, corporation, association, trust or other entity, and such assignee, and any future assignee of such right to vote, may make successive like assignments. Any other Lot Owner shall be entitled to assign such Owner's right to vote, by power of attorney, by proxy or otherwise, provided that such assignment is made pursuant to the By-Laws of the Association. The By-Laws may require that the assignment specify the meeting or issue to which the assignment applies.

Section 3.07. Meeting and Voting Regulations. The Board of Directors of the Association may make such regulations, consistent with the terms of this Declaration and the Certificate of Incorporation and By-Laws of the Association and the Not-for-Profit Corporation Law of the State of New York as it may deem advisable for any meeting of its Owner members, in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Lot Owners for voting purposes, the establishment of

representative voting procedures, the establishment of extended canvass periods for voting and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

Section 3.08. Selection, Powers and Duties of Directors. The nomination, election, powers and duties of the Board of Directors and filling of vacancies shall be governed as set forth in the By-Laws of the Association.

Section 3.09. Indemnification of Officers and Directors. Every director and officer of the Association shall be, and is hereby, indemnified by the Association against all expenses and liabilities, including fees of counsel, judgments, decrees, fees, penalties or amounts paid in settlement, reasonably incurred by or imposed upon such director or officer in connection with the defense of any pending or threatened action, suit or proceeding, criminal or civil, to which such officer or director may be a party, or in which such officer or director may become involved, by reason of being or having been a director or officer of the Association, whether or not such person is a director or officer at the time such expenses are incurred, except that no such indemnification shall be made if a judgment or other final adjudication adverse to such director or officer establishes that (i) the acts of the director or officer were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or (ii) such director or officer (or a member of such director's or officer's family) personally gained a financial profit or other advantage to which such beneficiary was not legally entitled; provided, that in the event of a settlement or other nonadjudicated disposition, the indemnification herein shall apply only when the Board of Directors of the Association approves such settlement as being in the best interests of the Association. Funds to cover the above expenses, including fees of counsel, may be advanced by the Association, prior to the final disposition of the matter, upon receipt of an undertaking by or on behalf of the recipient to repay such amounts if it shall ultimately be determined that (i) the recipient is not entitled to indemnification or (ii) where indemnification is granted, the expenses so advanced exceed the amount to which such officer or director is entitled.

Section 3.10. Sponsor's Written Consent Necessary for Certain Actions Taken by Board of Directors. Notwithstanding anything to the contrary contained in this Declaration, so long as the Sponsor holds title to any portion of the Property, the Board of Directors of the Association may not, without the Sponsor's written consent, which consent must not be unreasonably withheld, (i) except for necessary repairs or any repairs required by law, make any 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 for the Association; or (iii) hire any employee in addition to the employees, if any, provided for in the initial budget of the Association, except as may be necessary to maintain the quantity or quality of services or maintenance; or (iv) enter into any service or maintenance contract for work not provided for in the initial budget of the Association, except for service or maintenance to facilities not in existence or not owned by the Association at the time of the first conveyance of a Lot; or (v) borrow money on behalf of the Association; or (vi) reduce the quantity or quality of

services or maintenance of the Property. So long as the Sponsor holds title to any portion of the Property, this Section shall not be amended without the written consent of the Sponsor.

The Sponsor shall not, so long as the Sponsor is in control of the Board of Directors of the Association, use its position of control to (i) reduce the level of services described in the offering plan filed with the New York State Department of Law pursuant to which the Sponsor offered Lots for sale together with interests in the Association, (ii) prevent capital repairs to the Association Property or (iii) prevent expenditures required to comply with applicable laws or regulations.

ARTICLE IV

PROPERTY RIGHTS AND EASEMENTS

Section 4.01. Dedication of Association Property. The Sponsor intends to convey or cause to be conveyed to the Association, subsequent to the recordation of this Declaration, and subject to the provisions of this Declaration, certain tracts of land within the Property for the use and enjoyment of the Owners. Said tracts of land conveyed to the Association shall hereinafter be referred to as "Association Property." The Association must accept any such conveyance made by the Sponsor provided such conveyance is made without consideration.

Section 4.02. Rights and Easements of Lot Owners. Subject to the rights and easements of the Association set forth in Sections 4.03 and 4.04 below, and the rights and easements of the Sponsor set forth in Section 4.05 below, each Lot Owner (and such Lot Owner's guests, licensees, tenants and invitees) shall have the following rights and easements:

a. Enjoyment - to enjoy all Association Property;

b. Ingress and Egress - an easement by vehicle or on foot for ingress and egress in common with other Lot Owners and the Sponsor over all walkways, driveways and roadways located on Association Property; and

c. Utilities and Conduits - to use, maintain, repair and replace any pipes, wires, cables, conduits, sewer lines, water lines, drainage areas, other utility lines and heating, ventilating and air conditioning equipment servicing such Owner's Lot (Unit) but located on Association Property, on another Lot or in another Unit.

All of such rights and easements shall be appurtenant to and shall pass with the interest of a Lot Owner as defined in Article I, Section 1.01 of this Declaration.

Section 4.03. Rights of Association. In accordance with the Certificate of Incorporation and By-Laws of the Association, the Association shall have the following rights:

a. Promulgate Rules and Regulations - to promulgate rules and regulations relating to the use, operation and maintenance of the Association Property for the safety and convenience of the users thereof or to enhance the preservation of such facilities or which, in the discretion of the Association, shall serve to promote the best interests of the Lot Owners;

b. Grant Easements to Utility Companies and Governmental Entities - to grant easements or rights of way, with or without consideration to any public or private utility corporation, cable television company, governmental agency or political subdivision;

c. Transfer, Lease, Sell, Exchange or Encumber Association Property or Acquire or Lease Real Property - to dedicate, sell, transfer, donate, lease, abandon, partition, encumber or otherwise dispose of, all or any part of the Association Property which the Association owns or to acquire or lease other real property for such purposes (except for a conveyance from the Sponsor which must be accepted pursuant to Section 4.01 above) and subject to such conditions as may be agreed to by the Association and the transferee or transferor. Such action (except for (i) any transfer or encumbrance to a public utility or for other public purposes consistent with the intended use of such land by or for the benefit of the Lot Owners, (ii) the dedication and conveyance of a street to a municipality without consideration for use as a public street, and (iii) any conveyance from the Sponsor) shall require a "Hearing" as described in Section 4.07 below and the consent of not less than 67% of all Lot Owners independent of the Sponsor who shall vote by written ballot which shall, not less than 10 days nor more than 50 days in advance of the date or initial date of the canvass thereof, be sent to all Lot Owners and to those lending institution first mortgagees of Lots whose names appear as such on the books or records of the Association. No such conveyance shall be made if lending institution first mortgagees of 51% or more of the Lots subject to first mortgages held by lending institutions whose names appear as such on the books or records of the Association, advise the Association in writing, prior to the date or initial date set for voting on the proposed conveyance, that they are opposed to such conveyance, which opposition must not be unreasonable;

d. Enter into Agreements with other Associations to Share Facilities - to enter into agreements, reciprocal or otherwise, with other homeowners' associations, condominiums and cooperatives for the use or sharing of facilities. Such agreements shall require the consent of the Lot Owners of 67% of the total votes of all Lots voting upon written ballot which shall be sent to every Lot Owner not less than 10 days nor more than 50 days in advance of the date or initial date of the canvass thereof;

e. Enter into Agreements for Performance of Duties - to enter into agreements for the performance of its various duties and functions including agreements with other homeowners' associations, condominiums and cooperatives for common maintenance, management and other services, materials and supplies;

f. Designate Parking Spaces - to designate specific parking spaces on Association Property, if any, for the use of Lot Owners;

g. Inspect Lots for Possible Violations of Provisions of this Declaration - to enter upon and inspect Lots for the purpose of ascertaining compliance with the provisions of this Declaration or with rules and regulations promulgated pursuant to this Declaration; and

h. Construct, Modify, Alter or Demolish Improvements on Association Property or Change the Use of Association Property - to construct, modify, add to, alter or demolish improvements on Association Property or change the use of Association Property following (i) the affirmative vote of the Board of Directors proposing any of the above, and (ii) a Hearing as described in Section 4.07 below.

Not less than 15 nor more than 45 days after a Hearing, the Board of Directors shall vote on the Proposal, with such modifications thereto as it deems appropriate after due consideration of the written and oral comments received at the Hearing. An affirmative vote of not less than three-fourths (:) of the entire Board of Directors shall be required for approval; provided, however, that any material change in use shall not be in violation of the zoning laws or any other laws, ordinances, rules or regulations of the Town of Penfield or any other governmental authority.

If a proposed acquisition of land or improvements or the construction, addition, modification, alteration to, or the demolition of Association property, will result in the imposition of a Special Assessment as provided in Section 5.04 of this Declaration, the Board of Directors shall hold a Hearing thereon in accordance with the Hearing Procedures set forth in Section 4.07 hereof, and the provisions of Section 5.04, prior to finally authorizing such action.

Notwithstanding the provisions of this Section, the decision of the Board with respect to any proposal may not be contrary to the position of Owners of 51% or more of the Lots, expressed in a written petition or petitions signed by such Owners and delivered to the Board prior to its scheduled vote in the proposal.

Section 4.04. Easements of Association. The Association (and its employees, contractors and agents) shall have the following easements over each Lot:

a. Utility Line Maintenance - for the use, installation, maintenance, repair and replacement of any pipes, wire, cables, conduits, sewer lines, water lines,

drainage areas and other utility lines located on such Lot and servicing Association Property or other Lots (Units);

b. Utility Banks and Telephone Pedestals - for installation, maintenance, repair and replacement of utility banks and telephone pedestals on the exterior walls of buildings on the Lots;

c. Other Maintenance on Lots - for the installation, maintenance, repair and replacement of walkways, landscaping, driveways, roadways and building exteriors on the Lots, and for snow removal to the extent the Association has the obligation for such installation, maintenance, snow removal, repair and replacement under this Declaration or pursuant to the authorized vote of the Members; and

d. In Conjunction with Maintenance of Association Property - to the extent such entry is reasonably necessary in order to install, maintain, repair or replace any improvement on Association Property, or the exterior or structural components of any building(s) constructed on the Lots which the Association is obligated to maintain and repair; and

e. Water for Watering of Lawns - to tie into and use water from any Unit for the watering of any lawns which the Association is obligated to maintain, subject to reimbursement by the Association to the Owner of the Unit for the cost of water consumed, if individually billed to such Units(s).

To the extent reasonably appropriate any such entry onto a Lot (i) shall be on reasonable notice to the Owner of the Lot to be entered, except that, in an emergency, such entry may be without notice, (ii) may include entry to any improvement on such Lot.

Section 4.05. Rights and Easements of Sponsor. With respect to Association Property and subject to the rights and easements set forth in Sections 4.02, 4.03 and 4.04 above, so long as the Sponsor holds title to any portion of the Property, the Sponsor shall have the right to:

a. Easements for Utility Lines - to grant and reserve easements and rights of way over the Property covered by this Declaration for the installation, maintenance, repair, replacement and inspection of utility lines, wires, coaxial cables, pipes and conduits, including, but not necessarily limited to, water, gas, electric, cable television, telephone and sewer to service the Property, or adjacent property;

b. Connect with Utility Lines to Service Additional Property - to connect with and make use of utility lines, wires, pipes, conduits and related facilities located on the Association Property for the benefit of the Property, or adjacent property;

c. Ingress and Egress - to use the Association Property for ingress and egress to the Property; and

d. Sales Center and Signage - to operate a sales center, install and maintain signs, and have prospective purchasers and others visit such sales center and use certain portions of Association Property, including, but not necessarily limited to, the parking spaces; and

e. Unit Construction and Property Improvement. Use the Association Property as necessary and appropriate in the process of constructing Units on the Property and installing improvements on the Association Property.

In the event any "Additional Property" as described in Section 2.02 above, is added to the scope of this Declaration, such lands shall be responsible for payment to the Association of a fair share of the cost of operation, maintenance, repair and replacement of those facilities servicing such lands.

The easements, rights-of-way and other rights reserved herein 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 to repair any damages resulting from its use within a reasonable time after the completion of development or when such rights are no longer needed, whichever first occurs. So long as the Sponsor holds title to any portion of the Property, this Section shall not be amended without the prior consent of the Sponsor.

Section 4.06. Damage Resulting from Use of Easement. Subject to rights of recovery under law or pursuant to other provisions of this Declaration, any damage to any Lot or other portion of the Property or to any improvements thereon as a result of any act or work performed pursuant to the authority granted in this Article IV, or as a result of the use of any easement granted or reserved herein, shall be promptly repaired, replaced or corrected as necessary by the person or entity performing the act or work and/or by the grantee or holder of the easement being exercised, to the condition in which it existed immediately prior to the damage.

Section 4.07. Hearing Procedures. Where the Board of Directors is required in accordance with the provisions of this Declaration to hold a public hearing prior to taking certain action (hereinafter referred to as a "Hearing"), the procedures set forth in this Section 4.07 (the "Hearing Procedures") shall be followed. The Hearing on the proposed action (the "Proposal") shall be held not less than 20 nor more that 60 days after the Board of Directors has initiated the Proposal. Notices of the Hearing (the "Notice") shall be mailed to all Lot Owners in accordance with any provisions of this Declaration relating to the giving of notice. The Notice shall describe in detail the Proposal, the Hearing Procedures set forth herein as well as any other procedures applicable thereto as may be imposed by other sections of this Declaration, and shall specify the date, time and place of the Hearings. The Hearing will be held on the Property or in a place reasonably accessible to the Property. All Lot Owners and other interested persons shall be entitled, subject only to reasonable

rules and regulations established by the Board of Directors for the conduct of such Hearing, to attend the Hearing, to express their views on the Proposal, to ask questions, or to submit written comments with regard to the Proposal. If, in connection with a proposal, a Hearing is required pursuant to more than one section of the Declaration, the Board of Directors may elect to hold one combined Hearing on such Proposal, provided that all restrictions, limitations or additional procedures, if any, imposed by each of the applicable sections are followed.

Section 4.08. Notice of Condemnation of Association Property and Resolution of Dispute as to Allocation of Award. The Board of Directors shall promptly send written notice of any pending condemnation or eminent domain proceeding affecting Association Property to all Lot Owners and to those lending institution first mortgagees of Lots whose names appear as such on the books or records of the Association.

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.

ARTICLE V

ASSESSMENTS AND RIGHT OF ASSOCIATION TO BORROW

Section 5.01. Imposition, Personal Obligation, Lien. Each Lot Owner, by becoming an Owner by the acceptance of a deed or otherwise, whether or not such deed or any other instrument pursuant to which title was obtained so provides, shall be deemed to covenant and agree to pay to the Association:

a. annual assessments or charges for the maintenance and operation of Association Property or other property which the Association is obligated to maintain ("Maintenance Assessments");

b. special assessments for capital improvements and repairs to Association Property (or property which the Association is obligated to maintain), and unbudgeted or extraordinary expenses of the Association ("Special Assessments");

together hereinafter being referred to as "Assessments."

The Assessments shall be fixed, established and collected from time to time as hereinafter provided. Each Assessment (or installment payment thereof) together with such late charges, interest thereon and costs of collection as hereinafter provided, shall be a charge and continuing lien upon the Lot against which the Assessment is made and shall also be the personal obligation of the Owner of such Lot at the time the Assessment falls due.

Unless otherwise agreed upon between the parties to the transfer upon the transfer of a Lot, Association Maintenance Assessments and any Special Assessments which (i) may be payable in installments or (ii) are specifically applicable to a defined period of time, shall be adjusted between the grantor and grantee, with the grantor being entitled to a credit from the grantee for the portion of any payment made by the grantor which is applicable to the remainder of the period in which the transfer occurred or to a subsequent period and grantee being entitled to a credit from the grantor for the portion of any payment assumed by the grantee which is applicable to the expired portion of the period in which the transfer occurred or to any prior period. Special Assessments payable in installments shall, unless otherwise provided by the Board of Directors of the Association in the adoption of the Assessment, be adjusted as if the payment due was for a period following the date due, equal to the interim period between installments.

Section 5.02. Purpose of Maintenance Assessment. The purpose of the Maintenance Assessment shall be to fund (i) the maintenance, preservation, operation and improvement of the Association Property and the promotion of the recreation, safety and welfare of the Lot Owners, including but not limited to, the payment of taxes on Association Property, any utility services to the Property which are commonly metered or billed, all casualty, liability and other insurance obtained pursuant to Article IX of this Declaration; (ii) the maintenance, repair and replacement of all facilities commonly servicing the Lot Owners, whether on or off the Lots, such as parking areas (if any), lawn and landscaped areas, including snow removal from driveways located on the Lots; (iii) the maintenance, repair and replacement of the Unit exteriors - siding, brick, roofs, gutters, patio fencing and driveways (but not window replacement or foundations and not snow removal to or maintenance, repair or replacement of walkways and steps located on the Lots and not those items set forth in Section 6.02 below); (iv) the painting of the exterior doors and exterior trim; (v) the cost of labor, equipment, materials, management and supervision for all of the above; and (vi) such other needs as may arise. Any material increase or decrease in the maintenance responsibilities of the Association shall require the consent of the Owners of not less than 67% of all Lots other than the Sponsor, as well as the Sponsor, if the Sponsor holds title to 10% or more of the Lots at the time such increase or decrease is voted upon. The Maintenance Assessments may include reasonable reserves for any of the above. The amount of any reserves shall be not less than the reasonable requirements of existing or proposed lenders, holders and insurers of first mortgages on the Lots.

Section 5.03. Basis for Maintenance Assessment. Subject to the provisions of Section 5.06 below which describes limits on the obligation of the Sponsor for the payment of Maintenance Assessments, the annual Maintenance Assessment chargeable to each Lot assessed shall be the same for all Lots, so that the annual Maintenance Assessment for each Lot shall be determined each year by dividing the number of Lots liable for the payment of Maintenance Assessments pursuant to Section 5.01 above, into the total amount which the Board of Directors shall deem to be necessary to fully fund the current budget of estimated expenses and reserves (and any operating deficits previously sustained).

Section 5.04. Special Assessments. In addition to the annual Maintenance Assessment, the Association may levy in any assessment year a Special Assessment, payable in that year and/or the following year only, for the purpose of defraying, in whole or in part, the cost of

(i) any construction, reconstruction or replacement of, or repair of the Association Property or to any improvements or landscaping on the Lots which the Association has the responsibility to maintain, including the necessary fixtures and personal property related thereto, and (ii) any unbudgeted, unanticipated or extraordinary expense, claim against or liability of the Association. Before levying such a Special Assessment the Board of Directors shall hold a Hearing on said proposed Special Assessment in accordance with the Hearing Procedure set forth in Section 4.07 of this Declaration. Not less than 10 nor more than 45 days after such Hearing, the Board of Directors shall (i) for any Special Assessment for the construction of any capital improvement, (rather than the reconstruction, replacement or repair) obtain the consent of the Owners of 67% or more of all Lots who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all voting Lot Owners at least 30 days in advance, setting forth the purpose of the meeting, and (ii) for any Special Assessment, obtain the approval of not less than three-fourths (:) of the entire Board of Directors. The Association shall establish one or more due dates for each payment or partial payment of each Special Assessment and shall notify each Owner thereof in writing at least 30 days prior to the first such due date.

Section 5.05. Date of Commencement and Notice of Assessments. The Maintenance Assessments provided for herein shall commence on the day on which the first Lot is conveyed or on such date thereafter as determined by the Sponsor. The first Maintenance 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. The Board of Directors of the Association shall fix the amount of the Maintenance Assessment against each Lot at least 30 days in advance of each annual Assessment period. The Maintenance Assessments shall be due and payable monthly unless the Board of Directors establishes other installments for payment, which installments may or may not be equal. Separate due dates may be established by the Board for partial annual Maintenance Assessments as long as said Maintenance Assessments are established at least 30 days before due. Written notice of the annual Maintenance Assessments shall be sent to every Lot Owner subject thereto. Should the Board of Directors determine at any time that the Maintenance Assessments are insufficient to fully fund the then current year's expenditures, the Board may assess additional amounts on a pro rata basis to all Lot Owners.

Section 5.06. Assessments for Specific Lots. Once Assessments have commenced pursuant to Section 5.05 above, the Owner of each Lot subject to this Declaration shall be liable for the payment of full Maintenance Assessments and Special Assessments, if any, except that with respect to Maintenance Assessments, the Sponsor will only be obligated for the lesser of (i) the difference between the actual Association expenses (including budgeted amounts for reserves) and the Association charges levied on Lot Owners who have closed title to their Lots as projected in the offering plan filed with the New York State Department of Law pursuant to which interests in the Association were initially offered for sale; or (ii) Maintenance Assessments on all unsold Lots which have not been granted a certificate of occupancy by the Town of Penfield. The Sponsor will be responsible for Special Assessments on all unsold Lots which have not been granted a certificate of occupancy by the Town of Penfield. Sponsor shall pay this obligation to the Association within 60 days of the end of each of the Association's fiscal years but only as long as Sponsor owns any unsold Lots.

Section 5.07. Change in Basis of Assessments. The Association may change the basis of determining the Maintenance Assessment by obtaining the written consent of the Owners of 67% or more of all Lots, excluding the Sponsor, voting in person or by proxy, written notice of which change shall be sent to all Lot Owners and lending institution first mortgagees of Lots whose names appear on the records of the Association, at least 40 days in advance of the date or initial date set for voting thereon, except that: (i) so long as the Sponsor holds title to any portion of the Property, any change in the basis of Assessments which adversely affects a substantial interest or right of the Sponsor with respect to unsold dwelling units or subdivision lots containing unsold dwelling units shall require the specific consent of the Sponsor in writing, which consent shall not be unreasonably withheld, and (ii) no such change shall be made if lending institutions which together are first mortgagees on 51% or more of the Lots 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 not be unreasonable. A written certification of any such change shall be executed by the Board of Directors and recorded in the Recording Office as an amendment to this Declaration.

Any change in the basis of Assessments shall be equitable and non- discriminatory within the following classifications: (i) Lots paying full Maintenance Assessments, and (ii) Lots paying less than full Maintenance Assessments pursuant to Section 5.06 above.

Section 5.08. Non-Payment of Assessment. If an Assessment, or installment thereof, is not paid on the due date, established pursuant to Section 5.05 hereof, then such Assessment payment shall be deemed delinquent. Any delinquent Assessment payment, together with such interest thereon, accelerated installments, if any, and cost of collection thereof as herein provided, shall thereupon become a continuing lien encumbering the Lot which shall bind such Lot in the hands of the then Lot Owner and such Lot Owner's heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the then Lot Owner to pay such Assessment shall remain such Lot Owner's personal obligation and shall not pass to such Lot Owner's successors in title unless expressly assumed by them.

If the Assessment or any installment thereof is not paid within 10 days after the due date, the Association may impose a late charge or charges in such amount or amounts as the Board of Directors establishes from time to time, not to exceed 10% of the amount of such overdue Assessment or installment thereof, provided such late charges are equitably and uniformly applied. The initial late charge shall be $15.00.

If the Assessment or any installment thereof, is not paid within 30 days after the due date, (i) the Assessment shall bear interest from the due date 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, (ii) the Board of Directors may accelerate the remaining installments, if any, of such Assessment upon notice thereof to the Lot Owner and (iii) the Association may bring legal action against the Lot Owner personally obligated to pay the same or foreclose the lien against the Lot of such Lot Owner, and the cost of such proceedings, including actual attorneys' fees, shall be added to the amount of such Assessments, accelerated installments, if any, late charges and interest.

Once an Assessment is deemed delinquent as described above, any payments received from the Lot Owner shall be applied in the following order: attorneys' fees, other costs of collection, late charges, interest, and then the delinquent Assessment or installments thereof beginning with the amounts past due for the longest period.

Dissatisfaction with the quantity or quality of maintenance services furnished by the Association shall, under no circumstances, entitle any Lot Owner to withhold or fail to pay the Assessments due to the Association for the Lot or Lots owned by such Lot Owner.

Section 5.09. Notice of Default. The Board of Directors, when giving notice to a Lot 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 Lot whose name and address appears on the Association's records. The mortgagee shall have the right to cure the Lot Owner's default with respect to the payment of such Assessments.

Section 5.10. Right to Maintain Surplus. The Association shall not be obligated in any calendar year to spend all the sums collected in such year by way of Maintenance 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 Maintenance 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 effectuation of the purposes of the Association.

Section 5.11. Assessment Certificates. Upon written demand of the Lot Owner or lessee of a Lot (or any prospective purchaser, lessee, occupant, mortgagee or title insurer of such Lot), 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 Lot 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. 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, lessee or title insurer of, or lender, on the Lot on which such certificate has been furnished.

Section 5.12. Subordination of Assessment Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any bona fide first mortgage of record now or hereafter placed upon any Lot subject to such Assessments; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the Owner of such Lot from liability for any

Assessments thereafter becoming due, nor relieve such Lot from the lien of any such subsequent Assessment.

Section 5.13. Adjustment of Assessments on Transfer. Unless otherwise agreed upon between the parties to the transfer, upon the transfer of a Lot, Maintenance Assessments and any Special Assessments which (i) may be payable in installments or (ii) are specifically applicable to a defined period of time which has not expired, shall be adjusted between the grantor and grantee, with the grantor being entitled to reimbursement from the grantee for the portion of any payment made by the grantor which is applicable to the remainder of the period in which the transfer occurred or to a subsequent period, and the grantee being entitled to a credit from the grantor for the portion of any unpaid payment assumed by the grantee which is applicable to the expired portion of the period in which the transfer occurred or to any prior period. Unless otherwise provided by the Board of Directors of the Association in its adoption, (i) a Special Assessment payable in installments shall be adjusted as if the installment payments apply to a period following the date due, the length of which shall be equal to the interim period between installation due dates and (ii) a Special Assessment payable in a single installment shall be the sole responsibility of the Owner of the Lot on the date which such Assessment is initially due.

Section 5.14. Right to Borrow and Mortgage. In order to fulfill the purposes set forth herein, the Association may borrow funds from any recognized lending institution, and in conjunction therewith mortgage its properties. The amount, terms, rate or rates of all borrowing and the provisions of all agreements with note holders shall be subject solely to the decision of the Board of Directors of the Association acting in its absolute discretion, except that (i) any member of the Board of Directors who has been elected or appointed by the Sponsor shall not be permitted to vote affirmatively for any borrowing and the quorum of the Board of Directors in any such vote shall be a majority of those Directors not elected or appointed by the Sponsor, and (ii) any consent of the Sponsor as required by Section 3.10 of this Declaration must be obtained.

Section 5.15. Repayment of Monies Borrowed. In order to secure the repayment of any and all sums borrowed from time to time, the Association is hereby granted the right and power:

a. to assign and pledge all revenues received and to be received by it under any provision of this Declaration including, but not limited to, the proceeds of the Maintenance Assessments hereunder;

b. to enter into agreements with note holders with respect to the collection and disbursements of funds, including, but not limited to, agreements wherein the Association covenants to:

(1) assess the Maintenance Assessments on a given day in each year and, subject to the limitation on amount specified in Section 5.03 hereunder, to assess the same at a particular rate or rates;

(2) establish sinking funds and/or other security deposits;

(3) apply all funds received by it first to the payment of all principal and interest on such loans, when due, or to apply the same to such purpose after providing for costs of collection;

(4) establish such collection, payment and lien enforcement procedures as may be required by the note holders;

(5) provide for the custody and safeguarding of all funds received by it.

ARTICLE VI

MAINTENANCE

Section 6.01. Maintenance and Repair by Association. Except as specifically otherwise provided in this Section 6.01, all maintenance and repair of and replacements to the improvements on Association Property, including the maintenance, repair and replacement of all driveways and walkways on the Association Property, snow removal from all driveways (but not walkways or steps) up to the Units, and the maintenance of all lawn and landscaped areas shall be the responsibility of, and at the cost and expense of the Association. Maintenance, repair and replacement of fire hydrants, wires, conduits and public utility lines servicing the Units and for which a utility company or other entity is not responsible (whether or not such lines and facilities are on Association Property) along with water and sewer lateral lines servicing a Unit shall also be the responsibility of, and an expense of, the Association, except that the Association shall not be responsible for cleaning or unclogging sewer lateral lines servicing a Unit, which shall be the responsibility of the owner of the Lot and Unit served by such sewer lateral.

The Association shall be responsible for the maintenance of all shrubbery and other plantings installed by the Sponsor or the Association on the Association Property, or on the Lots, installed by or at the direction of the Sponsor or the Association but not for shrubbery, flower beds or other plantings installed by or at the direction of any Lot Owner or Unit occupant.

Units. With respect to the Units, the Association shall repair and replace the exterior siding, brick, gutters, roofs, paint the exterior trim, and the exterior of windows, doors, and garage doors which open from a Unit and caulk the windows, but shall not (i) repair or replace window panes or (ii) maintain, repair or replace doors or (iii) maintain, repair or replace garage doors, garage door hardware, tracks or openers, or (iv) maintain, repair or replace foundation walls, or (v) maintain, repair or replace decks attached to the Units.

Other Lot Improvements. With respect to the other improvements on the Lots, the Association shall repair and replace driveways on the Lots, maintain, repair and replace Property

perimeter fences and patio fences, but shall not be responsible for the maintenance, repair and replacement of concrete patios attached or adjacent to the Units.

The Association may increase (or decrease) its maintenance responsibilities, provided (i) such increase or decrease is approved in writing by the Owners of two-thirds (b) of all Lots owned independently of the Sponsor and (ii) if such increase or decrease is proposed while the Sponsor holds title to any portion of the Property, the written consent of the Sponsor will be required, which consent shall not be unreasonably withheld.

Any responsibility for maintenance, repair or replacement with respect to the Lots and Units which is not the responsibility of the Association is the responsibility of and shall be made at the cost and expense of, the respective Owner(s) of such Lots or Units.

Subject to the provisions of Section 6.02 below, the cost of all maintenance performed by the Association shall be funded from Maintenance Assessments.

The Association shall have an easement and right of access for maintenance and repairs as set forth in Sections 4.03 and 4.04 of this Declaration.

Section 6.02. Repairs and Maintenance Which Are Not Responsibility of the Association. 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 a Lot Owner (including: (1) any family member, tenant, guest or invitee of such Owner, (2) any family member, guest or invitee of the tenant of such Owner, and (3) any guest or invitee of (i) any member of such Owner's family, or (ii) any family member of the tenant of such Owner) or the Sponsor shall be made at the cost and expense of such Lot Owner or the 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 specific Unit or Lot and such cost shall be added to that Lot Owner's Maintenance Assessment and, as part of that Assessment, shall constitute a lien on the Lot to secure the payment thereof.

The Lot and Unit Owners shall be responsible for snow removal from walkways, steps and stoops located on the Lots, and for the maintenance, repair and replacement of concrete patios attached to or adjacent to the Units and concrete walkways located on the Lots or on Association Property but adjacent to a Unit and used by a Unit Owner. The Lot and Unit Owners shall be responsible for maintenance, repair and replacement of windows, doors, garage, doors, pole lights, pole lamps, hose bibs, doorbells, screens, stormdoors, and air conditioner pads.

Maintenance, repair and replacement of pipes, wires, conduits and public utility lines servicing only the Units and for which a utility company or other entity is not responsible (whether or not such lines and facilities are on Association Property) shall be the responsibility of, and at the expense of the Association. The Owner of the Unit served by the sewer lateral shall be responsible for cleaning or unclogging it.

Section 6.03. 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 of Property which it is obligated to maintain, repair or replace pursuant to Section 6.01, 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 such Property.

ARTICLE VII

ARCHITECTURAL CONTROLS

Section 7.01. Control by Association. After transfer of title by the Sponsor to any Lot or other completed portion of the Property, enforcement of those provisions of the Declaration pertaining to exterior appearance of the Property and control over any change in use or any additions, modifications or alterations to any exterior improvement on said Lot or other portion of the Property shall be the responsibility of the Association, acting through the Board of Directors.

Section 7.02. Submission of Plans to Board of Directors. After transfer of title to any Lot or other portion of the Property by the Sponsor, no exterior addition, modification or alteration, including change of color, shall be made on or to such Lot 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 Board of Directors requires, have been submitted to, and reviewed and approved by, the Board of Directors. The Board of Directors may charge and collect a reasonable fee for the examination of plans submitted for approval.

Section 7.03. Basis for Disapproval of Plans by Board of Directors. The Board of Directors may disapprove any plans submitted pursuant to Section 7.02 above for any of the following reasons

a. failure of such plans to comply with any protective covenants, conditions and restrictions contained in the Declaration and which benefit or encumber the Lot or other portion of the Property;

b. failure to include information in such plans as requested;

c. objection to the site plan, exterior design, appearance or materials of any proposed improvements, including without limitation, colors or color scheme, finish, proportion, style of architecture, proposed parking, height, bulk or appropriateness;

d. incompatibility of proposed improvements or use of proposed improvements with existing improvements or uses in the vicinity;

e. failure of proposed improvements to comply with any zoning, building, health, or other governmental laws, codes, ordinances, rules and regulations;

f. any other matter which in the judgment and sole discretion of the Board of Directors would render the proposed improvements, use or uses, inharmonious or incompatible with the general plan of improvement of the Property or portion thereof or with improvements or uses in the vicinity.

Section 7.04. Approval of Board of Directors. Upon approval or qualified approval by the Board of Directors of any plans submitted pursuant to Section 7.02 above, the Board of Directors shall notify the applicant in writing of such approval or qualified approval, which notification shall set forth any qualifications or conditions of such approval, shall file a copy of such plans as approved for permanent record (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 relating to any Lot or portion of the Property shall be final as to such Lot or portion of the Property and such approval may not be revoked or rescinded thereafter provided (i) the improvement or uses approved are not substantially changed or altered; (ii) that the improvements or uses shown or described on or in such plans do not violate any protective covenants, conditions or restrictions set forth in this Declaration which benefit or encumber the Lot or portion of the Property, and (iii) that such plans and any qualifications or conditions attached to such approval of the plans do not violate any applicable governmental law, rule or regulation, zoning, building, health or other code or ordinance. Approval of any plans for use in connection with any Lot or portion of the Property shall not be deemed a waiver of the right of the Board of Directors to disapprove similar plans or any of the features or elements included therein if such plans, features or elements are subsequently submitted for use in connection with any other Lot or portion of the Property.

Section 7.05. Written Notification of Disapproval. In any case where the Board of Directors disapproves any plans submitted hereunder, the Board of Directors shall so notify the applicant in writing together with a statement of the grounds upon which such action was based as set forth in Section 7.03. In any such case, the Board of Directors shall, if requested and if possible, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

Section 7.06. Failure of Board of Directors to Act. If any applicant has not received notice of the Board of Directors approving or disapproving any plans within 35 days after submission thereof; said applicant may notify the Board of Directors in writing of that fact. Such notice shall be sent by certified mail, return receipt requested. The plans shall be deemed approved by the Board of Directors not later than the later of:

a. 15 days after the date of receipt of such second notice, if such second notice is given;

b. 70 days after the date the plans were originally submitted.

Section 7.07. Board of Director's Right to Promulgate Rules and Regulations. The Board of Directors may from time to time promulgate rules and regulations governing the form and content of plans to be submitted for approval or with respect to the approval or disapproval of certain types of alterations, additions or modifications to improvements, or uses; provided, however, that no such rule or regulation shall be deemed to bind the Board of Directors to approve or disapprove any plans submitted for approval, or to waive the exercise of the Board's discretion as to such plans, and provided further that no such rule or regulation shall be inconsistent with the provisions of the Declaration or any applicable governmental law, code, ordinance, rule or regulation.

Section 7.08. Delegation of Functions. The Board of Directors may authorize its staff, subcommittees, or individual members of the Board of Directors to perform any or all of the functions of the Board as long as the number and identity of such staff or members, and their functions and scope of authority have been established by a resolution of the entire Board of Directors. The approval or disapproval of plans by the staff member, individual member or subcommittee will be subject, however, to the reasonable review of the Board of Directors, in accordance with procedures to be established by the Board.

Section 7.09. Records of Meetings; Regulations. The Board of Directors shall keep minutes of meetings and maintain records of all votes taken at meetings. The Board of Directors shall make such records and current copies of its rules and regulations available at a reasonable place and at reasonable times for inspection by all persons.

Section 7.10. Liability of Board of Directors. No action taken by the Board of Directors or any member, committee, employee or agent hereof, 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 Lot or other portion of the Property. Neither the Association, nor any member, committee, employee or agent shall be liable to anyone submitting plans to them for approval or to any Lot Owner, member, or any other person, in connection with any 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 Board of Directors agrees, by submission of such plans, that no action or suit will be brought against the Association or the Board of Directors (or any member, committee, employee or agent thereof) in connection with such submission.

Section 7.11. Architectural Certificate. Upon written request of any Owner, lessee or occupant (or any prospective Owner, lessee, mortgagee, or title insurer) of a Lot or other portion of the Property, title to which has been previously transferred from the Sponsor, the Board of Directors shall, within a reasonable period of time, issue and furnish to the person or entity making the request, a certificate in writing ("Architectural Certificate") signed by a member of the Board of Directors

stating, as of the date of such Certificate, whether or not the Lot or other portion of the Property, or any improvements thereon, violates any of the provisions of the Declaration pertaining to exterior appearance, design or maintenance and describing such violations, if any. A reasonable charge, as determined by the Board of Directors, may be imposed for issuance of such Architectural Certificate. Any such Architectural 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 7.12. Restrictions on Change of Architectural Controls, Rules or Regulations. The controls set forth in this Article VII and any rules or regulations shall not, by act or omission, be changed, waived or abandoned, unless consented to in writing by not less than 67% of the total votes of all Lot Owners (excluding the Sponsor) voting in person or by proxy, written notice of which change shall be sent to all Lot Owners and lending institution first mortgagees of Lots whose names appear on the records of the Association at least 30 days in advance of the date or initial date set for voting thereon and shall set forth the purpose of the vote. In addition, any such change, waiver or abandonment shall not be made if lending institutions which together are first mortgagees of 51% or more of the Lots advise the Association in writing, prior to the date or initial date set for voting on the proposed charge, waiver or abandonment, that they are opposed to such action, which opposition must not be unreasonable.

ARTICLE VIII

ENCROACHMENTS

Section 8.01. Encroachments or Projections. If any Unit encroaches or projects up to two (2) feet upon or over any other Unit or Lot or upon or over any portion of the Association Property or if any deck or patio servicing a Unit encroaches or projects any distance upon or over any portion of the Association Property which is in excess of the Association Property on which the deck or patio was originally installed by the Sponsor as a result of: (i) original construction, (ii) settling or shifting, or (iii) replacement, as a result of fire, condemnation, eminent domain proceedings or proceedings of similar import and effect; such encroachment or projection shall be permitted and a valid easement for such encroachment or projection and the maintenance thereof shall exist so long as such improvements shall stand. With respect to encroachment or projection of a Unit onto or over another Lot or Unit, if such encroachment or projection occurs as a result of replacement, the encroachment or projection must be inadvertent in order for a valid easement to exist.

ARTICLE IX

INSURANCE AND RECONSTRUCTION

Section 9.01. Insurance to be Carried. The Board of Directors of the Association shall obtain and maintain, (and review at least once each year) with such deductible amounts as the Board of Directors shall deem appropriate: (1) fire and casualty insurance, (including flood insurance if required for the mortgaging of individual Units) (2) liability insurance for occurrences on the Association Property, (3) directors' and officers' liability insurance covering wrongful acts of officers and directors of the Association, (4) fidelity bond covering those who handle Association funds, and (5) workers' compensation insurance covering Association employees and those who perform work for the Association as follows:

1. Fire and Casualty. The policy shall cover the interests of the Association, the Board of Directors and all Unit Owners and mortgagees as their interests may appear. Coverage shall be for the full replacement value, (without deduction for depreciation) of all improvements on the Property, i.e. covering the Units and including the wall to wall carpeting, lighting fixtures, bathroom fixtures, kitchen appliances, wall coverings, all machinery servicing the Units and common facilities, and, if available, improvements and betterments (including upgrading of appliances, kitchen cabinets, carpeting, and lighting fixtures, etc.) made by present or prior Lot or Unit Owners or occupants, excluding (i) the land and foundations, and (ii) the personal property of Lot Owners and occupants.

The policy shall have the following provisions, endorsements and coverages: (i) extended coverage, sprinkler leakage (if applicable), debris removal, vandalism, malicious mischief, windstorm and water damage, (ii) inflation guard, or Blanket property limits (iii) coverage for loss of maintenance assessments from Lot Owners forced to vacate because of fire or other insured against casualty, (iv) waiver of any right to claim by way of subrogation against individual Lot Owners and the members of their households and families, the Association, the officers and directors of the Association, and the managing agent, if any, for the Association, (v) that the insurance purchased by the Board of Directors shall be deemed primary coverage and any policies obtained by individual Lot Owners or mortgagees shall be deemed excess coverage and that the insurance obtained by the Board of Directors shall in no event be brought into "contribution" with insurance purchased by individual Lot Owners or mortgagees, (vi) a provision that the policy cannot be cancelled, invalidated or suspended because of the act or neglect of someone over whom the insured has no control, (vii) a provision that the policy may not be cancelled (including cancellation for non-payment of premium), substantially modified, invalidated or suspended, without at least 30 days' prior written notice to all of the insureds (10 days notice for non-payment of premium), including all mortgagees of Lots reported to the insurance carrier or its agent, and (viii) a provision that adjustment of loss shall be made by the Board of Directors.

Prior to obtaining any new fire and casualty insurance policy, the Board of Directors shall obtain a valuation from an insurance company or from such other source as the Board of Directors shall determine to be acceptable as to the full replacement value (without deduction for

depreciation) of the improvements on the Property (exclusive of land and foundations) for the purpose of determining the amount of fire and casualty insurance to be effected pursuant to this Section.

Flood Insurance. If any portion of the Property is located in an area identified by the Federal Emergency Management Agency as having special flood hazards, the Board of Directors shall obtain, if available, a policy of flood insurance covering the Units and other insurable improvements on the Property or portion thereof located entirely or partially in the flood hazard area. Such coverage shall be the maximum coverage available under the National Flood Insurance Program or 100% of the current replacement cost of all such Units and other insurable property, whichever is less.

The proceeds of all policies of physical damage insurance, if $50,000.00 or less, shall be payable to the Association, and if $50,000.00 or more, to an insurance trustee (bank, trust company or law firm) selected by the Board of Directors of the Association to be applied for the purpose of repairing, restoring or rebuilding unless otherwise determined by the Lot Owners pursuant to Section 9.02 of this Declaration. This $50,000.00 limitation shall increase automatically by 5% each calendar year after the year in which this Declaration is recorded and may be further raised or lowered from time to time upon approval of not less than two-thirds (b) of the entire Board of Directors. All fees and disbursements of the insurance trustee shall be paid by the Association and shall be a common expense of all Lot Owners.

The policy shall contain the standard mortgagee clause in favor of mortgagees which shall provide that any loss shall be payable to a mortgagee as its interest shall appear; subject, however, to the loss payment provisions in favor of the Board of Directors. The obligation to restore or reconstruct after damage due to fire or other insured peril supersedes the customary right of a mortgagee to have the proceeds of insurance coverage applied to the mortgage indebtedness.

The interest of the Association, each Lot Owner and such Lot Owner's known mortgagee shall be acknowledged on the policy, as their interests may appear. Each Lot Owner and such Owner's known mortgagee shall receive, at the time of purchase and at the time a new policy is obtained or an existing policy renewed, a certificate evidencing proof of insurance coverage.

Certificates or endorsements to the policy, together with proof of payment of premiums, shall be furnished by the Board of Directors to all mortgagees of Lots requesting the same for a reasonable charge.

2. Liability. The liability insurance shall cover the directors and officers of the Association, the managing agent, if any, and all Lot Owners as their interests may appear, but not the liability of Lot Owners arising from occurrences within such Owner's Unit or on such Owner's Lot. The policy shall include the following endorsements: (i) commercial general liability including bodily injury, property damage and personal injury, (libel, slander, false arrest and invasion of privacy), (ii) medical payments, (iii) cross liability under which the rights of a named insured under the policy shall not be prejudiced with respect to such insured's action against another named

insured, (iv) "severability of interest" precluding the insurer from denying coverage to a Lot Owner because of negligent acts of the Association or any other Lot Owner, (v) contractual liability, and (vi) host liquor liability coverage with respect to events sponsored by the Association.

Coverage may not be canceled or suspended (including cancellation for nonpayment of premium) or substantially modified without at least 30 days' prior written notice to the insureds (10 days for non-payment of premium), including all known mortgagees of Units or Lots as shown on the records of the Association. The Board of Directors shall review such coverage at least once each year.

Until the first meeting of the Board of Directors after the first annual meeting of Lot Owners, this public liability insurance shall be in a combined single limit of $1,000,000.00 covering all claims for bodily injury and property damage arising out of a single occurrence.

3. Directors' and Officers' Liability. The directors' and officers' liability insurance shall cover the "wrongful" acts (wrongful performance or failure to perform) of a director or officer of the Association. The policy shall be on a "claims made" and shall include all prior officers and members of the Board of Directors, and any deductible provision shall apply only to each claim. The policy shall provide for "participation" by the Association or by the officers or directors of the Association only to the minimum extent permitted by law or applicable government regulations.

4. Fidelity Bond. The fidelity bond shall cover all directors, officers and employees of the Association and the Association's managing agent, if any, who handle Association funds. The bond shall name the Association as obligee and be in an amount not less than a sum equal to three (3) months' aggregate assessments on all Lots, plus the amount of reserves and other funds on hand. It shall provide that the bond may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least 30 days' prior written notice to the Association (10 days notice for non-payment of premium) and to all institutional first mortgagees of Lots whose names appear on the records of the Association.

The Board of Directors shall, at the request of any Lot Owner, Lot mortgagee, or prospective Lot Owner or Lot mortgagee, increase the amount of such bond to meet the reasonable requirements of any existing or proposed holder or insurer of any mortgage made or to be made on any Lot.

5. Workers' Compensation. To the extent deemed reasonable and necessary by the Board of Directors, workers' compensation insurance shall be obtained. Such insurance shall cover any employees of the Association, as well as any other person performing work on behalf of the Association.

Other Insurance. The Board of Directors may also obtain such other insurance as it shall deem necessary or desirable from time to time including "umbrella" catastrophe coverage, and hired and non-owned vehicle coverage.

No Liability for Failure to Obtain Above Coverages. The Board of Directors shall not be liable for failure to obtain any of the coverages required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at demonstrably unreasonable cost.

Deductible. With respect to property insurance, the deductible shall apply to each occurrence, not each item of damage. The Association may pay the portion for which an individual Owner is responsible, and the amount so paid, together with interest and costs of collection (including attorney's fees), shall be a charge and continuing lien upon the Lot involved, shall constitute a personal obligation of such Owner, and shall be collectible in the same manner as Assessments under Article V of this Declaration.

Section 9.02. Restoration or Reconstruction After Fire or Other Casualty; Responsibility for Insurance Deductible. In the event of damage to or destruction of any Unit or Units, insured through insurance obtained by or through the Association, as a result of fire or other casualty, the Board of Directors shall notify all mortgagees of such Unit or Units as indicated on the records of the Association and shall arrange for the prompt repair and restoration of the damaged property and the Board of Directors, or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments; provided, however, that if three-fourths (:) or more of the Units in a building are destroyed or substantially damaged and the Owners of 75% or more of all Lots and of all Lots in the building decide within 90 days after such damage or destruction not to proceed with repair or restoration, the net proceeds of insurance policies, if any, shall be divided among the Owners in proportion to the damage, as determined by the Board of Directors, to their insured property in relation to the total damage (including demolition) to all the insured property, provided, however, that no payment shall be made to a Lot Owner until there has first been paid off out of such Owner's share of such funds all liens on such Owner's Lot.

In the event that insurance proceeds are, for any reason, including the deductible amount or insurance trustee's fees, insufficient to pay all of the costs of restoring or repairing the property to the same condition as formerly existed, the Board of Directors shall levy a special assessment to make up the deficiency against the Lot Owners of the damaged property, which special assessment shall be levied in proportion to the damage, as determined by the Board of Directors, to their insured property in relation to the total damage to all the insured property. If the Board of Directors cannot reasonably determine the allocation of damage among Units and Association Property, the insufficiency of funds can be deemed a common expense.

In the event of damage or destruction of any Unit or other improvements on the Property as a result of fire or other casualty covered by insurance obtained by or through the Association, the deductible amount of any insurance proceeds shall apply to each occurrence, not to each item of damage, and shall be funded as follows:

1. If the property is damaged from a cause which emanates from improvements which the Association has the responsibility to maintain, the Association shall be responsible for the deductible amount, except that, if the cause of such damage is the result of gross negligence or the wantonly malicious act of any Owner (or of a member of such Owner's family or of a tenant of such Owner or of a guest or invitee of such Owner or of a member of such Owner's family) the Owner shall be responsible for such deductible amount.

2. If the property is damaged from a cause which emanates from or within a Unit the Owner or Owners of such Unit shall be responsible for the deductible amount.

The Association may, at its option, pay the deductible amounts for which an individual Owner is responsible, and the amounts so paid, together with interest and costs of collection (including attorney's fees), shall be a charge and continuing lien upon the Lot involved, shall constitute a personal obligation of such Owner, and shall be collectible in the same manner as Assessments under Article V of this Declaration.

In the event of damage to or destruction of any common property or facility of the Association, insured through insurance obtained by the Association, as a result of fire or other casualty, the Board of Directors shall (i) promptly send written notice of such damage or destruction to all institutional first mortgagees whose names appear on the records of the Association and to the insurance trustee, if any, and the Board of Directors or the insurance trustee, as the case may be, shall (ii) arrange for the prompt repair and restoration of the damaged property and (iii) disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that the insurance proceeds exceed the cost of repair and reconstruction of such Association Property, no Lot Owner or any other party shall have priority to receive any portion of such surplus over such Lot Owner's mortgagee.

Section 9.03. Insurance Carried by Unit Owners. Each Unit Owner has the right, at such Owner's expense, to obtain insurance for such Owner's benefit, including (1) fire, casualty and theft coverage for such Owner's personal property, (2) coverage for such Owner's personal liability within such Owner's Unit and on such Owner's Lot and (3) fire and casualty insurance coverage for "improvements and betterments" to such Owner's Unit or Lot which may not be covered by fire and casualty insurance obtained by or through the Association, provided, however, that (i) such policies contain waivers of subrogation, if available, and (ii) the liability of the carriers issuing insurance procured by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by the Owner.

Section 9.04 Right of Mortgagees to Pay and be Reimbursed for Insurance and Property Taxes on Association Property. In the event the Association fails to obtain or maintain fire, casualty and liability insurance for Association Property as required under this Article IX, such insurance may be obtained by one or more mortgagees of Lots, singly or jointly. Such mortgagee or mortgagees shall be owed immediate reimbursement from the Association for any amount expended

for such insurance, real property taxes or any other charges with respect to Association Property which are in default and which may become or have become a charge against the Association Property.

ARTICLE X

GENERAL COVENANTS AND RESTRICTIONS

Section 10.01. Advertising and Signs. Except for signs erected by or with the permission of the Sponsor in connection with the initial development, lease or sale of Lots or Units, no additional sign or other advertising device of any nature shall be placed for display to the public view on any Lot or other portion of Property (including temporary signs advertising property for sale or rent) except with the consent of the Board of Directors.

Section 10.02. No Animals, Birds and Insects. Except for either the two (2) dogs or two (2) cats or one (1) dog and one (1) cat owned by a Lot Owner, fish, or birds kept in a cage, no animals, birds or insects shall be kept or maintained on any Lot on which a Unit is constructed or other portion of the Property except with the consent of the Board of Directors of the Association which may, from time to time, (i) impose reasonable rules and regulations setting forth the type and number of animals, birds and insects and (ii) prohibit certain types of animals, birds or insects entirely. In any event, pets may be allowed outdoors only when accompanied by a responsible person and leashed. The Board of Directors of the Association shall have the right to require any Lot Owner (or any tenant of any Owner, or any family member or guest of any Owner or tenant) to dispose of any animal, bird or insect, if, in the opinion of the Board of Directors, acting in its sole discretion, such animal, bird or insect is creating a nuisance because, e.g., the Lot Owner does not clean up after the animal, the animal is too noisy, or the animal is not properly controlled. All dogs must be leashed when on the Property.

Section 10.03. Protective Screening and Fences. Any screen, planting, fence enclosures or walls initially placed on a Lot or other portion of the Property shall not be removed or replaced with other than a similar type of planting, fence or wall except with the permission of the Board of Directors. Except for the foregoing, no fence, wall, or screen planting of any kind shall be planted, installed or erected upon said Lot or other portion of the Property unless approved by the Board of Directors. Notwithstanding the foregoing, no fence, wall or screen planting shall be maintained so as to obstruct sight lines for vehicular traffic.

Section 10.04. Garbage and Refuse Disposal. Except for building materials during the course of construction or repair of any approved improvements, no lumber, metals, bulk materials, rubbish, refuse, garbage, trash or other waste material (all of which are referred to hereinafter as "Trash") shall be kept, stored, or allowed to accumulate, outdoors on any portion of the Property, except in sanitary containers and screened from adjacent and surrounding property. Such containers may be placed in the open within 24 hours of a scheduled pick-up, at such place on the Lot or other portion of the Property designated by the Board of Directors, so as to provide access to persons making such pick-up. The Board of Directors may, in its discretion, adopt and promulgate

reasonable rules and regulations relating to size, shape, color and type of containers permitted and the manner of storage of the same on any portion of the Property. All facilities for the storage or disposal of trash, shall be kept in a clean and sanitary condition.

Section 10.05. No Above Surface Utilities Without Approval. No facilities, including without limitation, poles and wires for the transmission of electricity or telephone messages, and water, gas, sanitary and storm sewer drainage pipes and conduits shall be placed or maintained above the surface of the ground on any portion of the Property without the prior written approval of the Association's Board of Directors.

Section 10.06. No Noxious or Offensive Activities. No noxious or offensive activity shall be carried out upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance in the area or to the residents or Lot Owners thereof. The emission of smoke, soot, fly ash, dust, fumes, herbicides, insecticides, and other types of air pollution or radioactive emissions or electro-magnetic radiation disturbances, shall be controlled so as not to (i) be detrimental to or endanger the public health, safety, comfort or welfare, (ii) be injurious to property, vegetation or animals, (iii) adversely affect property values or otherwise produce a public nuisance or hazard or (iv) violate any applicable zoning regulation or other governmental law, ordinance or code.

Section 10.07. Dwelling in Other Than Residential Units. No temporary building, trailer, basement, tent, shack, barn, outbuilding, shed, garage, or building in the course of construction or other temporary structure shall be used, temporarily or permanently, as a dwelling on any Lot or other portion of the Property except with the consent of the Board of Directors of the Association.

Section 10.08. No Television and Communication Antennas. No outside television, radio, "C.B." or other communication antenna shall be erected on any Lot or other portion of the Property except satellite dishes of such a size and in such a location as approved by the Association's Board of Directors.

Section 10.09. Trees and Other Natural Features. After the transfer of title by the Sponsor to a Lot or other portion of the Property no trees shall be removed from any such transferred Lot or other portion of the Property except with the permission of the Association's Board of Directors. The Association's Board of Directors in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon the Property.

Section 10.10. Residential Use Only. Except as provided in Section 10.11 below, the Property shall be used only for residential purposes and purposes incidental and accessory thereto except that, prior to transfer of title by the Sponsor to all of the Property, the Sponsor may use one or more Lots or other portions of the Property for model homes and/or a real estate sales office.

Section 10.11. No Commercial and Professional Activity on Property. No wholesale or retail business, including any salon, studio, laboratory, home industry shall be conducted on the Property without the consent of the Board of Directors, except (i) by the Sponsor in conjunction with the initial construction, development, lease and sale of Lots and Units and (ii) the conducting of business by telephone. This restriction is not intended to preclude the operation of an in-home office for purposes other than those set forth above; to the extent approved by the Town of Penfield.

Section 10.12. No Outdoor Repair Work. With respect to a Lot or other portion of the Property to which title has been transferred by the Sponsor, no extensive work on any motor vehicles, boats or machines of any kind shall be permitted outdoors on such Lot or portion thereof, except with the consent of the Association's Board of Directors.

Section 10.13. No Oversized, Commercial, Recreational, or Unlicensed Vehicles, Camper Bodies, Boats or Trailers. Unless used in connection with the construction or sale of Lots and Buildings by the Sponsor, or maintenance of the Property, or unless garaged or otherwise consented to by the Board of Directors of the Association, the following shall not be permitted on the Property:

a. oversized vehicles (vehicles which will not fit into a garage);

b. commercial vehicles (as determined by the Board in its sole discretion);

c. recreational vehicles;

d. unlicensed motor vehicles of any type;

e. camper bodies;

f. boats or trailers.

Section 10.14. No Parking on Private Road. No parking along the private roadway within the Property shall be permitted.

Section 10.15. No Clotheslines. No outdoor drying or airing of any clothing or bedding shall be permitted within the Property unless authorized by the Association's Board of Directors.

Section 10.16. Lease of Entire Unit Only. An Owner shall not lease any portion of a Unit (other than the entire Unit).

Section 10.17. Initial Lease Term of Unit. No lease of a Unit shall be for an initial term of less than six (6) months.

Section 10.18. No Operation of Snowmobiles, Motorcycles, All Terrain Vehicles or Similar Motor Vehicles. The operation of snowmobiles, motorcycles, all terrain vehicles or similar vehicles is prohibited within the Property unless authorized by the Association's Board of Directors.

Section 10.19 No Rock Salt. Owners shall not use rock salt to deice patios, walks or stoops.

ARTICLE XI

ENFORCEMENT, AMENDMENT AND DURATION OF DECLARATION

Section 11.01. Declaration Runs With the Land. Each person or entity acquiring an interest in a Lot or other portion of the Property or otherwise occupying any portion of the Property (whether or not the deed, lease or any other instrument incorporates or refers to the Declaration) covenants and agrees for him, her, or itself, and for his, her or its heirs, successors and assigns, to observe, perform and be bound by the provisions of the Declaration including personal responsibility for the payment of all charges that may become liens against his, her or its property and which become due while he, she or it is the Owner thereof, and also covenants to incorporate this Declaration by reference in any deed, lease or other instrument further transferring an interest in such Lot or other portion of the Property.

Section 11.02. Enforceability.

a. Actions at Law or Suits in Equity. The provisions of the 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 the Owners), and by any member or Owner, their 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 the 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.

b. Penalties and Fines. 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 of the rules and regulations of the Association or 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 Lot Owner or Unit occupant shall be deemed a Special Assessment against the Lot of such Owner or on which the Unit occupied by such occupant is located and, as such, shall be a charge and continuing lien upon such Lot, shall constitute

a personal obligation of the Lot Owner, and shall be collectible in the same manner as Assessments under Article V of this Declaration.

Section 11.03. No Waiver by Failure to Enforce. The failure of any beneficiary hereof to enforce any provision of the 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) or to any other person or organization for failure to enforce the provisions of the Declaration.

Section 11.04. Obligation and Lien for Cost of Enforcement by Association. If the Association or any other party successfully brings an action to extinguish a violation or otherwise enforce the provisions of the Declaration, or the rules and regulations promulgated hereto, the costs of such action, including legal fees, shall become a binding, personal obligation of the violator. If such violator is (1) the Lot Owner, or (2) any family member, tenant, guest or invitee of the Lot Owner, or (3) a family member or guest or invitee of the tenant of the Lot Owner, or (4) a guest or invitee of (i) any member of such Lot Owner's family or (ii) any family member of the tenant of such Owner, such costs shall also be a lien upon the Lot owned by such Owner.

Section 11.05. Inspection and Entry Rights. Any agent of the Association may at any reasonable time or times, upon not less than 24 hours notice to the Lot Owner, enter upon the Lot of such Owner to inspect the improvements thereon for the purpose of ascertaining whether the maintenance, construction or alteration of structures or other improvements thereon comply with the Declaration, or with 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.

In addition to the above, if the Board of Directors determines that it is necessary to trim, cut or prune any tree, hedge or other planting because its location, the height to which, or the manner in which it has been permitted to grow, is unsightly, detrimental or potentially detrimental to persons or property or obscures the view of street traffic or is otherwise in violation of this Declaration, the Association shall notify the Owner of the Lot or other portion of the Property who shall be obliged to remedy the violation. If the Owner fails to remedy the violation within 30 days after such notice is given, then the Association may take such remedial action at the expense of the Owner.

Section 11.06. Notification to Association of Mortgagees and Default Notices to be Sent to Mortgagees. The Association shall be notified by each Lot Owner or such Lot Owner's mortgagee of the name and address of the mortgagee of any mortgage on such Owner's Lot. 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 11.07. Amending Declaration. The Sponsor, during the time it shall own any portion of the Property, or the Association may make amendments to this Declaration to correct omissions or errors, which amendments shall not substantially or adversely modify rights of any Owner without such Owner's written consent.

Except as otherwise specifically provided for in this Declaration, including Sections 2.02, 3.10, 4.05, 5.06, and the above portion of this Section 11.07, the Board of Directors on its own initiative, or pursuant to a written petition signed by Owners of not less than 25 percent of the Lots owned by persons independent of the Sponsor, may propose an amendment to the Declaration.

The Board of Directors shall hold a Hearing in accordance with Section 4.07 herein for the purpose of considering such proposed amendment. Notice shall be given as required by Section 4.07.

The date or initial date for the canvass of the vote on the proposed amendment shall be not less than 30 nor more than 45 days after the Hearing. Notice of such vote, containing the date, time and place of the canvass thereof and a copy of the proposed amendment, with such changes as the Board of Directors shall have made as a result of the written and oral comments received at the Hearing, and a form of ballot shall be mailed or delivered by the Board of Directors to all Owners not less than 14 days prior to the date or initial date set for the canvass thereof.

The affirmative vote of Owners of 67% or more of the total number of Lots shall be required for approval of a proposed amendment, except that (i) an amendment to shorten the duration of this Declaration or to terminate this Declaration shall require the affirmative vote of Owners of not less than 80% of the total number of Lots after a hearing as provided in Section 11.10 below, and (ii) so long as the Sponsor holds title to any portion of the Property, the written consent of the Sponsor will be required for any amendment which adversely affects a substantial interest or right of the Sponsor, which consent must not be unreasonably withheld; and (iii) no amendment which substantially affects the interest of any lending institution shall be effective if lending institutions which together are first mortgagees on 51% or more of the Lots advise the Association in writing, prior to the date or initial date set for voting on the proposed amendment, that they are opposed to such amendment, which opposition must not be unreasonable. Written notice of any proposed amendment which substantially affects the interest of any lending institution first mortgagee shall be sent to all such lending institution first mortgagees whose names appear on the records of the Association at least 30 days prior to the date or initial date set for voting on the proposed amendment.

No amendment shall terminate, extinguish or adversely modify any easement granted in this Declaration which benefits Lots or Units except with respect to those Lots or Units whose Owners specifically consent in writing to such termination, extinguishment or modification, except as provided in Section 11.10 of this Declaration.

Section 11.08. Owner Responsible for Tenants and Guests. Any lease of a Unit shall provide and specify in writing within the lease specific reference to the "Declaration" and that the tenant shall comply in all respects with the terms of the Declaration, By-Laws, and rules and regulations, if any, of the Association. If a tenant or any guest of a Lot Owner or Tenant is in violation of such Declaration, By-Laws or rules and regulations, the Board of Directors shall so notify the Owner of the Unit which such tenant occupies in writing by certified mail, return receipt requested. If the violation is not cured or eviction proceedings are not commenced against the tenant within 14 days after the Owner has received notice of such violation, and diligently pursued thereafter, the Board of Directors may pursue any remedies which it may have pursuant to Section 11.02 of this Declaration.

Section 11.09. When Amendment or Termination Becomes Effective. Any amendment or termination of this Declaration shall not become effective until the instrument evidencing such change has been duly recorded in the office of the Clerk of the County where the Property is situated. Such instrument need not contain the written consent of the required number of Owners but shall contain a certification by the Board of Directors of the Association that the consents required for such amendment have been received and filed with the Board.

Section 11.10. Duration. This Declaration shall continue with full force and effect perpetually unless terminated or its duration shortened by affirmative vote of not less than 80% of the total number of Lot Owners after a Hearing is held in accordance with Section 4.07 of this Declaration.

The date or initial date for the canvass of the vote on any proposed termination shall be not less than 30 nor more than 45 days after the Hearing. Notice of such vote, containing the date, duration, time and place of the canvass thereof, and a form of ballot, shall be mailed or delivered to all Lot Owners not less than 14 days prior to the date of or initial date set for the canvass thereof.

Section 11.11. Construction and Interpretation. The Association shall have the right to construe and interpret the provisions of this Declaration and, in the absence of adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions hereof.

Any conflict in construction or interpretation between the Association and any other person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association. The Association may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interests of the Owners and residents of the Property for the purpose of preserving and maintaining the Property as a high quality community.

In granting any permit, authorization, or approval, as herein provided, the Association may impose any conditions or limitations thereon as it shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding paragraph hereof.

Section 11.12. 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 with jurisdiction over the Property, or by specific restrictions imposed by any deed or lease.

Section 11.13. 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 11.14. Effect of Unenforceability or Invalidity of Provision 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.

ARTICLE XII

GENERAL

Section 12.01. 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 thereof.

Section 12.02. Right Reserved to Sponsor to Impose Additional Protective Covenants. The Sponsor reserves the right to record additional protective covenants and restrictions prior to the conveyance of any lands encumbered by this Declaration.

Section 12.03. Notice. Any notice required to be sent to the Sponsor or to any Owner or mortgagee under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person or entity appearing as the Sponsor, Owner or mortgagee on the records of the Association at the time of such mailing.

Section 12.04. 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 or trust and, upon such assignment, the successor corporation or trust shall have all the rights and be subject to all the duties of said 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 or trust had been an original party, and all references herein to the Board of Directors shall refer to the board of directors (or trustees) of such successor corporation or trust. Any such assignment shall be accepted by the successor corporation or trust under a written agreement pursuant to which the successor corporation or trust 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 or trust, the covenants, easements, charges and liens imposed hereunder shall nevertheless continue and any Lot Owner may petition the court of competent jurisdiction to appoint a trustee for the purpose of organizing a not-for-profit corporation or trust to take over the duties and responsibility of the entity to exist, subject to the conditions provided for herein with respect to an assignment and delegation to a successor corporation or trust.

Section 12.05. 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' or residents' association or similar entity.

OAKMONTE SINGLE FAMILY HOMES, LLC	OAKMONTE HOMEOWNERS' ASSOCIATION, INC.
By:_____	By_____
Name:_____	Name: _____
Its:_____	Its:_____

STATE OF NEW YORK)
) SS.:
COUNTY OF MONROE)

On the ____ day of _____, in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK)
) SS.:
COUNTY OF MONROE)

On the ____ day of _____, in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

SCHEDULE A

REAL PROPERTY SUBJECT TO DECLARATION

All That Tract or Parcel of Land, situated in Town Lot 34, Township 13, Range 4, Phelps & Gorham Purchase; in the Town of Penfield, County of Monroe, State of New York, and being more particularly described as follows:

Beginning on the northerly right of way of State Road (66' Row) with its intersection with the easterly property line of lands of now or formerly Walter Ward Stella Purdy, S.B.L. No. 094.020-01-040, thence,

1. North 40° 52' 45" West, along said easterly property line, a distance of 273.77 feet to a point; thence,

2. North 00° 31' 06" East, a distance of 844.00 feet to a point; thence,

3. North 89° 33' 22" East, a distance of 446.66 feet to a point; thence,

4. South 00° 31' 05" East, a distance of 823.10 feet to a point on the northerly right of way of said State Road; thence,

5. South 49° 07' 15" West, along said northerly right of way, a distance of 353.50 feet, to the point of beginning.