

DECLARATION  
OF  
PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS,  
EASEMENTS, CHARGES AND LIENS

THIS DECLARATION, made this \_\_\_ day of \_\_\_\_\_, 2008 by Amedore Homes, Inc., a New York limited liability company, having an office at 1900 Western Avenue, Albany, NY 12203 (hereafter referred to as Sponsor).

WITNESSETH

WHEREAS, the Sponsor is the owner of the property located in the Town of New Scotland, County of Albany and State of New York more particularly described in Schedule A annexed hereto and made a part hereof; and

WHEREAS, the Sponsor desire that the amenities of the lands described be available for use by residents of the community known as "Country Club Estates"; and

WHEREAS, the Sponsor desires to provide for the preservation of the values and amenities in said community and for the maintenance of Association Property (as defined herein) and, to this end, desires to subject the real property described in Schedule A to the covenants, conditions, restrictions, easements, charges and liens (sometimes hereinafter referred to, collectively, as the "Covenants"), 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 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 community property and facilities, and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, in August 2, 2007, Country Club Estates Homeowners' Association, Inc. was formed under the Not-For-Profit Corporation Law of the State of New York for the purposes of exercising the aforesaid functions.

NOW, THEREFORE, the Sponsor, for itself, its successors and assigns, declares that the real property described in Article II hereof is and shall be held, transferred, sold, conveyed and occupied, subject to this Declaration.

## ARTICLE I

### DEFINITIONS

Section 1.01 Definitions. The following words, phrases or terms when capitalized and used in this Declaration, the By-Laws, the Rules and Regulations, or in any instrument supplemental to this Declaration, the By-Laws, and/or the Rules and Regulations, shall, unless the context otherwise prohibit, have the following meanings:

- a. Approved Contractor: shall mean a general building contractor (also referred to as “Builder”) who has (a) submitted to the Sponsor an application to become an approved Contractor, together with all information incident thereto, (b) agreed, in writing, to the design requirements promulgated by the Sponsor for construction within the Property; and (c) been approved by the Sponsor, in writing, to construct homes based on plans submitted to and approved by Sponsor.
- b. Assessments: Charges for the maintenance of the areas described in Schedule B to this Declaration, the operation of Association, including Special assessments for capital improvements, and any other charges deemed to be assessments pursuant to this Declaration and By-Laws.
- c. Association or Homeowners Association: Country Club Estates Homeowners’ Association, Inc. a New York not-for-profit corporation, incorporated on the 2nd day of August, 2007, its successors and assigns.
- d. Association Property or Country Club Association Property: all land more particularly described on Schedule B annexed hereto and made a part hereof, improvements existing and to be erected thereon, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection herewith, heretofore or hereafter owned by the Association, as are subject to this Declaration.
- e. Authorized Votes: There shall be only one vote for each authorized Voting Owner regardless of the number of Homes owned by such Owner.
- f. Authorized Voting Owner or Member: The Owner of a Home. In the event a Home that is owned by more than one person, the authorized Voting Owner shall be the person named in a certificate signed by all Owners of such Home and filed with the Secretary of the Board of Directors. If such certificate is not on file, the person or entity first named on the deed by which title is obtained shall be the person considered the authorized Voting Owner.
- g. Board of Directors or the Board. The Board of Directors elected by the Members and/or appointed by Sponsor (subject to initial control by the Sponsor) to administer the affairs of the Association.

- h. Book of Mortgagees: Record of Mortgagees as reported by the Sponsor or the Sponsor's closing attorney to the Board of Directors at the time of each closing, or upon a resale of a Home by an Owner, as may be reported by the Purchaser of such Home at time of taking title. The Secretary of the Board of Directors shall be responsible for maintaining the Book of Mortgagees. Every First Mortgagee shall have the right, upon written notification to the Secretary, to have its name and address, as set forth in such notification, entered into the Book of Mortgagees. It is the responsibility of the Sponsor's closing attorney, or upon a resale, the new Owner, to provide such information. The Secretary, or other member of the Board, has no obligation to examine the records of the Office of the County Clerk for such information.
- i. By-Laws: The By-Laws of the Association set forth in the Cooperative Policy Statement #7 filed with the New York State Department of Law relating to the Association, Inc. and sometimes referred to as the "application".
- j. Home: A Home as defined herein, which is constructed on a lot that the Sponsor has identified on a map of the property attached as Schedule D and which is specifically identified as a Home on the Purchaser's Purchase agreement with the Sponsor.
- k. Cooperative Policy Statement #7 application: The Cooperative Policy Statement #7 application filed with the New York State Department of Law relating to Association, Inc. and sometimes referred to as the "applicant".
- l. Declaration: This document of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens of the Homeowners' Association as it may, from time to time, be supplemented, extended or amended in the manner provided for herein.
- m. First Mortgage: The first mortgage granted by an Owner of a Home to a bank, federal savings and loan Association, life insurance company, pension fund, trust company or other institutional lender, licensed mortgage banker or broker, and individual or the Sponsor.
- n. First Mortgagee: The holder of a First Mortgage on a Home pursuant to instruments duly recorded in the Book of Mortgages in the Office of the County Clerk.
- o. Home: a Home situated on a Lot (as evidenced by issuance of a Certificate of Occupancy issued by the Town of New Scotland), including a garage appurtenant to a Home, if any. Unless the context clearly indicated otherwise, the term "Home" shall be deemed to include the term "Lot".
- p. Homesite: shall mean a Lot on which a Home has been constructed, other than an Unsold Lot.
- q. Homesite Owner: shall mean and refer to the record titleholder, whether one or more persons or entities, of the fee simple title to any Homesite. The term "Homesite Owner"

shall not mean or refer to any mortgagee of any Homesite, or any person or entity which holds title to a Homesite as a collateral for the performance of an obligation, unless and until such mortgage or collateral title holder has acquired title to such Homesite pursuant to foreclosure or any proceeding in lieu of foreclosure.

- r. Lot: any portion of the Property (with the exception of the Association Property) subject to this Declaration, which is (i) identified or intended to be identified as a separate parcel on the tax records of the Town of New Scotland, Albany County, New York, or (ii) shown as a separate parcel upon any recorded or filed subdivision map in the Albany County Clerk's Office.
- s. Member: Each holder of a membership interest in the Association, as such interests are set forth in Article III of this Declaration.
- t. Mortgagee: any mortgagee, its representatives, assigns, servicing agent or other holder of a mortgage on a Home.
- u. Owner: The holder of record title, whether one (1) or more persons or entities, of fee simple title to any Home and shall include the Sponsor with respect to any unsold Home. An Owner may be one or more individual, corporation, partnership or trust, or any other legal entity or any of the foregoing. All such Owners are collectively called "The Owners".
- v. Person: shall mean an individual, a corporation, a partnership, a limited liability company, a trust, an unincorporated organization or any other entity.
- w. Property: all properties as are subject to this Declaration which may be supplemented extended or amended.
- x. Purchaser: a person who has executed a Purchase Agreement, which has also been executed by the Sponsor.
- y. Rules and Regulations: The Rules and Regulations of the Association governing the use and care of the Property as may be set forth in this Declaration, the By-Laws or such as may be promulgated from time to time by the Board of Directors.
- z. Sponsor: Amedore Homes, Inc., a New York corporation, its successors and assigns, with a business address of 1900 Western Avenue, Albany, New York 12203.
- aa. Subdivision: shall mean the subdivision shown on the Subdivision Plan to the extent the same is made subject to this Declaration.
- bb. Subdivision Plan: shall mean and refer to that certain subdivision plan for the Property as more particularly shown, delineated and entitled "Country Club Estates", dated July 12, 2003, and last revised March 1, 2005, prepared by Hershberg and Hershberg, filed in the office of the Clerk of the County of Albany, State of New York.

- cc. Transfer of Control Date: The date on which: (i) the Sponsor has transferred title to all Homes; or (ii) five (5) years from transfer of title to the first Home, whichever first occurs.
- dd. Unsold Home or Lot: shall mean any Home or Lot (as the case may be) owned by the Sponsor or its designee other than a Home or Lot (as the case may be) purchased by, and for the use of, an affiliate or principal of the Sponsor or held by the Sponsor for personal use or investment.

## 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 New Scotland, County of Albany, State of New York, and is more particularly described in Schedule A attached hereto and made a part hereof.

Section 2.02. Development Property. In order to provide for and protect the private nature of the Property, all of the property described in Schedule A attached hereto and incorporated herein by reference is, and shall be, encumbered and imposed with, held, transferred, sold, conveyed and occupied subject to this Declaration. all Owners, by acceptance of their deeds, or otherwise acquiring title, to their Homesites, have thereby consented this Declaration, agreed to become a member of the Association, and agreed to abide by and comply with each and every term and condition thereof, and each and every program which may be promulgated or adopted by Sponsor or the Association in implementing or complying with this Declaration.

Section 2.03. Additional Lands; Release of Lands.

(a) Additional Lands. Sponsor shall have the right to submit and subject additional land or lands and all improvements thereto and thereon (the "Additional Land"), to all or certain of the terms of this Declaration by filing in the clerk's office of the County of Albany, New York, an instrument which shall (i) be executed by Sponsor and all record owners of the additional Land with the formalities of a deed, (ii) specify which terms of the Declaration are to apply to such additional Land, (iii) make reference to this Declaration, and (iv) contain a legal description of the additional Land. Upon the submission and subjection of additional Land to the terms of this Declaration, the owners of the additional Land shall be entitled to enforce the terms of this Declaration applicable to the additional Land, and shall likewise be subject to the terms hereof. The submission of such additional Lands may increase the number of Homesites within the Property. The additional homesites shall be subject in all respects to the terms and conditions set forth in this Declaration of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens.

(b) Release of Lands. Sponsor shall have the right to release from all or a portion of the terms and conditions of this Declaration such portions of the Property as Sponsor, in its sole

and absolute discretion, shall designate by receiving approval for such release by the Town of New Scotland and by filing in the clerk's office of the County of Albany, New York, an instrument which shall (i) be executed by Sponsor and all record owners of the property to be released with the formalities of a deed, (ii) specify the terms of this Declaration from which the property is being released, and (iii) contain a legal description of the property being released from the terms of this Declaration.

Section 2.04. Reserved Easement for access. Sponsor reserves for itself, its successor or assign, an easement to enter any portion of the Property for repair, replacement and maintenance. The Association, for itself and its employees and agents, shall have a perpetual, non-exclusive easement for access to all portions of the Property to the extent reasonably required for the performance of the duties of Association as set forth in Article IV hereof.

Section 2.05. Amendments to Governmental Land Use Regulations. Sponsor hereby reserves the right to amend at any time, and from time to time, the Subdivision Plan without the approval, consent or joinder of any Owner, any lienholder, or the Association, provided that such amendments do not have a material and adverse impact upon Homes that have been transferred to Owners other than Sponsor. In the event any governmental body having jurisdiction over the Property requires the approval, consent and/or joinder of any Owner, lienholder, or the Association to such amendment, then Sponsor is hereby appointed as the agent for such parties for the purpose of signing any and all documents required by such governmental body in connection therewith, and/or such party shall be required to sign the approvals, consents, and joinders necessary to carry out the amendments permitted hereunder.

Section 2.06. Maintenance of Association Property. The Association shall be the titleholder for the Association Property subject to and in accordance with this Declaration. Maintenance of all Association Property, as prescribed in Article VI and elsewhere in this Declaration, shall be the perpetual responsibility of the Association in accordance with the terms and conditions of the Subdivision Plan and this Declaration, and the Association Property may in no way be altered from its natural state, except as permitted under the Subdivision Plan and hereunder, without the prior approval of all governmental agencies having jurisdiction over alterations to the Association Property and the Sponsor. Except as expressly permitted under and pursuant to the Subdivision Plan and this Declaration, activities prohibited within the Association Property include but are not limited to: construction or placing of buildings on or above the ground; dumping or placing soil or other substances such as trash; operation of motorized vehicles, removal, excavation, dredging, or removal of soil material; diking or fencing; and other activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation. The Association hereby indemnifies and agrees to hold the Sponsor and Homesite Owners harmless against any loss or claim of loss by virtue of the Association's failure to maintain the Association Property in accordance with the Subdivision Plan and/or this Declaration, save and excepting losses or claim of losses arising by the violation of the Subdivision Plan and/or this Declaration by a party to be indemnified hereunder.

### 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 the State of New York, on August 2, 2005 the Association was formed to own and maintain the Association Property, to enforce the covenants, conditions, and restrictions set forth in this Declaration and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration, the Certificate of Incorporation and the By-Laws of the Association, as such may be supplemented, extended or amended from time to time. The provisions of the Certificate of Incorporation and the By-Laws may not conflict or be inconsistent with the provision of the Declaration, and may not be amended in any way which would so conflict without also amending the Declaration. Subject to the additional limitations provided in the Declaration and the Certification 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 only Owners of Lots within the property as described in Schedule A of this Declaration. All Owners, becoming such, shall be deemed automatically to be a "Member" 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 definition of the word "Owner" as found in Article I of this Declaration. Ownership of a Lot shall be the sole qualification for membership. There shall be a maximum of One Hundred Fifteen (115) Members subject to section 2.03..

Section 3.03. Voting. Voting by Members in the affairs of the Association shall be as follows:

- (a) At any meeting of Owners, every Authorized Voting Owner having the right to vote shall be entitled to vote in person, by mail (Absentee ballot) or by a person, who need not be an Owner, designated by the Owner, to act as proxy on his or her behalf.
- (b) No cumulative voting. There shall be no cumulative voting on any vote by the members of the Association
- (c) Designated voter. In any situation where a Member is entitled personally to exercise the vote and more than one (1) person holds an ownership interest in a Lot, such vote shall be exercised as those Members determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice to the Secretary, an Owner's vote shall be suspended if more than one (1) person seeks to exercise it. In any situation where a corporation or partnership is entitled to exercise the vote, such vote shall be exercised by the individual designated from time to time by such Member in a written instrument provided to the Secretary.

(d) Suspension of Membership Rights. a Member shall be considered “not in good standing” during any period of time in which such Member is delinquent in the payment of any assessment, or in violation of any provision of this Declaration, or of any of the rules or regulations promulgated by the Board of Directors. While not in good standing, the Member shall not be entitled to vote or exercise any other right or privilege of a Member of the Association.

Section 3.04. Board of Directors & Selection & Term. The business and affairs of the Association shall be managed by a Board of Directors. There shall be no less than three (3) nor more than seven (7) directors. Directors shall be selected as follows:

(a) Sponsor shall appoint the first Board of Directors of the Association (the “Appointed Directors”). This first Board shall hold office and exercise all powers of the Board of Directors until the sooner of: (1) the annual meeting of Members immediately following the date of the closing and transfer of title to the last Lot owned by Sponsor, or (2) a date determined by the Sponsor in its sole discretion. The first meeting of the Board shall be held within six (6) months of the first closing of a Home.

(b) Following the term of the first Board of Directors of the Association as provided in (a) above, the appointed Directors shall be replaced by directors elected in accordance with the procedures set forth in the By-laws of the Association (the “Elected Directors”).

(c) Elected Directors shall serve for two-year terms and must be authorized Voting Members of the Association.

Section 3.05. Holder of Security Interest. any person or entity that holds an interest in a Home merely as security for the performance of an obligation shall not be a Member and shall have no voting rights.

Section 3.06. Sponsor's Written Consent Necessary for Certain actions taken by Board of Directors.

a. Notwithstanding anything to the contrary contained in this Declaration, until the Transfer of Control Date, the Board of Directors may not, without the Sponsor's prior written consent, which consent will not be unreasonably withheld, except for necessary alterations, additions or improvements required by law or by any government agency or Board of Fire Underwriters: (i) make any addition, alteration or improvement to 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 the amount provided for the initial budget, except for such improvements not in existence or owned at the time of the initial budget; (ii) hire any employee in addition to the employees, if any, provided for in the initial budget of the Association; (iv) enter into any service or maintenance contract for work not provided for in the initial budget, except for the maintenance of an improvement not in existence or owned by the

Association at the time of the recording of this Declaration; (v) borrow money on behalf of the Association; or (vi) reduce the quantity or quality of the services or maintenance of the Property.

b. So long as the Sponsor has Unsold Lots and/or Homes, this Section shall not be amended without the prior written consent of the Sponsor.

#### ARTICLE IV

##### ASSOCIATION PROPERTY RIGHTS, EASEMENTS AND OBLIGATIONS

###### Section 4.01. Dedication of Association Property.

a. Subsequent to the recordation of this Declaration, and at or prior to the conveyance of the first Home, the Sponsor shall convey to the Association by deed, and record such deed in the office of the Saratoga County Clerk, the Association Property as described in Schedule B annexed hereto and made a part hereof, for the use and enjoyment of the Owners, their guests, lessees, licensees and invitees, subject to and in accordance with this Declaration, the By-Laws and the Rules and Regulations.

b. The Association must accept any such conveyance made by the Sponsor provided such conveyance is made without consideration. This conveyance shall be made subject to: a) the terms and conditions set forth in the approvals granted by the Town of New Scotland Planning Board when it approved this subdivision; and, b) easements granted for the benefit of the Town of New Scotland, public and private utility companies and any other governmental entity. No portion of the Association Property shall be subject to the rights and easements of enjoyment and privileges hereinafter granted unless and until the same shall have been conveyed to the Association by deed and such deed recorded in the office of the Saratoga County Clerk.

Section 4.02. Right and Easement of Enjoyment in and to Association Property. Every Owner and such Owner's guests, licensees, lessees and invitees shall have a right and easement of enjoyment in and to all Association Property subject to and in accordance with this Declaration, the By-Laws and the Rules and Regulations. Such easements shall be appurtenant to and shall pass with the interests of an Owner. Such rights, easements and privileges shall be subject, however, to the rights of the Association as set forth in Section 4.03 herein and the rights of the Sponsor as set forth in Section 4.07 and the rights of Owners as set forth in Section 4.08 herein.

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

a. To grant easements or rights of way to any public or private utility corporation, governmental agency or political subdivision, or cable television franchisee, with or without consideration.

b. Except as set forth in Section 4.03 (a) above, to dedicate or transfer all or any part of the fee title to the land which it owns, for such purposes and subject to such conditions as may be agreed to by the Association and the transferee, subject to the following:

(1) such a conveyance shall require the consent of Owners by an affirmative vote of sixty-seven percent (67%) of authorized Votes, other than of the Sponsor, at a regular or special meeting of Owners; and

(2) any conveyance by the Association prior to the transfer of title to all Lots and/or Homes by the Sponsor, shall also require the prior written approval of the Sponsor unless the Sponsor waives such right in a written agreement recorded in the office of the Saratoga County Clerk.

c. To borrow funds, and in conjunction therewith, mortgage its properties. Such mortgage, however, shall be subject to any and all prior easements set forth herein and/or which may be of record. The amount, terms, or rate of all borrowing and the provisions of all agreements with note holders shall be determined by the Board of Directors, acting in its absolute discretion, subject only to the ability of the Association to repay such borrowed funds from assessments.

#### Section 4.04. Common Utility and Conduit Easement.

a. All pipes, wires, conduits and public utility lines and cable television lines located within a Lot and serving only such Lot and/or Home shall be owned, maintained, repaired and replaced by the Owner of such Home. Every Owner shall have an easement in common with the Owners of other Homes to maintain and use all pipes, wires, conduits, public utility lines and cable television lines located within other Lots or within the Association Property and servicing such Owner's Home. Each Lot shall be subject to an easement in favor of the Owners of other Homes to maintain and use the pipes, wires, conduits, public utility lines and cable television lines.

b. The Association shall have the right of access to each Lot for the maintenance, repair or replacement of Association Property as well as any pipes, wires, conduits, public utility lines or cable television lines located in any Lot and servicing any other Lot and/or Home. Such right shall be exercised at a reasonable time upon reasonable notice to the Owner and/or occupant, provided, however, that in an emergency such right may be exercised at any time and without notice. The cost of such repair, maintenance or replacement shall be a common expense which shall be the responsibility of the Association, except that, if such repair, maintenance or replacement is occasioned by negligent or willful act or omission of an Owner and/or occupant, it shall be considered a special expense allocable to the responsible Owner and such cost shall be added to the assessment of such Owner and, as part of the assessment, shall constitute a lien on the Owner's Lot and/or Home to secure the payment thereof.

Section 4.05 Environmental Consideration. In carrying out its responsibilities in enforcing the provisions of this Declaration, the Association shall consider the environmental impact of any existing or proposed activities on the Property or any portion thereof any may, in

its discretion, establish standards or guidelines aimed at reducing or eliminating any activities which could have an adverse environmental impact or take affirmative action to improve the quality of the environment, and shall comply with all applicable laws, rules and regulations.

Section 4.06. Rights of Sponsor With Respect to Association Property.

a. With respect to the Property, the Sponsor shall have the right, until the marketing and sale of all Homes is complete, provided the rights of the Owners are not substantially and materially restricted (except for temporary inconvenience), to:

(1) grant and reserve easements and rights-of-way for the installation, maintenance, repair, and replacement of utility lines, wires, pipes and conduits and appurtenances thereto, including, but not necessarily limited to sewer (stormwater and sanitary), water, gas, electric, telephone, drainage and cable television, to serve any property under or hereafter brought under the scope of this Declaration, and/or any other property, if any, even if such other property should not be added to the scope of this Declaration;

(2) connect with and make use of the utility lines, wires, pipes, conduits and related facilities located on the Property for the benefit of any property under or hereafter brought under the scope of this Declaration, and/or any other property, if any, even if such other property should not be added to the scope of this Declaration;

(3) permit contractors ingress and egress for construction purposes and for the storage of building materials;

(4) operate a sales center and/or permit the sales agent to operate a sales center, to have prospective purchasers and other visit such sales center and use other portions of the Property;

(5) maintain, or permit a contractor to maintain, a construction office on the Property;

(6) grant to itself or to others such easements and rights-of-way as may be reasonably needed for the orderly development of the Property and/or any other property, if any, even if such other property should not be added to the scope of this Declaration; and

(7) grant to itself or to others such easements and rights of way as may be reasonably necessary to complete the construction and installation of the Association Property, when, as and if needed.

a. The easements, rights-of-way and other rights reserved herein shall be permanent, shall run with the land and shall be binding upon, and for the benefit of, the Association, the Sponsor and their respective successors and assigns.

b. With respect to its exercise of the above rights, the Sponsor agrees (i) to repair any damages resulting from construction within a reasonable time after the completion of

property or when such rights are no longer needed by the Sponsor or a contractor, whichever first occurs; and (ii) until Property has been completed, to hold the Association harmless from all liabilities which are directly caused by the Sponsor's exercise of its rights hereunder.

Section 4.07. With Respect to Wetlands. The Association Property is also subject to the Declaration of Restrictive Covenants as required by the Department of the Army , NY District Office, Corps of Engineers, Albany Field Office, 1 Bond Street, Troy, New York 12180. a copy of which is attached hereto as Exhibit "A".

## ARTICLE V

### ASSESSMENTS AND RIGHT OF ASSOCIATION TO BORROW

Section 5.01. Creation of the Lien. The Sponsor, for each Lot and/or Home owned by it within the Property, hereby covenants and agrees, and each Owner of any Home, by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association:

- a. Annual assessments for the maintenance, repair, replacement and operation of the Association and the Association Property (Maintenance Assessments); and
- b. Special assessments for capital improvements and special assessments that may become necessary as a result of a casualty loss of Association Property, such as an ice storm or extraordinary snow or rain storm, not otherwise covered by insurance and creating a budget deficit for the fiscal year (Special Assessments)

The Maintenance assessments and the Special assessments and any other charges set forth in this Declaration or the By-Laws which is referred to as an assessment are together hereinafter referred to "assessments".

The assessments shall be fixed, established and collected annually as hereinafter provided or at such other intervals as may be established by resolution of the Board of Directors. Except to the extent prohibited by law, the Board of Directors, on behalf of all Owners, shall have a lien on each Lot and/or Home for unpaid assessments, with interest thereon, assessed against such Lot and/or Home.

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

supplemental requirements shall be allocated among, assessed to, and paid by the Owners. Each Owner shall pay an equal share of the expenses based on the number of Lots subject to this Declaration.

After Association assessments have been levied on one or more Owners who have closed title to their Lots and/or Homes, the Sponsor will be obligated for assessments for Unsold Lots and/or Homes. Notwithstanding anything to the contrary contained herein, the Sponsor's obligation for assessments on Unsold Lots and/or Homes shall be limited to the difference between the actual operating expenses of the Association, including reserves, if any, and the assessments levied (whether or not collected) on all other Owners. In no event, however, will the Sponsor be required to make a deficiency contribution in an amount greater than the product of the number of Unsold Lots and Homes subject to this Declaration multiplied by the average Maintenance assessments for the year in question levied against Owners other than the Sponsor.

The sum due the Association from each Owner shall constitute an assessment by the Board of Directors.

Section 5.03. Purpose of assessments. The purpose of the Maintenance assessments shall be to fund the insurance, maintenance, repair, replacement and improvement of the Association Property and all other expenses of the Association, including, but not necessarily limited to:

- a. The payment of taxes on the Association Property, if any;
- b. any utility services to the Property which are commonly metered or billed, if any;
- c. all hazard, liability and other insurance obtained pursuant to Article VII of this Declaration covering the Property, structures owned by the Association, if any, and the Association's officers and directors, and employees, if any;
- d. accounting and record keeping of all Association financial transactions;
- e. Legal, architectural, engineering, management and other professional fees and disbursements; and,
- f. Such other expenses of the Association which the Board of Directors deems appropriate or desirable.

Section 5.04. Date of Commencement and Notice of assessments. The assessments provided for herein shall commence on the day on which the first Lot and/or Home is conveyed by the Sponsor to the initial purchaser.

Section 5.05. Change in the Basis of Assessments.

- a. The Association may change the basis of determining the Maintenance assessments by obtaining the consent of Owners by an affirmative vote of not less than sixty-

seven percent (67%) of authorized Voting Members, or such other voting limits as may be set forth in the By-Laws, at a regular or special meeting of Owners, excluding those of the Sponsor, except that, until Lots and/or Homes are sold to initial purchasers, any change in the basis of assessments which adversely affects a substantial interest or right of the Sponsor with respect to Unsold Lots and/or Homes shall require the specific prior written consent of the Sponsor, which consent shall not be unreasonably withheld.

Written notice shall be sent at least ten (10) days and nor more than fifty (50) days in advance of the date or initial date set for voting thereon to all Owners. A written certification of any such change shall be executed by the Board of Directors and recorded in the office of the Saratoga County Clerk.

Section 5.06. Special assessments for Capital Improvements. In addition to the annual maintenance assessment, the Association may levy a Special assessment for the purpose of defraying, in whole or in part, the cost of any capital improvements, including without limitation, the construction, reconstruction, replacement or repair of a capital nature to the Association Property, including the necessary fixtures and personal property related thereto; provided that for any Special assessment for the construction (rather than reconstruction or replacement) of any capital improvement, or for any Special assessment amounting to more than Five Thousand Dollars (\$5,000.00), the consent of Owners by an affirmative vote of sixty seven percent (67%), or such other voting limits as may be set forth in Article IV, Section 4.07 of the By-Laws, of the authorized Voting Owner cast in person, by mail (absentee ballot) or by proxy at a regular or special meeting duly called for this purpose shall be obtained.

Written notice of such meeting shall be sent to all Owners at least ten (10) days and not more than fifty (50) days in advance, setting forth the purpose of the meeting. The Association shall establish one (1) or more due dates for each payment or partial payment of each Special assessment and shall notify each Owner thereof, in writing, at least thirty (30) days prior to the first such due date. So long as the Sponsor has Unsold Lots and/or Homes, the Association may not levy any Special assessments or make any capital improvements without prior written consent of the Sponsor.

Section 5.07. Special Assessments for Emergency Conditions or for Loss Due to Casualty. In addition to the annual Maintenance assessment, the Board may levy a Special assessment for the purpose of defraying, in whole or in part, the cost of repairs or replacement of Association Property or budget deficit resulting from emergency conditions or loss due to casualty, including without limitation, the construction, reconstruction, replacement or repair of Association Property, including the necessary fixtures and personal property related thereto, resulting from a casualty, such as an ice storm or extraordinary snow or rain storm, not otherwise covered by insurance. any such Special assessment shall not require the consent of Owners. The Board shall establish one or more due dates for each payment or partial payment or such Special assessment and shall notify each Owner thereof, in writing, at least thirty (30) days prior to the first such due date. The Sponsor will pay its proportionate share based on the number of Unsold Homes.

Section 5.08. Assessments: Personal Obligation to the Owner and Lien on the Lot and/or Home. The assessments shall be paid when due. all sums assessed by the Board of Directors, but unpaid, together with any accelerated installments, late charges (not exceeding ten percent (10%) of the amount of the overdue assessment of portion thereof) and fees for violations of the By-Laws and the Rules and Regulations as may be established by the Association and interest thereon at such rate as may be fixed by the Board of Directors from time to time (Such rate not to exceed the maximum rate of interest then permitted by law), shall be the personal obligation of an Owner and shall constitute a lien upon the Owner's Lot and/or Home prior to all other liens except: (i) tax or assessment liens on the Lot and/or Home by the taxing authority of any governmental unit, including, but not limited to, state, county, town and school district taxing agencies; and (ii) all sums unpaid on any First Mortgage of record encumbering any Home. assessments shall be levied on an annual basis and shall be due and payable: (i) if annually on the first day of the start of the Association's fiscal year; or (ii) if monthly, then on the first of each month commencing with the start of the Association's fiscal year; (iii) if the Board of Directors establishes other periods of payment, as then may be established by the Board. If an installment of assessments due is not paid within thirty (30) days from due date, the Board of Directors may accelerate the remaining installments, if any, upon notice thereof to the delinquent Owner. all costs and expenses incurred in collection of past due assessments, including reasonable attorneys' fees, shall be added to and shall constitute an assessment payable by such Owner, including reasonable attorney fees.

Section 5.09. Foreclosure of Lien for Assessments. The lien for past due assessments may be foreclosed by the Association in accordance with the laws of the State of New York, in like manner as a mortgage on real property, and the Association shall also have the right to recover all costs incurred by it in pursuing such right, including, but not necessarily limited to, accelerated payments, if any, late charges and reasonable attorneys' fees. In the event the proceeds of the foreclosure sale are not sufficient to pay such unpaid assessments, the unpaid balance shall be charged equally to all Owners. The purchaser of a Home at a foreclosure sale of a First Mortgage (including, without limitation, the First Mortgagee) or a first mortgage holder obtaining title by conveyance in lieu of foreclosure, and their respective successors or assigns, shall not be liable for assessments unpaid up to the date of such foreclosure sale or conveyance. Nothing contained in this Section with regard to the right of the Association to enforce its lien by foreclosure shall prohibit the Association from obtaining a money judgment against the Owner or Owners and issuing execution for a sheriff's sale. In such event, the unpaid balance of the assessments shall be charged equally to all Owners.

Section 5.10. Notice of Default. The Board of Directors, when giving notice to an Owner of a default in paying assessments, may, at its option, or shall, at the request of a First Mortgagee, send a copy of such notice to each such Owner's First Mortgagee whose name and address appears in the Book of Mortgagees of the Association. The First Mortgagee shall have the right to cure the Owner's default with respect to the payment of said assessments at any time prior to the time title is conveyed pursuant to Section 5.09 above.

Section 5.11. No Exemption or Waiver of Assessments. Every Owner shall pay the assessments assessed against such Owner's Lot and/or Home when due and no Owner may exempt himself or herself from liability for the payment of assessment so assessed by waiver of

the use or enjoyment of any of the Property or by the abandonment of such Owner's Lot and/or Home. However, no Owner shall be liable for the payment of any assessments accruing subsequent to a sale, transfer or other conveyance by such Owner's Lot and/or Home made in accordance with the provisions of this Declaration and the By-Laws.

Section 5.12. Grantee to be Liable with Grantor for Unpaid Assessments. In any conveyance of a Lot and/or Home either by voluntary instrument, or by operation of law or judicial proceedings, the grantee of the Lot and/or Home, and the grantee's successors, heirs and assigns, shall be jointly and severally liable with the grantor for any unpaid assessments against the latter, assessed and due up to the time of the grant or conveyance without prejudice to the Grantee's right to receive from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Board of Directors setting forth the unpaid assessments against the grantor and the grantee shall not be liable for, nor shall the Lot and/or Home conveyed by subject to, a lien for any unpaid assessments against the grantor in excess of the amount therein set forth. "Grantee" as used in this Section shall not include either the First Mortgagee of record, or a purchaser of a Home or Lot at a foreclosure sale of a First Mortgage, or a holder of title obtained by conveyance in lieu of foreclosure, or such grantee's successors and/or assigns.

Section 5.13. Exempt Property. Property subject to the Declaration shall be exempt from assessment Charges and liens created herein, to the extent of any easements or other interests therein are dedicated to and accepted by any local governmental authority and devoted to public use.

Section 5.14. Right to Maintain Surplus. The Association shall not be obligated in any calendar or fiscal year to spend all sums collected in such year by way of assessments, or otherwise, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the assessments in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors, in its absolute discretion, may determine to be desirable.

Section 5.15. Assessment Certificates. Upon the written request of an Owner, Mortgagee, lessee or title insurer of a Home (or any prospective purchaser, lessee, Mortgagee or title insurer of such Home), the Board of Directors, or the managing agent if there be one, shall, within fifteen (15) days of receipt of such written request, issue and furnish a certificate in writing, signed by an officer or designee of the Association setting forth with respect to such homes or Lots, as of the date of said certificate, (i) whether the assessments, if any, have been paid, (ii) the amount of such assessments, including interest, late charges 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, By-Laws and/or Rules and Regulations.

A reasonable charge, as determined by the Board of Directors, or the managing agent if there be one, may be made for the issuance of such certificate. 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 any bona fide purchaser, First Mortgagee, lessee of, or title insurer of the Home with respect to which such certificate has been issued.

#### Section 5.16. Right to Borrow.

a) The Association shall have the right to borrow for the following purposes upon a resolution approved by the super majority of the Board of Directors as well as the vote of 67% of the members of the Association.

b) In the event the lender requires a security interest (mortgage) on the lands owned by the Association, said security interest shall be subordinate to the terms of this Declaration, and any amendments thereto which are adopted prior to the recording of the security interest and the terms and conditions set forth by the Town of New Scotland Planning Board when it approved the Country Club Estates Cluster Subdivision. (See Exhibit "A", and these:

i) The Association land may not be further subdivided without approval from the Town of New Scotland;

ii) No residential structure may be constructed on Association property;

iii) no structure may be constructed on Association property without approval from the Town of New Scotland;

iv) easements granted to the Town of New Scotland, any public/private utility service company and any other governmental entity.

c) In the event of a foreclosure of the security interest in the Association property, lender or the successful bidder at a foreclosure sale shall assume the responsibilities of the Association as it pertains to maintenance of the Association property as well as the maintenance of lands which the Association has dedicated to the Town of New Scotland but is responsible to maintain pursuant to this Declaration and/or the Town of New Scotland Planning Board approval. (see Exhibit "A")

## ARTICLE VI

### MAINTENANCE BY THE ASSOCIATION

Section 6.01. Repairs and Maintenance which are the Responsibility of the Association. The Association shall be maintain and keep in good repair the area(s) of Common Responsibility, which shall include, but need not be limited to:

a. all landscaping and other flora, parks, signage, structures, and improvements, including any bike and pedestrian pathways/trails, situated upon the Common Area.

b. landscaping, sidewalks, street lights and signage within public rights-of-way within or abutting the community, and landscaping and other flora within any public utility

easements and conservation easements within the Community (subject to the terms of any easement agreement relating thereto);

c. Without limiting the generality of the foregoing and/or any other provisions of this Declaration, the Association shall be responsible for, and the cost thereof shall be an expense of the Association, maintenance of the Association Property and improvements thereon in accordance with the description, methods, schedule, procedures and other instructions set forth in Schedule "C" annexed hereto and made a part hereof.

d. Subject to the provisions of Section 6.02 below, the cost of all maintenance performed by the Association shall be funded by assessments.

e. In addition to the maintenance of Association Property, the Association shall be responsible for:

1. maintenance of street trees within the Town's Right of Way and detention basin parcels;
2. maintenance of lawn areas and landscaping located on or about any retention basins.
3. maintenance of entrance signs and landscaping.

Section 6.02. Repairs and Maintenance which are the Responsibility of Owners.

a. Each Owner shall be responsible (at such Owner's cost and expense) for the maintenance, repair and/or replacement of any pipes, wires, conduits, utility lines, cable television within such Owner's Home or utility meters servicing such Home.

b. Except as provided in Section 6.01 above, each Owner shall be responsible (at such Owner's cost and expense) for the maintenance, repair and/or replacement of such Owner's Home (exterior and interior), including, without limitation, the roofs and exterior doors and trim, driveway, deck and patio of such Owner's Home, and the removal of all debris from such Owner's Lot whether or not improved. Each Owner is also responsible (at such Owner's cost and expense) for adequately watering all lawn areas, shrubbery and trees within such Owner's Homesite.

c. Each Owner shall be responsible (at such Owner's cost and expense) for the maintenance, repair or replacement of the post lamp and mail box installed on such Owner's Homesite, including the prompt replacement of the light bulb.

d. Without limiting the generality of the foregoing and/or any other provisions of this Declaration, each Owner shall be responsible (at such Owner's cost and expense) for the maintenance, repair and/or replacement of such Owner's Home (exterior and interior) and Homesite in accordance with the Covenants set forth in this Declaration, including, without limitation, the Covenants set forth in Article VIII hereof.

e. Each unit owner shall contract with a lawn service company to provide lawn mowing and fertilization (per the architectural standards) and chemical treatment to prevent lawn disease, grubs, fungus, etc. The lawn service company shall provide notice to the lot owners per the applicable State and local laws of when said applications are to be made. The lawn service company shall indemnify and hold the Association harmless for any and all claims which may arise from the application of fertilizers and chemicals as well as be responsible for any and all fines and costs incurred by the Association by reason of said claims.

Section 6.03. Quality and Frequency of Maintenance and Repairs. All maintenance, repair and replacement, whether performed by the Association or an Owner, shall be of a quality and appearance consistent with the original construction so as to enhance and preserve the appearance and value of the Property and the Homes.

Section 6.04. Access for Repairs or Maintenance. The Association (and its employees, contractors and agents), shall, upon reasonable notice to the Owner and/or occupant, have the right to enter upon any portion of a Lot, at any reasonable hour and upon reasonable notice, to carry out its functions as provided for in this Declaration, except that, in an emergency, the Association shall have the right, without notice, to enter upon any portion of the Property or a Lot to make necessary repairs or to prevent damage to any other Lot and/of Home or any portion of the Property. The repair of any damage caused in gaining access in an emergency shall be undertaken by the Association at its expense.

## ARTICLE VII

### INSURANCE AND RECONSTRUCTION

Section 7.01. Insurance to be Carried by the Association. The Board of Directors of the Association shall obtain and maintain general liability insurance with coverages to be as follows:

a. General Liability. The liability insurance shall cover the Directors and Officers of the Association and all Owners, but not the liability of the Owners arising from occurrences from such Owner's Lot and/or Home. The policy shall initially be in the amount of \$1,000,000 and include the following endorsements:

- (1) comprehensive general liability (including libel, slander, false arrest and invasion of privacy);
- (2) personal injury;
- (3) medical payments;
- (4) 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;
- (5) "severability of interest" precluding the insurer from denying coverage to any Owner because of negligent acts of the Association or any other Owner;
- (6) contractual liability;
- (7) water damage liability;

- (8) hired and non-owned vehicle coverage;
- (9) liability for the property of others;
- (10) host liquor liability coverage with respect to events sponsored by the Association; and
- (11) deletion of the normal products exclusion with respect to events sponsored by the Association.

b. Additional Insureds. The liability insurance shall name the Town of New Scotland as an additional insured; more specifically the insurance shall insure the Town of New Scotland for any property that the Association intends to maintain and for any property it cares for that is dedicated to the Town of New Scotland.

c. The Board of Directors may also obtain such other insurance as it shall deem necessary or desirable from time to time, including additional umbrella, liability or fidelity bond coverage.

In the event the Association shall, at any time, own any structures, a fire and casualty policy shall cover the interests of the Association, the Board of Directors and all Owners and Mortgagees as their interest may appear, for all improvements.

The Board of Directors shall not be liable for failure to obtain any of the coverages required by this Article VII or for any loss or damage resulting from such failure, if such failure is due to the prohibitive cost of such coverages from reputable insurance companies.

The deductible, if any, on any insurance policy purchased by the Board of Directors may be the subject of an assessment. The Board of Directors of the Association may assess any deductible amount necessitated by the gross negligence or malicious act of an Owner against such Owner. The Association may pay the deductible portion for which such Owner is responsible, and the amount so paid, together with interest and costs of collection (including, without limitation, attorney's fees) shall be a charge and continuing lien upon the Lot and/or Home 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.

The Board of Directors shall review all insurance policies and coverage provided thereby at least annually to assure adequacy of coverage.

No portion of the Property is located in a Flood Hazard Zone. However, in the future, if any portion of the Property is determined to be located in an area subsequently identified by the Federal Secretary of Housing and Urban Property as having special flood hazards, the Board of Directors shall obtain, if available, a policy of flood insurance covering the 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 one hundred percent (100%) of insurable property.

Section 7.02. Restoration or Reconstruction after Fire or Other Casualty. In the event of damages to or destruction of any Association Property, insurance proceeds, if any, shall be

payable to the Association. The Board of Directors shall be responsible for the disbursement of the proceeds to contractors engaged in the repair and restoration of such Association Property. any cost of such repair and restoration in excess of the insurance proceeds shall constitute an assessment and the Board of Directors shall assess all the Owners for such deficit and for the cost of a performance bond and labor and materials payment bond, if required, as part of the assessments.

Section 7.03. Insurance to be Carried by Owners. Each Owner shall, at such Owner's expense, obtain adequate insurance for full replacement cost of such Owner's Home and liability insurance for occurrences within such Home and/or on the Lot of such Owner. If requested by the Board of Directors, in writing, evidence of such insurance shall be provided the Board of Directors annually upon the anniversary date of the policy or policies, together with the name and address of the insurance agency issuing such policy or policies.

In the event of damage or destruction of any Owner's Home or other improvements on such Owner's Lot, prompt repair and restoration shall be arranged by the Owner. "Prompt repair and restoration" as used herein, shall mean repair and restoration to being, weather permitting, not more than sixty (60) days from the date of receipt of the insurance proceeds by the Owner, providing that if new or revised permits from a municipal authority are required, a reasonable time will be allowed to procure such permits.

Section 7.04. Actions Which May Increase Insurance Rates Prohibited. Under no circumstances shall an Owner permit or suffer anything to be done on the Property or omit to do anything which will increase insurance rates on Association Property. The penalty for any and all violations shall be an assessment against the Owner violating this provision in an amount equal to increased rate and/or increased premiums.

## ARTICLE VIII

### PROTECTIVE COVENANTS

Section 8.01. Maintenance of Homes and Homesites by Owners.

(a) Maintenance by Owner. From and after the sale by Owner of any Home to an Owner, all portions of such Home and Homesite shall be maintained by the Owner thereof (as such Owner's cost and expense) free of rubbish, debris, refuse or garbage which shall not be allowed to accumulate or any fire hazard allowed to exist thereon. Owner shall contract or cause to maintain all landscaping mulch beds and lawns for spring and fall clean-up and weed control in landscape beds. All yards must maintain a well kept appearance free of weed and other unsightly growth, and in such a fashion to insure that no clippings, leaves or other debris shall be blown onto adjoining properties or into the roadways. Each Owner shall replace dead or dying landscape materials in a timely fashion. Each Owner shall maintain driveways free of debris and patched and sealed to maintain a well-kept appearance.

(b) Exterior Maintenance. Owner shall maintain all exterior surfaces requiring periodic painting, cleaning, washing, or other maintenance which shall be promptly given such required maintenance or repair consistent with the condition, repair and quality of the balance of

the Homes and Improvements in the Property, and in such a fashion so as not to detract from the aesthetic appearance of the Property. All exterior painted surfaces, including but not limited to doors, door frames, garage doors, garage door frames and any other painted surface shall be as nearly the same as existed at the time of original conveyance by the Builder. It being the intent of this paragraph that the original architectural design and color patterns used in the construction of the homes within the property subject to this Declaration shall not be materially altered.

Section 8.02. Pets. Not more than three commonly accepted household pets such as a dog or cat, and reasonable numbers of tropical fish or caged birds may be kept in a unit, subject to other reasonable regulations by the Association. All animals shall be leashed (if outdoors) or kept within the unit and shall not be permitted to roam free. The Association may restrict the walking of pets to certain areas. Owners who walk their pets on Common Areas must clean up after their pets. Commercial activity involving pets, including without limitation, boarding, breeding, grooming or training are not allowed. The ability to keep a pet is a privilege, not a right. If, in the opinion of the Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the owner, upon written notice, may be required to remove the pet from the Community. Pets may not be left unattended or leashed in yards or garages or on porches or patios.

Section 8.03. Use and Occupancy Restrictions. Each Homesite and all portions of each Homesite and all portions of each Home and related structures shall be used for residential purposes only and only one residence shall be erected and maintained for the occupancy of not more than one family. No mobile home, neither temporary nor permanent, modular home, tent or shack shall be permitted to be used on any Homesite at any time as a residence either temporarily or permanently. No business, professional or commercial building may be erected on any Homesite or any business, professional practice or commercial enterprise may be conducted from any Home, except as such may be permitted to the nature and extent allowed by local zoning regulations, in which case such business shall be conducted entirely from within the home and which would not result in an inordinate amount of traffic or parking of vehicles in or around the home, and there shall be no exterior indication of such business within the home or any variation from the residential appearance of the home. Further, there shall be no signs indicating the existence of such business placed in any window of such home or anywhere on the exterior of the Home or Homesite. Notwithstanding the aforementioned, Sponsor, in its sole discretion, may permit the use of any Homesite, any Home or other structure (including trailers) or any other portion of the Property in connection with the construction, Property, promotion and sale or resale of the Property. An approved Contractor, with Sponsor's prior written permission, may use a Homesite for the purposes and uses specifically set forth in such written permission from Sponsor.

Section 8.04. Lawn Irrigation Systems. Each Homesite Owner shall be responsible to continuously maintain on the Homesite the underground lawn irrigation system and an automatic timer, sufficient to fully and adequately irrigate the front and side yards of the Homesite and the landscaping thereupon, including the non-paved portions of the rights-of-way of roads abutting any portion of the Homesite. Such lawn irrigation system shall be kept in good order and repair and shall be used as required to maintain the irrigated areas in a well-kept condition at all times.

Section 8.05. Aerials and Antennas. No exterior radio, television or other aerial, antenna, tower or other transmitting or receiving structure, or support thereof, shall be erected, installed, placed or maintained on any portion of a Home or any Homesite. Satellite dishes measuring no more than 36” in diameter installed for the sole purpose of receiving television transmittal shall be allowed, however such installation shall be permanently affixed to the home and limited to areas not to be visible from the front yard of the Home or from roads abutting the Homesite.

Section 8.06. Storage. No movable articles, goods, materials, machinery or equipment or items of a similar nature shall be stored or kept in the open within view of the public or any neighboring Owner. No Homesite or portion thereof shall be used or maintained for the storage of landscape materials such as soil and mulch. All firewood (not more than one cord) shall be stored so it is not visible from any road adjoining Owners.

Section 8.07. Garbage, Trash and Litter.

(a) Refuse Disposal, Storage and Containment. No portion of any Homesite shall be used or maintained, even temporarily, as a dumping ground for rubbish, nor for storage of junk cars, garbage, car parts, trash, grass clippings, compost pile, garbage or other waste materials. Trash, garbage, grass clippings and other waste shall not be stored except for disposal and shall be kept in sanitary refuse containers which shall be placed inside the building so that same is totally removed from public view of any nature. No permanent containers shall be stored outside of the home or garage. Sealed containers may be temporarily placed at curbside for refuse collection, but not earlier than 6:00 PM on Sunday evening for Monday collection and must be removed by 6:00 PM Monday, subject to holiday exceptions and the schedule of the trash/refuse collector. Recycle containers shall be stored in the same manner as refuse containers.

Section 8.08. Motor Vehicles, Trailers, Etc.

(a) No recreation vehicles, including by not limited to boats, watercrafts, boat trailers, golf carts, mobile homes, trailers (either with or without wheels), motor homes, vans over fourteen (14) feet in length, tractors, trucks in excess of three-fourths (3/4) ton, all-terrain vehicles, snowmobiles, commercial vehicles of any type, campers, motorized campers, motorized go-carts, or any other related transportation device may only be stored outside or on any Homesite a maximum of 8 hours but not over night, unless fully garaged. Moreover, no recreational vehicle shall be parked on any portion of the Common Area unless such areas are specifically designated for recreational parking. No Owner or other occupant of the Community shall repair or restore any vehicle of any kind upon or within the Community, except for emergency repairs and then only to the extent necessary to enable the movement thereof to a proper repair facility.

(b) Parking of all vehicles at all times shall be on paved surfaces located upon a Homesite, and no on-street parking shall be allowed. Notwithstanding the foregoing provisions of this Section, temporary on-street parking shall be allowed for a period not to exceed six (6) hours for the purposes of social functions of an Owner. Overnight parking in street rights-of-way by non-Owners shall be prohibited. Notwithstanding the foregoing provisions of this Section, temporary on-street parking shall be allowed for a period not to exceed forty-eight (48) hours for the purpose of re-pavement or re-sealing of the private driveway of an Owner.

Notwithstanding the foregoing provisions of this Section, service and delivery vehicles may park on any roads on a temporary basis during regular business hours, as the same may be needed to provide services or deliveries. The Association is authorized to tow vehicles parked in violation hereof.

(c) Off-road vehicles including by not limited to motorized bikes, all terrain vehicles, snowmobiles, go-carts shall not be permitted on the any roads or any other portion of a Homesite or Common Area.

Section 8.09. Nuisances and Obnoxious or Offensive activity. No activity shall be permitted to exist or operate in any unit which constitutes a nuisance or is detrimental to the Community or to any other Unit within Country Club Estates. No obnoxious or offensive activity, including but not limited to, the use of fire arms, explosives, or hazardous protective devices, shall be allowed on any portion of the Property.

Section 8.10. Unlawful Use. The Association and the Owners shall comply with all applicable laws, zoning ordinances, orders, rules, regulations or requirements of any governmental agency relating to the Community.

Section 8.11. Signs and Flagpoles. No sign of any kind shall be displayed on any Homesite or Home and no advertising of any kind shall be placed or conducted upon a Homesite or in a Home except: one sign of not more than five (5) square feet advertising the property "for sale". No sign of any kind shall be permitted to be placed inside a Home which is visible outside the Home, or on the outside walls of such Home, or on any fence within the Property or on any vehicles within the Property. No flagpoles (except those attached directly to the façade of a Home and measuring no more than 60" in length) shall be installed or erected on a Homesite. Notwithstanding the foregoing, the Sponsor shall be permitted to post and display advertising signs on the Property and the Board of Directors may erect reasonable and appropriate signs on any portion of the Common Area.

Section 8.12. Subdivision or Combination of Lots or Tracts. No Lots shall be subdivided (or re-subdivided) into two or more Lots, and no Lot shall be combined with another Lot, in either case, without the prior written approval of the Sponsor, the approval of which may be withheld in the sole and absolute discretion of the Sponsor.

Section 8.13. Traffic Hazards. Nothing shall be erected, constructed, planted or otherwise placed in the Community subject to the initial construction of improvements in the Community by Sponsor which creates a traffic hazard or blocks the vision of motorists upon any of the streets, roads or intersections of the Community.

Section 8.14. Basketball Hoops and Backboards, and Outdoor Play Equipment. Basketball hoops and backboards shall not be located in the front yard of a Homesite and must be confined to the driveway located behind the front corner of the garage. In no event shall a basketball hoop or backboard be allowed to be located in the Town right-of-way. Separately paved areas for basketball hoops and backboards, tennis, and other similar recreational activities shall be placed behind the Home in the rear yard, located no closer to the side property line than

the side setback line, and so as not to create a nuisance to adjoining Owners. Any such paved area shall be screened with a minimum of four (4) pine trees of no less than six (6') feet in height planted on each of the three sides (total of twelve (12) trees) of such area not directly facing the Home.

All outdoor play equipment including but limited to: swing sets, slides, trampolines, sandboxes, playhouses and the like, shall be placed behind the Home in the rear yard, located no closer to the side property line than the side setback line, and so as not to create a nuisance to adjoining Owners. All such outdoor play equipment shall be screened with a minimum of four (4) pine trees of no less than six (6') feet in height planted on each of the three sides (total of twelve (12) trees) of such outdoor play equipment not directly facing the Home. Metal swing sets and slides shall be prohibited. Play houses shall be no larger than 137 square feet, shall be limited to twelve (12') feet in height, and shall be constructed of natural building materials in a color combination that closely matches the home.

Section 8.15. Fences. Fences may be erected only in the rear yard of the Homesite no closer to the road than the rear corner(s) of the home and shall be limited to five (5) feet in height and shall be constructed of vinyl composite and aluminum spec (black or white), wrought iron spec (black). All other fencing materials including but not limited to chain-link and wood are specifically prohibited. No fencing or similar enclosure shall be erected in the front or side yards of a Homesite. Corner lots may fence in the side yard behind the home no closer to the road than Town of New Scotland zoning regulations. Small sections of ornamental fencing in landscaping beds in the front yard is acceptable.

Section 8.16. Pools, Spas and Hot Tubs. All pools shall be constructed in-ground and must be located in the rear yard of the Homesite no closer to the side property line than the side setback line. Spas and hot tubs shall be constructed in-ground or free standing in the rear yard of the Homesite no closer to the side property line than the side setback line. These facilities must comply with all Town of New Scotland codes. These facilities shall be fenced in accordance with the fencing regulations provided herein, and shall be screened with landscaping and trees so as not to be visible from the street. Pool houses are permitted in accordance with the architectural standards. The installation of all pools, spas, hot tubs and pool houses require the approval of the Architectural Review Committee.

Section 8.17. Sheds and Temporary Structures. No temporary structure, such as a trailer, tent, shack, barn, shed or other outbuilding shall be permitted at any time, other than:

- a. Temporary structures during the period of actual construction; and
- b. Tents or other temporary structures for use during social functions.

Section 8.18. Clothes Lines. No clotheslines or any similar devices for outside drying of clothes shall be erected on any Homesite.

Section 8.19. Air Conditioning Units. No air conditioning units shall be placed in the windows or walls of any Home where such is visible from the street.

Section 8.20. Mailboxes. Only mailbox receptacles included with the purchase of the Home shall be installed on any Homesite. This restriction shall apply not only to mailboxes originally installed with the Home, but also to any subsequent replacement of such mailbox, unless otherwise ordered by the Postmaster or other regulatory body having jurisdiction thereover. One mailbox is permitted per Homesite or in accordance with the regulations of the Postmaster. No additional receptacles for mail, newspapers, or similar deliveries may be installed on any Homesite within the Property. No changes or additions to the original color, decoration, adornment or numbering shall be permitted to any mailbox. After the initial installation, the Owner of said Homesite shall be responsible for any and all maintenance, repair and/or replacement of said mailbox in accordance with this Declaration.

Section 8.21. Garage Use. Garages may be used for vehicular parking and storage of personal property only and may not be modified for any other use. Owners shall be required, to the extent practicable, to park vehicles owned by them, or under their control, in the garage and shall cause the garage door or doors to be kept in a closed position, except for ingress and egress, whenever possible.

Section 8.22. Outdoor Sculptures and Lawn Decorations. Outdoor sculptures and lawn decorations measuring in excess of four (4') feet in height or in diameter, or constructed of material other than precast concrete or bronze, are strictly prohibited. Any holiday sculptures or decorations emanating light or music shall be prohibited except for temporary display during holidays. Any sculpture or decoration meeting the size limitations may only be displayed as part of a landscape feature surrounded by plantings, and not stand-alone. No massing of sculptures or decorations in any number exceeding three shall be allowed except for temporary display during holidays.

Section 8.23. Additions and Alterations. any addition and/or alteration to any Home or Homesite shall be completed not later than ten (10) months after the date of commencement of such addition and/or alteration. All additions and alterations require the approval of the Architectural Review Committee.

Section 8.24. Conservation Areas. No person may alter the Conservation Areas, including but not limited to all wetlands and upland buffer areas, from their natural and/or permitted condition.

Section 8.25. Lawns and Landscaping. All landscaping to be performed by an Owner with respect to the Owner's lot must be approved by the Architectural Review Committee. Further, no gravel, blacktop or paved parking strips shall be installed or maintained by any Owner adjacent to and along the street.

## ARTICLE IX

### ARCHITECTURAL CONTROL AND STANDARDS

Section 9.01. Control by Association. After transfer of title by the Sponsor to any Home, or completed portion of the Property, enforcement of those provisions of this Declaration

pertaining to the exterior appearance of the Property and control over any change in use or any additions, modifications or alterations to any exterior improvements on said Home or Homesite or other portion of the Property shall be the responsibility of the Association, acting through the architectural Committee as provided in Section 9.02 herein.

Section 9.02. Composition and Function of Architectural Committee.

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

(b) The Board of Directors shall appoint the Committee which shall consist of at least three (3), but no more than five (5) persons; however, the Sponsor retains the right to appoint all members of the Committee until on hundred percent (100%) of the Units have been developed and conveyed to purchasers in the normal course of development and sale. The Committee shall have exclusive jurisdiction over all exterior painting, original construction, modifications, additions or alterations made on or to existing units pursuant to the Architectural Standards. Moreover, the Committee shall have the right to revise, amend and update the Architectural Standards by a majority vote of the Committee, in order to respond to future changes. Upon revising, amending or updating the Architectural Standards, the Committee shall provide notice of the changes to the Board of Directors and the Associations, and the Committee will make the corresponding changes in the Architectural Standards. Each Committee shall be appointed for terms of two (2) years, subject to removal, with or without cause, by the affirmative vote of three-fourths (3/4) of the entire Board of Directors.

(c) The architectural Committee shall advise the Board of Directors on the following:

(i) all proposed additions, modifications or alterations to Association Property;

(ii) all proposed additions, modifications, alterations or exterior painting of the Home; and

(iii) Perform such other functions as may be assigned by the Board of Directors from time to time.

Section 9.03. Submission of Plans to Architectural Committee. after transfer of title to any Home or other portion of the Property by the Sponsor, no exterior addition, modification or alteration shall be made on or to such Home or other portion of the Property or to the improvements located thereon, unless and until a plan or plans therefore, in such form and detail as the architectural Committee requires, shall have been submitted to and reviewed by the architectural Committee and approved by the Board of Directors. The architectural Committee may charge and collect a reasonable fee for the examination of plans submitted for review, including any fees and reasonable expenses which may be charged by architects, engineers or attorneys retained by the Board of Directors in connection with the review of such plans.

Section 9.04. Basis for Recommendation of Disapproval of Plans by architectural Committee. The architectural Committee may recommend disapproval of any plans submitted for any of the following reasons:

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

Section 9.05. Recommendation of Architectural Committee.

(a) Upon recommendation to the Board of Directors for approval or qualified approval by the Architectural Committee of any plans submitted pursuant to this Article, the Board of Directors shall vote upon such recommendations and notify the applicant, in writing, of its decision.

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

Approval of any such plans shall not be deemed a waiver 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 submitted for approval by other Owners.