

APPENDIX I

Declaration of Covenants, Restrictions,
Easements, Charges And Liens, Prepared by
Certilman Balin Adler & Hyman, LLP

Certificate of Incorporation of Hudson
Highlands Reserve Home Owners Association,
Inc., Prepared by Certilman Balin Adler &
Hyman, LLP

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**DECLARATION OF COVENANTS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS**

DECLARANT: **HORTON ROAD, LLC**
315 East 91st Street, Suite 2S
New York, New York 10128

DATE OF DECLARATION:

SECTION:

BLOCK:

LOT(S):

CERTILMAN BALIN ADLER & HYMAN, LLP
Attorneys for the Declarant
90 Merrick Avenue, 9th Floor
East Meadow, New York 11554

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**DECLARATION OF COVENANTS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS**

Declaration made as of this ____ day of _____, 20__ by HORTON ROAD, LLC, a New York limited liability corporation with offices at 315 East 91st Street, Suite 2S, New York, New York 10128 hereinafter referred to as “Declarant.”

WITNESETH:

WHEREAS, Declarant is the owner of the real property described in Article II of this Declaration which Declarant desires to develop as a residential community with various common facilities for the benefit of said Community; and

WHEREAS, Declarant desires to provide for the preservation of the values and Common Areas in said Community and for the maintenance of the common facilities; and, to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said Community and each Residential Lot Owner thereof; and

WHEREAS, Declarant 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 Areas property and improvements and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated Hudson Highlands Reserve Home Owners Association, Inc. under the Not-For-Profit Corporation laws of the State of New York for the purpose of exercising the aforesaid functions;

NOW THEREFORE, the Declarant, for itself, its successors and assigns, declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as “covenants and restrictions”) hereinafter set forth.

ARTICLE I. DEFINITIONS

The following words when used in this Declaration or any Supplemental or Amended Declaration shall, unless the context otherwise prohibits, have the meanings set forth below:

- (1) “Architect” shall mean and refer to the Fractal Group, LLC, the firm each Residential Lot Owner is required to engage for any design, renovation or modification of any Home or structure to be located on a Residential Lot or

any other entity designated by Declarant in which Ulises Liceaga is a principal architect as long as the Declarant retains one Unsold Residential Lot.

- (2) "Architectural Review Board" shall mean and refer to the Architectural Review Board ("ARB"), the members of which shall be appointed by the Board of Directors, which shall act on requests from Residential Lot Owners to design, renovate, construct or modify their Residential Lots and any Home Located thereon and any landscaping on a Residential Lot.
- (3) "Association" shall mean and refer to Hudson Highlands Reserve Home Owners Association, Inc., a New York Not-for-Profit corporation.
- (4) The "Barn" shall mean and refer to the existing barn located adjacent to the Historic Roadway located within the Conversation Easement Area.
- (5) "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- (6) "Builder" shall mean and refer to _____, the company every Residential Lot Owner is required to engage for any construction and landscaping of any Home or structure to be located on a Residential Lot, or any other entity designated by Declarant as long as the Declarant retains one Unsold Residential Lot.
- (7) "By-Laws" shall mean and refer to the By-Laws governing the operation of the Association, the form of which is contained as an Exhibit to this Declaration.
- (8) "Common Expenses" shall mean and refer to those expenses (including reserves) which are incurred or assessed by the Association in fulfilling its lawful responsibilities (sometimes referred to as "Assessment").
- (9) "Common Properties" or "Common Areas" shall mean and refer to all areas of land that will be owned by the Association.
- (10) "Conservation Easement" shall mean and refer to the document required by the Town of Philipstown between and among the Declarant, the Holder of the Conservation Easement, the Town of Philipstown, and the Equestrian Center Operator, which is recorded or to be recorded in the Putnam County Clerk's Office that describes, restricts, protects, and preserves certain of the Common Areas in perpetuity, as same may be amended from time to time.
- (11) "Conservation Easement Area" shall mean and refer to the approximately 170.8 acres which the Association will own and be responsible to maintain, monitor, and preserve pursuant to the Conservation Easement, and/or as set forth herein, as same may be amended from time to time.

- (12) "County" shall mean and refer to the County of Putnam.
- (13) "Declarant" shall mean and refer to Horton Road, LLC, a New York limited liability corporation and its successors, assignees and/or designees, including, without limitation, any mortgagee which has foreclosed or acquired by other means the interest of the Declarant. Declarant may also be referred to in this document as the "Sponsor."
- (14) "Declaration" or "Declaration of Covenants and Restrictions" shall mean and refer to this Declaration of Covenants, Restrictions, Easements, Charges and Liens, as the same may, from time to time, be amended.
- (15) "Development" or "Community" shall mean Hudson Highlands Reserve, a residential community being developed on the Properties which will consist of twenty-five (25) Residential Lots and the Common Areas.
- (16) "Director" shall mean one (1) of the individual representatives of the Board of Directors.
- (17) "Equestrian Center" shall mean and refer to the equestrian facility located on approximately 11.1 acres of the Common Areas, which shall contain a main equestrian facility building with indoor arena, horse stalls, grooming stalls, tack room, rider visitor lounge, and outdoor fenced arena, paddocks, and parking area.
- (18) "Equestrian Center Operator" shall mean and refer to the Groundlessee, which runs, operates, manages and maintains the Equestrian Center pursuant to the Groundlease.
- (19) "First Lien Holder" shall mean and refer to a holder of a first mortgage of record upon a Residential Lot in the Association.
- (20) "General Rules and Regulations" shall mean and refer to the General Rules and Regulations referred to in Article X of this Declaration and attached as Exhibit B of the Declaration as they may be amended, modified, added to or repealed by the Board of Directors as provided for in Section 5 of the General Rules and Regulations.
- (21) "Groundlease" shall mean and refer to the long-term ninety-nine (99) year Groundlease between the Declarant and an affiliated entity of Declarant for the approximately 11.1 acres of Common Areas upon which the Equestrian Center lies.
- (22) "Groundlessee" shall mean and refer to Declarant's affiliate which shall lease the Equestrian Center pursuant to the Groundlease.

- (23) The “Historic Roadway” shall mean and refer to the existing unpaved roadway located within the Conversation Easement Area.
- (24) “Holder of Conservation Easement” shall mean and refer to a not-for-profit conservation organization within the meaning of Article 49, Title 3 of the Environmental Conservation Law which is a publicly funded, nonprofit 501(c)(3) organization with the authority to accept lands, easements and buildings for the purpose of preserving and protecting natural, scenic, forested, and open-space values of real property, and with the commitment to preserve the conversation purposes of the Conservation Easement Area. The Holder of the Conservation Easement shall have no obligation for the upkeep or maintenance of the Conservation Easement Area.
- (25) “Home” shall mean and refer to each unit of residential housing situated upon the Residential Lots on the Properties, and collectively referred to as “Homes.”
- (26) “Maintenance Charges” shall mean and refer to the charges paid by each Member to the Association to be used for Common Expenses.
- (27) “Member” shall mean and refer to each holder of a membership interest in the Association; as such interest is set forth in Article III.
- (28) The “Properties” shall mean and refer to all such Properties described in Article II.
- (29) “Residential Design and Maintenance Rules and Regulations” shall mean and refer to the Rules and Regulations governing the design, alteration, maintenance, and use of the Homes and Residential Lots, referred to in Article X of this Declaration and attached as Exhibit C of the Declaration as they may be amended, modified, added to or repealed by the Board of Directors as provided for in Section 5 of the Rules and Regulations.
- (30) “Residential Lot” shall mean and refer to any plot, piece or parcel of land, which Residential Lot is shown on the filed map of the Properties intended for residential uses in compliance with local zoning required but shall not include the Common Areas.
- (31) “Residential Lot Owner” shall mean and refer to the record owner of fee simple title to any Residential Lot, including the Declarant with respect to any Unsold Residential Lot. Every Residential Lot Owner shall be treated for all purposes as a single owner for each Residential Lot held, irrespective of whether such ownership is joint, in common or tenancy by the entirety. Where such ownership is joint, in common or tenancy by the entirety, such collective ownership shall constitute one (1) Member.
- (32) “Special Assessment” shall mean and refer to a Common Expense of the Association that is not included in the monthly Maintenance Charges applicable to a Residential Lot.

- (33) "Town" shall mean and refer to the Town of Philipstown.
- (34) "Unsold Residential Lot" shall mean and refer to any Residential Lots owned by the Declarant and any successors, assigns and/or designees until such time as the same have been sold to a third party. It shall not include any Residential Lot which is used for personal purposes of the Declarant, any of its principals or any of its successors, assigns and/or designees.

ARTICLE II. PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Properties.

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is all that certain plot, piece or parcel of land situate, lying and being in the Town of Philipstown, County of Putnam and State of New York, being more particularly bounded and described in Schedule "A" annexed hereto and located on approximately 181.7 acres. The Properties will contain a total of twenty-five (25) taxable Residential Lots and the Common Areas thereon.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership.

The Association shall have one (1) class of membership interest. The Residential Lot Owner of a Residential Lot or Unsold Residential Lot on the Properties subject to this Declaration shall be a Member.

Section 2. Voting Rights.

Each Member is entitled to one (1) vote regardless of the number of Residential Lots or Unsold Residential Lots owned by a Member except in the election of Directors as described in Article VIII, Section 2 of the By-Laws. When more than one (1) person or entity holds such interest in the membership, any votes attributable to such membership shall be exercised as such persons mutually determine but not more than one (1) vote may be cast with respect to any such Member except in the election of Directors as described in Article VIII, Section 2 of the By-Laws. No Member shall split or divide its votes on any motion, resolution or ballot. The Declarant shall have one (1) vote regardless of the number of Unsold Residential Lots it owns.

Section 3. Transfer of Membership.

Membership in the Association shall be appurtenant to, and may not be transferred, except in conjunction with the lawful sale or conveyance of a Residential Lot and any Home located thereon. No Residential Lot Owner shall be permitted to sell or convey the Residential Lot Owner's Residential Lot and/or any Home located thereon unless and until the Residential Lot Owner shall have paid in full to the Board all unpaid Maintenance Charges and other amounts required by the Board to be paid and assessed by the Board against such Residential Lot. Upon such sale or conveyance, the seller of such Residential Lot shall relinquish the Residential Lot Owner's membership in the Association unless they continue as a Member due to ownership of multiple lots and the purchaser of such Residential Lot shall automatically become a Member, subject to this Declaration, the By-Laws, the General Rules and Regulations, the Residential Design and Maintenance Rules and Regulations, and the Conservation Easement.

ARTICLE IV. PROPERTY RIGHTS IN THE PROPERTIES

Section 1. Members' Easement of Enjoyment.

Subject to the provisions of Section 3, every Residential Lot Owner and permitted occupants, respective family members, guests and invitees of any Home located on a Residential Lot shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Residential Lot.

Except as otherwise specifically provided in this Declaration, the By-Laws, the Conservation Easement, the General Rules and Regulations, and the Residential Design and Maintenance Rules and Regulations promulgated by the Board, the Board may not impose any limitations upon the use and enjoyment of the Common Areas by Residential Lot Owners and permitted occupants, respective family members, guests and invitees of any Home located on a Residential Lot. The Board may establish a limitation on guest privileges by guests and invitees of Residential Lot Owners or permitted occupants of any Home located on a Residential Lot and the Board may establish a limitation and fee on the use of the Common Areas for a party, meeting or other similar event. Except as otherwise specifically provided in this Declaration or in the By-Laws, the Board may not impose any fee for the use and enjoyment of the Common Areas by Residential Lot Owners or permitted occupants and their respective family members of any Homes located on a Residential Lot, other than assessments against a Residential Lot Owner's Residential Lot unless the Common Areas are used for a party, meeting or other similar event.

Section 2. Title to Common Properties.

The Declarant shall convey to the Association legal title to the Common Areas in the Properties subject, however, to the following covenant which shall be deemed to run with the land and shall be binding upon the Properties and the Association, its successors and assigns:

Subject to the Conservation Easement, in order to preserve and enhance the property values and aesthetics of the Development, the Common Areas and all facilities now or hereafter built or installed thereon, except the Equestrian Center which shall be maintained by the Groundlessee pursuant to the terms of the Groundlease, shall at all times be maintained in good repair and condition, and shall be operated in accordance with high standards by the Association. The maintenance, repair and replacement, as necessary, of the Common Areas, shall include, but not be limited to, the following:

- (a) interior roadways, stormwater drainage system, subsurface sewage treatment system, The Barn, and Ulmar Pond; and
- (b) all other facilities or structures, improved or unimproved located within the Common Areas of the Association.

This Section shall not be amended, as provided for in Article XIII, Section 2, to reduce or eliminate the obligation for maintenance and repair of the Common Areas.

The Association will not be responsible for any consequential, incidental, special and/or indirect damages to the Residential Lot and any Home located thereon caused as a result of its maintenance, repair and replacement obligations.

Subject to the Residential Design and Maintenance Rules and Regulations, each Residential Lot Owner will be solely responsible for the maintenance, repair and replacement of all areas of the Residential Lot Owner's Residential Lot and any Home constructed thereon, including but not limited to the following:

- (a) snow removal and repair, maintenance and replacement of all driveways, walkways, pathways, balconies, decks and patios that are part of or appurtenant to a Residential Lot and any Home constructed thereon;
- (b) maintenance, repair and replacement to all interior and exterior portions of any Home constructed on a Residential Lot including windows, roofs and the exterior façade;
- (c) maintenance, repair and replacement to any structures, buildings and/or pools (if permitted), located on a Residential Lot;
- (d) maintenance, repair and replacement to any interior and exterior connections, pipes, wires, mechanical systems, irrigation systems and any other improvements located in and/or on each individual Residential Lot and any Home located thereon;
- (e) maintenance of, repair of and replacement to any heating, cooling (including condensers) or other mechanical system servicing an individual Home constructed on a Residential Lot, whether or not such system is located in or on the Common Areas or on any other Residential Lot; and

- (f) landscape maintenance and replacement of all lawns, bushes, shrubs, flowers, plantings, trees and any other foliage located on each Residential Lot.

Section 3. Easements.

The following easements and/or rights and obligations in addition to the easements provided in Article V hereon shall be created hereof:

- (a) The right of the Board of Directors to promulgate General Rules and Regulations for the use and enjoyment and operation and management of the Common Areas and Development as provided in Exhibit B of this Declaration;
- (b) The right of the Board of Directors to promulgate Residential Design and Maintenance Rules and Regulations for the design, alteration, maintenance, and use of the Residential Lots and Homes as provided in Exhibit C of this Declaration;
- (c) The right of the Board of Directors, as provided in its By-Laws to suspend the enjoyment rights of any Member for a period during which any Maintenance Charge or Special Assessment remains unpaid, notwithstanding this provision the Board of Directors shall not be permitted to prohibit ingress and egress in, over and through the Property to prohibit access to a Residential Lot by a Residential Lot Owner and the Member's permitted occupants, tenants, guests and/or any person needing access to a Home located thereon;
- (d) Subject to the provision of Article XIII, Section 9, the right of the Board of Directors to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility or Holder of the Conservation Easement for such municipal, conservation or utility purposes, and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by a majority of the Members has been recorded agreeing to such dedication, transfer, purpose or condition, and unless written notice of the action is sent to every Member pursuant to the applicable notice provisions contained in the By-Laws of the Association;
- (e) The right of the Declarant and of the Board of Directors to grant and reserve easements and rights-of-way, in, through, under, over, upon and across the Properties, for the installation, maintenance and inspection of lines and appurtenances for public or private water, electric, sewer, drainage, cable television, gas and other utilities, and the right of the Declarant to grant and reserve easements and rights-of-way, in, through, under, over, upon and across the Properties for the completion of the

Declarant's and Builder's work under Section 3 of Article V. In the event an easement that is placed on the Properties by the Declarant requires the Residential Lot or any Home located thereon to be disturbed, Declarant will be obligated to restore the Residential Lot and the Builder to restore the Home to its original condition;

- (f) The obligation of every Member to abide by the terms of the By-Laws, the General Rules and Regulations promulgated by the Board of Directors regarding the Properties and Common Areas, and the Residential Design and Maintenance Rules and Regulations promulgated by the Board of Directors regarding the Homes and Residential Lots;
- (g) The right of the Declarant to use the Common Areas or to permit the Common Areas to be used by Declarant's designee or any prospective purchaser of a Residential Lot or Home located or to be located thereon or any tenants of any Homes located on an Unsold Residential Lot, without charge, in accordance with and subject to this Declaration, the By-Laws and any General Rules and Regulations promulgated by the Board of Directors. In addition, Declarant shall have the right, at any time when there shall be any Unsold Residential Lots, to use the Common Areas without charge, for exhibitions or other promotional functions with respect to Declarant's sales programs, in accordance with and subject to this Declaration, the By-Laws, the General Rules and Regulations, and the Conservation Easement.
- (h) The right of the respective utility company to enter upon and through the Property for the purpose of installation, maintenance and inspection of lines and appurtenances for water, sewer, drainage, cable television, electric, gas and any other utilities;
- (i) The right of the Association and any utility company to enter upon and through the Property for the purpose of reading any electric, gas, water or other utility meter;
- (j) Subject to the Conversation Easement, the right of the Board of Directors of the Association to grant such additional electric, gas, water or other utility easements or relocate any existing utility easement in any portion of the Development as the Board of Directors of the Association shall deem necessary or desirable for the proper operation and maintenance of the Association, or any portion thereof, provided that such additional utilities or the relocation of existing utilities will not prevent or unreasonably interfere with the use of any Residential Lot and any Home located thereon for its permitted purposes. Any utility company and its employees and agents shall have the right of access to any Residential Lot and/or Home located thereon and/or the Common Areas in furtherance of such easements, provided such right of access shall be exercised in such a manner as shall not unreasonably interfere with the use of any Residential Lot and/or any

Home located thereon for its permitted purposes by its owner, tenants or occupants;

- (k) The Board, Managing Agent, if any, manager or employee of the Association and any other person authorized by any of the foregoing, shall have, and the Common Areas shall be subject to, an easement in, to and through the Common Areas or any portion thereof in favor of the foregoing persons, (i) to operate, maintain, repair, alter, rebuild, restore and replace any of the Common Areas, including, without limitation, the maintenance of any sign identifying the Association located at the entrance thereto and any advertising and/or directional signs and (ii) to perform any of their respective duties in accordance with the By-Laws;
- (l) Each Member hereby grants a right of access to the Declarant to the Residential Lot Owner's Residential Lot and to the Architect and/or Builder for any Home to be constructed thereon or their designees, assignees and/or successors and any contractors, subcontractors, agents, and employees of the foregoing for the purposes of the repair and completion of any installation, construction, modification, alteration, renovation, maintenance, repair, restoration, replacement, or change being performed or to be performed by or on behalf of Declarant, the Architect and/or Builder with respect to the Common Areas and/or the Residential Lots and any Homes to be constructed thereon;
- (m) Right-of-way for ingress and egress by vehicles or on foot, in, through, over, under, upon and across any private roads in the Properties (as shown on the filed map(s) and any changes as they may be built or relocated in the future) for all purposes;
- (n) Any easements granted to Declarant, the Architect and/or Builder, the Board of Directors of the Association, any Residential Lot and/or any Home located thereon or any Residential Lot Owner under this Declaration and the By-Laws may be exercised by such Declarant's, Architect's, Builder's, Board of Directors of the Association's or Residential Lot Owner's employees, agents, contractors, suppliers, customers, guests, invitees, licensees, servants, tenants, subtenants, members, and visitors, as the case may be, to the extent necessary to effectuate the purpose for the easement or as otherwise authorized by the Declarant, the Architect, the Builder, the Residential Lot Owner or the Board of Directors of the Association;
- (o) Rights to connect with, maintain and make use of utility lines, wires, pipes, conduits, cable television lines, sewers and drainage lines, pipes, conduits, appurtenances and all other improvements which may from time to time be in or along the streets and roads or other areas of the Properties;

- (p) An easement of ingress and egress over any private roads, any walkways, driveways, parking areas and all other Common Areas in the Community for the benefit of all emergency vehicles and personnel including but not limited to police, fire, and medical vehicles and personnel;
- (q) Each Residential Lot Owner hereby grants the Association, any Managing Agent, the Declarant, the Architect, the Builder and the Holder of the Conservation Easement, and/or any other persons authorized by any of the foregoing, a right of access to his or her Residential Lot and any Home located thereon on reasonable notice at reasonable hours, on any day except Sundays and holidays (except that in an emergency situation such notice need not be given) for the purposes of: (i) making inspections of, or removing violations noted or issued by any governmental authority or Holder of the Conservation Easement; (ii) curing defaults hereunder, or violations of any General Rules and Regulations or Residential Design and Maintenance Rules and Regulations promulgated by the Board of Directors and Conservation Easement and committed by such Residential Lot Owner; (iii) correcting any conditions originating in or on his or her Residential Lot and/or any Home located thereon and threatening another Residential Lot and/or any Home located thereon or all or any portion of the Properties; (iv) installing, operating, maintaining, repairing, altering, rebuilding, restoring and/or replacing any personal property and fixtures located in, over, under, through adjacent to, or upon the Residential Lot Owner's Residential Lot and/or any Home located thereon or elsewhere on the Properties and existing for the common use of two or more Residential Lots and/or any Homes located thereon, of one or more Residential Lots and/or any Home located thereon and the Common Areas, of two or more Residential Lot Owners and/or of one or more Residential Lot Owners and the Association including without limitation all systems, apparatus, mechanisms, devices, machinery, motors, pumps, controls, tanks, tank assemblies, installations, shut off valves, other valves, panels, relays, electric distribution facilities, wiring, wireways, switches, circuit breakers, transformers, fittings, lighting fixtures, other fixtures, bulbs, signs, meters, meter assemblies, pipelines, conduits, cables, shafts, pits, traps, fences, storm drains, drains, catch basins, fitters, drainage access easements, drainage reserve areas and all other improvements; (v) providing security to the individual Residential Lots and/or any Homes located thereon and/or Residential Lot Owners; and (vi) performing any work required by Article V of this Declaration;
- (r) any easements shown on the filed map;
- (s) The Conservation Easement required by the Town of Philipstown, recorded or to be recorded in the Putnam County Clerk's Office, which restricts, protects and preserves approximately 170.8 of the Common Areas in perpetuity, as same may be amended from time to time;

- (t) any declarations, covenants, restrictions, easements and/or rights of way recorded or to be recorded in the land records applicable to this Development; and
- (u) easements to the Declarant, its assignees, successors and/or designees and the Architect, Builder, contractors, sub-contractors or other persons involved in the design, construction or renovation of a Home on a Residential Lot in, through, over, under, upon and across the Properties for the purpose of construction and completion of any Home on a Residential Lot and for the installation and connection of any public or private water, sewer, drainage, cable television, electric, gas and any other utilities necessary for the construction, renovation, completion, and issuance of a certificate of occupancy for any Home to be constructed on a Residential Lot.

ARTICLE V. DEVELOPMENT OF HUDSON HIGHLAND RESERVE

Section 1. Hudson Highlands Reserve.

The Community will include up to twenty-five (25) individual Residential Lots and any Homes located thereon and the Common Areas on the parcel of land as described in Exhibit "A" consisting of a total of approximately 181.7 acres.

Section 2. Easement/Rights of Way.

Declarant does hereby establish and create for the benefit of the Association and for all Residential Lot Owners from time to time of Residential Lots subject to this Declaration and the permitted occupants of Homes constructed thereon and their respective family members, guests, employees, contractors and any other persons or companies the Residential Lot Owner permits on the Property and does hereby give, grant and convey to each of the aforementioned, the following easements, licenses, rights and privileges, subject to the Conservation Easement:

(i) Right-of-way for ingress and egress by vehicles or on foot, in, through, over, under, upon and across the streets, roads, and all walks in the Properties (as shown on the filed map(s) and any changes as they may be built or relocated in the future) for all purposes;

(ii) Rights to connect with, maintain and make use of utility lines, wires, pipes, conduits, cable television lines, sewers and drainage lines which may from time to time be in or along the streets and roads or other areas of the Properties; and

(iii) Right-of-way for ingress and egress and/or use and enjoyment by horseback riders who are instructors, students, patrons or invitees of the Equestrian Center, over and on the interior roadways in the Community and over and on the Historic Roadway.

Section 3. Reservation of Easements.

Declarant reserves the easements, licenses, rights and privileges of a right-of-way in, through, over, under, upon and across the Properties, for the purpose of improving the Residential Lots and Common Areas and work under Section 2 above and towards this end reserves the right to grant and reserve easements and rights-of-way in, through, under, over, upon and across the Properties for the installation, maintenance and inspection of pipes, lines, appurtenances and all other necessary improvements for public or private water, sewer, drainage, cable television, gas, electric and any other utilities and for any other improvements, materials or services necessary for the completion of the work. Declarant also reserves the right to connect with, maintain and make use of the utility lines, wires, pipes, conduits, cable television lines, sewers and drainage pipes and lines which may from time to time be in or along the streets and roads or other areas of the Properties. In addition, Declarant and any Selling Agent retained by Declarant and/or Builder and/or Architect are hereby granted and reserve the right to continue to use the Properties and any structures, model Homes, Unsold Residential Lots and/or any Homes located thereon, signs, and parking spaces located on the Properties in its efforts to market Residential Lots on the Properties for so long as there are any Unsold Residential Lots and/or to market any Homes constructed thereon remaining in the Development. Declarant further reserves the right to maintain upon the Properties such facilities as may be required, convenient or incidental for the completion of its work under Section 2 above including, without limitation, a business office, storage area, construction trailers, construction equipment and supplies, for so long as there are any Unsold Residential Lots and/or any Homes to be constructed thereon remaining in the Development. Declarant further reserves all of the rights afforded to Declarant contained in Article XIII, Section 11 of this Declaration. This Paragraph may not be amended without the written consent of Declarant.

Section 4. Reservation of Easements to Architect and Builder

Declarant grants to the Architect and the Builder, all necessary easements, licenses, rights and privileges of a right-of-way in, through, over, under, upon and across the Properties, for the purposes of the design, construction, renovation, and completion of any Homes to be located on a Residential Lot and towards this end grants to the Architect and Builder all easements and rights-of-way in, through, under, over, upon and across the Properties for the installation, maintenance and inspection of pipes, lines, appurtenances and all other necessary improvements for public or private water, sewer, drainage, cable television, gas, electric and any other utilities and for any other improvements, materials or services necessary for the construction and completion of any Homes to be constructed thereon by the Builder. Declarant also grants to Builder the right to connect with, maintain and make use of the utility lines, wires, pipes, conduits, cable television lines, sewers and drainage pipes and lines which may from time to time be in or along the streets and roads or other areas of the Properties that may be required towards the construction of any Homes by the Builder on a Residential Lot. Declarant further grants to the Architect and the Builder the right to maintain upon the Properties such facilities as may be required, convenient or incidental for the completion of Architect's design and Builder's construction of any Homes by the Builder

on a Residential Lot, including, without limitation, a business office, storage area, construction trailers, construction equipment and supplies, for so long as there are any Homes to be designed or constructed by Architect and/or Builder on a Residential Lot in the Development. This Paragraph may not be amended without the written consent of Declarant.

Section 5. Easement for Completion

Each Member hereby grants a right of access to their Residential Lot to Declarant, its designee, assignee and/or successor and to the Architect and/or Builder and the Architect and/or Builder's designees, assignees and/or successors and any contractors, subcontractors, agents, and employees of the foregoing for the purposes of the design, repair and completion of any installation, construction, modification, alteration, renovation, maintenance, repair, restoration, replacement, or change being performed or to be performed by or on behalf of Declarant with respect to the Common Areas, the Residential Lots and/or any Homes designed by the Architect or constructed by the Builder and/or their respective assignees, designees and/or successors.

Section 6. Encroachments on Residential Lots or Common Areas.

Subject to the Conservation Easement, Declarant has the right and further grants to the Builder the right to construct any portion of any roadway, walkway, parking area, driveway, patio, deck, water lines, sewer lines, drainage lines, electric and gas meters, utility lines, sprinkler system, fences, light standards, fireplaces, building or any other structure so that they encroach on any Residential Lot, Home constructed thereon, or the Common Areas. In the event that any portion of any roadway, walkway, parking area, driveway, patio, deck, water lines, sewer lines, drainage lines, electric and gas meters, utility lines, sprinkler system, fences, light standards, building or any other structure as originally constructed by Declarant and/or the Builder encroaches on any Residential Lot, Home constructed thereon, or the Common Areas, it shall be deemed that the Residential Lot Owner of such Residential Lot or the Association has granted a perpetual easement to the Residential Lot Owner of the adjoining Residential Lot, Home constructed thereon or the Association as it applies to the Common Areas, as the case may be, for continuing maintenance and use of such encroaching roadway, walkway, driveway, patio, deck, parking area, water line, sewer lines, drainage lines, electric and gas meters, utility lines, sprinkler system, building or structure. The foregoing shall also apply to any replacements of any such roadway, walkway, driveway, patio, deck, parking area, water lines, electric and gas meters, sewer lines, drainage lines, utility lines, sprinkler system, building or structure if same are constructed in substantial conformance to the original. The encroachment for sewer lines, water lines and utility lines shall also apply to any sewer and utility lines which may run under a Home constructed on a Residential Lot. The foregoing conditions shall be perpetual in duration and shall not be limited by any amendment of these covenants and restrictions.

Section 7. Easement for Signs.

Declarant shall have and further grants to the Architect and Builder an easement over or to the Common Areas as may, at any time, be required without the necessity of the consent of the Board of Directors, or joinder therein, by the Residential Lot Owners or any mortgagee to erect and maintain signs and other promotional materials (including, without limitation, "For Sale", and "For Rent" signs), in connection with the promotion, sale, leasing, management, or operation of the Residential Lots in the Association, any Homes to be designed or constructed by the Architect and/or Builder on any Residential Lot and any other property, development or community the Declarant, the Architect and/or Builder, their successors, assignees or designees prescribe for the life of the Association.

Section 8. Future Easements.

Declarant shall retain the right, so long as there are any Unsold Homes or Residential Lots on the Properties, to place any easements in, to or under the Properties which Declarant shall deem necessary for the benefit of the Association and its Members. In the event the Declarant intends to place an easement on the Properties it will notify the Board of Directors by certified mail or other means evidencing receipt describing the easement to be placed on the Properties. The Board shall have ten (10) days from the receipt of said notification to advise Declarant of any objections to the placing of the easement on the Properties, however any such objection(s) will not affect or impair Declarant's rights hereunder.

ARTICLE VI. COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation.

The Declarant, for each Unsold Residential Lot then subject to the Declaration of Covenants, Restrictions, Easements, Charges and Liens owned by it within the Properties, hereby covenants and each Residential Lot Owner of any Residential Lot by acceptance of a deed therefor, 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 such Maintenance Charges and Special Assessments as are fixed by the Association's Board of Directors for Common Expenses and which are assessed to the Residential Lot Owners as hereinafter provided. All Maintenance Charges and/or Special Assessments assessed by the Association but unpaid, together with such interest thereon and the cost of collection thereof as is hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property owned by such Residential Lot Owner against which each such Maintenance Charge and/or Special Assessment is made. All Maintenance Charges and/or Special Assessments, together with interest thereon and cost of collection thereof, as hereinafter provided shall be a personal obligation of the person who was the Residential Lot Owner of such property at the time when the Maintenance Charges and/or Special Assessments fell due.

Section 2. Purpose of the Assessment.

The Maintenance Charges and any Special Assessments levied by the Association shall be used for Common Expenses and exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties as a Development and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, without limiting the foregoing, the payment of taxes (if any), insurance thereon, and repair, replacement and additions thereto, and the cost of labor, contractors, equipment, materials, services, management and supervision thereof.

Section 3. Common Expenses.

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

Each Residential Lot Owner shall pay a portion of the above requirements, the numerator of which shall be one (1) and the denominator of which shall be equal to the number of Residential Lots on the Properties then subject to this Declaration. The Declarant's obligation for Maintenance Charges on Unsold Residential Lots then subject to this Declaration will be limited to the difference between the actual operating costs of the Association, including reserves on the Common Areas as provided in the then current Association budget, and the Maintenance Charges levied on Residential Lot Owners who have closed title on their Residential Lots on a monthly basis ("Deficiency Contribution"). Such Maintenance Charges paid by said Residential Lot Owners are to be based upon the Common Expenses applicable to fully completed Common Areas improvements, whether or not completed, and any other Common Expenses required of the Association. In no event will the Declarant be required to make a Deficiency Contribution in an amount greater than it would otherwise be liable for if it were paying full Maintenance Charges on Unsold Residential Lots for the Unsold Residential Lots then subject to the Declaration of Covenants and Restrictions. The amount of any Deficiency Contribution shall not include uncollected Maintenance Charges from Residential Lot Owners. Any surplus funds from prior years, except reserve funds, shall be applied to reduce any Deficiency Contribution of the Declarant. The sum due the Association from each individual Residential Lot Owner shall constitute Maintenance Charges for Common Expenses of the Association and unpaid Maintenance Charges shall constitute liens on the individual

Residential Lots and the personal obligation of the Residential Lot Owner, subject to foreclosure as hereinafter provided. In the event the monthly Maintenance Charges are not sufficient to cover the Common Expenses of the Association, the Board of Directors will have the right to increase the Maintenance Charges or assess a Special Assessment.

Section 4. Due Dates; Duties of the Board of Directors.

All Maintenance Charges shall be payable monthly in advance which shall be due on the first of each month or in such other manner as may be determined by the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the Maintenance Charges against each Residential Lot and shall prepare a roster of the Residential Lots and Maintenance Charges applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Residential Lot Owner. Upon the written request of a Residential Lot Owner or a Permitted Mortgagee, the Board shall promptly furnish such Residential Lot Owner or the Residential Lot Owner's Permitted Mortgagee with a written statement of the unpaid Maintenance Charges due from such Residential Lot Owner.

Section 5. Effect of Non-Payment of Maintenance Charges, The Personal Obligation of the Residential Lot Owner; The Lien and Remedies of the Association.

If the Maintenance Charge or any Special Assessment assessed against a Residential Lot Owner is not paid on the date when due, as fixed by the Board of Directors, then such Maintenance Charge or any Special Assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Residential Lot Owner's Residential Lot which shall bind such property in the hands of the Residential Lot Owner, the Residential Lot Owner's heirs, devisees, personal representatives and assigns. Such lien shall be prior to all other liens except: (a) tax or assessment liens on the Residential Lot by the taxing subdivision of any governmental authority, including but not limited to state and local municipal taxing agencies; and (b) all sums unpaid on any first mortgage of record encumbering the Residential Lot. The personal obligation of the Residential Lot Owner who was the Residential Lot Owner of the Residential Lot when the Maintenance Charge or any Special Assessment fell due to pay such Maintenance Charge or any Special Assessment, however, shall remain the Residential Lot Owner's personal obligation for the statutory period and shall not pass to the Residential Lot Owner's successors in title unless expressly assumed by them.

In the event any Residential Lot Owner fails to make payment of the Maintenance Charge or any Special Assessment assessed against their Residential Lot, the Residential Lot Owner who owns such Residential Lot shall be obligated to pay (a) a "late charge" of \$.15 for each \$1.00 of such amounts which remain unpaid for more than ten (10) days from their due date (although nothing herein shall be deemed to extend the period within which such amounts are to be paid) and (b) interest at the rate of 2% per

month (but in no event in excess of the maximum rate permitted by law) on such unpaid amounts (less any "late charges" theretofore collected on such amounts) computed from the due date thereof, and (c) all expenses, including, without limitation, attorneys' fees paid or incurred by the Board or by any Managing Agent in connection with the Board's attempt to collect such unpaid Maintenance Charge or any Special Assessment including but not limited to an action to foreclose the lien on such Residential Lot Owner's Residential Lot arising from said unpaid Maintenance Charge or any Special Assessment in the manner permitted by applicable law and any and all costs associated with the filing of a lien against the Residential Lot. All such "late charges", interest and expenses shall be added to and shall constitute additional Maintenance Charges or any Special Assessment payable by such Residential Lot Owner.

In addition to the Board's right to bring an action to foreclose a lien on a Residential Lot Owner's Residential Lot, the Board (on behalf of the Residential Lot Owners) shall have the right to bring suit to recover a money judgment for unpaid Maintenance Charges or any Special Assessment at the option of the Board, without foreclosing or waiving the lien securing such charges.

If a Residential Lot Owner shall be in default in the payment of the Maintenance Charges assessed against such Residential Lot Owner's Residential Lot, and fails to cure such default within five (5) days after receipt of written notice from the Board of Directors, the Board of Directors, in its sole discretion, shall have the option to prohibit all privileges of the Association by such Residential Lot Owner and any tenant or occupant, and the respective family Members, guests and invitees of the foregoing of any Home constructed thereon, and until such Residential Lot Owner is reinstated in good standing in the Association, to take such other legal action as may be permitted by applicable law, this Declaration, the General Rules and Regulations and the By-Laws. Any Residential Lot Owner so in default shall also lose all voting privileges, be ineligible to be considered for membership to the Board and, if on the Board, shall be suspended thereto until such time as all Maintenance Charges, together with late charges, interest and expenses, if any, are paid to the Association.

Notwithstanding any other provision in the Declaration or these By-Laws any mortgagee of an Institutional Mortgage as defined herein who obtains title to a Residential Lot pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than six (6) months of the Residential Lot's unpaid Maintenance Charges accrued before acquisition of the title to the Residential Lot by the mortgagee. If the Association's lien priority includes costs of collecting unpaid Maintenance Charges, the mortgagee of the Institutional Mortgage will be liable for any fees or costs related to the collection of unpaid Maintenance Charges. The unpaid balance of such Maintenance Charges and/or Special Assessments that may be waived will be charged to all other Residential Lot Owners as a Common Expense. Upon acquiring title to a Residential Lot such holder of an Institutional Mortgage; its successors and assigns shall be liable for all Maintenance Charges and Special Assessments due and payable thereafter. The term "Institutional Mortgage" herein used shall mean a first mortgage granted by a bank, savings and loan association, life insurance company, pension fund, trust company or other institutional lender or a mortgage granted by the Declarant, its

successor, designee or assignee to a purchaser of a Residential Lot or in which the Declarant, its successor, designee or assignee participates with one of the above.

In the event of a foreclosure sale of a Residential Lot by a mortgagee or by the Board of its lien on any Residential Lot for unpaid Maintenance Charges or any Special Assessment, if the net proceeds of the foreclosure sale (after deduction of all legal fees, advertising costs, brokerage commissions and other costs and expenses incurred therewith) shall be insufficient for the payment of such unpaid Maintenance Charges or any Special Assessment, or if a Residential Lot is acquired by a mortgagee or purchaser in foreclosure, the owner of such Residential Lot prior to foreclosure sale shall remain liable for the payment of all unpaid Maintenance Charges or any Special Assessment which accrued prior to such sale.

ARTICLE VII. MAINTENANCE AND OTHER OBLIGATIONS

Section 1. Maintenance Obligations.

Subject to the Conservation Easement, the Association's maintenance, repair and replacement obligations to the Common Areas, as necessary, shall include but not be limited to the following:

- (a) interior roadways, stormwater drainage system, subsurface sewage treatment system, The Barn, and Ulmer Pond; and
- (b) all other facilities, structures, improved or unimproved located within the Common Areas of the Association.

The Association will not be responsible for any consequential, incidental, special and/or indirect damages to the Residential Lot caused as a result of its maintenance, repair and replacement obligations.

Subject to the Residential Design and Maintenance Rules and Regulations, each Residential Lot Owner will be solely responsible for the maintenance, repair and replacement of all areas of the Residential Lot Owner's Residential Lot and any Home constructed thereon, including but not limited to the following:

- (a) snow removal and repair, maintenance and replacement of all driveways, walkways, pathways, balconies, decks and patios that are part of or appurtenant to a Residential Lot and any Home constructed thereon;
- (b) maintenance, repair and replacement to all interior and exterior portions of any Home constructed on a Residential Lot including windows, roofs and the exterior façade;
- (c) maintenance, repair and replacement to any structures, buildings and/or pools (if permitted), located on a Residential Lot;

- (d) maintenance, repair and replacement to any interior and exterior connections, pipes, wires, mechanical systems, irrigation systems and any other improvements located in and/or on each individual Residential Lot and any Home constructed thereon;
- (e) maintenance of, repair of and replacement to any heating, cooling (including condensers) or other mechanical system servicing an individual Home constructed on a Residential Lot, whether or not such system is located in or on the Common Areas or on any other Residential Lot; and
- (f) landscape maintenance and replacement of all lawns, bushes, shrubs, flowers, plantings, trees and any other foliage located on each Residential Lot.

Section 2. Disrepair of Residential Lots.

In the event the Residential Lot Owner of any Residential Lot and any Home constructed thereon in the Properties shall fail to maintain the premises and the improvements situated thereon in accordance with the Residential Design and Maintenance Rules and Regulation or in a manner satisfactory to the Board of Directors of the Association, including but not limited to the situation where such maintenance, repair and replacement functions are not otherwise directed by the provisions of this Declaration to be performed by the Association, upon direction of the Board of Directors, it shall have the right, through its agents and employees to enter upon the Residential Lot and to repair, maintain and restore the Residential Lot and any Home constructed thereon and any other improvements erected thereon or to take whatever legal action it may deem necessary. The cost of such maintenance, repair and replacement, including any legal fees necessary to enforce the above, shall be added to and become part of the Maintenance Charges to which such Residential Lot is subject.

Section 3. Damages.

The Association will not be responsible for any consequential, incidental, special and/or indirect damages to the Residential Lot caused as a result of its maintenance, repair and replacement obligations.

ARTICLE VIII. ARCHITECTURAL REGULATIONS

The construction, renovation, or modification of any Home or any Residential Lot and any landscaping on a Residential Lot is subject to the General Rules and Regulations annexed as Exhibit B to the Declaration, as well as the Residential Design and Maintenance Rules and Regulations annexed as Exhibit C to the Declaration.

Section 1. Architectural Review Board .

The Association shall establish an Architectural Review Board which will be responsible for the establishment and administration of the Residential Design and

Maintenance Rules and Regulations contained in Exhibit C of this Declaration to facilitate the purposes and intent of this Declaration and the Conservation Easement. The Board of Directors may amend, repeal, and augment the Residential Design and Maintenance Rules and Regulations and General Rules and Regulations from time to time in the Board of Director's sole discretion, provided that all such modifications shall be consistent with the Town of Philipstown's statutes, codes and requirements and the Conservation Easement, to the extent applicable. The Residential Design and Maintenance Rules and Regulations and General Rules and Regulations shall be binding on the Residential Lot Owners for any Home to be constructed, renovated or modified on a Residential Lot, and any landscaping on a Residential Lot, and all other persons governed by this Declaration.

ARTICLE IX. INSURANCE

Section 1. Common Areas/Master Policy.

(a) The Board shall be required to obtain and maintain, to the extent obtainable and to the extent determined by the Board to be appropriate, the following insurance: (i) fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring all of the structures owned by the Association, including contents therein, in an amount equal to the full replacement value of any structures owned by the Association; (ii) workers' compensation and New York State disability benefits insurance for employees, if any; (iii) fidelity insurance covering all officers, Directors of the Board, employees of the Association and of the managing agent or agents who handle funds of the Association, if any; (iv) directors' and officers' errors and omissions insurance; and (v) such other insurance as the Board may determine. The premiums for all insurance referred to above and for the liability insurance referred to below shall be a Common Expense and shall be part of the Maintenance Charges of the Association.

(b) The Board shall also be required to obtain and maintain, to the extent obtainable, comprehensive general liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Common Areas and in such limits as the Board may from time to time determine, covering (i) the Board, any managing agent appointed by the Board, each Board Director and each Association Member and any lessee, occupant and family member. The Board shall also be required to obtain and maintain, on behalf of the Board, fidelity insurance covering the Board, the Managing Agent, if any, each Board Director and each officer of the Association and each employee of the Association employed as such, if any.

(c) Members shall not be prohibited from carrying insurance for their own benefit, at their own expense, and the Board shall not be prohibited from carrying additional insurance.

(d) The Equestrian Center Operator shall be required to obtain and maintain insurance for the Equestrian Center and its operations in such limits and types as required by the Groundlease with the Association. The premiums for the foregoing insurance shall be paid for by the Equestrian Center Operator.

Section 2. Repair or Reconstruction after Fire or Other Casualty.

In the event that the Common Areas or any part thereof is damaged or destroyed by fire or other casualty the Board will arrange for the prompt repair and restoration thereof and the Board, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. If the insurance proceeds are less than sufficient to cover, or exceed, the cost of repairs and restoration, the deficit or surplus, as the case may be, will be borne equally by all Residential Lot Owners as a Common Expense or shared equally by all Residential Lot Owners, except that the amount of any surplus payable to any Member pursuant to this Section 2 shall be lessened by the amount of any unpaid Maintenance Charges, Special Assessments and/or any other fees due and payable to the Association.

ARTICLE X. USE OF PROPERTY/ GENERAL RULES AND REGULATIONS

The use of a Residential Lot and any Home constructed thereon by a Member or other occupant shall be subject to the provisions of this Declaration, the By-Laws, the Conservation Easement, and the General Rules and Regulations of the Association attached to the Declaration as Exhibit B, and the Residential Design and Maintenance Rules and Regulations attached to the Declaration at Exhibit C, as any of the foregoing may be added to, amended, repealed, revised, modified or promulgated by the Board of Directors from time to time.

ARTICLE XI. CONSERVATION EASEMENT

Section 1. General. The Community shall be subject to the Conservation Easement which protects and preserves the Conservation Easement Area in perpetuity, recognizing the importance to conserve the open, scenic, wooded, beauty, natural character, wetlands, watercourses, wooded and forest lands of the Conservation Easement Area.

Section 2. Enforcement.

The Conservation Easement may be enforced by the Board of Directors, the Holder of the Conservation Easement and/or the Town of Philipstown. The Association shall bear the costs of any enforcement actions taken against any violations of the Association or its members unless the Association prevails, in which case each party shall bear its own costs.

Section 3. Use Of Conservation Easement Area

The use of the Conservation Easement Area by a Member or other occupant shall be as expressly permitted and authorized by the Conservation Easement and the By-Laws, the General Rules and Regulations, and Residential Design and Maintenance Rules and Regulations, as may be applicable, and shall be used solely for agricultural, passive and recreational uses as described in the Conservation Easement.

ARTICLE XII. DECLARANT'S RIGHT TO CHANGE SITE PLAN

Section 1. Right to Change Site Plan.

Subject to any required approvals of the Town of Philipstown or any other municipal agency or department having jurisdiction over the Community, Declarant reserves the right to make minor revisions of boundary lines and road lines from those shown on the site plan and approved by the applicable local and state agencies in order to effectuate Declarant's rights, preserve the natural topography of all or any portion of the Properties, or to adjust the size of the Residential Lots to accommodate the improvements on all or any portion of the Properties now or hereafter constructed. The rights reserved to Declarant hereunder shall include, but not be limited to, the right (i) of a reversion of title to insubstantial portions of the Common Areas to be conveyed to the Association for the purpose of adding such portions to one or more of the Residential Lots; (ii) to change in an insubstantial manner, the location of Residential Lots not yet conveyed by Declarant and the Common Areas and the location of the improvements thereon; (iii) to change in an insubstantial manner, the location of a road or roads; and (iv) to change the boundaries of the Equestrian Center and/or Common Areas subject to the Ground Lease and Conservation Easement.

Section 2. Procedure to Change Site Plan.

The Association hereby consents (and the deeds conveying the Common Areas to the Association shall similarly provide) that the Site Plan may be amended to effectuate any of the provisions contained in Section 1 above, without any further covenants and that the Association will, if requested, execute, acknowledge and deliver, without charge, a deed or deeds reconveying to Declarant or to a Residential Lot Owner any land theretofore conveyed to the Association, so that a revision or correction deed or deeds conforming to an amended site plan may be delivered. The deeds conveying the Residential Lots to Residential Lot Owners may also provide that the site plan may be amended accordingly for the above purposes without any consent on their part being required, and that the acceptance of a deed shall be deemed a consent to such future amendment or amendments of the site plan, and that such Residential Lot Owners covenant that they will, nevertheless, if requested, execute, acknowledge and deliver, without charge, any written consent to such amendment or amendments of the site plan and further, if requested, execute, acknowledge and deliver without charge, a deed or deeds reconveying to Declarant or the Association any land theretofore conveyed to the Residential Lot Owner so that a revision or correction deed or deeds conforming to an amended site plan may be delivered. Regardless of the foregoing, the recording by or on behalf of Declarant of an amended site plan to delineate any or all of the changes provided for in this Article XII shall be deemed a modification of any prior instruments whereby Declarant conveyed title to any or all of the Common Areas to the Association.

In the event the Declarant intends to revise the site plan, it will notify the Board of Directors by certified mail or other means evidencing receipt describing the revisions. The Board shall have ten (10) days from the receipt of said notification to advise Declarant of any objections to the revisions to the site plan. In the event the Board

objects, said matter shall be decided by arbitration or other similar dispute resolution procedure with the losing side responsible for all costs attributable to the resolution of the dispute.

The provisions of this Article XII, Sections 1 and 2 may not be amended without the written consent of the Declarant, its successors or assigns.

ARTICLE XIII. GENERAL PROVISIONS

Section 1. Beneficiaries of Easements, Rights and Privileges.

The easements, licenses, rights or privileges established, created and granted by this Declaration shall be for the benefit of and restricted solely to, the Declarant, the Association and the Residential Lot Owners and Holders of Unsold Residential Lots on the Properties; and any Residential Lot Owner may also grant the benefit of such easement, license, right or privilege to the Residential Lot Owner's guests, tenants and their immediate families of any Home located thereon for the duration of their visits, subject in the case of the Common Areas to the General Rules and Regulations of the Board of Directors, but the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public.

Section 2. Duration and Amendment.

The covenants and restrictions of this Declaration shall run with, and bind the land, and shall inure to the benefit of, and be enforceable by the Association, any Member, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, until December 31, 2118 or ninety-nine years from the date of recording of this Declaration, whichever is longer, unless otherwise expressly limited herein, after which time, said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by sixty-six and two-thirds ($66\frac{2}{3}$) of the Members, then subject to the Declaration, has been recorded, agreeing to change said covenants and restrictions in whole or in part. Notwithstanding the foregoing, the easements, licenses, rights and privileges established and created with respect to the Properties by Sections 2 and 3 of Article V shall be perpetual, run with the land, and shall survive any destruction, reconstruction and relocation of any physical structure, unless said provision is abrogated by the unanimous written consent of all the Members.

Unless specifically prohibited or different requirements are provided herein, this Declaration may be amended by an instrument signed by Members holding not less than sixty-six and two-thirds ($66\frac{2}{3}$) of then existing Members then subject to the Declaration except as follows:

- (a) The Board of Directors shall have the right to amend, modify, add or repeal the General Rules and Regulations as provided for in Article X of this Declaration and attached to and made a part of this Declaration as Exhibit B.

- (b) The Board of Directors shall have the right to amend, modify, add or repeal the Residential Design and Maintenance Rules and Regulations as provided for in Article X of this Declaration and attached to and made a part of this Declaration as Exhibit C.
- (c) No amendment, modification, addition or deletion of, to or from this Declaration, the By-Laws or any General Rules and Regulations or the Residential Design and Maintenance Rules and Regulations shall be effective in any way against the Declarant or its successor, assignee or designee or any Unsold Home, as long as the Declarant, successor, assignee or designee owns an Unsold Residential Lot on the Properties, unless Declarant has given its prior written consent thereto.
- (d) No amendment shall be passed which shall affect, impair or prejudice the validity, interest, rights and priorities of mortgagees.
- (e) No amendment shall be passed which shall affect, impair or prejudice the validity, interest, rights and priorities of the Equestrian Center and/or the Equestrian Center Operator's use, operation or maintenance of the Equestrian Center, unless the Equestrian Center Operator expressly consents thereto in writing.
- (f) No amendment shall be passed which shall affect, impair or prejudice the validity, interest, rights and priorities of the Town of Philipstown or the Holder of the Conservation Easement to monitor and/or enforce the Conservation Easement unless the Conservation Easement Operator and the Town of Philipstown expressly consent thereto together with any other approvals as may be required.
- (g) The Board of Directors shall have the right to amend this Declaration without the vote or consent of the Residential Lot Owners or the holders of any Residential Lot mortgages and to execute and record in the Putnam County Clerk's Office such amendment as may be required to reflect (i) changes in the Declaration, By-Laws, General Rules and Regulation, and Residential Design and Maintenance Rules and Regulations that are corrective in nature or (ii) to resolve or clarify any inconsistency or which is patently a mistake or a scrivener's error, or (iii) any technical corrections.
- (h) In the case of material changes, approval must be obtained from first mortgage holders representing at least fifty-one (51%) percent of the votes of Residential Lots that are subject to first mortgages. A change to any of the following would be considered as material: voting rights; assessments, assessment liens, or subordination of assessment liens; reserves for maintenance, repair and replacement of Common Areas; responsibility for maintenance and repairs; boundaries of any Residential Lot; expansion or contraction of the project, or the addition, annexation or withdrawal of property to or from the project; insurance or fidelity bonds; imposition of any restrictions on a Residential Lot Owner's right to sell or transfer his or

her Residential Lot; a decision by the Association to establish self management when professional management had been required previously by an eligible mortgage holder; restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents; any action to terminate the legal status of the project after substantial destruction or condemnation occurs; or any provisions that expressly benefit mortgage holders, insurers or guarantors. An addition or amendment to the Declaration shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Any eligible mortgage holder who received a written request by certified or registered mail, return receipt requested, to approve amendments who does not deliver to the Association a negative written response within sixty (60) days of the receipt of the request shall be deemed to have approved such amendment. There shall be a presumption for a period of sixty (60) days subsequent to the recording of the amendment that the vote of the Residential Lot Owners was made at a duly called meeting and that the requisite voting percentage was obtained. After the sixty (60) day period such presumption will be deemed conclusive.

- (i) Declarant shall have the right to amend, modify, add to or delete from this Declaration, By-Laws, General Rules and Regulation, and Residential Design and Maintenance Rules and Regulations at any time without the requirement of obtaining the approval, consent or signature of the Board or any Members for the purpose of making technical corrections or additions or any other changes that do not materially and adversely affect the Residential Lot Owners and their respective mortgagees. Such amendment, modification, addition, or deletion of, to or from this Declaration, duly executed, in form for recording, shall be recorded by Declarant against the Property and theretofore subject to this Declaration.
- (j) The Declarant reserves the right, in the sole and absolute discretion of Declarant, to amend, modify, add to or delete from the Declaration, By-Laws, General Rules and Regulation, and Residential Design and Maintenance Rules and Regulations and all schedules and exhibits hereto; (a) to the extent required or requested by any major participant in the secondary market for mortgages, including but not limited to the Federal National Mortgage Association ("Fannie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac") and/or Federal Housing Authority ("FHA") of the Housing and Urban Development("HUD"), the Veterans Administration ("VA"), State of New York Mortgage Agency ("SONYMA") and/or any other Federal, State or Local Funding Agencies, or; (b) to reflect any amendments required by any present or future law, or any other requirements imposed by governmental authority; (c) or to correct any scrivener's error.

Any amendment must be properly recorded to be effective.

Section 3. Disposition of Assets Upon Dissolution of Association.

Upon dissolution of the Association, its real and personal assets, including the Common Areas, shall be dedicated to an appropriate corporation formed under the Not-for-Profit Law and/or Environmental Conservation Law, public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of the Association properties shall be effective to divest or diminish any right or title to any Member vested in him or her under the licenses, covenants and easements of this Declaration, or under any subsequently recorded covenants, deeds or other documents applicable to the Properties, except as may be otherwise provided in this Declaration or said covenants, deeds or other documents, as the case may be, nor shall any other party under any such deeds, covenants or other documents be deprived of any rights thereunder on account of such disposition.

Section 4. Notices.

Any notice required to be sent to any Member or Residential Lot Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by depositing the same in a post office or letter box in a postpaid sealed wrapper or by courier service, to the last known address of the person who appears as Member or Residential Lot Owner on the records of the Association at the time of such mailing.

Section 5. Administration.

The administration of the Association shall be in accordance with the provisions of the Association's By-Laws, General Rules and Regulations, and Residential Design and Maintenance Rules and Regulations which are made a part of this Declaration and attached hereto as Exhibits "B" and "C" to the Declaration.

Section 6. Severability.

Invalidation of any of the covenants, limitations or provisions of this Declaration by judgment or court order shall in no way affect any of the remaining provisions hereof and the same shall continue in full force and effect.

Section 7. Costs of Legal Action.

In the event the Board of Directors institutes any legal action for the enforcement of any of the provisions of this Declaration, the By-Laws, the General Rules and Regulations, and/or Residential Design and Maintenance Rules and Regulations of the Association, then the Defendant-Member shall be responsible for payment of reasonable attorney's fees of the Board of Directors on behalf of the Association, plus interest at the highest legal rate and costs of suit. The foregoing shall not apply to Declarant as long as it continues to own one Residential Lot in the Development.

Section 8. Leases of Tenants of Homes on Residential Lots

All leases for rentals of any Home on a Residential Lot in the Development, must include a provision that the tenant agrees to abide by and is subject to the terms and conditions of the Declaration of Covenants and Restrictions, By-Laws, General Rules and Regulations, Residential Design and Maintenance Rules and Regulations of the Association, and Conservation Easement, and agrees to be jointly and severally liable with the Residential Lot Owner of said Residential Lot for any fines assessed by the Board of Directors of the Association for a violation of any of said document(s).

Section 9. Dedication.

The Board of Directors shall be required to do all that is necessary to dedicate any property to be dedicated to the Town of Philipstown or any other municipal agency or Holder of the Conservation Easement that may be required pursuant to any approvals, declarations, covenants, restrictions or other documents to the Town of Philipstown or any other municipal agency or Holder of the Conservation Easement.

Section 10. Development of Residential Lots

Residential Lot Owners will be required to exclusively employ the Architect and the Builder for services related to the design, construction, renovation, and landscaping of any Home or structure located on their Residential Lot

Section 11. Special Rights of Declarant.

Notwithstanding anything to the contrary contained herein so long as there are any Unsold Residential Lots, Declarant and any designees, successors or assignees of Declarant including the Architect and the Builder shall have the right, without requiring the consent of either the Association or any other Member(s), and without charge or limitation, to:

- (a) have its employees, contractors, subcontractors and sales agents present on the Properties and on the Unsold Residential Lots and any Homes constructed thereon;
- (b) erect and maintain signs and other promotional materials (including, without limitation, "For Sale", and "For Rent" signs), in connection with the promotion, sale, leasing, management, or operation of the Unsold Residential Lots and any Homes constructed or to be constructed thereon or any other development Declarant, its successors or assigns, including the Architect and the Builder so desires for the life of the Association;
- (c) use any one or more Unsold Residential Lots and any Homes designed, renovated or constructed or to be constructed thereon as;
 - (i) model homes;

- (ii) offices for the promotion, sale, rental, management and/or operation of the Unsold Residential Lots and any Homes to be designed, renovated or constructed thereon;
 - (iii) offices in connection with any installation, construction, modification, alteration, renovation, maintenance, repair, restoration, replacement, or change being performed, or to be performed, by, or on behalf of, Declarant with respect to the Common Areas and/or the Unsold Residential Lots and any Homes to be designed, renovated or constructed thereon; and/or
 - (iv) for any other purpose;
- (d) use the Common Areas for exhibitions or other promotional functions with respect to design or sales programs, without charge;
- (e) do and cause to be done all of the things that are necessary, desirable or appropriate (including, without limitation, the use of the Common Areas and the Unsold Residential Lots and any Homes to be designed, renovated or constructed thereon) for the purpose of:
 - (i) the promotion, sale, rental, management and/or operation of the Unsold Residential Lots and any Homes to be designed, renovated or constructed thereon;
 - (ii) the performance and completion of installation, construction, modification, alteration, renovation, maintenance, repair, restoration, replacement, or change being performed, or to be performed, by, or on behalf of, Declarant with respect to the Common Areas; and/or
 - (iii) the exercise, performance and discharge of Declarant's other rights and obligations under this Declaration, the By-Laws, the General Rules and Regulations, or the Residential Design and Maintenance Rules and Regulations. In no event, however, shall Declarant or such successor, assignee and/or designee including the Architect and/or Builder be entitled to use any portion of the Common Areas in such a manner as will unreasonably interfere with the use of the same or of any Residential Lot and any Home constructed thereon for its permitted purposes.
- (f) use of any Association structure including The Barn or portion thereof as:
 - (i) offices for the promotion, sale, rental, management and/or operation of the Unsold Residential Lots and any Homes to be designed, renovated or constructed thereon;
 - (ii) offices in connection with any installation, construction, modification, alteration, renovation, maintenance, repair, restoration, replacement, or change being performed, or to be performed, by, or on behalf of,

Declarant with respect to the Common Areas and/or the Residential Lots and/or any Homes designed, renovated or constructed or to be designed, renovated or constructed thereon; and/or

(iii) for any other purpose;

(g) The provisions of this Article XIII Section 11 may not be amended without the written consent of the Declarant, or its successors, assignees or designees including the Architect and/or Builder.

ARTICLE XIV. FIRST LIEN HOLDERS' RIGHTS.

(a) Notices of Action. A First Lien Holder, insurer or guarantor of a first mortgage of record upon a Residential Lot in the Association, upon written request to the Association, (such request to state the name and address of such holder, insurer or guarantor and the Residential Lot number), shall be entitled to timely written notice of:

- (1) Any proposed amendment of the Association instruments effecting a change in (i) the boundaries of any Residential Lot or the exclusive easement rights appertaining thereto, (ii) the liability for Common Expenses appertaining thereto, (iii) the number of votes in the Association appertaining to any Residential Lot or (iv) the purposes to which any Residential Lot or the Common Areas are restricted;
- (2) Any proposed termination of the Association regime;
- (3) Any condemnation loss or any casualty loss which affects a material portion of the Association or which affects any Residential Lot on which there is a first mortgage held, insured or guaranteed by such eligible holder;
- (4) Any delinquency in the payment of Maintenance Charges or other charges owed by a Residential Lot Owner of a Residential Lot subject to the mortgage of such eligible holder, insurer or guarantor, which such delinquency has continued for a period of sixty (60) days; and
- (5) Any lapse, cancellation or material modification of any insurance policy maintained by the Association.

(b) Other Provisions for First Lien Holders. To the extent permitted under applicable law, the following protections for the benefit of First Lien Holders will be legally binding with respect to the Association:

- (1) Any restoration or repair of the Association after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval of the eligible holders

of first mortgages on Residential Lots to which at least 51% of the votes of Residential Lots subject to mortgages held by such eligible holders are allocated, is obtained;

- (2) Any election to terminate the Association regime after substantial destruction or a substantial taking in condemnation of the Association property must require the approval of the eligible holders of first mortgages on Residential Lots to which at least 51% of the votes of Residential Lots subject to mortgages held by such eligible holders are allocated; and
- (3) Unless the formula for reallocation of interests in the Common Areas after a partial condemnation or partial destruction of the Association project is fixed in advance by the Declaration or by applicable law, no reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of the Association project may be effected without the approval of the eligible holders of first mortgages on Residential Lots to which at least eighty (80%) percent of the votes of Residential Lots subject to mortgages held by such eligible holders are allocated.

ARTICLE XV. EQUESTRIAN CENTER OPERATOR'S RIGHTS

Section 1. General.

The Equestrian Center Operator shall have the rights and obligations as set forth in the Groundlease with the Association. The Equestrian Center shall be operated in accordance with the Conservation Easement. The Equestrian Center Operator shall assume all responsibilities of operating and maintaining the Equestrian Center, and shall obtain insurance as required by the Groundlease at its sole cost and expense. The Association may not affect or impair the rights of the Equestrian Center and/or Equestrian Center Operator without the Equestrian Center Operator's prior written consent.

Section 2. Rights of Equestrian Center Operator.

(a) Notices of Action. The Equestrian Center Operator shall be entitled to timely written notice of:

- (1) Any proposed amendment of the Association instruments effecting a change in (i) the boundaries of the Equestrian Center and/or easement rights appertaining thereto, (ii) the Groundlease, (iii) the Equestrian Center operations, use and/or maintenance;
- (2) Any proposed termination of the Association regime;

- (3) Any condemnation loss or any casualty loss which affects a material portion of the Association or which affects the Groundlease or the Equestrian Center; and
- (4) Any lapse, cancellation or material modification of any insurance policy maintained by the Association.

(b) Other Provisions for Equestrian Center Operator. To the extent permitted under applicable law, the following protections for the benefit of Equestrian Center Operator will be legally binding with respect to the Association:

- (1) Any restoration or repair of the Association after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications provided the Equestrian Center Operator consents to any restoration or repairs to any part of the Equestrian Center;
- (2) Any election to terminate the Association regime after substantial destruction or a substantial taking in condemnation of the Association property must require the approval of the Equestrian Center Operator; and
- (3) Unless the formula for reallocation of interests in the Common Areas after a partial condemnation or partial destruction of the Association project is fixed in advance by the Declaration or by applicable law, no reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of the Association project may be effected without the approval of the Equestrian Center Operator if the Equestrian Center is or was affected in whole or in part by the condemnation or destruction.

(c) The provisions of this Article XV Section 2 may not be amended without the written consent of the Declarant, or its successors, assignees or designees, including the Equestrian Center Operator.

HORTON ROAD, LLC

By: _____, Officer

STATE OF NEW YORK)
 :
COUNTY OF)

On the _____ day of _____ in the year 20____, 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 whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

EXHIBIT A
Legal Description

TO BE INSERTED PRIOR TO RECORDING

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CERTIFICATE OF INCORPORATION

OF

**HUDSON HIGHLANDS
HOME OWNERS ASSOCIATION, INC.**

Under and pursuant to Section 402 of the Not-for-Profit Business Corporation
Law of the State of New York

CERTILMAN BALIN ADLER & HYMAN, LLP
Attn: Donna-Marie Korth, Esq.
90 Merrick Avenue, 9th Floor
East Meadow, New York 11554

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CERTIFICATE OF INCORPORATION

OF

**HUDSON HIGHLANDS RESERVE
HOME OWNERS ASSOCIATION, INC.**

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

DONNA-MARIE KORTH, being of the age of eighteen years or over, for the purpose of forming a corporation pursuant to Section 402 of the Not-for-Profit Corporation Law of New York, does hereby certify:

FIRST: The name of the corporation is HUDSON HIGHLANDS RESERVE HOME OWNERS ASSOCIATION, INC. (the "Corporation").

SECOND: That the Corporation is a corporation as defined in subparagraph (a) (5) of Section 102 of the Not-for-Profit Corporation Law.

THIRD: The purpose or purposes for which the Corporation is formed are as follows:

A. To promote the health, safety and welfare of the residents of a planned residential community proposed to be developed by Horton Road, LLC, a New York limited liability company, on lands situated in the Town of Philipstown, Putnam County, State of New York; and for this purpose:

(1) To own, operate and maintain land and facilities for passive, recreational and community use, including personal property incidental thereto, hereinafter referred to as the "Common Areas;" and

(2) To enforce any and all covenants, restrictions and agreements applicable to the residential parcels within the above described residential community and the Common Areas, hereinafter collectively referred to as "the Properties", (the enforcement of which is not specifically and exclusively reserved to others).

B. To make and perform any contracts and do any acts and things, and exercise any powers suitable, convenient, proper or incidental for the accomplishment of any objectives enumerated herein and in the Declaration and By-Laws of the Corporation, but not for the pecuniary profit or financial gain of its members, directors or officers except as permitted under Article 5 of the Not-for-Profit Corporation Law.

C. The Corporation, in furtherance of its corporate purposes above set forth, shall have the powers enumerated in Section 202 of the Not-for-Profit Corporation Law, subject to any limitations provided in the Not-for-Profit Corporation law or any other statute of the State of New York.

FOURTH: The Corporation is not formed to engage in any activity or for any purpose requiring consent or approval of any state official, department, board, agency or other body. No consent or approval is required.

FIFTH: The Corporation shall be a Non-Charitable Corporation as defined under Section 201 of the Not-for-Profit Corporation Law.

SIXTH: This Certificate may be amended pursuant to the provisions of the Not-For-Profit Corporation Law.

SEVENTH: The office of the Corporation will be located in the Town of Philipstown, Putnam County, State of New York.

EIGHTH: The Secretary of State is hereby designated as the agent of this corporation upon whom process against this corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against this corporation served upon the Secretary of State as agent of this corporation is: 315 East 91st Street, Suite 2S, New York, New York 10128.

NINTH: The name and address of the initial Board of Directors are as follows: _____, _____, and _____

_____ having an address at: 315 East 91st Street, Suite 2S, New York, New York
10128.

IN WITNESS WHEREOF, I have made and signed this Certificate this _____ day
of _____, 2019 and to the best of my knowledge I affirm the
statements contained herein as true under penalties of perjury.

DONNA-MARIE KORTH
Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, New York 11554

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