

DECLARATION
OF
COVENANTS, RESTRICTIONS, EASEMENTS AND LIENS
OF
SARATOGA FARM HOMEOWNERS' ASSOCIATION, INC.

DATED: April ____, 2004

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SARATOGA FARM HOMEOWNERS' ASSOCIATION, INC.

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**DECLARATION
of
COVENANTS, RESTRICTIONS, EASEMENTS AND LIENS
of
SARATOGA FARM HOMEOWNERS' ASSOCIATION, INC.**

THIS DECLARATION, made this ____ day of April 2004, by H M Ventures, Inc., a New York corporation, having an office at 491 Broadway, Saratoga Springs, New York 12866 being referred to hereinafter as the "Sponsor".

WITNESSETH

WHEREAS, the Sponsor is the owner of the property located in the Town of Malta, County of Saratoga, New York 12020 described in Article II of this Declaration of Covenants, Restrictions, Easements and Liens (the "Declaration"), which the Sponsor intends to develop into a residential community known as "Saratoga Farm" consisting of not more than twenty one (21) single-family detached residences of which Lot 4, zoned commercial, having an existing equestrian operation and paddocks, will be allowed to continue. In the event the commercial use as an equestrian operation of Lot 4 (PDD Lot 21) ceases, no further commercial usage will be allowed and Lot 4 will then only be for a single-family residence. The entire site contains approximately one hundred thirty one (131) acres of land and the roadway, Saratoga Farm Road, and undeveloped areas for common use will be owned and maintained by a homeowners' association known as Saratoga Farm Homeowners' Association, Inc.

WHEREAS, the Sponsor desires that the areas described in Schedule B to this Declaration be available for use by the residents of the Saratoga Farm residential community (the "Community"); and

WHEREAS, the Sponsor desires to provide for the maintenance, repair and replacement of those areas so described in Schedule B to this Declaration, and to this end desires to subject the Property described in Schedule A to this Declaration hereinafter set forth, each and all of which is and are for the benefit of said Property and each Owner or occupants of Homes thereof; and

WHEREAS, the Sponsor has deemed it desirable to create an agency to which should be delegated and assigned the powers of: (i) maintaining the Association Property; (ii) administering and enforcing this Declaration and the By-Laws; and (iii) collecting and disbursing the Assessments and charges hereinafter created; and

WHEREAS, on April 4, 2001 Saratoga Farm Homeowners' Association, Inc. was formed under the Not-for-Profit Corporation Law of the State of New York for the purpose of exercising the aforesaid functions.

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

ARTICLE I

DEFINITIONS

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

- a. **Assessments:** Charges for the maintenance and operation of Association Property, and including Maintenance Assessments, Special Assessments for capital improvements, Special Assessments for Loss Due to Casualty and any other charges deemed to be Assessments pursuant to this Declaration and the By-Laws.
- b. **Association:** Saratoga Farm Homeowners' Association, Inc.
- c. **Association Property:** All land and other facilities and properties, personal or mixed, heretofore and hereafter owned by the Association.
- d. **Authorized Votes:** There shall be only one vote for each Authorized Voting Owner regardless of the number of Lots and/or Homes owned by such Owner.
- e. **Authorized Voting Owner or Member:** The Owner of a Lot and/or Home. In the event a Lot and/or Home is owned by more than one person, the Authorized Voting Owner shall be the person named in a certificate signed by all Owners of such Lot and/or Home and filed with the Secretary of the Board of Directors. If such certificate is not on file, the person or entity first named on the deed by which title is obtained shall be the person considered the Authorized Voting Owner.
- f. **Board of Directors:** The Board of Directors (the "Board") elected by the Members and/or appointed by the Sponsor (subject to initial control by the Sponsor) to administer the affairs of the Association.
- g. **By-Laws:** The By-Laws of the Association set forth in the Offering Plan, as the same may be supplemented, extended or amended from time to time.
- h. **Declaration:** This document of Covenants, Restrictions, Easements and Liens of the Saratoga Farm Homeowners' Association, Inc., as it may, from time to time, be supplemented, extended or amended in the manner provided for herein.

- i. **First Mortgage:** The first mortgage granted by an Owner of a Lot and/or Home to a bank, federal savings and loan association, life insurance company, pension fund, trust company or other institutional lender, licensed mortgage banker or broker, an individual or the Sponsor.
- j. **First Mortgagee:** The holder of a First Mortgage on a Lot and/or Home pursuant to instruments duly recorded in the Book of Deeds in the office of the Saratoga County Clerk.
- k. **Home:** Each completed Home situated upon the Lot (as evidenced by issuance of a Certificate of Occupancy issued by the Town of Malta). Unless the context clearly indicates otherwise, the term "Home" shall be deemed to include the term "Lot".
- l. **Lot:** Any portion of the Property (with the exception of the Association Property) under the scope of this Declaration, as shown on the "as built" subdivision map filed, or to be filed, with the Saratoga County Clerk and identified as a separate parcel on the tax records of the Town of Malta. Unless the context clearly indicates otherwise, the term "Lot" is included in the term "Home".
- m. **Member:** Each holder of a membership interest in the Association, as such interests are set forth in Article III of this Declaration.
- n. **Mortgagee:** Any mortgagee, its representatives, assigns, servicing agent or other holder of a mortgage on a Lot and/or Home.
- o. **Owner:** The holder of record title, whether one (1) or more persons or entities, of fee simple title to any Lot and/or Home subject to this Declaration and shall include the Sponsor with respect to any Unsold Lots and/or Homes. An Owner may be one or more individuals, corporations, partnerships or trusts, or any other legal entity or any of the foregoing. All such Owners are collectively called the "Owners".
- p. **Property:** All properties as are subject to this Declaration which may be supplemented, extended or amended.
- q. **Purchaser:** A person who has executed a Purchase Agreement, which has also been executed by the Sponsor.
- r. **Rules and Regulations:** The Rules and Regulations of the Association governing the use and care of the Property as may be set forth in this Declaration, the By-Laws or such as may be promulgated from time to time by the Board.
- s. **Site Plan:** The Site Plan or Plans as filed in the office of the Saratoga County Clerk.

- t. **Sponsor:** H M Ventures, Inc., its successors and assigns.
- u. **Subdivision Map:** The Subdivision Map as filed in the office of the Saratoga County Clerk.
- v. **Transfer of Control Date:** The date on which: (i) the Sponsor has transferred title to twenty one (21) of the twenty two (22) Lots (excluding the equestrian center Lot); or (ii) five (5) years from transfer of title to the first Lot, whichever first occurs.
- z. **Unsold Lot:** Any Lot to which title has not been transferred by the Sponsor to a Purchaser.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01. Property. The real property to be held, transferred, sold, conveyed by deed and occupied, subject to this Declaration, is located in the Town of Malta, County of Saratoga and State of New York, is more particularly described as Schedule A hereto, together with permanent easements for use of such portions of the trails located within Lots 6, 8, 9, 10, 12 and 14, 15, 16, 17, 18, 19, 22, 24 and 26 for use of the trails by all Owners and to the Owner of Lot 4 for the use of trails for equestrian purposes by non-owners boarding horses with the equestrian operation. Owners may also use the trails for hiking, cross-country skiing and other passive recreation.

2.02. Merger. Upon a merger or consolidation of the Association with another association as provided in the Association's Certificate of Incorporation, this Declaration, By-Laws, or New York State Law, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association, may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving or consolidated association and may administer the Covenants, Restrictions, Easements and Liens established by this Declaration within the Property, together with the Covenants, Restrictions, Easements and Liens established upon any other properties. No such merger or consolidation, however, shall effect any revocation, change or addition to the Covenants, Restrictions, Easements and Liens established by this Declaration with the Property, except as hereinafter provided.

ARTICLE III

THE ASSOCIATION: STRUCTURE AND MEMBERSHIP

Section 3.01. Formation of the Association. Pursuant to the Not-for-Profit Corporation Law of the State of New York, the Sponsor, on April 4, 2001, formed Saratoga Farm Homeowners' Association, Inc. to own, operate and maintain the Association Property, manage the affairs of the Association, enforce this Declaration and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration, the Certificate of Incorporation and the By-Laws of the Association and the limitations of a not-for-profit corporation as contained in the New York State Not-for-Profit Corporation, as such may be supplemented, extended or amended from time to time.

Section 3.02. Membership. The Association shall have as Members only Owners of Lots and/or Homes within the property as described in Schedule A of this Declaration, which includes the Owner of the equestrian operation. All Owners, upon becoming such, shall be deemed automatically to have become Members and there shall be no other qualification for membership. Membership shall be appurtenant to, and shall not be separated from, the ownership of any of the interests described in the definition of the word "Owner" as found in Article I of this Declaration. There will be a minimum of twenty two (21) and a maximum of twenty four (24) Members as set forth below .

Notwithstanding the foregoing, the Owners of the two of the three lots bordering on Nelson Avenue appurtenant to the property, a part of an original three-lot subdivision may petition the Board of Directors of the Saratoga Farm Homeowners' Association, Inc. for membership in the Association. The Board shall grant such membership, without a vote of Owners, and record an Amendment to this Declaration bringing either or both lots under the scope of this Declaration. The owner and/or owners will be obligated to pay a proportionate share of Assessments for the maintenance of the Association Property and the operation of the Association. In the event the third lot of the original three-lot subdivision is developed, such the purchaser of such lot will automatically become a member upon the acceptance of the deed.

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

Section 3.04. Sponsor's Written Consent Necessary for Certain Actions Taken by the Board of Directors.

- a. Notwithstanding anything to the contrary contained in this Declaration, until the Transfer of Control Date, the Board may not, without the Sponsor's prior written consent, except for necessary alterations, additions or improvements required by law or by any government agency or Board of Fire Underwriters: (i) make any addition,

alteration or improvement to Association Property; (ii) assess any amount for the creation of, addition to, or replacement of all or part of a reserve, contingency or surplus fund in excess of the amount provided for in the initial budget, except for such improvements not in existence or owned at the time of the initial budget; (iii) hire any employee in addition to the employees, if any, provided for in the initial budget of the Association; (iv) enter into any service or maintenance contract for work not provided for in the initial budget, except for the maintenance of an improvement not in existence or owned by the Association at the time of the recording of this Declaration; (v) borrow money on behalf of the Association; or (vi) reduce the quantity or quality of the services or maintenance of the Property.

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

ARTICLE IV

PROPERTY RIGHTS AND EASEMENTS

Section 4.01. Dedication of Association Property. Prior to the conveyance of the first Lot the Sponsor shall record the Declaration in the office of the Saratoga County Clerk. At, or prior to, the conveyance of the first Lot, the Sponsor shall convey the Association Property to the Association by deed, together with the permanent easements over such sections of Lots 6, 8, 9, 10, 12 and 14, 15, 16, 17, 18, 19, 22, 24 and 26 containing portions of the trails and record such deed and easements in the office of the Saratoga County Clerk, such Property being for the use and enjoyment of all Owners, their guests, lessees, licensees and invitees, together with the use of the riding trails by those Owners and an easement to the Owner of Lot 4 for the use of non-owners boarding their horses with the equestrian operation. The Association must accept any such conveyances made by the Sponsor provided such conveyances are made without consideration.

Notwithstanding the foregoing, prior to conveyance to the Association, the Sponsor shall maintain the Association Property at its sole expense and shall permit Purchasers and those non-owners boarding their horses with the equestrian operation the use of the riding trails and roadway.

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

- a. Every Owner and such Owner's guests, licensees, lessees and invitees shall have a right and easement of enjoyment in and to all Association Property, together with the right to use the riding trails by those Owners and non-owners boarding their horses with the equestrian operation.

- b. Owners of Lots 6, 8, 9, 10, 12 and 14, 15, 16, 17, 18, 19, 22, 24 and 26 shall each grant a permanent easement to the Association for the use of such portion of the trails located within the respective Lot at the time of transfer of title and an easement to the Owner of Lot 4 for the use of the trails for equestrian purposes only for non-owners boarding their horses with the equestrian operation. Such easements shall be appurtenant to and shall pass with the interests of an Owner. Such rights, easements and privileges shall be subject, however, to the rights of the Association as set forth in Section 4.03 herein and the rights of the Sponsor as set forth in Section 4.08 and the rights of Owners as set forth in Section 4.09 herein.
- c. The Association Property shall not be altered in any way and nothing shall be constructed or removed (other than debris) from the Property and the trails located within Lots without written consent of the Board.

Section 4.03. Rights of Association. With respect to the Association Property, and in accordance with the Certificate of Incorporation, this Declaration and the By-Laws, the Board shall have the following rights upon conveyance of such property to the Association:

- a. To grant easements or rights of way to any public or private utility corporation, governmental agency or political subdivision, or cable television franchisee with or without consideration.
- b. Except as set forth in Section 4.03 (a) above, to dedicate or transfer all or any part of the fee title to the land which it owns for such purposes and subject to such conditions as may be agreed to by the Owners and the transferee, subject to the following:
 - (1) such a conveyance shall require the consent of Owners by an affirmative vote of sixty-seven percent (67%) of Authorized Votes, represented in person, by proxy or mail ballot, other than the Sponsor, at a regular or special meeting of Owners; and
 - (2) any conveyance by the Association prior to the transfer of title to all Lots by the Sponsor, shall also require the prior written approval of the Sponsor unless the Sponsor waives such right in a written agreement recorded in the Saratoga County Clerk's Office.
- c. To borrow funds, and in conjunction therewith, mortgage its properties. Such mortgage, however, shall be subject to any and all prior easements set forth herein and/or which may be of record. The amount, terms, or rate of all borrowing and the provisions of all agreements with note holders shall be determined by the Board, acting in its absolute discretion, subject only to the ability of the Association to repay such borrowed funds from Assessments

- d. Except as may be prohibited by law, the Certificate of Incorporation, this Declaration or the By-Laws, to contract with any person for the performance of its management and other duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management agreements with trusts, condominiums, cooperatives or other homeowners' associations, both within and without the Property.

So long as the Sponsor shall have Unsold Lots within the Property, the Board may not exercise such rights as those set forth in this Section 4.03 without prior written consent of the Sponsor other than the contracting for professional management of the Association and its Property and as provided for in the first year budget set forth in the Offering Plan.

Section 4.04. Rights and Easements to Owners.

- a. Every Owner, including the Owner of the equestrian center shall have an easement for ingress and egress over and to all Association Property, including those sections of the trails located within Lots 6, 8, 9, 10, 11, 12 and 14, 15, 16, 17, 18, 19, 22, 24 and 26 and a common utility and conduit easements as described in Section 4.06. These easements will be subject to the rights of the Association as set forth in Section 4.03 herein, provided, however, that a conveyance or encumbrance referred to in Section 4.03 and Section 4.08 hereof shall be subject to said easements for ingress and egress of each Owner, each Owner's family members, guests, lessees, licensees and invitees.
- b. Neither the Association Property, nor sections of the trails located within Lots 6, 8, 9, 10, 11, 12 and 14, 15, 16, 17, 18, 19, 22, 24 and 26 shall be altered in any way and nothing shall be constructed on or removed (other than debris) from the Property and trails without written consent of the Board in accordance with Article VIII of this Declaration.

Section 4.05. Maintenance of Association Facilities. In order to preserve the Association Property and sections of the trails set forth in Section 4.04 above, adequate funds for this purpose shall be incorporated in the annual budget.

Section 4.06. Common Utility and Conduit Easement.

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

- b. The Association shall have the right of access for the maintenance, repair or replacement of any common pipes, wires, conduits, public utility lines or cable television lines located within any Lot and servicing other Lots if such is not the responsibility of the utility company, the municipality or the cable television company. Such right shall be exercised at a reasonable time upon reasonable notice to the Owner and/or occupant, provided, however, that in an emergency such right may be exercised at any time and without notice. The cost of such repair, maintenance or replacement, if such is occasioned by a negligent or willful act or omission of an Owner and/or occupant of a Home, shall be considered a special expense allocable to the responsible Owner and such cost shall be added to the Assessment of such Owner and, as part of that Assessment, shall constitute a lien on the Owner's Lot and/or Home to secure the payment thereof.

Section 4.07. Environmental Considerations. In carrying out its responsibilities to enforce the provisions of this Declaration and the By-Laws, the Association shall consider the environmental impact of any existing or proposed activities on the Property or any portion thereof and may, in its discretion, establish standards or guidelines aimed at reducing or eliminating any activities which could have an adverse environmental impact or take affirmative action to improve the quality of the environment, and shall comply with all applicable laws, rules and regulations. So long as the Sponsor shall have Unsold Lots within the property, no such standards or guidelines shall be established without prior written consent of the Sponsor.

Section 4.08. Rights of Sponsor With Respect to Association Property.

- a. With respect to the Property, the Sponsor, until the completion of construction and the marketing and sale of all Lots, provided the rights of the Owners are not substantially and materially restricted (except for temporary inconvenience), shall have the right to:
- (1) grant and reserve easements and rights-of-way for the installation, maintenance, repair, replacement and inspection of utility lines, wires, pipes and conduits, including, but not necessarily limited to electric, telephone, cable television and drainage, to serve any property brought under the scope of this Declaration;
 - (2) connect with and make use of the utility lines, wires, pipes, conduits and related facilities located within the Property for the benefit of any property set forth in Schedule A hereof and/or as shown on the Site Plan.
 - (3) use and/or grant permission to any builder of a home the use of the Property for ingress and egress for construction purposes and for the storage of building materials on the Lot;

- (4) operate a sales center and/or permit the sales agent to operate a sales center and allow a builder to maintain model Homes, to have prospective purchasers and others visit such sales center and model Homes and use other portions of the Property;
- (5) permit the preferred builder to maintain a construction office on the Property;
- (6) approve the grading, elevation and design of any Home and permit the change of the location of a Home within a Lot, if the grade and/or contour of the land so requires;
- (7) grant to itself or to others such easements and rights-of-way as may be reasonably needed for the orderly development of the property set forth in Schedule A of this Declaration; and
- (8) convert one or more of the designated "green areas" to additional paddocks in the event the number of horses housed within the community, whether at the equestrian center or within private Lot areas requires the additional paddocks.

The easements, rights-of-way and other rights reserved herein shall be permanent, shall run with the land, filed in the office of the Saratoga County Clerk and shall be binding upon, and for the benefit of the Association, the Owners, the Sponsor and their successors and assigns.

- b. With respect to its exercise of the above rights, the Sponsor agrees: (i) to repair any damages resulting from construction within a reasonable time after the completion of development or when such rights are no longer needed by the Sponsor, whichever first occurs; and (ii) until development has been completed, to hold the Association harmless from all liabilities which are directly caused by the Sponsor's exercise of its rights hereunder.
- c. The Sponsor shall have the right to lease and/or sell the equestrian operation located within Lot 4 for the continued use for boarding horses. In the event this operation is discontinued, no further commercial usage will be allowed and Lot 4 shall become a residential building lot.
- d. Until the completion of all construction, this Section 4.08 shall not be amended without prior written consent of the Sponsor.

Section 4.09. Distribution of Condemnation Awards. In the event all or part of the Association Property is taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Association. The Association Board shall arrange for the repair and

restoration of such Association Property and shall disburse the proceeds of such award. If there shall be a surplus of such proceeds, or if the Board shall elect not to repair or restore the Association Property, then the proceeds may be retained in whole or in part in the Association's Reserve Fund for future capital improvements.

The Board shall promptly send written notice of any pending condemnation or eminent domain proceedings to all Mortgagees whose names appear in the Book of Mortgagees of the Association, if any.

ARTICLE V

ASSESSMENTS AND RIGHT OF ASSOCIATION TO BORROW

Section 5.01. Creation of the Lien. The Sponsor, for each Lot owned by it within the Property, hereby covenants and agrees, and each Owner of a 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:

- a. Annual Assessments for the maintenance and operation of the Property.
- b. Special assessments for capital improvements ("Special Assessments").
- c. Special Assessments for loss due to casualty ("Special Assessments").

The Annual Assessments and the Special Assessments are, together, hereinafter referred to as "Assessments".

The Assessments shall be fixed, established and collected from time to time as hereinafter provided. Except to the extent prohibited by law, the Board, on behalf of all Owners, shall have a lien on each Lot for unpaid Assessments, with late charges thereon, assessed against such Lot.

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

The total annual requirements and any supplemental requirements shall be allocated among, assessed to, and paid by the Owners. Each Owner shall pay an equal share of the expenses based on the number of Lots subject to this Declaration. After Association Assessments have been levied on

one or more Owners who have closed title to their Lots, the Sponsor will be obligated for Assessments for Unsold Lots, including Lot 4 on which is located the heretofore referenced equestrian operation. The sum due the Association from each Owner shall constitute an Assessment by the Board.

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

- a. The payment of taxes on the Association Property, if any;
- b. The payment of New York State Franchise Taxes and federal income taxes, if any;
- c. Any utility services to the Property which are commonly metered or billed;
- d. All hazard, liability and other insurance obtained pursuant to Article IX of this Declaration covering the Property and the Association's officers and directors, and employees, if any;
- e. The Assessments included in Section 5.01 hereof, except those excluded by such Section or any other Section hereof;
- f. Accounting and record keeping of all Association financial transactions and documents;
- g. Legal, architect, engineering, management and other professional fees and disbursements; and
- h. Such other expenses of the Association which the Board deems necessary.

Section 5.04. Date of Commencement and Notice of Assessments. The Assessments provided for herein shall commence on the day on which the first Lot is conveyed by the Sponsor to the initial Purchaser.

Section 5.05. Change in the Basis of Assessments.

- a. The Association may change the basis of determining the Maintenance Assessments by obtaining the consent of Owners by an affirmative vote of not less than fifty one percent (51%) of Authorized Voting Owners at a regular or special meeting of Owners, excluding those of the Sponsor, except that until the Transfer of Control Date, any change in the basis of Assessments which adversely affects a substantial interest or right of the Sponsor with respect to Unsold Lots shall require the specific prior written consent of the Sponsor, which consent shall not be unreasonably withheld.

Written notice shall be sent at least ten (10) and not more than fifty (50) days in advance of the date or initial date set for voting thereon to all Owners. An amendment to the Declaration, together with a written certification of any such change, shall be executed by the Board and recorded in the office of the Saratoga County Clerk.

- b. Any change in the basis of Assessments shall be equitable and nondiscriminatory.

Section 5.06. Special Assessments for Capital Improvements. In addition to the annual Maintenance Assessment, the Association may levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any capital improvements, including without limitation, the construction, reconstruction, replacement or repair of a capital nature to the Property, including the necessary fixtures and personal property related thereto. Any Special Assessment for the construction (rather than reconstruction or replacement) of any capital improvement, or for any Special Assessment amounting to more than twenty five thousand dollars (\$25,000.00), shall require the consent of Owners by an affirmative vote of fifty one percent (51%) of the Authorized Voting Owners cast in person, by mail or fax (absentee ballot) or by proxy at a regular or special meeting duly called for this purpose, except as otherwise provided in Section 6.07 hereof. Written notice of such meeting shall be sent to all Owners at least ten (10) days and not more than fifty (50) days in advance, setting forth the purpose of the meeting. The Association shall establish one (1) or more due dates for each payment or partial payment of each Special Assessment and shall notify each Owner thereof, in writing, at least thirty (30) days prior to the first such due date. Until Transfer of Control Date the Association may not levy any Special Assessments or make any capital improvements without prior written consent of the Sponsor.

Section 5.07. Special Assessments for Loss Due to Casualty. In addition to the annual Maintenance Assessment, the Association may levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of a budget deficit, including without limitation, the construction, reconstruction, replacement or repair of Association Property resulting from a casualty caused by nature, such as an ice storm or extraordinary snow or rain storm. Any such Special Assessment shall not require the consent of Owners. The Association shall establish one (1) or more due dates for each payment or partial payment of such Special Assessment and shall notify each Owner thereof, in writing, at least thirty (30) days prior to the first such due date.

Section 5.08. Assessments: Personal Obligation of the Owner and Lien on Home. The Assessments shall be paid when due. All sums assessed by the Board, but unpaid, together with any accelerated installments, late charges, fees for violations of Rules and Regulations and interest thereon, at such rate as may be fixed by the Board from time to time (such rate not to exceed the maximum rate of interest then permitted by law), shall be the personal obligation of an Owner and shall constitute a lien upon the Owner's Lot and/or Home prior to all other liens except: (i) tax or assessment liens on the Lot and/or Home by the taxing authority of any governmental unit,

including, but not limited to, state, county, town, village and school district taxing agencies; and (ii) all sums unpaid on any First Mortgage of record encumbering any Lot and/or Home. Assessments shall be levied on an annual basis and shall be due and payable within thirty (30) days of the date of the invoice, unless the Board establishes other periods of payment. In the event Assessments are not paid within said thirty (30) days, the Board may charge a late fee of no less than ten dollars (\$10.00) per month for each month that the Assessments remain unpaid. The Board reserves the right to increase such late fee from time to time, upon due notice to all Owners. All costs and expenses incurred in collection of past due Assessments, including reasonable attorneys' fees, shall be added to and shall constitute an Assessment payable by such Owner.

Section 5.09. Foreclosure of Lien for Assessments. The lien for past due Assessments may be foreclosed by the Association in accordance with the laws of the State of New York, in like manner as a mortgage on real property, and the Association shall also have the right to recover all costs incurred by it in pursuing such right, including, but not necessarily limited to, accelerated payments, if any, late charges and reasonable attorneys' fees. In the event the proceeds of the foreclosure sale are not sufficient to pay such unpaid Assessments, the unpaid balance shall be charged equally to all Owners. The Purchaser of a Lot and/or Home at a foreclosure sale of First Mortgage, including the First Mortgagee or a first mortgage holder obtaining title by conveyance in lieu of foreclosure, such acquirer of title, their successors or assigns, shall not be liable for Assessments unpaid up to the date of such foreclosure sale or conveyance. Nothing contained in this Section with regard to the right of the Association to enforce its lien by foreclosure shall prohibit the Association from obtaining a money judgment against the Owner or Owners and issuing execution for a sheriff's sale.

Section 5.10. Notice of Default. The Board, when giving notice to an Owner of a default in paying Assessments, may, at its option, or shall, at the request of a Mortgagee, send a copy of such notice to each such Owner's Mortgagee whose name and address appears in the Book of Mortgagees of the Association, if any. The Mortgagee shall have the right to cure the Owner's default with respect to the payment of said Assessments at any time prior to the time title is conveyed pursuant to Section 6.07 above.

Section 5.11. No Exemption or Waiver of Assessments. Every Owner shall pay the Assessments assessed against his or her Lot and/or Lots and/or Home when due and no Owner may exempt himself or herself from liability for the payment of Assessments so assessed by waiver of the use or enjoyment of any of the Property or by the abandonment of his or her Lot and/or Home. However, no Owner shall be liable for the payment of any Assessments accruing subsequent to a sale, transfer or other conveyance by him or her of such Lot and/or Home made in accordance with the provisions of this Declaration and the By-Laws.

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

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

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

Section 5.15. Assessment Certificates. Upon written demand of an Owner, Prospective Purchaser, Mortgagee, lessee or title insurer of a Lot and/or Home, the Board, shall, within fifteen (15) days of receipt of such written demand, issue and furnish a certificate in writing, signed by an Officer or designee of the Association, setting forth with respect to such Lot and/or Home, as of the date of such certificate: (i) whether all Assessments have been paid; (ii) the amount of such Assessments, including late charges, attorney fees and other costs, if any, due and payable as of such date; and (iii) whether any other amounts or charges are owing to the Association, e.g., for the cost of extinguishing a violation of this Declaration, the By-Laws and/or Rules and Regulations.

A reasonable charge, as determined by the Board, may be made for the issuance of such certificates. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide Purchaser, Mortgagee, lessee of, or title insurer of, the Lot and/or Home with respect to which such certificate has been issued.

ARTICLE VI

MAINTENANCE OF LOTS, HOMES AND COMMON AREAS

Section 6.01. Repairs and Maintenance which are the Responsibility of the Association.

The Association shall be responsible for all repair, replacement, reconstruction, and maintenance of the Association facilities, amenities and Property. The cost of all maintenance performed by the Association shall be funded by Assessments.

Section 6.02. Repairs and Maintenance which are the Responsibility of Owners. Each Owner shall be responsible for the maintenance of his or her Lot and/or Lots while vacant. Upon completion of construction of his or her Home thereon, the Owner shall be responsible for maintaining his or her Home and Lot, together with the septic system and water supply system installed to service the Home. An Owner housing a horse within his or her Lot shall be responsible for the cleanup of the trails whenever used for exercising and/or riding of his or her horse.

Section 6.03. Maintenance which is the Responsibility of the Owner of Lot 4. The Owner of Lot 4 shall be responsible for causing the cleanup of the roadway and trails when used for equestrian purposes by Owners and/or non-owners boarding horses with the equestrian operation.

ARTICLE VII

GENERAL COVENANTS AND RESTRICTIONS

Section 7.01. Home and Lot Improvements and Use.

- a. **Use of Lots.** Except as otherwise provided in this Declaration and the By-Laws, the Homes constructed on each Lot shall be used only for residential purposes and purposes incidental and accessory thereto as defined in and limited by the Town of Malta Zoning Law. This shall not prohibit an Owner or occupant from maintaining an office within the Home, providing no extraordinary traffic results, there are no alterations or modifications to the exterior of the Home and no signs or other evidence of such office are displayed in any window, on the exterior of any Home, anywhere on the Lot or anywhere on the Association Property. No commercial uses shall be permitted other than the existing equestrian operation located within Lot 4.

Notwithstanding the foregoing, "in-law", guest suite and servants' quarters may be permitted by the Town of Malta Zoning Ordinance. Section 167.2 of the Town of Malta Zoning Ordinance also permits the use of a Home that allows for the pursuit of hobbies and business enterprises conducted only by members of the family living in the Home.

Such uses do not allow a sign, customer or employee parking or the outside storage of materials. Such uses allow for the parking of two licensed motor vehicles associated with the business. Such uses shall not utilize more than twenty five percent (25%) of the total floor area of the Home and in no event more than 500 square feet.

No commercial uses shall be permitted within the Saratoga Farm development, except that the commercial use currently existing on Lot No. 4, that of an equestrian operation, which may include a stable office and living quarters for a stableman, will be allowed to continue. In the event this use is discontinued, no further commercial usage will be allowed on Lot 4 or elsewhere within the development.

Construction of a Home shall commence within six (6) months from the transfer of title of the Lot to the Purchaser, with construction to be completed within eighteen (18) months from the issuance of a Building Permit.

- b. **Lot Size.** The minimum Lot size shall be one (1) Lot as indicated on the subdivision map on file in the office of the Saratoga County Clerk and/or the Town of Malta, containing no less than two (2) acres and having no less than one hundred feet (100') frontage. No Lot may be further subdivided.
 - c. **Set-Back Requirements.** No structure, other improvements or driveway shall be erected or installed unless they meet the minimum Town of Malta land use and zoning requirements. For all Homes there shall be a minimum front yard setback of fifty feet (50') from the front yard boundary, a minimum side yard setback of fifteen feet (15') from the side yard boundary and a minimum rear yard setback of thirty feet (30') from the rear yard boundary.
- Homes should be sited allowing for the optimum use of the Lot, topography, vegetation and views and not necessarily positioned on the front set back line or set square to the roadway.
- d. **Combining of Lots.** Two or more contiguous Lots may be combined as one Lot. However, once combined such Lots may not be subdivided. For purposes of Association Assessments, two (2) or more contiguous Lots combined shall be assessed for the number of Lots so combined.
 - e. **Types and Size of Structures.** No structure, except as herein provided, shall be erected, altered or permitted to remain on any Lot. No buildings shall be placed, erected or altered on any Lot until the site and building design plans, specifications and materials have been approved, in writing, by the Sponsor and/or the Sponsor's appointed preferred builder.

Each Home shall have no less than two thousand square feet (2,000 s.f.) of living space, exclusive of garages, porches, decks, basements and attics.

- f. **Garages, Horse Barn/Stable and Outbuildings.** Attached garages shall be oriented for side or rear entry, the design of which shall be integral and harmonious with the design of the living structure. Detached garages must be of a consistent architectural design, or somewhat contrasting, such as a carriage house or small horse barn/stable. Detached garages must be positioned on the Lot to the side or the rear of the front facade of the Home. Outbuildings, such as storage sheds and horse/barn stables, shall also conform to the architectural design of the living structure and shall not detract from adjacent properties. No structure shall be placed on any portion of the trails or position in any way to inhibit the free use of the trails by all Owners and non-owners housing their horse in the equestrian operation. Upon the initial completion of construction no additional garages, horse barn/stables or other outbuildings may be constructed without written consent by the Board of Directors or the Architectural Committee, if there be one, in accordance with Article VIII of this Declaration.
- g. **Siding Materials.** Siding materials shall be of wood, brick, stone or other like natural materials or vinyl and other similar products as may be approved by the Sponsor and/or Sponsor's appointed preferred Builder.
- h. **Driveways.** Driveways shall provide for space for the parking of two (2) cars in addition to space provided within the garage and, to the extent feasible, preserve the natural appearance of the land.
- i. **Fencing.** All fencing, other than such as may surround a swimming pool or tennis court or other fencing not visible from the roadway, shall be of the same materials and structure as existing fencing within the development or on the Lot.
- j. **Septic System.** The location of septic tanks and the septic system shall be in accordance with the plans and specifications approved by the Town of Malta. Each Owner will be responsible for the repair, maintenance and replacement of the septic system servicing such Owner's Home.
- k. **Water Supply.** Water will be supplied to each Home by an individual well located on the Lot of such Home. The location of the well shall be in accordance with the plans and specifications approved by the Town of Malta. Each Owner will be responsible for maintaining the water supply servicing such Owner's Home.

- l. **Clearing of Lots and Landscaping.** All structures and driveways shall be constructed in such a manner as to preserve the natural appearance of the land to the maximum extent feasible. No clear cutting or poisoning of any trees shall be permitted upon any Lot, except as may be necessary for the clearing for any improvements to the Lot, the removal of dead trees or to carry out a landscaping plan submitted with the plans and specifications for the improvements to be constructed upon the Lot approved by the Sponsor and/or the Sponsor's Builder. Other than as set forth herein, no trees in excess of three-inch (3") diameter, measured by a caliper approximately five feet (5') from the base of the tree, shall be cut from the site. Any and all exceptions to the above must be obtained in writing from the Sponsor and/or the Sponsor's Builder.

Each area of disturbance on each Lot must be fine graded and landscaped with vegetative material such that permanent erosion control measures are effected .

All landscaping shall be in accordance with minimum standards established by the Town of Malta Planning Board. The Sponsor shall post a bond or a letter of credit in an amount to be established by the Town Engineers prior to the issuance of any Certificate of Occupancy, to ensure the proper completion of said landscaping, as established by the Town of Malta Planning Board, with said letter of credit or bond to extend at least one year past the time when the Certificate of Occupancy shall have been issued for the Home constructed on any Lot. Landscaping shall be completed within six (6) months of the issuance of a Certificate of Occupancy by the Town of Malta, or as soon thereafter as weather permits.

Not more than five (5) acres of federally designated wetlands, as confirmed by the Town of Malta Engineers and shown on the subdivision plan or plans on file with the Town of Malta, shall be disturbed within the boundaries of this development.

- m. **Swimming Pools.** No above-ground swimming pool shall be permitted, except for a "kiddie pool". All pools shall be properly sited so as not to detract from the adjoining Lots. In-ground pools shall be enclosed by fencing shall be in accordance with the New York State Sanitary Code, Chapter 1, Part 6.
- n. **Heat Pumps and Condensers.** Heat pumps, condensers and other HVAC related equipment shall be installed out of view and screened with landscape material and/or fencing, so as not to detract from adjoining Lots.
- o. **Clotheslines.** Clotheslines shall be retractable, or portable in nature, and, when not in use, shall not be left in an extended permanent position on the Lot. Each clothesline shall be sited so as not to detract from adjoining Lots.

p. Preconstruction Restrictions.

- (i) No garage, barn, or other outbuildings, tent or trailer shall be erected or placed on said premises at any time to be used as a residence, either temporarily or permanently.
- (ii). Such other requirements as the Sponsor, Sponsor's appointed preferred Builder and/or the Board of the Directors, as the case may be, may reasonably require.
- (iii) No Lot shall be used or maintained as a dumping ground for refuse of any kind, except that stumps and other such natural debris from the clearing of Lots may be buried..

q. Utility Easements. All utilities within each Lot shall be installed underground. All utilities to service the twenty two (22) Lots, including, but not limited to, television cables, will be installed in the right-of-way of the roadway prior to completion of the roadway. Easements shall be granted to the utility companies. Such easements shall be as shown on the subdivision map on file in the office of the Saratoga County Clerk and/or the Town of Malta and such easements shall be filed in the office of the Saratoga County Clerk..

Section 7.02. Site Plan Construction Approval. The Purchaser and/or Owner of each Lot, covenants and agrees that no structures, walls, fences or other structure shall be placed upon such Lot, unless and until the plans and specifications thereto have been approved in writing by the Sponsor and/or the Sponsor's appointed preferred Builder, or if all construction has been completed and a Certificate of Occupancy has been issue, by the Board of Directors and/or Architectural Committee if there be one, in accordance with Article VIII of this Declaration and shall contain the following information:

- a. The location of all existing water courses, if any, wooded areas, trails, easements, rights-of-way, structures or any other feature directly on the Lot, or beyond the property, if such feature has an effect on the use of said Lot.
- b. The location, ground area and orientation of each proposed structure or any other land use.
- c. The location of driveways, parking areas, walkways and all other areas proposed to be devoted to vehicular and pedestrian uses.
- d. The location of the well and septic system.
- e. The location of the swimming pool, if any.

- f. The materials to be used for the exposed portions of each structure, including samples of the finished colors.
- g. The landscape plans.
- h. A complete set of plans for each proposed structure.
- i. Such other requirements as the Sponsor, Sponsor's Builder and/or the Board of the Directors or Architectural Committee if there be one, as the case may be, may reasonably require.

All plans and specifications shall require the written approval of the Sponsor, Sponsor's Builder and/or Board of Directors, as the case may be, and be in compliance with all municipal and government regulations. The refusal to approve plans or specifications may be based on any reasonable grounds, including purely aesthetic grounds, which, at the discretion of the Sponsor, Sponsor's Builder and/or the Board of Directors, as the case may be, may be deemed sufficient to maintain compatibility of the designs of the structures and aesthetics of the landscaping and land use. All structures, fences and other improvements shall only be in accordance with the approved plans and specifications, a copy of which shall be retained in the files of the Association.

Upon completion of construction and landscaping, no exterior alterations of the structures may be made without approval of the Board of Directors and/or the Architectural Committee, if there be one, in accordance with Article VIII of this Declaration.

Section 7.03. Home and Occupant Identification and Mail Boxes. Home number identification and mail boxes shall be of a design and constructed of materials approved by the Sponsor and/or the Sponsor's preferred Builder.

Section 7.04. Lot 4 Restrictions. Lot 4 and the appurtenant paddock is zoned commercial for the purposes of the equestrian operation. The Owner of this Lot may permit the operation of the existing equestrian operation, or lease the Lot to an operator of such a facility. Lot 4 contains two (2) horse barns containing twenty seven (27) stalls, and may also contain a stable office and living quarters for a stableman. The Owner or operator of this facility shall have an easement for the use of the roadway and trails for the riding of horses therein boarded by Owners and/or non-owners. The Owner of this Lot shall be responsible for providing for the maintenance of the roadway and trails, keeping such free of "horse droppings" and related debris at such Owner's sole expense. Cleanup of the roadway and trails shall occur at the end of each day that horses boarded at the facility use the roadway and/or trails.

In the event that the equestrian operation is discontinued, no further commercial usage will be allowed and Lot 4 will then only be for a single-family residence and maintenance of the roadway and trails will be the expense of the Association.

Section 7.05. General Restrictions.

- a. **Television and Radio Antennas.** No outside television or radio satellite dish or antenna for any transmission or receiving purposes shall be erected upon any Lot and/or Home or other structures within such Lot in excess of six square feet (6 s.f.)
- b. **Pets.** Occupants of Homes shall have the right to have domesticated pets, such as dogs and cats, within the Homes. Such pets must be kept leashed or otherwise restrained and shall be subject to the Town of Malta leash law. However, the Board shall have the right to require any occupant, or any family member, or guest of any occupant to remove any pet from the premises if, in the opinion of the Board of Directors, acting in its sole discretion, such pet is creating a nuisance or poses a threat to the safety and/or health of the occupants of other Homes, or such pet is not kept under leash or restraint.

The harboring of horses shall be permitted. However, no animals, including horses, livestock or poultry of any kind shall be raised, bred or kept on any Lot, or in any structure, except that horses, dogs, cats or other domestic household pets may be kept for personal enjoyment only, but barking dogs shall be required to be housed within the Home and the Board shall have the authority to petition the Malta Animal Control for the removal of such dogs.

Owners shall be responsible for clearing dog and horse droppings, if such horse is housed within the Owner's Lot, from all trails, roadways and other common areas.

- c. **Recreational Vehicles.** No recreational vehicles, including, but not limited to, all terrain vehicles, motor bikes, motorcycles, minibikes, snowmobiles, boat trailers, boats, campers, race cars, and other motorized vehicles shall be permitted or operated on the premises, at any time for any reason, other than to be transported to and from the garage or other storage structure within the Lot of the owner of such vehicles to and from the public access road, Nelson Avenue Extension. Any such vehicles brought onto the property must be parked within the garage or other storage structure within the Owner's Lot and out of view from the roadway and/or neighboring Homes and/or Lots.

- d. **Oversized, Commercial and/or Unlicensed Vehicles.** Unless used in connection with the construction or sale of Homes by the Sponsor and/or the Sponsor's preferred Builder, or maintenance of the Association Property, no commercial vehicles, trucks exceeding one ton capacity or unlicensed motor vehicles of any type shall be permitted to remain overnight on the property. Notwithstanding the foregoing, horse trailers will be allowed to be maintained on Lot 4 in conjunction with the equestrian operation.
- e. **Lawn and Garden Equipment.** All lawn and garden equipment, when not in use, shall be stored in the garage or other storage structure within the Lot. The operation of motorized lawn and garden equipment shall be limited to the hours of 9:00 AM to 7:00 PM on weekdays and 10:00 AM to 4:00 PM on weekends and holidays.
- f. **Refuse Storage.** Except for building materials being used during the course of construction or repair of any approved improvements, no lumber, metals, bulk materials, refuse or other waste material shall be kept, stored or allowed to accumulate outside the Home or any other portion of any Lot. All refuse generated from the occupancy of an improved Lot shall be stored within the Home and/or garage or within an area not generally visible from the roadway or adjoining Lots, in containers with secured lids or covers and may be placed at curbside for pickup on the night prior to the scheduled pickup day. All containers emptied on the scheduled pickup day must be removed from curbside by the Owners prior to the end of the "pickup day".
- g. **Advertising and Signs.** Except for signs erected by or with the permission of the Sponsor and/or the Sponsor's Builder in connection with the development and sale of Homes, no additional sign or other advertising device of any nature shall be placed for display to the public view on any Home or other structure, or other portion of any Lot or the Association Property (including temporary signs advertising Homes for sale or rent) except with the consent of the Board of Directors. The display of political signs is prohibited.

The Board of Directors may establish such rules and regulations for the display of "for sale" signs in connection with an Owner's marketing such Owner's Home and/or Lot for sale, as it deems reasonable, including, but not limited to, the hours and days such signs may be displayed, the placement of such signs, the number of signs and the size of the signs.
- h. **Unauthorized Parking.** Vehicles parked in unauthorized areas or in any manner impeding or preventing ready access to the Property or an occupant's driveway, may be towed from the premises at the expense of the respective owner of such vehicle so parked. A member of the Board, Managing Agent, if there be one, or authorized

employee of either, may order such removal on behalf of the Board after giving reasonable notice to the owner of the vehicle to remove such unauthorized parked vehicle, if such owner can be readily located, and shall not be liable for any costs, loss or damage of any nature whatsoever, directly or indirectly, resulting therefrom or connected therewith. Notice is not required prior to removing a vehicle blocking the roadway or impeding access by emergency vehicles.

The Board may impose such parking restrictions on the private roadway owned and maintained by the Association as it deems necessary, including snow emergency restrictions.

- i. **Flammable Substances.** No flammable substances or article deemed hazardous to life, limb or property shall be stored or permitted to be stored anywhere on the Property, in any Home, garage or other structure. Any substances used in the operation of lawn and garden equipment shall be stored in metal containers with secured caps or lids within a garage or other storage structure.
- j. **Lease Restrictions.** An Owner shall not lease only a portion of his or her Home, other than the entire Home. Leasing of space within a garage or other structure on any Lot is prohibited. An Owner leasing his or her Home shall send written notice to the Board, and such notice shall include the name(s) of the lessee(s), business and home telephone numbers and the address and telephone where the Owner may be reached.
- k. **Noxious or Offensive Activities.** No noxious or offensive activity shall be permitted on any portion of the Property, or in any Home or other structure, or on any Lot, nor shall anything be done thereon that may be, or may become, a nuisance or annoyance to the occupants of other Homes.

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

ARTICLE VIII

ARCHITECTURAL CONTROL

Section 8.01. Control by Association. Except for construction by the Sponsor and/or the Sponsor's Builder, upon Transfer of Control, enforcement of this Declaration pertaining to the appearance of the Association Property and control over any change in use or any improvements, additions, modifications or alterations to the completed Association Property or to the exterior of

any Home or within any Lot, or other structure shall be the responsibility of the Association acting through the Board of Directors. An Architectural Committee may be formed to assist the Board of Directors in such matters as provided in Section 8.02 below.

Section 8.02. Composition and Function of Architectural Committee.

- a. The Architectural Committee, if there be one, shall serve in an advisory capacity to the Board of Directors, with final approvals and/or enforcement resting solely with the Board of Directors. However, the findings of the Architectural Committee may be binding on the Board unless there are unusual or extenuating circumstances to cause the Board to find otherwise.
- b. The Committee may be composed of three (3) or more persons (as determined by the Board of Directors), who shall be appointed for terms of two (2) years, subject to removal, with or without cause, by the affirmative vote of a majority of the entire Board of Directors and/or the Sponsor, if a Sponsor-appointed member.
- c. The Committee may advise the Board of Directors on the following:
 - (i) All proposed additions, modifications or alterations to the Association Property;
 - (ii) All site improvements, including, but not limited to, lawns, landscaping, walks, roadways, fencing, site lighting, additional amenities, design, any changes, including color, to the exterior of the Homes and/or garages and out buildings, location, elevation and materials thereof; and
 - (iii) Perform other such functions as may be assigned by the Board of Directors from time to time.

Section 8.03. Submission of Plans. After transfer of title to any Lot and/or Home or any portion of the Association Property by the Sponsor and completion of construction, no improvement, addition, modification or alteration shall be made on or to any portion of the Association Property or to the improvements located thereon, nor to the exterior of any Home, or outbuilding on any Lot, unless and until a plan or plans thereof, in such form and detail required by the Board or Architectural Committee if there be one, shall have been submitted to, reviewed by and approved in writing by the Board or Architectural Committee in writing. The Board or the Architectural Committee may charge and collect a reasonable fee for the examination of plans submitted for approval, including any fees and reasonable fees which may be charged by architects, engineers or attorneys retained by the Board or Architectural Committee in connection with the review of such plans.

Section 8.04. Approval of Plans.

- a. Upon a decision by the Board or Architectural Committee to grant approval or qualified approval of any plans submitted pursuant to this Article, the Board or Architectural Committee shall advise the Owner, in writing, of its decision.

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

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

Section 8.05. Written Notification of Disapproval. In any case where the Board or Architectural Committee disapproves the plans submitted, the Board or Architectural Committee shall so notify the applicant in writing, together with a statement of the grounds upon which such action was based as set forth in Section 8.04 hereof. In any such case, the Architectural Committee, if there be one, or the Board of Directors, shall, if requested and if practicable, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

Plans could be disapproved, including without limitation for:

- a. failure of such plans to comply with Covenants, Conditions and Restrictions contained in this Declaration;
- b. failure to include information in such plans as reasonably requested by the Board or Architectural Committee;
- c. objection to the site plan, exterior design, appearance of materials of any proposed improvements, including without limitation, colors or color scheme, finish, proportion, and style of architecture;
- d. incompatibility of proposed improvements or use of proposed improvements with existing improvements or uses within the Property;

- e. failure of the applicant to furnish to the Board or Architectural Committee proof satisfactory to it that insurance in the form and amount satisfactory to the Board or Architectural Committee has been obtained and maintained for the appropriate period of time by the applicant and/or contractor;
- f. failure of proposed improvements to comply with zoning, building, health or other governmental laws, codes, ordinances, rules and regulations; or
- g. any other matter which, in the reasonable judgment of the Board or Architectural Committee, would render the proposed improvement use or uses inconsistent or incompatible with the general plan of improvement of the Property, including any possible adverse impact on the use and enjoyment of the Property by any other Owner and not in compliance with the Town of Malta Planned Development District ordinance for the development of Saratoga Farm.

Section 8.06. Failure to Act. If any applicant has not received notice from the Board or Architectural Committee approving (including qualified approval) or disapproving any plans within sixty (60) days after submission pursuant to Section 8.03 hereof, said applicant may notify the Board in writing of a demand for a decision on the plans submitted. Such notice shall be sent by certified mail, return receipt requested. The plans shall be deemed approved by the Board or Architectural Committee twenty (20) days after the date of receipt of such notice, if no decision is rendered by the Board or Architectural Committee within said twenty (20) day period.

Section 8.07. Liability. No action taken by the Board of Directors, the Architectural Committee, if there be one, or any member of a subcommittee, employee or agent thereof, shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any Building or other portion of the Property. Neither the Association, the Board of Directors, the Architectural Committee, if there be one, nor any member, subcommittee, employee or agent shall be liable to anyone submitting plans to them for approval, including without limitation, mistakes in judgment, negligence or nonfeasance. Every person or other entity submitting plans to the Board or Architectural Committee agrees, by submission of such plans, to defend, indemnify and hold harmless the Association, the Board of Directors, the Architectural Committee, if there be one, or any officer, member of a subcommittee, employee or agent thereof, from any action, proceeding, suit or claim arising out of, or in connection with, such submission.

Section 8.08. Architectural Compliance Certificate. Upon written request of any Owner, Mortgagee, lessee, licensee or title insurer (or any prospective Owner, Mortgagee, lessee, licensee or title insurer) of a Home or other portion of the Property, title to which has been previously transferred by the Sponsor, the Board or Architectural Committee shall, within fifteen (15) days, issue and furnish to the person or entity making the request, a certificate in writing ("Architectural Compliance Certificate") signed by an officer of the Board or Chairperson of the Architectural

Committee, stating, as of the date of such Certificate, whether or not the Home or other portion of the Property, or any improvements thereon, violates any of the provisions of this Declaration, pertaining to exterior materials, design or maintenance and describing such violations, if any. A reasonable charge, determined by the Board or Architectural Committee may be imposed for issuance of such Architectural Compliance Certificate. Any such Architectural Compliance Certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein state.

Section 8.09. Completion of Work by the Board of Directors. In the event the Board or Architectural Committee deems it necessary to complete work previously commenced by an Owner, or to otherwise protect the appearance, value or structural integrity of the Home or the Property, the cost for the completion of such work shall become a binding personal obligation of the Owner and an additional Assessment payable by such Owner, which shall become a lien against his or her Home, subject to the provisions of Article V of this Declaration.

Section 8.10. Right to Promulgate Rules and Regulations. The Board or Architectural Committee may, from time to time, promulgate rules and regulations governing the form and content of plans to be submitted for approval or with respect to the approval or disapproval of certain types of alterations, modifications or improvements to the Homes or other property, provided, however, that no such rule or regulation shall be deemed to bind the Board of Directors to approve or disapprove any plans submitted for approval, or to waive the right of the Board's discretion as to such plans, and provided further that no such rule or regulation shall be inconsistent with the provisions of this Declaration, the By-Laws or any applicable governmental law, code, ordinance, rule or regulation.

Section 8.11. Delegation of Functions. The Board of Directors may authorize committees, subcommittees, or individual members of a committee to perform any or all of the functions of a committee as long as the number and identity of such staff or members, the functions and scope of authority have been established by a resolution of the majority of members of the Board of Directors. The approval or disapproval of plans by an individual member or subcommittee will be subject, however, to the reasonable review by the Board, in accordance with procedures to be established by the Board. As provided in Section 8.03 hereof, the Board may hire engineers, architects and other consultants reasonably necessary to perform its functions.

In the event a special committee has not been appointed to carry out the architectural control functions set forth in this Article VIII, then the Board of Directors shall be fully responsible for the duties of the committee.

ARTICLE IX

INSURANCE AND RECONSTRUCTION

Section 9.01. Insurance to be Carried by the Association. The Board of the Association shall obtain and maintain the following types of insurance coverage: (i) fire and casualty on all structures owned by the Association, if any, for full replacement cost; (ii) general liability insurance; (iii) Directors' and Officers' liability insurance; (iv) fidelity bond; and (v) workers' compensation insurance, with coverages to be as follows:

- a. **Fire and Casualty.** The policy shall cover the interests of the Association, the Board and all Owners and Mortgagees as their interest may appear. Coverage shall be for full replacement cost (without deduction for depreciation) of all structures owned by the Association, if any.
- b. **General Liability.** The liability insurance shall cover the Directors and Officers of the Association and all Owners, but not the liability of the Owners arising from occurrences from such Owner's Home or on such Owner's Lot. The policy shall include the following endorsements:
 - (1) comprehensive general liability (including libel, slander, false arrest and invasion of privacy);
 - (2) personal injury;
 - (3) medical payments;
 - (4) cross liability under which the rights of a named insured under the policy shall not be prejudiced with respect to such insured's action against another named insured;
 - (5) "severability of interest" precluding the insurer from denying coverage to any Owner because of negligent acts of the Association or any other Owner;
 - (6) contractual liability;
 - (7) hired and non-owned vehicle coverage;
 - (8) liability for the property of others;
 - (9) host liquor liability coverage with respect to events sponsored by the Association; and

- (10) deletion of the normal products exclusion with respect to events sponsored by the Association.

Initially this public liability insurance shall be in a combined single limit of \$1,000,000.00 covering all claims for bodily injury and property damage arising out of a single occurrence.

- b. **Directors' and Officers' Liability.** The Directors' and Officers' liability insurance shall cover the "wrongful" acts of a Director or Officer of the Association. The policy shall be on a "claims made" basis so as to cover all prior Owner-elected officers and members of the Board and any deductible provision shall apply only to each occurrence and not to each item of damage.

The Directors' and Officers' liability coverage shall be in the amount of \$1,000,000.00 and shall be obtained upon the election of an Owner-control Board of Directors.

- c. **Fidelity Bond.** The fidelity bond shall cover all Owner-elected Directors, Officers and employees of the Association, if any, who handle Association funds. The bond shall name the Association as Obligee and be in an amount not less than the estimated maximum of funds, including reserves, in the custody of the Association at any given time, but in no event less than a sum equal to six months aggregate assessments on all Homes, plus the reserves and other funds on hand, and shall include the property manager, if there be one.

Initially the coverage shall be \$50,000.00 for dishonest acts and \$50,000.00 for forgery.

- e. **Flood Insurance.** The property is not located in a flood plain. However, should the property be declared to be in a flood plain, flood insurance shall be obtained to the extent available.
- f. **Other.** The Board may also obtain such other insurance as it shall deem necessary or desirable from time to time, including additional "umbrella" coverage.

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

Except as provided in Section 9.03 of this Declaration, the deductible, if any, on any insurance policy purchased by the Board may be the subject of an Assessment. The Board may assess any deductible amount necessitated by the gross negligence or malicious act of an Owner against such Owner. The Association may pay the deductible portion for which such Owner is responsible, and the amount so paid, together with costs of collection (including attorney's fees), shall be a charge and continuing lien upon the Home of the Owner involved, shall constitute a personal obligation of such Owner and shall be collectible in the same manner as Assessments under Article V of this Declaration.

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

Section 9.02. Restoration or Reconstruction After Fire or Other Casualty. In the event of damage to or destruction of any Association Property, insurance proceeds, if any, shall be payable to the Association. The Board shall be responsible for the disbursement of the proceeds to contractors engaged in the repair and restoration of such Association Property. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute an Assessment and the Board shall assess all the Owners for such deficit and for the cost of a performance bond and labor and materials payment bond, if required, as part of the Assessments or as a Special Assessment which does not require the approval of Owners.

If seventy-five percent (75%) or more of the Homes are destroyed or substantially damaged as determined by the Board, and if consent of Owners by an affirmative vote of not less than seventy-five percent (75%) of the Authorized Voters is not obtained to duly and promptly resolve to proceed with repair and restoration, the Property shall be subject to an action for partition upon the suit of any Owner or lienor, as if owned in common, in which event, the net proceeds of sale, together with the net proceeds of insurance policies shall be held in escrow by the Board to be divided among all Owners, subject to the rights of Mortgagees, in proportion to their respective interests, after first applying the share of the net proceeds of such sale, otherwise payable to any Owner, to the payment of any liens on his or her Home, in the order of priority of such liens.

Section 9.03. Insurance To Be Carried By Owners. Each Owner shall, at such Owner's expense, obtain adequate insurance covering all structures within such Owner's Lot for full replacement cost of such structures and shall provide the Board with evidence of insurance on the anniversary date of such policy or policies. Damage to any structures shall be repaired immediately, as weather may permit, immediately upon receipt of insurance claims proceeds.

Section 9.04. Actions Which May Increase Insurance Rates Prohibited. Under no circumstances shall an Owner permit or suffer anything to be done or left in such Owner's Home or Lot or omit to do anything which will increase insurance rates on Association Property and/or liability. The penalty for any and all violations shall be an Assessment against the Owner violating this provision in an amount equal to the increased rate and/or increased premiums.

ARTICLE X

DURATION, ENFORCEMENT AND AMENDMENT OF DECLARATION

Section 10.01. Duration. This Declaration shall continue in perpetuity until: (i) terminated by casualty loss, condemnation or eminent domain; or (ii) such time as withdrawal of the Property from the provisions of this Declaration is authorized by an affirmative vote of Owners by at least eighty percent (80%) of Authorized Voting Owners. The Sponsor will not vote its interests appurtenant to Unsold Lots for such withdrawal unless at least eighty percent (80%) of all other Owners so elect for such withdrawal, at which time Sponsor may vote as it sees fit.

Section 10.02. Declaration Runs with the Land; Enforceability. The provisions of this Declaration shall bind the Property and shall be construed as running with the land and shall inure to the benefit of, and be enforceable by the Sponsor and the Board (being hereby deemed agent for all of the Owners), and by any Owner, their respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity.

As it may be impossible to measure monetarily the damages which may accrue to the beneficiaries hereof by reason of a violation of this Declaration, and monetary damages will not adequately compensate for violations of this Declaration, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

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

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

Section 10.03. No Waiver by Failure to Enforce. The failure of any beneficiary hereof to enforce any provision of this Declaration shall in no event be construed as a waiver of the right by that beneficiary or any other to do so thereafter, as to the same or a similar violation occurring prior or subsequent thereto. No liability shall attach to the Sponsor, the Association (or any officer, director, employee, agent, committee, committee member or Owners) or to any other person or organization for failure to enforce the provisions of this Declaration.

Section 10.04. Obligation and Lien for Cost of Enforcement by Association. If the Board successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Declaration, the By-Laws or rules and regulations promulgated hereunder or thereunder, the costs of such action, including legal fees, shall become a binding, personal obligation of the violator. If such violator is: (i) an Owner; or (ii) any family member, lessee, guest or invitee of the Owner; or (iii) a family member or guest or invitee of the lessee of the Owner; or (iv) a guest or invitee of any member of such Owner's family or any family member of the lessee of such Owner, such costs shall also be a lien upon the Home or other portion of the Property owned by such Owner, if any. This lien shall be subsequent to a first mortgage. Each Owner is responsible for the costs of such action regardless of whether the violator is the Owner, a member of the such Owner's family, guest, lessee, licensee or invitee.

Section 10.05. Amending. Subject to the provisions of this Declaration, this Declaration may be modified, altered or amended at any duly called meeting of Members, provided that written notice of the meeting, containing a full statement of the proposed modification, alteration or amendment has been sent, to each Owner at such Owner's last known mailing address no less than ten (10) days nor more than fifty (50) days prior to the date of the meeting; and provided further that at least fifty one percent (51%) of the total Authorized Voting Members approve the change.

When Owners are considering termination of the legal status of the Association for reasons other than substantial destruction or condemnation of the Property, an instrument evidencing the change must be duly recorded in the office of the Saratoga County Clerk. Such instrument need not contain a written consent of the required number of Members, but shall contain a certification by the Board that the consents required by this Section for such change have been received and filed with the Board.

Until the Transfer of Control Date, the prior written consent of the Sponsor shall be required for any amendment which adversely affects a substantial interest or right of the Sponsor (as determined by the Sponsor in its sole judgment).

The above provisions in this Section and the provisions of Section 10.08, notwithstanding, the Sponsor may execute, acknowledge and record in the office of the Saratoga County Clerk amendments to this Declaration which may be required to bring this Declaration into conformity with any subsequent requirements of the Planning Board of the Town of Malta or New York State law.

The Sponsor, during the time the Sponsor has any Unsold Lots, may also make amendments to this Declaration to correct errors or omissions, which amendments shall not adversely modify the substantial rights of any Owner without such Owner's written consent. Any such amendments shall be recorded in the office of the Saratoga County Clerk and the Sponsor shall submit such amendments to the Department of Law and, upon the Department of Law's acceptance for filing of such amendments, shall send copies to all Owners and Purchasers.

Section 10.06. Conflict with Municipal Laws. The provisions of this Declaration set forth herein shall not be taken as permitting any action or thing prohibited by applicable enforceable zoning laws, or the laws, ordinances, rules or regulations of any governmental authority or by specific enforceable restrictions imposed by any deed or lease.

Section 10.07. Attorneys' Fees. Any party to a proceeding who succeeds in enforcing the provisions of this Declaration set forth herein, or enjoining the violation of any of such provisions against an Owner (or such Owner's lessee, licensee or invitee), shall be entitled to reasonable attorneys' fees from such Owner.

Section 10.08. Change of Conditions. No change of conditions or circumstances shall operate to amend any of the provisions of this Declaration, other than as the same may be amended only in the manner provided herein.

Section 10.09. Inspection and Entry Rights. Any agent of the Board may, at any reasonable time or times, enter upon any portion of the Property to inspect the improvements thereon for the purpose of ascertaining whether the maintenance, construction or alteration of structures or other improvements thereon comply with this Declaration and By-Laws or rules and regulations issued pursuant hereto. Neither the Board nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

Section 10.10. Owner Responsible for Lessee. The Owner of a Home who rents the same, shall provide that the lessee shall comply in all respects with the terms and conditions of this Declaration, the By-Laws and Rules and Regulations of the Association. If a lessee is in violation of this Declaration, the By-Laws or rules and regulations, the Board shall so notify the Owner of such Home which such lessee occupies, in writing, by certified mail, return receipt. If the violation is not cured or eviction proceedings commenced by the Owner against the lessee within fourteen (14) days after the Owner has received notice of such violation, the Board may pursue any remedies which it may have pursuant to this Declaration. The Owner of a Home is solely responsible for actions of such lessee, and/or such lessee's family members and invitees as such actions apply to the terms and conditions of this Declaration.

ARTICLE XI

COMPLIANCE AND ARBITRATION

Section 11.01. Compliance with Rules of the Association Pursuant to this Declaration and the By-Laws. Should any Owner, members of such Owner's family, his or her employees, guests, lessees, licensees or other invitees fail to comply with any of the provisions of this Declaration, the By-Laws, the Certificate of Incorporation or the rules and regulations, and as such may be amended from time to time, the following procedures may be followed to obtain compliance:

- a. A committee of three (3) people, one of whom shall be a member of the Board, shall be appointed by the Board and designated the Compliance Committee to serve at the pleasure of the Board.
- b. The Compliance Committee shall first undertake to obtain compliance informally, by discussing the violation or violations with the Owner of the Home responsible for the violator, and seeking to obtain future compliance or cessation of the ongoing violation or violations.
- c. Should this informal procedure prove unsatisfactory or not secure future compliance, the Compliance Committee shall then send a written notice to the violator, and if such person is not an Owner, to the Owner who brought such person onto the Property, notifying him of the claimed violation, requesting, as the case may be, either a correction of the violation, or an assurance that a similar violation will not occur in the future. Such notice shall establish a date for compliance.
- d. Should such notice obtain the requested compliance, that will dispose of the matter, unless the same or a similar violation thereafter reoccurs.
- e. Should such notice not obtain the requested compliance within the time requested, the Compliance Committee shall then be authorized, at its discretion, to establish a monetary and/or non-monetary penalty, the amount and/or severity of which shall be reasonably related to the violation and to the aim of deterring similar violations in the future by the same or any other person. Such fine shall become a binding personal obligation of the violator, if an Owner, or the Owner responsible for such violator, if an Owner, or the Owner responsible for bringing such violator onto the Property. Failure to correct the condition or situation which leads to the first fine, for a period of twenty (20) days after the initial fine becomes finally due and payable, shall constitute a second offense. Notice of the imposition of such fine or fines shall be by certified mail, return receipt requested, to the violator and/or the Owner responsible for such violator, and shall be paid to the Association within (10) days following the date of the mailing of such notice, unless the violator, if an Owner, or the Owner

responsible for such violator, requests the right to arbitrate the matter before the Arbitration Committee, as hereinafter set forth, within said ten (10) days. Should the fine not be paid within the ten (10) days, or if a request to arbitrate is not received within the said ten (10) days, the amount of the fine shall be added to the Owner's Assessment on the first of the month following the termination of the ten (10) day period above set forth, and shall be collectible as such.

- f. The Arbitration Committee shall consist of an elected member of the Board, and two (2) other persons who need not be members of the Association, who shall be appointed and serve at the pleasure of the Board.
- g. Should the violator, or the Owner responsible for the violator, request the right to arbitrate the imposition or amount of a fine, as above set forth, he shall do so in writing, directed to the Board, within ten (10) days of his or her receipt of notice sent by certified mail, return receipt requested, of the imposition of said fine. The Board shall promptly forward the same to the Arbitration Committee, which shall meet within twenty (20) days thereafter, on notice to the alleged violator, to hear and dispose of the matter. At such hearing, the alleged violator and/or the Owner responsible for such violator, and one (1) or more members of the Compliance Committee may be present and be heard. A decision on the matter shall be made by the Arbitration Committee, by a majority vote, within ten (10) days following said hearing, and shall be promptly communicated to the alleged violator and/or the Owner responsible for such violator, in writing. If the decision of the Arbitration Committee is to uphold the determination of the Compliance Committee, the provision relating to the payment and enforcement thereof set forth in Subparagraph e., above shall apply. If their decision is in favor of the alleged violator, no fine will be imposed. The decision of the Arbitration Committee shall be final and binding upon all parties.
- h. In the event the violator is a person other than an Owner or member of such Owner's immediate family, copies of all notices required to be given, shall also be given to the violator under this Declaration, the By-Laws or the Certificate of Incorporation.

ARTICLE XII

GENERAL

Section 12.01. Headings and Captions. The headings and captions contained in this Declaration are for convenience only and shall not affect the meaning or interpretations of the content thereof.

Section 12.02. Invalidity of Declaration. The determination by any court that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provision hereof.

Section 12.03. Gender. The use of any gender herein shall be deemed to include the masculine, feminine and neuter and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 12.04. Right Reserved to Impose Additional Protective Covenants. The Sponsor reserves the right to record additional Covenants, Conditions and Restrictions affecting the Property prior to the conveyance of the first Home subject to this Declaration. However, any such additional Covenants, Conditions and Restrictions affecting existing Owners of Homes shall be subject to the approval of a majority of Authorized Voting Owners of such Homes.

Section 12.05. Notice. All notices hereunder shall be in writing, and, unless otherwise expressly provided, shall be sent by mail, by depositing same in a post office or postal letter box, in a postpaid sealed envelope, addressed, if to the Board, at the Office of the Board, and if to an Owner or Mortgagee, to the address of such Owner or Mortgagee as appears on the books of the Association, and if to the Sponsor, to the address of the Sponsor as appears on the books of the Association. All notices shall be deemed to have been given when mailed, except notices of change of address, which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of this Declaration, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent of such notice.

Section 12.06. Right of Association to Transfer Interest. Notwithstanding any other provision herein to the contrary, the Association and its successors, shall at all times have the absolute right to fully transfer, convey and assign its right, title and interest under this Declaration to any successor not-for-profit corporation. Upon such assignment, the successor corporation shall have all the rights and be subject to all the duties of the Association as set forth in this Declaration and shall be deemed to have agreed to be bound by all provisions hereof, to the same extent as if the successor corporation had been an original party and all references herein to the Board shall be deemed to refer to the Board of such successor corporation. Any such assignment shall be accepted by the successor corporation under a written agreement pursuant to which the successor corporation expressly assumes all the duties and obligations of the Association. If, for any reason, the Association shall cease to exist without having first assigned its rights hereunder to a successor corporation, this Declaration and any amendments thereto, shall continue and any Owner may petition a court of competent jurisdiction to appoint a trustee for the purpose of organizing a not-for-profit corporation to take over the duties and responsibilities of the Association, such corporation to exist, subject to the conditions provided for herein, with respect to an assignment and delegation to a successor corporation.

Section 12.07. Right of Association to Transfer Functions. Unless otherwise specifically prohibited herein, or within the Certificate of Incorporation or the By-Laws of the Association, any and all functions of the Association shall be fully transferable in whole or in part to any other homeowners' association, condominium or similar entity.

IN WITNESS WHEREOF, the undersigned, being the Owner of real property subject to this Declaration, as may be supplemented, extended or amended from time to time, has executed this Declaration the date first stated above.

SPONSOR: H M VENTURES, INC.

Dated: _____

By: _____
Robert Hollensteiner, President

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

On this _____ day of April, 2004 before me, the undersigned, personally appeared ROBERT HOLLENSTEINER, 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 person upon behalf of which the individual acted, executed the Instrument.

Notary Public

SCHEDULE A TO THE DECLARATION

LIENS, ENCUMBRANCES AND OTHER TITLE EXCEPTIONS

1. The terms, conditions, covenants, easements and provisions of the Declaration and By-Laws relating to the Association, include:
 - a. Easements and rights retained by Sponsor.
 - b. Easements over Lots 6, 8, 9, 10, 11, 12 and 14 and Lots 15, 16, 17, 18, 19, 22, 24 and 26 for use of Owners and non-members boarding horses with the equestrian operation to traverse the sections of the Association trails located with such Lots for horseback riding and for Owners to use the trails for walking and/or hiking, cross country skiing and other passive recreational use, in addition to horseback riding.
2. State of facts shown on a survey of the Land and Buildings providing such state of facts do not make title unmarketable.
3. Zoning, regulations and ordinances and any amendments thereto, provided that the use of the Lots and the Homes located on such Lots as contemplated by the Plan are not prohibited thereby.
4. New York State franchise taxes of any corporation in the chain of title, provided that any title company which is authorized to do business in the State of New York is willing to insure that such taxes will not be collected out of the Home.
5. Electric, telephone, cable television and other utility easements and consents, if any, then or thereafter recorded, including the right to maintain and operate lines, pipes, ducts, wires, cables, conduits, connections, fittings and distribution boxes in, over, under and upon the Property, the Lots and/or the Homes.
6. Leases or tenancies, and service, maintenance and license agreements affecting the Homes or portions of the Association Property, if any.
7. Future taxes and installments of special assessments for improvements payable to the Town, County and School District.
8. Utility easements, rights-of-way and agreements granted to or made with the Town of Malta, utility companies and the cable television franchisee for the area, if any, or any other municipality.

9. Such easements and/or rights-of-way as have been granted by instrument and recorded in the office of the Saratoga County Clerk, including, but not necessarily limited to, gas and electric utility company, telephone company and cable television franchisee, if any.
11. The lien of a purchase money mortgage, if any, obtained by Purchaser to finance the purchase of the Lot and/or Home.
12. Standard exceptions contained in the form of title insurance policy then issued by such title insurance company insuring Purchaser's title to the Lot and/or Home.

ALL OF THE ABOVE SHALL SURVIVE DELIVERY OF THE DEED.

SURVEY
ASSOCIATES, LLC
Professional Land Surveying

Daniel C. Wheeler, LS

432 Broadway, Suite 5, Saratoga Springs, NY 12866
PH. (518)583-7302 • FAX (518) 583-7303

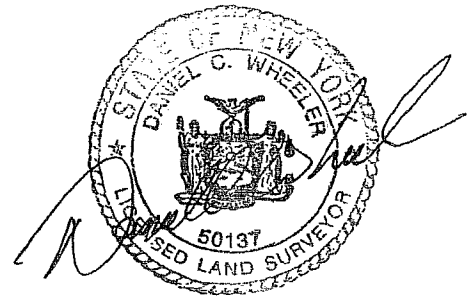
DESCRIPTION

A Portion of Lands of Sandra Payson
Conveyed to H M Ventures, Inc.
(Book 1161 of Deeds, Page 502)
To be known as Saratoga Farm
Town of Malta, Saratoga County, New York

ALL that certain tract, piece or parcel of land, situate in the Town of Malta, County of Saratoga, State of New York, lying northerly of Nelson Avenue Extension (County Road No. 64) and being further bounded and described as follows:

Beginning at a point on the northerly line of Nelson Avenue Extension (County Road No. 64), said point being the easterly most corner of Lot 3 as shown on a map entitled "Subdivision Lands to be Conveyed to Saratoga Farm, Inc.", dated May 23, 1995, made by W. Bruce Hawks, L.S. and filed in the Saratoga County Clerk's office on October 9, 1996 as map no. "S-468", and runs thence from said point of beginning, along the northeasterly line of said Lot 3, North 48 deg. 51 min. 59 sec. West, 234.48 feet to a point; thence along the northwesterly line of said lot 3, in part and the northwesterly line of lot 2, of said subdivision, in part, South 55 deg. 21 min. 22 sec. West, 550.78 feet to a point on the easterly line of the lands now or formerly of Donald D. Carr, as described in Book 1228 of Deeds at Page 10; thence along said easterly line, North 07 deg. 09 min. 35 sec. East, 853.60 feet to a point; thence along the northerly line of said lands now or formerly of Carr, North 83 deg. 33 min. 31 sec. West, 826.98 feet to a point; thence along the easterly lines of the lands now or formerly of John Noob, as described in Book 956 of Deeds at Page 502, in part, the lands now or formerly of Armand J. and Pamela A. Dion, as described in book 1334 of Deeds at Page 339, in part, North 05 deg. 32 min. 46 sec. East, 903.48 feet to a point; thence continuing along said easterly line of Dion, in part, the easterly lines of the lands now or formerly of Ernest F. Lewis and Lucilea M. Lewis, as described in Book 1334 of Deeds at Page 342, in part, and the lands now or formerly of Dennis J. Brida, Julianne Kargut Brida, Scarlet Brida and Elsbeth Kargut, as described in Book 1480 of Deeds at Page 202, in part, North 07 deg. 00 min. 19 sec. East, 1,512.59 feet to a point; thence along the southerly and easterly lines of the lands now or formerly of Michael J. Kearney, as described in Book 1498 of Deeds at Page 583, the following two (2) courses: 1.) South 84 deg. 20 min. 15 sec. East, 391.06 feet to a point; and 2.) North 09 deg. 03 min. 17 sec. East, 861.97 feet to a point on the southerly line of the lands now or formerly of Bertrand and Lyse Belanger, as described in Book 1036 of Deeds at Page 223; thence along said southerly line the following two (2) courses: 1.)

South 84 deg. 07 min. 35 sec. East, 439.26 feet to a point; and 2.) South 83 deg. 35 min. 14 sec. East, 804.28 feet to a point; thence along the westerly line of the lands now or formerly of Martin M. and Kay F. Katzer, as described in Book 1514 of Deeds at Page 68, in part, and the lands now or formerly of Thomas J. and Loral A. Samascott, as described in Book 1402 of Deeds at Page 675, in part, South 07 deg. 01 min. 41 sec. West, 2,353.47 feet to a point; thence continuing along said lands now or formerly of Samascott, South 06 deg. 35 min. 52 sec. West, 1293.98 feet to a point on the aforesaid northerly line of Nelson Avenue Extension (County Road No. 64); thence along said northerly line, the following three (3) courses: 1.) South 52 deg. 03 min. 01 sec. West, 121.19 feet to a point; 2.) South 44 deg. 37 min. 01 sec. West, 157.00 feet to a point; and 3.) South 41 deg. 08 min. 01 sec. West, 68.76 feet to the point and place of beginning and containing 128.56+/- acres of land.



June 15, 2001
Revised April 23, 2003

Daniel C. Wheeler, L.S.
P.L.S. Lic. No. 50,137

DECLARATION

PAGE 42

SURVEY
ASSOCIATES, LLC

Professional Land Surveying

Daniel C. Wheeler, LS

432 Broadway, Suite 5, Saratoga Springs, NY 12866
PH. (518) 583-7302 • FAX (518) 583-7303

DESCRIPTION

Common Area

A Portion of Saratoga Farm
Town of Malta, Saratoga County, New York

ALL that certain tract, piece or parcel of land, situate in the Town of Malta, County of Saratoga, State of New York, lying northerly of Nelson Avenue Extension (County Road No. 64), being the "Common Area" as shown on a map entitled "Saratoga Farm" dated November 3, 2000, last revised on January 15, 2003, made by Survey Associates, LLC, to be filed in the Saratoga County Clerk's Office and being further bounded and described as follows:

Beginning at a point on the northerly line of the lands now or formerly of Donald D. Carr, as described in Book 1228 of Deeds at Page 10, said point of beginning being situate the following two courses from the northwesterly corner of Lot 2 as shown on a map entitled "Subdivision Lands to be Conveyed to Saratoga Farm, Inc.", dated May 23, 1995, made by W. Bruce Hawks, L.S. and filed in the Saratoga County Clerk's office on October 9, 1996 as map no. "S-468", 1.) North 07 deg. 09 min. 35 sec. East, 853.60 feet to a point; and 2.) North 83 deg. 33 min. 31 sec. West, 300.00 feet, and runs thence from said point of beginning, along said northerly line of the lands now or formerly of Carr, North 83 deg. 33 min. 31 sec. West, 526.98 feet to a point; thence along the easterly lines of the lands now or formerly of John Noob, as described in Book 956 of Deeds at Page 502, in part, and the lands now or formerly of Armand J. and Pamela A. Dion, as described in book 1334 of Deeds at Page 339, in part, North 05 deg. 32 min. 46 sec. East, 903.48 feet to a point; thence continuing along said easterly line of Dion, in part, and the easterly line of the lands now or formerly of Ernest F. Lewis and Lucilea M. Lewis, as described in Book 1334 of Deeds at Page 342, in part, North 07 deg. 00 min. 19 sec. East, 564.09 feet to a point; thence along Lot 15, in part and Lot 13, in part, as shown on the aforesaid "Saratoga Farm" subdivision map, the following two courses: 1.) South 82 deg. 59 min. 41 sec. East, 499.32 feet to a point; and 2.) North 64 deg. 06 min. 30 sec. East, 525.21 feet to a point on the westerly line of a proposed private road to be known as Saratoga Farm Road, as shown on said subdivision map; thence along said westerly line of Saratoga Farm Road, the following two (2) courses: 1.) South 25 deg. 22 min. 39 sec. East, 15.44 feet to a point; and 2.) along a curve to the right of radius 1,720.00 feet, a distance of 653.14 feet to a point; thence along the northerly line of Lot 11, North 84 deg. 36 min. 07 sec. West, 1,092.09 feet to a point; thence along the westerly line of Lot 11, in part, Lot 9, in part, Lot 7, in part, and Lot 5, in part, South 05 deg. 32 min. 46 sec. West,

791.97 feet to a point; thence along the southerly line of Lot 5, South 82 deg. 13 min. 15 sec. East, 1,094.22 feet to a point on the aforesaid westerly line of Saratoga Farm Road; thence along said westerly line, South 07 deg. 46 min. 45 sec. West, 50.00 feet to a point; thence along Lot 3, the following two (2) courses: 1.) North 82 deg. 13 min. 15 sec. West, 655.21 feet to a point; and 2.) South 07 deg. 46 min. 45 sec. West, 252.03 feet to the point and place of beginning and containing 17.46+/- acres of land.

The above-described parcel of land is known as "common area" as shown on a map entitled "Saratoga Farm", dated November 3, 2000, last revised on January 15, 2003, made by Survey Associates, LLC, approved by the Town of Malta Planning Board and to be filed in the Saratoga County Clerk's office.



April 2, 2003

Daniel C. Wheeler, L.S.
P.L.S. Lic. No. 50,137

SURVEY

DESCRIPTION OF ASSOCIATION PROPERTY (I)

Daniel C. Wheeler, LS**ASSOCIATES, LLC**

432 Broadway, Suite 5, Saratoga Springs, NY 12866

PH. (518) 583-7302 • FAX (518) 583-7303

Professional Land Surveying

DESCRIPTION

Saratoga Farm Road

Town of Malta, Saratoga County, New York

ALL that certain tract, piece or parcel of land, situate in the Town of Malta, County of Saratoga, State of New York, lying northerly of Nelson Avenue Extension (County Road No. 64) and being further bounded and described as follows:

Beginning at a point on the northerly line of Nelson Avenue Extension (County Road No. 64), said point of beginning being situate North 41 deg. 08 min. 01 sec. East, 77.69 feet from the southeasterly corner of Lot 2, as shown on a map entitled "Subdivision of Lands to be Conveyed to Saratoga Farm, Inc.", dated May 23, 1995, made by W. Bruce Hawks, L.S. and filed in the Saratoga County Clerk's office on October 9, 1996 as map no. "S-468", and runs thence from said point of beginning along the westerly line of Saratoga Farm Road the following twelve (12) courses: 1.) along a curve to the left of radius 10.00 feet a distance of 14.38 feet to a point; 2.) along a curve to the right of radius 330.00 feet a distance of 240.99 feet to a point; 3.) North 00 deg. 34 min. 37 sec. East, 268.45 feet to a point; 4.) along a curve to the right of radius 330.00 feet a distance of 64.62 feet to a point; 5.) North 11 deg. 47 min. 50 sec. East, 182.48 feet to a point; 6.) along a curve to the left of radius 570.00 feet a distance of 39.97 feet to a point; 7.) North 07 deg. 46 min. 45 sec. East, 814.73 feet to a point; 8.) along a curve to the left of radius 1,720.00 feet a distance of 995.35 feet to a point; 9.) North 25 deg. 22 min. 39 sec. West, 231.09 feet to a point; 10.) along a curve to the right of radius 530.00 feet a distance of 146.24 feet to a point; 11.) North 09 deg. 34 min. 04 sec. West, 465.16 feet to a point; and 12.) along a curve to the left of radius 50.00 feet a distance of 42.05 feet to a point at a cul-de-sac; thence around said cul-de-sac, along a curve to the right of radius 70.00 feet a distance of 337.66 feet to a point; thence along the easterly line of Saratoga Farm Road the following twelve (12) courses: 1.) along a curve to the left of radius 50.00 feet a distance of 42.05 feet to a point; 2.) South 09 deg. 34 min. 04 sec. East, 465.16 feet to a point; 3.) along a curve to the left of radius 470.00 feet, a distance of 129.69 feet to a point; 4.) South 25 deg. 22 min. 39 sec. East, a distance of 231.09 feet to a point; 5.) along a curve to the right of radius 1,780.00 feet, a distance of 1,030.07 feet to a point; 6.) South 07 deg. 46 min. 45 sec. West, 814.73 feet to a point; 7.) along a curve to the right of radius 630.00 feet, a distance of 44.18 feet to a point; 8.) South 11 deg. 47 min. 50 sec. West, 182.48 feet to a point; 9.) along a curve to the left of radius 270.00 feet a distance of 52.87 feet to a point; 10.) South 00 deg. 34 min. 37 sec. West, 268.45 feet to a point; 11.) along a curve to the left of radius 270.00 feet a distance of 186.05 feet to a point; and 12.) along a curve to the left of radius 10.00 feet a distance of 17.45 feet to a point on the aforesaid

northerly line of Nelson Avenue Extension (County Road No. 64); thence along said northerly line, South 41 deg. 08 min. 01 sec. West, 80.93 feet to the point and place of beginning.

The above described parcel is a strip of land 60 feet in width, approximately 3,650 feet in length, together with intersection arcs and a cul-de-sac at its northerly terminus, to be a private road known as Saratoga Farm Road as shown on a map entitled "Saratoga Farm", dated November 3, 2000, made by Survey Associates, LLC and to be filed in the Saratoga County Clerk's office.



April 12, 2001

Daniel C. Wheeler, L.S.
P.L.S. Lic No. 50,137

SCHEDULE D

RECREATION TRAIL EASEMENTS

Sections of trails shown on map entitled "Saratoga Farm" filed in the Saratoga County Clerk's office on April 15, 2002, as Map No. S 615 A, for the use of Owners of Homes within the Saratoga Farm development for horseback riding, walking and/or hiking, cross country skiing and other passive recreational use and for horseback riding by non-owners boarding their horses with the equestrian operation located within Lot 4, are located within Lots 6, 8, 9, 10, 12 and 14 and 15, 16, 17, 18, 19, 22, 24 and 26.

Owners of Lots 6, 8, 9, 10, 12 and 14 and 15, 16, 17, 18, 19, 22, 24 and 26. shall grant easements at time of closing for purposes stated above to the Association for the right of other Owners to traverse the section of said trail located within such Owner's Lot, as well as an easement to the Owner of Lot 4.

An easement thirty feet (30') in width commencing along the easterly bounds of Saratoga Farm at the common division line between Lots 13 and 17, as shown on said map, thence running through Lots 15 and 17 as shown on said map. This easement shall be for the benefit of all of the Owners of Lots within the subdivision as well to the Owner of Lot 4 for horseback riding only by non-owners boarding their horses with the equestrian operation.

The Owner of Lot 4 shall be responsible for maintenance of the trails as such will be required by use of Owners and non-owners boarding horses with the operator of the equestrian operation and his or her sole expense. The Association shall be responsible for spring and fall clean up of seasonal debris that may accumulate on the trails.

The Owner of Lot 4 shall maintain a general liability policy in the amount of \$2,000,000.00 naming the Association as the insured simultaneously or prior to the first closing. The Owner of Lot 4 shall sign an agreement which shall indemnify, defend and hold harmless all Owners and the Association for any claim, demand, lawsuit or cause of action arising out of the use of the trails.

FILING RECEIPT

ENTITY NAME: SARATOGA FARM HOMEOWNERS' ASSOCIATION, INC.

DOCUMENT TYPE: INCORPORATION (NOT-FOR-PROFIT)

TYPE: A COUNTY: SARA

SERVICE COMPANY: ** NO SERVICE COMPANY **

SERVICE CODE: 00

FILED:04/04/2001 DURATION:PERPETUAL CASH#:010404000228 FILM #:010404000218

ADDRESS FOR PROCESS

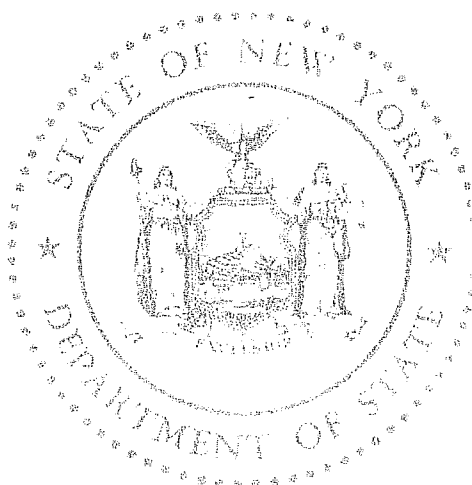
EXIST DATE

THE CORPORATION
JOHN J. CARUSONE, JR.
SARATOGA SPRINGS, NY 12866

491 BROADWAY

04/04/2001

REGISTERED AGENT



FILER	FEES	100.00	PAYMENTS	100.00
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DEROO ASSOCIATES, INC.	FILING	75.00	CASH	0.00
P.O. BOX 2105	TAX	0.00	CHECK	100.00
	CERT	0.00	CHARGE	0.00
	COPIES	0.00	DRAWDOWN	0.00
BALLSTON SPA, NY 12020-8105	HANDLING	25.00	BILLED	0.00
			REFUND	0.00

CERTIFICATE OF INCORPORATION**OF****SARATOGA FARM HOMEOWNERS' ASSOCIATION, INC.****Under Section 402 of the****Not-for-Profit Corporation Law**

The undersigned, being the sole incorporator for the purpose of forming a corporation under Section 402 of the Not-for-Profit Corporation Law of the State of New York, does hereby certify:

FIRST: The name of the corporation shall be Saratoga Farm Homeowners' Association, Inc..

SECOND: This corporation will be a corporation as defined in Subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law.

THIRD: The purposes for which the corporation is formed are:

- a. To provide for the maintenance, repair and replacement of the common areas of the community known as Saratoga Farm located in the Town of Malta, County of Saratoga, State of New York;
- b. To purchase, lease, hire, receive donations of, or otherwise acquire, hold, own, develop, improve, maintain and operate, and aid and subscribe toward the acquisition, development or improvement of real and personal property, and rights and privileges therein, suitable or convenient for any of the purposes of the corporation;
- c. To purchase, lease, hire, receive donations of, or otherwise acquire, hold, own, construct, erect, improve, manage, maintain and operate, and aid and subscribe toward the acquisition, construction or improvements of systems, buildings, machinery, equipment and facilities, and any other property or appliances which may appertain to, or be useful in the accomplishment of any of the purposes of the corporation;

d. To make contracts, incur liabilities and borrow money, and issue bonds, notes and other obligations and secure the same by (i) mortgage of all or any part of the Property, franchises and income of the corporation, and/or (ii) the charges imposed on the property of others and the liens on such property, and guarantee the obligation of others in which it may be interested in furtherance of the purposes of the corporation;

e. To lease, sell or donate to the State of New York, the County of Saratoga, the Town of Malta or any agency, subdivision, authority or instrumentality of said State, County, Town or Hamlet, or to any association, or to any civic or other not-for-profit organization, by the corporation, when in the opinion of the Board of Directors, such leasing, sale or donation is desirable for, and beneficial to, the social welfare of the members of the corporation upon such terms and conditions as the Board of Directors may deem acceptable;

f. To fix, levy, collect and enforce payment by any lawful means of all charges or assessments for the use of the facilities, or for the services rendered by the corporation, not-for-profit, but for the purpose of providing for the payment of the expenses of the corporation, the cost of the construction, improvements, repairs, equipment, furnishings, maintenance and operation of its facilities, the cost of its services and the principal and interest on its obligations;

g. To enforce any protective covenant or restriction, and any other covenant or obligation providing for the payment of any charges, assessments or fees, for the purpose of providing the payment of expenses of the corporation, the cost of the construction, improvement, repair, equipment, furnishings, maintenance and operation of its facilities, the cost of its services and the principal and interest on its obligations and create any facilities, boards or associations deemed to be convenient to the Board of Directors for such enforcement;

h. To have and exercise, to the extent necessary or desirable, for the accomplishment of the aforesaid purposes and to the extent they are not inconsistent with the purpose of this corporation, any and all powers conferred upon corporations of similar character by the Laws of the State of New York; and

i. To do any other act or thing incidental to, or in connection with, the foregoing purposes or in the advancement thereof, but not for the pecuniary profit or financial gain of the corporation's members, directors or officers, except as permitted under Article 5 of the Not-for-Profit Corporation Law.

FOURTH: The corporation is a Type A Not-for-Profit Corporation under Section 201 of the Not-for-Profit Corporation Law.

FIFTH: The office of the corporation is to be located in the County of Saratoga and State of New York.

SIXTH: The names and address of the initial directors are:

Robert Hollensteiner	2339 Massachusetts Avenue N.W. Washington, D.C. 20008
William Blair Meyer	205 Nightingale Trail Palm Beach, FL 33480
John Witt	28 Clinton Street Saratoga Springs, New York 12866

SEVENTH: This Certificate may be amended from time to time in accordance with the provisions of the Not-for-Profit Corporation Law.

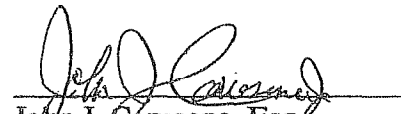
EIGHTH: Any person, or members of the Board of Directors of the corporation may participate in a meeting of such Board by means of a conference telephone or similar communication equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

NINTH: The Secretary of State of the State of New York is designated as the agent of the corporation upon whom process against the corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is:

John J. Carusone, Jr.
c/o The Corporation
491 Broadway
Saratoga Springs, New York 12866

TENTH: The subscriber is over twenty one (21) years.

IN WITNESS WHEREOF, the undersigned has hereunto subscribed this certificate and affirmed it as true under the penalties of perjury this 22nd day of February, 2001.


John J. Carusone, Esq.
491 Broadway
Saratoga Springs, New York 12866