

**JUNIPER ESTATES**  
**DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND LIENS**  
**BY**  
**ANDREA ESTATES DEVELOPMENT CORPORATION**

**Dated as of the \_\_\_\_\_ day of September, 2005**

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

THIS DECLARATION, is made by Andrea Estates Development Corporation, a Vermont corporation with a place of business at 115 Kylie's Way, Colchester, Vermont (hereinafter referred to as "Declarant").

R E C I T A L S

1. Declarant owns, a parcel of unimproved land adjacent to U.S. Route 7 South and Andrea Lane in Milton, Vermont, (the "Property") which is more particularly described as follows:

Being a portion of the land conveyed to Andrea Estates Development Corporation by Quitclaim Deed of Rodney Reynolds dated May 20, 1992, of record in Volume 140 at Pages 253-255 of the Town of Milton Land Records, and as more fully depicted on a plan of land entitled "Juniper Estates, 7 Lot Planned Residential Subdivision, Route 7 South and Andrea Lane - Milton, VT, Site Plan" by O'Leary-Burke Civil Associates, PLC dated August 14, 2003, last revised January 3, 2005.

2. Declarant intends to develop the Property into seven (7) detached single family residences and associated Common Areas and Common Facilities. This Property is not subject to the Common Interest Ownership Act because of the number of lots.

3. Declarant has established a nonprofit corporation to own the Common Areas and Common Facilities in the Development, including in particular, but not by way of limitation, the open space and private road depicted as Lauren Drive.

E S T A B L I S H M E N T :

Declarant hereby declares that the portions of the Property consisting of: (a) Lots 1-7 as shown on the Subdivision Plan referred to below; and (b) so much of the Property as is hereafter transferred and conveyed by the Declarant to Juniper Estates Homeowners Association, Inc., shall be subject to and be held, transferred, sold, conveyed, leased, occupied, and used subject to all of the terms and conditions of this Declaration, which shall run with the land and be binding on all parties, and their respective heirs, successors and assigns.

ARTICLE I  
Definitions

Section 1.1. Definitions. The following terms when used in this Declaration shall have the meanings set forth below:

1. "Assessments": The amounts assessed by the Association against the Members or Unit Owners from time to time as provided in the Bylaws.

2. "Association": Juniper Estates Homeowners Association, Inc., a Vermont nonprofit corporation, its successors and assigns.
3. "Bylaws": The Bylaws of the Association as amended from time to time.
4. "Common Areas": Those portions of the Land, or rights or interests therein, as are conveyed to and owned by the Association for the benefit and enjoyment of the Members of the Association, and their family, guests, invitees, and/or tenants.
5. "Common Expenses": All lawful expenditures made or incurred by or on behalf of the Association in administering its duties, including, but not by way of limitation, assessments for capital improvements and escrow accounts and reserves for maintenance, repair, replacement and other purposes approved by the Association.
6. "Common Facilities": Any structure, system, amenity, improvement, or item of personal property dedicated to the common use and enjoyment of all of the Unit Owners. The term Common Facilities does not include any such structure, system, amenity, improvement or item of personal property dedicated to the use and enjoyment of any one or more specific Units.
7. "Declarant": Andrea Estates Development Corporation, its successors and assigns.
8. "Declaration": This Declaration as amended from time to time.
9. "Development": The Juniper Estates Development in Milton, Vermont, as approved by the Town of Milton Development Review Board and the State of Vermont District Environmental Commission #4, as such approvals may be amended and supplemented from time to time.
10. "First Mortgagee": Any commercial or savings bank, savings and loan association, trust company, mortgage company, insurance company, private mortgage insurance company, pension fund, person, corporation, or business entity, including a corporation of or affiliated with the United States Government or any agency thereof, the Veterans Administration, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Federal Credit Union, Vermont Housing Finance Agency, and any other entities chartered under federal or state laws or agencies, which is the holder of any first mortgage lien, or the beneficiary under any first deed of trust encumbering a Unit. The term "Mortgage" shall be deemed to include both mortgages and deeds of trust.
11. "Land": So much of the Property as has been made subject to the terms of this Declaration, together with all improvements thereon and appurtenances thereto.
12. "Lot": A single family residential lot, upon which one (1) detached single family residence may be constructed.
13. "Member": The record owner(s) of a Lot.

14. "Required Number of First Mortgagees": The holders of notes which constitute at least sixty percent (60%) of the outstanding balances of all the notes secured by first mortgages on Units, whose prior written approval shall be required before undertaking certain actions by the Association, as more specifically set out in this Declaration and/or the Bylaws.

15. "Rules and Regulations": The provisions, covenants and limitations contained in this Declaration or adopted from time to time by the Board of Directors of the Association governing the use and occupancy of the Units and Common Areas and Common Facilities, and governing the behavior and obligations of the Unit Owners.

16. "Subdivision Plan": The final site plan approved by the Development Review Board for the Town of Milton and recorded at Map Slide \_\_\_\_\_ of the Town of Milton Land Records, as amended from time to time with the approval of the Milton Development Review Board.

17. "Unit": A Lot with a residence constructed thereon which is ready for occupancy.

18. "Unit Owner": The record owner(s) of fee simple title to a Unit.

## ARTICLE II Declarant's Reserved Rights

### Section 2.1. Reservation of Rights by Declarant.

Declarant reserves the following:

1. Such easements as the Declarant deems necessary: to modify and/or enlarge existing utilities, roadways, walkways and other improvements; to construct and install additional utilities, roadways, walkways and other improvements on, above, under, or through the Land which the Declarant deems necessary or desirable for the benefit and use of existing Units or future Units subsequently made part of the Development.

2. The right to display signs, to use any Unit as a model and/or sales office, and the right to rent any Unit which Declarant owns and which has not been sold.

3. The right, prior to sale thereof, to change, alter or modify the number, location, configuration, materials, architectural and engineering design, or size of Units and/or other improvements comprising part of the Development; provided, however, that no such change, alteration or modification shall be permitted to the extent that it would cause or authorize the construction of incompatible Units or other improvements of inferior workmanship and quality.

Section 2.2. Notice to Unit Owners. A Unit Owner, by acceptance and recordation of any instrument conveying or transferring title to or any interest in a Unit, and a First Mortgagee, by holding a mortgage secured by a Unit, shall be deemed to have been given notice and to have consented to all the rights and privileges reserved by Declarant in this Article II, including

specifically, but not by way of limitation, the right of Declarant, subject to the provisions of Section 2.3, to amend the Declaration.

ARTICLE III  
The Association

Membership in the Association, and the rights and duties of Owners and Members shall be as set forth in the Bylaws of the Association as in effect from time to time.

ARTICLE IV  
Covenant for Operating, Maintenance, Repair and Replacement Assessments

Section 4.1. Creation of a Lien and Personal Obligation for Assessments. Each Unit Owner, by the acceptance and recordation of a deed or other instrument transferring title to or any interest in a Unit, whether or not it be so expressed in such deed or instrument, shall be deemed to covenant and agree to pay to the Association all Assessments assessed in accordance with this Declaration and the Bylaws. Assessments, together with interest, costs and reasonable attorneys' fees, shall be a lien upon the Unit against or with respect to which each such Assessment was made, allocated or apportioned in accordance with the Bylaws, subordinate only, as to a Lot, to the lien of a first mortgage thereon. Each Assessment, together with interest, costs and reasonable attorneys' fees, shall also be the obligation of the Member against whom the Assessment was made.

Section 4.2. No Exemption. No Unit Owner shall be exempt from liability for Assessments by attempted waiver of the use or enjoyment of any of the Common Areas, by abandonment of a Unit, or by any other reason.

Section 4.3. Liability for Liens. Prior to or at the time of any conveyance of a Unit, all Assessments with respect to that Unit shall be paid in full to the Association. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid Assessments against or on account of the Unit through the time of recording of the instrument transferring ownership of the Unit. Any purchaser or holder of a mortgage on a Unit shall be entitled to a statement setting forth the amount of the unpaid Assessments against the selling Unit Owner within five (5) days following a written request therefor directed to the Association. Each First Mortgagee who comes into possession of a Unit through foreclosure (or by deed or assignment in lieu of foreclosure), or any purchaser at a foreclosure sale, shall take ownership of the Unit free and clear of all unpaid Assessments or charges against said Unit which had become due or were delinquent prior to the acquisition of title to such Unit by such First Mortgagee or foreclosure sale purchaser.

Section 4.4. Penalty. Any Assessment not paid within ten (10) days of its due date shall bear interest from the due date at the rate of one percent (1%) per month, or at such other rate as may be fixed by the Board of Directors from time to time, or in either event, at such lesser rate as is the maximum rate permitted by applicable law.

Section 4.5. Enforcement. The Association reserves the right to terminate or restrict any Unit Owner's right to use the Common Areas and Common Facilities, including in particular, but

not by way of limitation, the Unit Owner's right to use the Common Areas, for violation of or non-compliance with the terms of this Declaration or the Bylaws.

Section 4.6. Use of Assessments. Assessments levied and collected by the Association shall be used: to promote the recreation, health, safety and welfare of the Unit Owners; to meet all requirements for capital repairs, replacements and improvements; and to meet all other expenses and obligations incurred by the Association, including but not by way of limitation, management fees, administrative expenses, corporate fees, taxes, insurance premiums and costs of monitoring and other demands imposed or required by existing permits or approvals, or by subsequent amendments thereto.

Section 4.7. Capital Assessments. The Board of Directors may from time to time impose or assess one (1) or more Assessments to fund the cost of any construction, repair or replacement of any capital improvement located in the Common Areas or Common Facilities, including the private road, in accordance with the provisions of the Bylaws. Any proposed Assessment for a new capital improvement, rather than for the completion, repair or replacement of an existing capital improvement, shall require approval by the membership of the Association at a duly-warned meeting at which a quorum is present, by vote in favor by more than two-thirds (2/3) of the votes cast.

Section 4.8. Maintenance of Landscaping. The Board of Directors from time to time shall impose or assess such Assessments as may be required for the replacement of diseased trees, bushes or other landscaping required and approved as part of any Land Use Permit or other governmental permit or approval applicable to the Development.

Section 4.9. Street Lighting. The Board of Directors from time to time shall impose or assess such Assessments as may be required for payment and maintenance of the street lights.

## ARTICLE V

### Unit Owner's Rights and Obligations in the Common Areas

Section 5.1. Easement of Enjoyment. Each Unit Owner shall have a right and easement of enjoyment in and to the Common Areas and Common Facilities owned by the Association, which right and easement shall be appurtenant to and pass with the title to every Unit, subject to the following limitations, obligations and provisions:

1. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility or area situated or constructed in or on the Common Areas; and
2. The right of the Association to suspend or restrict the right of any Unit Owner or Member to use any of the Common Areas or Common Facilities for a period during which any Assessment against or on account of such Unit Owner's Unit remains unpaid, and for a period not to exceed ninety (90) days for any infraction of the Association's published Rules and Regulations.

Section 5.2. Use of Common Areas. The Common Areas shall be for the use and enjoyment of the Unit Owners, members of the immediate family of the Unit Owners, invitees or guests of Unit

Owners, or tenants or contract purchasers occupying a Unit, subject to such reasonable Rules and Regulations regarding the use of the Common Areas or Common Facilities as may be adopted by the Board of Directors of the Association from time to time. No use or practice shall be permitted in the Common Areas which constitutes a public or private nuisance. The Common Areas shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate. No immoral, improper, offensive or unlawful use of the Common Areas shall be permitted. No structure may be constructed on the Common Areas. Only passive recreation shall be allowed on the Common Areas.

## ARTICLE VI

### Water Supply System; Sewage Disposal

Section 6.1. Installation and Maintenance of Water System. The Declarant shall install and provide in accordance with all applicable governmental permits and approvals, and shall convey to the Town of Milton, the water supply system for each portion of the Property now or hereafter made subject to this Declaration.

Section 6.2. Sewage System. Each Lot shall have an individual on-site sewage disposal system, as approved by the Town of Milton and the State of Vermont.

Section 6.3. Easement for Installation, Maintenance, Repairs, Modifications and Replacements. Declarant hereby reserves for the benefit of the Declarant and its successors and assigns, including the Town of Milton, any public utilities and the Association, and does hereby specifically impose easements on, across, under and through the Land, for the installation, maintenance, repair, modification and replacement of all tanks, pipes, aqueducts, pumps, mains, conduits, hydrants and equipment necessary or convenient for the water supply system, the sewage disposal system or any other utility service, together with an easement and right to enter upon other portions of the Land for access to the water supply system and the sewage disposal systems for purposes of such maintenance, replacement, modification and repair, as long as the exercise of this easement does not unreasonably interfere with the enjoyment of any Unit.

Section 6.4. Town of Milton Not to be Responsible for Domestic Waste or Roads. At no time and under no circumstances shall the Town of Milton, without its express consent, become responsible in any way for the domestic wastes generated within the Development served by the central sewage systems, nor responsible in any way for the construction, operation, maintenance, repair and/or replacement of any collection, treatment and disposal systems or any component thereof. The Town of Milton shall not be responsible for the maintenance, repair and upkeep of Lauren Lane. The Association shall be responsible for the maintenance, repair and upkeep of the road.

## ARTICLE VII

### Permit Compliance

The Association shall take such steps as may be reasonably necessary to ensure continuing compliance with applicable provisions of the state and municipal permits and approvals issued in

connection with the Development and relating to use and occupancy of the Units, the Land, the Common Areas and the Common Facilities, as such permits and approvals are amended from time to time. Reference is specifically made to the terms and conditions of Land Use Permit #4C0905-1 dated February 1, 2005, as may be amended, Conditional Use Determination #2003-529 dated August 2, 2004, Authorization to Discharge Under General Permit #3-9015 dated October 5, 2004, Public Water System Permit to Construct Project #E-1581 dated October 19, 2004, and Wastewater System and Potable Water Supply Permit #WW-4-2184 dated March 18, 2005, as may be amended, which on the date hereof provide in part as follows:

1. Stump Disposal. All stumps must be disposed of in accordance with Land Use Permit #4C0905-1, as may be amended, and the Town of Milton Development Review Board Notice of Decision relative to final plat approval of Juniper Estates 7 Lot Planned Residential Subdivision. The disposal of stumps in any other location is specifically prohibited.

2. Water Conservation. All plumbing fixtures in all Units shall be water-conserving in nature, including but not limited to low-flush toilets, low-flush showerheads, and aerator-type or flow-restricted faucets. Each Unit Owner shall maintain the same in proper condition and repair at all times. Fixtures shall not exceed the following flows: toilets not to exceed 3.5 gallons per minute, faucets with flows not to exceed 3.0 gallons per minute and showerheads not to exceed 3.0 gallons per minute.

3. Archaeologically Sensitive Areas. Any type of disturbance of any archaeologically sensitive area forming a part of the Land is strictly prohibited. Specific reference is made to paragraphs 27, 28, 29, 30, 31, 32 and 33 of Land Use Permit #4C0905-1 as to Lot 5 restrictions.

4. Lot 1 Austrian Pines. A row of Austrian Pines shall be maintained on Lot 1 as outlined on the Juniper Estates Site Plan, the purpose of which is to screen the dwelling house on Lot 1 from U.S. Route 7. The Association shall be responsible for the maintenance, replacement and upkeep of the Austrian Pines.

5. Lots 3, 4 and 5 Fences. Wood rail fences shall be maintained on Lots 3, 4 and 5 as outlined on the Juniper Estates Site Plan. The purpose of the fences is to delineate the limits of the wetland buffer on Lots 3, 4 and 5 and the no disturbance area on Lot 5. The Association shall be responsible for the maintenance, repair, upkeep and replacement of the fences.

6. Outdoor Lighting. All outdoor lighting shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view substantially beyond the perimeter of the area to be illuminated, and shall be mounted on poles not taller than 20 feet high. Other exterior lighting fixtures, including yard lights, are specifically prohibited with the exception of building-mounted entry lights. Spot lights shall be prohibited on the back yards of Lots adjacent to or bordering Route 7, Milton, Vermont.

7. Development Landscaping. The Unit Owners and the Association shall continually maintain the landscaping within the Development substantially as approved in Land Use Permit

#4C0905-1, as may be amended, and Town of Milton final plat approval, including replacing any dead or diseased plantings as soon as reasonably possible.

8. Envelope and Structure Insulation; Electric Space Heating Prohibition. All heated structures erected within the Development shall be constructed with insulation with an R-Value of at least R-19 in the exterior walls, at least R-32 in the cathedral ceilings and at least R-38 in the remainder of the roof or cap and at least R-10 thermally sealed around the foundation or slab, the doors shall be a minimum of R-10 and with at least double-glazed windows of R-2.75. The installation or use of electric space heating is specifically prohibited.

9. Space and Water Heating Measures. All space and water heating measures within heated structures within the Development shall meet the following standards:

(a) Oil or Gas Heating Systems. Oil or gas heating systems should have a minimum Annual Fuel Utilization Efficiency (AFUE) of 80%.

(b) Water or Heating Systems. Water or heating systems should have a minimum energy factor (E.F.) of:

- i: Gas: E.F.=.62 minus (.0019 x rated storage volume in gallons); and
- ii: Oil: E.F.=.59 minus (.0019 x rated storage volume in gallons).

(c) Thermostats. Installation of automatic thermostats.

(d) Wood Stoves. Wood stoves should meet the 1990 EPA Phase II standards.

(e) Fireplaces. Fireplaces should include a means, such as glass doors, to prevent excessive infiltration and exfiltration.

10. Miscellaneous. Open burning within the Development is prohibited; the Association shall be obligated for the continual maintenance, repair and replacement of all common utilities within the Development; the Open Space outlined on the Juniper Estates Site Plan shall be continually maintained as undisturbed open land without proper state and local and federal approval and no trees with a diameter greater than four inches (4") shall be cut outside the approved construction areas on any Lots.

## ARTICLE VIII Covenants and Restrictions Applicable to Lots

Section 8.1. General Covenants. In order to insure the use of the Lots for attractive residential purposes only, to prevent nuisances, and to secure to each owner of a Lot the full benefit of a planned development, Declarant does hereby declare the following protective covenants, conditions, and restrictions shall apply to each and every Lot.

1. Residential Use. Each Lot is to be for permanent single-family purposes only. This covenant in no way restricts an Owner's right to rent a Unit as a single family residence except that all such rentals shall be evidenced by a written lease which must be for a minimum term of thirty (30) days. No building or structure intended for or adapted to business, commercial or industrial purposes, and no apartment house, lodging house, rooming house or other multiple family (two (2) units or more) dwelling shall be erected, placed, permitted or maintained on a Lot or any part thereof. This paragraph shall not prohibit customary home occupations, except that no wholesale or retail sale of any products of a home occupation shall be conducted on any Lot. No improvements or structures whatsoever, other than a private dwelling house, patio, walls and fences, swimming pool, customary outbuildings and garage may be erected, placed or maintained on any Lot. Each Lot shall have not more than one outbuilding exclusive of the garage.

2. Size Restrictions. The minimum ground floor living area, exclusive of one (1) story porches and garages for a (1) one story dwelling, shall be one thousand five hundred (1,500) square feet. Two (2) story homes shall have a minimum ground floor living area of eight hundred sixty-four (864) square feet. Each dwelling shall have an attached garage at least eighteen feet (18') by twenty-four feet (24') attached on either end. The long dimension of all dwellings shall be parallel to the street, unless otherwise approved in writing by the Architectural Committee.

3. Limitation On Habitation. No outbuilding, garage, shed, tent, trailer, mobile home or temporary building of any kind shall be erected, constructed, permitted or maintained prior to commencement of the construction of the residence, and no outbuilding, garage, shed, tent, trailer, mobile home, basement or temporary building shall be used for permanent or temporary residence purposes. This covenant shall not prohibit the use of a construction trailer on a Lot during construction of the residence.

4. Occupancy. No permitted private or single family dwelling house erected upon any Lot shall be occupied during the course of construction, nor at any time prior to its being fully completed as herein required; nor shall any residence, when completed, be in any manner occupied unless in complete compliance with all covenants, conditions, reservations and restrictions herein set forth. All construction shall be completed within six (6) months from the start thereof except in the instance where construction cannot be completed within said time frame due to strikes, delays occasioned by Declarant, material shortages, casualties or acts of God. This paragraph shall not require that all interior finishing must be completed within the aforementioned six (6) month time period, but all exterior work, including but not limited to shell, chimney, roof, porches, steps, decks, windows, doors, garages, siding and landscaping must be completed within such period. If the application of said time frame to landscaping is inappropriate because of weather conditions, then the landscaping shall be completed as soon as practicable during the subsequent spring season.

5. Grading and Drainage. The grading and/or drainage patterns of any Lot in the subdivision shall not be altered.

6. Garages. Garages shall be for the use only of the occupants of the residence to which they are appurtenant, and shall be attached to such residence.

7. Offstreet Parking. At the time a permanent dwelling is built on a lot, adequate off-street parking for at least three (3) cars shall be provided on the lot. Only registered vehicles are allowed on the lots. Any boats or recreational vehicles have to be parked either in a garage or in the back of the house out of sight from the street.

8. Tanks, Etc. No elevated tanks of any kind shall be erected, placed or permitted on any part of any Lot. Any tanks for use in connection with any residence constructed on such premises, including tanks for the storage of fuels, must be buried or screened sufficiently to conceal them from the view of neighboring Lots, roads or streets.

9. Garbage and Rubbish. All garbage and rubbish shall be kept in sanitary containers and there shall be no dumping on any part of a Lot and no incineration. Sanitary containers shall be stored in the garage of all Units.

10. Landscaping. Grading, seeding and planting on each Lot shall be extended to the rear line and sidelines of such Lot and in the front to the street line. Maintenance of the property between the street line and the front line of a Lot shall be the responsibility of the owner of the Lot. All Lots shall be mowed and kept in a neat, trimmed manner regardless of whether the Lot is vacant or has a house constructed upon it. If a Lot is vacant and the owner fails to mow and maintain same, the Association shall have the right, but not the duty, to cause such mowing or maintenance to be performed and to be promptly reimbursed by the owner of such Lot for the costs thereof, plus a reasonable charge for the administrative and managerial efforts of the Association.

11. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept provided they are not kept, bred or maintained for any commercial purposes, and do not become a nuisance, annoyance or danger to any Unit Owner.

12. Utility Lines. All electrical, telephone, cable television and other utility or transmission lines shall be placed underground.

13. Nuisances. No Lot shall be used in whole or in part for the storage of rubbish, trash or scrap of any character whatsoever; nor shall any substance, item or material be kept upon any Lot that will emit foul or noxious odors or cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding Units.

14. Signs. No billboards or advertising signs of any character shall be erected, placed, permitted or maintained on any Lot or on the residence or other structures located thereon, except that an owner of a Lot or his/her agent may erect or display one (1) sign of not more than six (6) square feet advertising the Lot for sale. All signs must comply with applicable state law and regulations and local regulations.

15. Commercial Vehicles. No commercial vehicles or construction or like equipment of any kind shall be maintained on any Lot, other than in the course of construction, unless kept in a completely enclosed garage.

16. Clotheslines. Clotheslines shall be located so they will not be visible from the street serving the Lot, and shall be located to the rear of the residence.

17. Swimming Pools. Any swimming pool constructed on a Lot shall be completely enclosed by a minimum four feet (4') high self closing and latching chain-link fence with locked gate. Swimming pools shall be located no closer to the front Lot line than the front wall of the residence on said Lot.

18. Buffer Zone. No structure shall be built within the area designated as “70' wide buffer” on the Juniper Estates Site Plan.

Section 8.2. Enforcement. Should the Association employ counsel in order to enforce any of the foregoing covenants, conditions, reservations, restrictions or obligations, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the owner of such Lot or Lots found to be in violation by a court of competent jurisdiction. No delay or omission on the part of the Association in exercising any right, power or remedy herein provided for in the event of any breach of the covenants, conditions, restrictions and obligations herein contained shall be construed as a waiver thereof or acquiescence therein. No right of action shall accrue, nor shall any action be brought or maintained by any Unit Owner against Declarant for or on account of its failure to bring an action on account of any breach of these covenants and condition, nor for imposing covenants and restrictions which may be found or determined to be unenforceable at law.

## ARTICLE IX Architectural Control

### Section 9.01. Architectural Control.

1. No building, fence, wall or other structure shall be commenced, erected or maintained upon a Lot, nor shall any addition to or external change or alteration therein be made until the plans, elevations and specifications showing the nature, kind, shape, height, materials, floor plan, location and grading changes shall have been submitted to and approved in writing by the Architectural Committee.

2. The Architectural Committee will have the unrestricted right to refuse to approve any such plans, specifications or grading plans which in its opinion do not conform with the provision or intent of this Declaration. The Architectural Committee shall have the further right, in passing upon such plans, to consider the continuity of the proposed building, fence, wall or other structure and site plan with adjacent or neighboring structures and the materials of which it is to be constructed.

3. The Architectural Committee shall have three (3) members. The initial members shall be appointed by the Declarant.

4. Approval or disapproval by the Architectural Committee as required by these covenants will be in writing. In the event the Architectural Committee fails to approve or disapprove within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and the related covenants will be deemed to have been fully complied with. The conveyance of a Lot with newly constructed house thereon by the Declarant or Wedgewood Development Corporation shall be deemed approval by the Architectural Committee.

5. Any written approval by the Architectural Committee shall be presented to the Town of Milton Zoning Administrator simultaneously when applying for a Town Zoning Permit.

## ARTICLE X

### Amendment to or Termination of the Declaration

Section 10.1. General. The terms and provisions of this Declaration shall run with the land and be binding upon the Declarant and all subsequent Unit Owners. Except as limited hereinafter, this Declaration may be amended by the Declarant or, after the Members have acquired voting rights in accordance with the Bylaws, upon the affirmative vote of at least two-thirds (2/3) of the voting power of the Members of the Association. No amendment shall alter any duty or restriction existing under any applicable governmental permit or approval unless the authority issuing such permit or approval shall consent thereto in writing.

Section 10.2. Right Reserved in Declarant. The Declarant, for so long as the Declarant retains ownership of any portion of the Development, may unilaterally amend this Declaration in accordance with the provisions of Article II, and also may unilaterally amend this Declaration to satisfy and meet any requirement of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Agency of Natural Resources, the Vermont Housing Finance Agency, or the Town of Milton.

Section 10.3. First Mortgagee Approval Required as to Certain Amendments. With respect to certain proposed amendments to this Declaration which could have significant impact upon the rights and security of First Mortgagees, in addition to such an amendment receiving the approval of Unit Owners required in Section 9.1, the amendment also shall require the approval in writing of the Required Number of First Mortgagees. The amendments which would be deemed to have a significant impact upon the rights and security of a First Mortgagee are as follows: (a) a change in voting rights of Unit Owners other than provided for in this Declaration; (b) a change in the manner Assessments are allocated or an alteration in the existing priority of first mortgage liens over Assessments; (c) alteration or elimination of the requirements for assessment of reserves for maintenance, repair, monitoring and replacement of Common Areas and the improvements located thereon; (d) sale, transfer, abandonment, partition, subdivision or alienation of the Common Areas, or alteration in the use of the Common Areas; (e) change in responsibility for maintenance and repairs; (f) changes in boundaries of any Unit, Lot, or the Common Areas, (g) changes in any insurance or fidelity bonds; (h) changes in the terms required for leasing a Unit; (i) increasing the number of Units to more than seven (7); (j) removal of Land from the Development; (k) imposition of restrictions on a Unit Owner's rights to sell, transfer or alienate a Unit; (l) restoration of the

Development after casualty damage or partial condemnation in a manner other than restoring or repairing the Development to its condition existing prior to said casualty or condemnation; (m) any amendment or action that would effectively terminate this Declaration; (n) any decision by the Association to establish self-management when professional management had been previously required by a First Mortgagee; or (o) a change in any provision of this Declaration which expressly benefits First Mortgagees.

Section 10.4. Conditions to Termination. No termination of this Declaration will be effective unless adequate substitute arrangements have been made to maintain and operate the sewage disposal systems, and to ensure compliance with the terms and provisions of all applicable permits and approvals issued by the State of Vermont District Environmental Commission and the Town of Milton. Termination also shall require the written approval of the Required Number of First Mortgagees.

1. If any covenant, condition, restriction or obligation of this Declaration, or this Declaration itself, is determined to be illegal and/or unenforceable because of its perpetual nature, then such covenant, condition, restriction or obligation, or this Declaration itself, shall be deemed to run with and bind the Land for a term of forty (40) years from the date of execution of this Declaration, and shall thereafter be deemed to automatically be extended for successive periods of ten (10) years each unless terminated as provided in this Section 9.4.

2. Upon termination, the Common Areas shall be deemed to be owned by the Unit Owners as tenants in common, each to hold an undivided interest proportional to the share of Assessments for which such Unit Owner is responsible under the Bylaws, and in the event of a sale of any or all of the Common Areas the net proceeds shall be paid to each Unit Owner and such persons or entities as may have or claim any interest in such Unit Owner's interest in a Unit, in proportion to such Owner's proportionate undivided interest.

Section 10.5. Compliance. Each Unit Owner shall be governed by and shall comply with the terms of this Declaration, the Bylaws of the Association, and any resolution, Rules and Regulations or other restrictions promulgated by the Association. A Unit Owner shall be liable for any expense incurred for maintenance, repair or replacement rendered necessary by a Unit Owner's act, negligence or carelessness, or by the act of any member of a Unit Owner's family, guests, invitees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. In addition to any and all remedies provided by law, this Declaration or the Bylaws, the Association, acting through its Board of Directors, shall be entitled to the following relief:

1. The right to impose a reasonable fine for any violation of the Declaration or the Bylaws, which fine shall be a continuing lien against the Unit of the defaulting Unit Owner and shall be enforceable in the manner provided by the laws of the State of Vermont, this Declaration and the Bylaws.

2. The right to abate, enjoin or remedy the continuance of any violation of this Declaration by appropriate legal proceedings, either in law or in equity, including, without

limitation, an action to recover any sums due for money damages, injunctive relief, or foreclosure of the lien for payment of Assessments, or any combination thereof. Said remedies shall be cumulative and shall not constitute an election of remedies.

ARTICLE XI  
Rights of First Mortgagees

Section 11.1. General Rights to Notice. Any First Mortgagee may send the Association a written request pursuant to this Section 10.1, identifying the First Mortgagee's name and address and the Unit against which it holds a first mortgage lien. Thereafter, the Association shall be obligated to send said First Mortgagee timely written notices as to any of the following: (a) any condemnation loss or casualty loss which materially affects the financial condition of the Development or any Unit; (b) any delinquency in the payment of Assessments or other charges by a Unit Owner of a Unit subject to a first mortgage, which delinquency remains uncured for a period of sixty (60) days; (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (d) any proposed amendment or termination which needs the approval of the Required Number of First Mortgagees.

ARTICLE XII  
Miscellaneous

Section 12.1. Conflict. In the event of any conflict between the terms of this Declaration and the terms of the Bylaws, the provisions of this Declaration shall control.

Section 12.2. Severability. In the event any provision of this Declaration is deemed invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provision hereof.

Section 12.3. Waiver. No restriction, condition, obligation, or provision of this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce it.

Section 12.4. Captions. The captions in this Declaration are for purposes of reference only and shall not limit or otherwise affect the meaning thereof.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the \_\_\_\_\_ day of September, 2005.

Declarant: ANDREA ESTATES DEVELOPMENT  
CORPORATION

By: \_\_\_\_\_  
Guy L. Babb, its Duly Authorized Agent

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

At South Burlington, in said County and State, this \_\_\_\_ day of September, 2005, personally appeared Guy L. Babb, Duly Authorized Agent of ANDREA ESTATES DEVELOPMENT CORPORATION, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of ANDREA ESTATES DEVELOPMENT CORPORATION.

Before me, \_\_\_\_\_  
Notary Public  
My Commission Expires: 02/10/07

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