



**DUNSTAN CROSSING HOMEOWNERS ASSOCIATION
DECLARATION of COVENANTS, CONDITIONS and RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made by **CHAMBERLAIN CONSTRUCTION, INC.**, a Maine corporation doing business as Chamberlain Homes (hereinafter referred to as "Developer").

WHEREAS Developer owns real property located in the Town of Scarborough, Maine described in **Exhibit A** attached hereto (the "Property") which initially forms the Property subject to this Declaration consisting of Lots #42 through #59 inclusive shown on Plans entitled First Amended Subdivision Plan for Dunstan Crossing made by Sebago Technics, Inc. and recorded in the Cumberland County Registry of Deeds in Plan Book 207, Pages 234 - 238 as they may be amended from time to time with the approval of the Town of Scarborough (the "Master Subdivision Plat"), and Developer also has an option to purchase certain additional real estate described in **Exhibit B** attached hereto (the "Additional Property") which may be subsequently submitted to this Declaration and upon submission shall then become a part of the Property;

WHEREAS Developer has established the Dunstan Crossing Homeowners Association as a non-profit corporation (the "Homeowners Association") to assist in the administration and enforcement of this Declaration and to assist in the administration of the single family lots within the Property; and

WHEREAS Developer desires to provide for the development of the Property as an integrated neighborhood as a component of the Dunstan Crossing Master Declaration of Covenants, Conditions and Restrictions dated May 17, 2007 as recorded in the Cumberland County Registry of Deeds as it may be amended in accordance with its terms (the "Master Covenants"), pursuant to which this Declaration is a "Neighborhood Declaration";

WHEREAS pursuant to the Master Covenants, Developer has established the Dunstan Crossing Master Association to administer and enforce the Master Covenants; and

WHEREAS pursuant to these Bylaws, the Master Covenants and the Master Covenants, the Developer desires (i) establish the rights and obligations of Lot owners and the Association, (ii) to provide for reciprocal easements, covenants and restrictions applicable to the Property, (iii) to provide specifications and guidelines for the design, construction, operation, maintenance, use and enjoyment of buildings, structures, infrastructure or other improvements on the Property, (iv) to provide a means for the Dunstan Crossing Master Association to administer certain aspects of the development not otherwise provided for by the Homeowners Association, and (v) to provide mechanisms for the allocation of costs incurred by the Homeowners Association and Master Association and enforcing and administering the provisions of this Declaration and the Master Covenants.

NOW, THEREFORE, Developer hereby declares that the Property described in **Exhibit A** and any portion of the real estate described in **Exhibit B** which is subsequently subjected by the Developer to this Declaration from time to time as additional Property pursuant to a supplement

to this Declaration shall be held, occupied, used sold, conveyed and leased subject to and with the benefits of the perpetual easements, restrictions, covenants, liens and conditions set forth in this Declaration, all for the purpose of advancing the purposes described herein, which shall run with the title to the Property and be binding upon all parties having any interest in the Property or any portion thereof, their successors and assigns, and shall inure to the benefit of each Owner, the Developer, the Master Association and the Homeowners Association as defined herein.

This Declaration does not create a condominium under the Maine Condominium Act, 33 M.R.S.A. Section 1601-101 et seq.

ARTICLE I **DEFINITIONS**

All capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Covenants. In the event of any conflict between the terms of this Declaration and the Master Covenants, the later shall control.

"Articles of Incorporation" or **"Articles"** shall mean and refer to the Articles of Incorporation of the Homeowners Association filed with the Maine Secretary of State.

"Bylaws" shall mean and refer to the Bylaws of the Homeowners Association attached hereto as **Exhibit C**, as they may be amended from time to time.

"Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions applicable to the Property and as recorded in the Cumberland County Registry of Deeds, as the same may be amended from time to time.

"Developer" shall mean and refer to Chamberlain Construction, Inc., a Maine corporation doing business has Chamberlain Homes, its successors and assigns, provided that in order for a successor or assignee to be considered the "Developer" hereunder, as a part of the transfer to such successor or assignee, the Developer shall expressly transfer to such party Developer's Rights hereunder.

"Lot(s)" shall mean and refer to the initial 18 Lots as shown on the Master Subdivision Plat, and the Lots in any Additional Property which may be subsequently subjected to this Declaration by a recorded instrument.

"Master Covenants" shall have the meaning set forth above.

"Neighborhood Common Areas" shall mean and refer to certain portions of the Property, if any, which may be subsequently designated by Developer for the exclusive use and/or benefit of the Lots, and all costs associated with maintenance, repair, replacement and insurance of Neighborhood Common Areas shall be assessed as a Neighborhood Assessment against the Lots and the Owners of Lots. Initially there are no Neighborhood Common Areas established hereunder. The Association may elect to have the Master Association administer the Neighborhood Common Areas as hereinafter provided.

"Neighborhood Expenses" shall mean and include the actual and estimated expenses of

the Homeowners Association and expenses incurred for the benefit of the Lots, which may include a reasonable reserve for capital repairs and replacements, all as may be set forth in this Declaration or the Master Covenants and by the Homeowners Association's Board of Directors as more particularly provided herein.

"**Owner**" shall mean and refer to the record owner(s) of a fee simple title to any Lot, and of Additional Property which subsequently becomes a Lot subject to this Declaration, but excluding those having such interest merely as security for the performance of an obligation.

"**Property**" initially means each of the Lots as defined above and the Neighborhood Common Areas, if any. The Property may be expanded from time to time to include any other property described in Exhibit B which has been subsequently added (herein the "Additional Property"); provided however, that any such Additional Property shall only become subject to and entitled the benefits of this Declaration upon an amendment executed by the Developer and the owner of the Additional Property and duly recorded expressly making such Additional Property subject to the terms hereof, and that such property may not have the configuration set forth in the Master Subdivision Plat.

ARTICLE II EASEMENTS AND RIGHTS

Section 2.1. Owners' Easements. The Owners shall have all the easements over the Master Common Areas as forth in the Master Covenants, subject to the covenants, limitations and restrictions set forth therein including without limitation the easements and rights held by the Master Association.

Initially there are no Neighborhood Common Areas.

Section 2.2. Easements. Each Lot and the Neighborhood Common Areas located within the Property, if any, are subject to an easement in favor of the Homeowners Association and the Master Association and its designated agents, employees, servants and contractors (i) for inspection of the Lot in order to verify the compliance with the terms of this Declaration and the Master Covenants, (ii) for performing such construction, inspection, maintenance, repair, correction and replacement of the Master Common Areas and the Neighborhood Common Areas, (iii) the installation, maintenance, repair and replacement of all utilities and drainage facilities shown on the Master Subdivision Plat and the Master Schematic Plan or as actually installed, and (iv) for performing such inspection, maintenance, repair, correction of emergency conditions on and replacement of the Master Common Areas and Neighborhood Common Areas, and to otherwise perform or comply with applicable Governmental Requirements.

The Homeowners Association and its agents, employees, servants and contractors shall seek to reasonably minimize any interference with a Lot resulting from the exercise of any rights it may have pursuant to this Section. Promptly upon completing any such construction, any portion of the Lot disturbed by any such construction shall be promptly restored.

Section 2.3. Other Shared Easements.

A. Drainage. Subject to the Master Subdivision Plat, the Master Schematic Plans, the Governmental Requirements and Governing Documents Each Lot and Neighborhood Common Area respectively shall have the benefit of an easement in common with others over each Lot, the Master Common Areas and Neighborhood Common Areas through the drainage areas and facilities depicted on the Master Subdivision Plat and Master Schematic Plans and over the surface of the earth generally for surface water drainage from natural water flow and for the artificial collection and diversion of surface waters which may occur as a result of improvements constructed within a Lot and Neighborhood Common Area, including, without limitation, building and building expansion, curbs, drives and paving, and sidewalks, provided however that any alternation of the surface of the Master Common Areas shall be subject to the approval under the design review process set forth in the Master Covenants unless shown or referred to in the Master Schematic Plans.

B. Grading. Each Lot and Neighborhood Common Area within the Property shall be and is hereby made subject to an easement in favor of the Master Association to enter upon each such Lot and Neighborhood Common Area to grade the land adjoining any of the Master Common Areas including without limitation the streets, alleyways and sidewalks or any one or more of the detention or retention ponds and facilities, to construct of improvements as shown on the Master Schematic Plans, to correct any drainage problems, to satisfy any slope or grading requirements of any applicable Governmental Requirements, to conform to the Master Schematic Plans and/or to conform with good road construction practice or industry standards. Such easement shall include without limitation the right to excavate, pave, place fill material, loam and seed and other necessary incidental work.

C. Project Phases II, III and IV. Neither the recording of the Master Subdivision Plat nor the reference to them in this Declaration shall establish any rights in Project Phases II, III and IV retained by Raynan Properties LLC, whether by implication or otherwise, and all rights to Project Phases II, III and IV are hereby reserved.

Section 2.4. Developer's Rights and Easements.

A. General. Without limiting the rights set forth in other portions of this Declaration and in the Master Covenants, subject to applicable Governmental Requirements the Developer shall have the unilateral rights from time to time: (i) to subject all or portions of the Additional Property described in Exhibit B to this Declaration by Supplemental Declaration(s) recorded in said Registry of Deeds; (ii) to create Lots and Neighborhood Common Areas within the Property and the Additional Property, which may have configurations different than those shown on the Master Subdivision Plat; and (iii) to alter, expand and establish such additional Lots, Neighborhoods, Neighborhood Common Areas, Master Common Areas and Neighborhood Associations within the Property. Developer shall not be obligated to add such Additional Property.

B. Reservation of Title and Conveyance. The Developer reserves the fee title to the roads, streets, alleyways and other Neighborhood Common Areas and Master Common Areas, notwithstanding their depiction on the Master Subdivision Plat. Developer may from time to time unilaterally convey to the Homeowners Association, the Master Association, the Town, a public utility, and/or to such other persons designed by the Town all or any portion of the streets,

alleyways and other Neighborhood Common Areas owned by the Developer, now existing or hereafter created.

C. Grant of Easements and Withdrawal. Until the construction, marketing and sale of all Lots is completed, including any future Lots which may be created on the Property and Additional Property, Developer may its sole discretion, exercised from time to time:

- i) Exercise all rights established or reserved under the Master Covenants;
- ii) Based on land use approvals received to date, to create up to a total of 125 Lots on the land described in Exhibits A and B, including without limitation the 18 Lots on the land described in Exhibit A, or up to a total of 280 Lots as may be approved on the land described in Exhibits A and B pursuant to amendments to approvals to be obtained in accordance with Governmental Requirements.
- iii) subject to satisfaction of all Governmental Requirements, to change the size, number and location of Lots and other improvements and the size layout and location of any Lots, excepting any Lots which has been sold or for which a signed purchase and sale agreement is then pending unless the owner or purchaser consents. The change or changes shall be effective upon the recording of an amendment to this Declaration (which change shall require the consent of Developer only, and, if applicable the Lot owner and purchaser) and/or the filing of modified Master Subdivision Plat indicating the changes made. Such changes may include elimination, reconfiguration or relocation of Lots and creation of new or additional, easements streets or roads for access to other property, whether or not the same is part of the Property.
- iv) locate in the Neighborhood Common Areas, and on any Lots of the Property, even though not depicted on the Plat and Plans, and grant, alter and reserve easements and rights-of-way for the installation, maintenance, repair, replacement and inspection of public utility lines, wires, pipes, conduits and facilities servicing the Property including, but not limited to, water, electric, telephone, cable television, fuel, sewer, and surface and subsurface drainage, provided however that no such easement shall be effective until of record, that no such easements may be granted through Lots sold by Developer to third parties and that the Lots, Neighborhood Common Areas and Master Common Areas shall be promptly restored upon installation and repair;
- v) install, connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes, provided that Developer shall be responsible for the cost of services so used;
- vi) use the Neighborhood Common Areas for ingress and egress, for the construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Lots and Neighborhood Common Areas including without limitation the movement and temporary storage of construction materials and equipment, the right of vehicular and pedestrian access, the right to park motor vehicles, and for the installation of signs and lighting for sales and promotional purposes;

- vii) operate and relocate construction, sales, leasing and management offices; permit prospective tenants, purchasers, lenders, appraisers, and others to visit the offices and use the Neighborhood Common Areas, and use unsold Lots for construction, sales, leasing and display purposes;
- viii) appoint and remove members of the Board of Directors and Officers of the Homeowners Association in accordance with this Declaration and the Articles of Incorporation of the Homeowners Association until the expiration of the Developer Control Period as hereinafter provided;
- ix) remove portions of the Property then owned by such Developer from the provisions of this Declaration or any Supplemental Declaration, and may, provided, however, that withdrawal shall not be permitted with respect to Property conveyed to Persons who are not Developers, and any such property may be subsequently resubmitted to this Declaration; and
- x) enter into the Neighborhood Common Areas to perform corrective or warranty-related work, whether for the benefit of the Lot or any other Lot, the Neighborhood Common Element or Master Common Areas, provided that reasonable notice of entry into any Lot shall be given except in an emergency.

(collectively together with all other rights of the Developer set forth or referred to herein, the "Developer's Rights").

No changes shall be made to the Master Subdivision Plat unless any applicable Governmental Approvals are received to the extent applicable. No real estate owned by the Master Association or owned by the Homeowners Association may be so removed pursuant to this Section.

Section 2.6. Assignment of Developer's Rights. Any or all of Developer's Rights created by this Declaration or created by any Supplemental Declaration may be assigned in whole or part to any other person, provided that no such voluntary transfer shall be effective unless executed in a writing signed by Developer and its assignee and duly recorded in said Registry of Deeds.

An assignor may retain certain Developer's Rights, while transferring to other Developer's Rights to an assignee other rights and such assignee shall not be liable any obligations and liabilities relating to the assigned rights arising after the transfer. An assignor has no liability for any act or omission or any breach of an arising from the exercise of Developer's Rights by a successor Developer who is not an affiliate of the assignor.

Section 2.7. Amendment. This Article shall not be amended without the written consent of Developer. Developer may from time to time voluntarily waive and release all or portions of the foregoing Developer's Rights from time to time by written instrument duly recorded.

ARTICLE III

MEMBERSHIP, DEVELOPER CONTROL AND VOTING RIGHTS

Section 3.1. Membership. Each Lot owner and the Developer (subject to the provisions set forth below) shall each be members of the Homeowners Association and have the number of votes in the Homeowners Association as set forth in the Articles of Incorporation.

Section 3.2. Voting. In accordance with the Articles of Incorporation the Master Association shall have two (2) classes of members, Class A and Class B, defined as follows:

(a) Class A Members. The Class A Members shall consist of the owners of each Lot. Initially the Class A Members have no votes. Once the Developer Control Period expires, each Lot which is obligated to pay Neighborhood Assessments shall have one vote in the Homeowners Association.

(b) Class B Member(s). The Class B Member(s) shall be the Developer. The Class B Member(s) shall have ten (10) votes. The rights of the Class B Members shall include without limitation the right to approve actions of the Homeowners Association taken under the Declaration and the Bylaws, and to appoint and remove the members of the Board of Directors during Developer Control Period established under this Declaration, which shall be a component of the Developer's Rights hereunder. After termination of Developer Control Period, the Class B Member(s) shall have the right to disapprove actions of the Board of Directors, the Design Review Board and any committees, all until the Class B membership terminates upon the sale of the last Lot hereunder. The Class B Member(s) may voluntarily relinquish any or all of the foregoing rights from time to time by an instrument signed by all Class B Members and recorded in said Registry of Deeds.

If there is more than one Class B Member, then the Class B Votes shall be allocated based on the ratio of (a) the number of existing and potential approved residential Lots located on portions of the Property controlled or owned by such Developer which have been or may be created on the Property in accordance with the Master Subdivision Plat (even if a Lot consists only of an unimproved lot of land or, for a condominium, has not been legally created) to (b) the total number of such residential Lots. Within the Class B Members, decisions shall be made by majority Vote.

The Class B Membership shall terminate upon the earlier of:

- (i) sixty (60) days after the expiration of Developer Control Period under this Declaration; or
- (ii) as of the specified effective date of when Developer(s) surrenders its Class B Membership in whole or part as evidenced by an instrument signed by all Developers recorded in said Registry of Deeds specifically referring to these Articles.

Developer at all times shall be entitled to cast the votes allocated to its Lots in any Homeowners Association and act on behalf of the Homeowners Association in the same manner as any other Member, even after the expiration of Developer Control Period hereunder or under the Homeowners Association's governing documents or after the expiration of Developer Control Period. Developer may also independently exercise all rights it holds for any Homeowners Association including, without limitation, the right to appoint that Homeowners Association's

voting Members within the Master Association during its Developer Control Period for that Homeowners Association.

Section 3.3. Developer Control. As one of the Developer's Rights, the Developer shall have the right to appoint, remove and replace the Directors and Officers of the Homeowners Association until the first meeting of Members following the conveyance to a non-Developer of ninety percent (90%) of the all the approved Lots that Developer has the right to create within the land described in Exhibits A and B, which presently consist of up to 125 approved single family Lots based on existing governmental approvals but may include up to a total of 280 Lots.

Article IV **MAINTENANCE**

Section 4.1. Association's Responsibility. Generally the Master Association shall maintain and repair the Master Common Areas in accordance with the Master Covenants and allocate costs in accordance with the Master Covenants.

Section 4.2. Homeowners Association Responsibilities. Generally the Homeowners Association shall maintain and repair the Neighborhood Common Areas, if any, following their substantial completion by Developer, which maintenance shall be funded as set forth herein. Such maintenance shall include, but shall not be limited to, maintenance, repair, replacement, and improvement of all Structures, buildings, parking areas, drives, improvements and landscaping forming a part of the Neighborhood Common Areas, subject to the terms of this Declaration.

Upon request of the Homeowners Association, the Master Association may assume all or a portion of such responsibilities of the Homeowners Association set out in this Declaration or in any Supplemental Declaration. In such event, all direct and indirect costs thereof shall be assessed by the Master Association against the Lots in such Neighborhood as a Neighborhood Assessment allocated in accordance with this Declaration.

As set forth in the Master Covenants if in the reasonable opinion of the Master Association's Board, the level and quality of maintenance, repair, services or insurance then being provided by the Homeowners Association is unsafe or is not in keeping with the standard of the Property and such condition is not cured upon reasonable written notice of default, the Master Association Board may, in its discretion, assume such maintenance, service or insurance responsibilities as it deems necessary, in such Board's reasonable discretion, without the necessity of the Homeowners Association's vote or approval, and allocate the direct and indirect expenses thereof as a Neighborhood Assessment. The Master Association shall afford the Homeowners Association reasonable notice and an opportunity to cure any deficiencies prior to assuming such responsibility itself.

Section 4.3. Owner's Maintenance Responsibilities. Each Lot Owner shall maintain his or her Lot and all Structures, driveways, parking areas and other improvements comprising the Lot in good condition and repair, in an attractive condition and in accordance with the Design Guidelines and the design approvals received under this Declaration and the Master Covenants, in a manner consistent with other Lots and all requirements of this Declaration, the Bylaws and the Rules and Regulations, the Master Covenants, and the requirements of the applicable

Neighborhood Declaration and related documents pertaining to such Lot. If any Owner fails to perform his or her maintenance responsibilities in conformity this Declaration, then the Homeowners Association and/or the Master Association may elect to perform such responsibilities and assess all costs incurred against the Lot and the Owner thereof; provided, however, except when action is required due to an emergency situation, the Owner shall be provided with reasonable notice and an opportunity to cure such deficiencies prior to entry and assumption of such responsibilities.

Section 4.3 Town Responsibilities. This Declaration is independent of any requirements or restrictions imposed by the ordinances of the Town of Scarborough. Nothing in this Declaration relieves any person of any obligation to comply with such ordinances. The Town of Scarborough has advised that it has no authority or responsibility to enforce the provisions of this Declaration.

Article V
INSURANCE AND CASUALTY LOSSES

Section 5.1. General Liability Insurance. If any Neighborhood Common Areas exist the Homeowners Association shall obtain general liability insurance covering the Neighborhood Common Areas in such amounts as the Board may determine.

Section 5.2. Individual Owner Insurance. In the event of a partial loss or damage resulting in less than total destruction of Structures comprising a Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged Structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration. The Owner shall pay any costs of repair or reconstruction. In the event that the Structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case they shall clear all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain such areas in a neat and attractive condition.

Pursuant to this Declaration, the Design Review Board may impose more stringent requirements regarding the standards for rebuilding or reconstructing Structures on the Lots and the standards for returning the Lots to their natural state in the event the Structures are not rebuilt or reconstructed.

Article VI
NO RE-SUBDIVISION

There shall be no further division of or alternation of the boundaries any Lot or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any judicial partition unless such action has first been approved by the Homeowners Association and the Master Association.

Article VII
RIGHTS AND OBLIGATIONS OF THE NEIBORHOOD ASSOCIATION

Section 7.1. Rules and Regulations. The Homeowners Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration, the Bylaws of the Homeowners Association and the Master Covenants. Sanctions may include reasonable monetary fines and suspension of the right to use any Neighborhood Common Areas, provided that all Owners' rights of ingress and egress to their Lots shall not be obstructed. In addition, the Board shall have the power to seek relief in any court of law or equity for violations or to abate nuisances.

Section 7.2. Implied Rights. The Homeowners Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 7.3. Transfers to Governmental Body. The Homeowners Association shall cooperate with and shall permit Developer, in Developer's discretion, to designate, convey and improve sites within the Property for establishing public facilities including, without limitation, traffic, fire, police, water, mail, drainage, and sewer facilities as may be necessary or appropriate for complying with any Governmental Requirements, the Master Subdivision Plat, and the Master Conceptual Plans, which cooperation shall include without limitation the conveyance of fee title or grant of easements in and to portions of the Master Common Areas or Neighborhood Common Areas to the Town, the Scarborough Sanitary District or other governmental entity whether prior to or after their conveyance to the Master Association.

Article VIII
ASSESSMENTS AND SERVICE CHARGES

Section 8.1. Creation, Administration and Enforcement of Neighborhood Assessments, Service Charges and Liens.

A. **General.** Generally Neighborhood Assessments shall be levied equally against all legally created Lots forming a part of the Property commencing on the earlier of on the earlier of the date (i) when a Unit is first sold to a non-successor Developer or (ii) when a residence built on a Unit is in fact occupied and used for 10 or more days, all specifically excluding however Units owned, occupied or used by Developer for solely for construction purposes or a Unit on which the construction of a residence has not been substantially completed

Units which are not otherwise liable to pay Assessments shall be liable for Special Assessments to enforce compliance with the Governing Documents and Service Charges.

The Board of Directors shall cause a proposed annual budget to be prepared based on its estimate of annual income and Neighborhood Expenses subject to review and rejection by the voting Members of the Association in accordance with the procedures set forth in the Bylaws. Unless the budget is rejected by Sixty-Seven percent (67%) in interest of all voting members, the

budget shall be deemed to have been ratified. Unless the budget is rejected, the members shall pay the amounts specified in the proposed budget adopted by the Board.

The Homeowners Association shall have the express power to separately assess "Service Charges" against a Lot and the Owner thereof for services rendered by the Homeowners Association to or for the benefit of that Lot as set forth in Section 8.5 below.

B. Liens. All Neighborhood Assessments and Service Charges, together with interest computed from the date the delinquency first occurs, late charges, costs of collection, and reasonable attorneys' fees shall be a continuing lien upon each Lot against which each Neighborhood Assessment is made in accordance with this Declaration.

C. Certificate. Upon request, the Homeowners Association shall furnish a certificate in writing signed by an officer or designated agent of the Homeowners Association setting forth whether Neighborhood Assessments and Service Charges have been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment to the Homeowners Association of such Assessment and Service Charges therein stated to have been paid. The Homeowners Association may require payment of a reasonable processing fee for the issuance of such certificate.

D. Procedures. All Assessments and Services Charges shall be paid to the Master Association in such manner and on such dates as may be fixed by the Homeowners Association Board of Directors, including Neighborhood Assessments. Unless the Board of Directors otherwise provides, the Neighborhood Assessments shall be paid in monthly installments.

Neighborhood Assessments collected by the Master Association shall be separately accounted for and applied to Neighborhood Expenses.

No Owner may waive or otherwise be exempted from liability for the Neighborhood Assessments and Service Charges provided for herein, including, by way of illustration and not limitation, by non-use of the Common Areas or abandonment of the Lot. The obligation to pay Neighborhood Assessments and Service Charges is a separate and independent covenant on the part of and personal liability due from each Owner, jointly and severally liable. No diminution or abatement of any Neighborhood Assessment or Service Charges or set-off shall be claimed or allowed by reason of any alleged failure of the Master Association, the Homeowners Association to take some action or perform some function required to be taken or performed under this Declaration or the Bylaws or otherwise, or for inconvenience or discomfort arising from the making of or failure to make repairs or improvements or from any action taken to comply with any Governmental Requirement.

E. Developer Lots and Obligations. For improved Lots owned by the Developer which are occupied for construction or other nonresidential purposes, the Developer shall be responsible for the payment of any expenses specifically attributable to such Lots and such Developer owned Lots shall not be liable for Assessments or Service Charges unless the Developer has voluntarily agreed to pay such charges. Legally created Lots owned by the Developer which are occupied for residential purposes for 10 or more days shall be subject to regular Assessments.

Any Developer obligation to pay Neighborhood Assessments and Service Charges may be satisfied with a cash subsidy or by "in kind" contributions of services or materials, or a

combination thereof, provided that upon request Developer shall provide the Homeowners Association in writing a statement describing such services or materials in reasonable detail and setting forth Developer's good faith estimate of the fair market value thereof. The Homeowners Association may enter into subsidy contracts and contracts for "in kind" contribution of services or materials or a combination of services and materials with Developer or other entities for the payment of some portion of the Common Expenses. In no event, however, shall Developer be required to make a deficiency contribution hereunder in an amount greater than it would otherwise be liable for if it were paying Assessments on unsold legally created Lots which are liable for the payment of Neighborhood Assessments.

F. Pledge. The Board of Directors of the Homeowners Association may pledge and grant a security interest its right to future income, including the right to receive Neighborhood Assessments and Service Charges, in order to fund the costs of improvements and repairs to the Master Common Areas, provided that at least 30 days prior notice is given to the Lot Owners and a majority of such the Owners liable for the payment regular Neighborhood Assessments fail to sign a petition to reject such decision submitted to the Homeowners Association within 60 days of the date of the Board's approval.

Section 8.2. Computation and Administration of Neighborhood Assessments. Prior to the commencement of each fiscal year of the Homeowners Association, the Neighborhood Board shall arrange for the preparation of a proposed budget covering the estimated Neighborhood Common Expenses of the Master Association during the coming year. The Neighborhood Board shall consider and adopt a budget and may revise a previously adopted budget at any regular or special meeting. Such budget may include reserves for repair and replacement of the Master Common Areas, working capital and contingencies.

The Neighborhood Assessment to be levied for the coming year against each Lot shall be computed by dividing the budgeted Common Expenses by the total number of Lots liable for the payment of Regular Neighborhood Assessments within the Property as of the date of adoption of the budget or any revisions thereof. Special Neighborhood Assessments adopted by the Homeowners Association shall be due and payable in accordance with their terms.

The Board shall cause a copy of the Common Expense budget or any revision thereof, and notice of the amount of Regular or Special Assessment to be delivered to each Owner at least thirty (30) days prior to the date such Assessment first become due, but failure to give such notice or to adopt a budget prior to the commencement of the fiscal year shall not impair the obligation to pay such Neighborhood Assessments. Such budget and the Regular or Special Neighborhood Assessments shall become effective unless disapproved by sixty seven percent (67%) of all Neighborhood Lot Owners liable for the Assessment at a special meeting of the Neighborhood Lot Owners called pursuant to a petition signed by at least twenty percent (20%) of the Lot Owners liable for the Neighborhood Assessment, which meeting shall be held no later than 60 days of the date the notice of the Budget is sent. There shall be no obligation to call a meeting of the Lot Owners for the purpose of considering the budget except on receipt such a petition.

In the event the proposed Homeowners Association's budget is disapproved or the Board fails for any reason to adopt a budget properly, then and until such time as a budget shall have been adopted as provided herein, the budgeted Assessment in effect for the immediately preceding year shall remain in effect.

Section 8.3. Computation and Administration of Special Assessments and Expenses of Enforcement.

A. The Board of Directors of the Homeowners Association may levy Special Neighborhood Assessments from time to time intended to cover operational, repair and maintenance expenses or capital improvement costs and related expenses, or prior operating deficits, and/or depletion of Association reserves attributable to similar expenses previously paid. Special Neighborhood Assessments shall be levied and computed on the same basis and subject to the same notice, petition and opportunity for disapproval as for regular Neighborhood Assessments.

In addition the Board may make an immediate Special Assessment in an amount equal to one month's Regular Assessment when the Board determines in its reasonable discretion that an emergency or other special circumstances requires a Special Assessment.

B. Special Neighborhood Assessments may also be levied against Lot Owners within an individual Homeowners Association upon vote of the Board including the affirmative vote of a majority of the members of the Board from that Neighborhood, if any, and shall be payable solely by such individual Lot Owners within such Homeowners Association. All Special Neighborhood Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines, which Special Neighborhood Assessments shall be levied and computed on the same basis and subject to the same notice, petition and opportunity for disapproval as for Regular Neighborhood Assessments..

C. The Homeowners Association may also levy a Special Assessment against any Lot Owner to reimburse the Homeowners Association for the costs incurred in bringing a Lot Owner and his Lot respectively into compliance with the provisions of the Declaration, the Master Covenants, any amendments thereto, the Articles, the Bylaws, the Rules and Regulations and/or the vote of the Board, together with all costs of enforcement and collection including reasonable attorneys fees, after notice to the Lot Owner and an opportunity for a hearing. The Master Association may also levy a Special Assessment against the Lots in any Neighborhood to reimburse the Master Association for costs incurred in bringing the Neighborhood or the Neighborhood Common Areas into compliance with the provisions of the Master Covenants, Declaration, any amendments thereto, the Articles, the Bylaws, and the Master Association rules and regulations, which Special Assessment may be levied by the vote of the Board after notice to the President of the Homeowners Association and Lot Owners in the Neighborhood and an opportunity for a hearing. Such Special Neighborhood Assessments shall not be subject to the petition and opportunity for disapproval provided for Regular Neighborhood Assessments.

Section 8.4. Revised and Emergency Neighborhood Assessments.

If at any time prior to or during the course of any fiscal year the Board shall deem the amount of any Neighborhood Assessment to be inadequate by reason of a revision in its estimate of either expenses or income, the Board shall prepare and cause to be delivered to the Lot Owners a revised budget for the balance of such fiscal year. Such revised Neighborhood Assessments shall become effective thirty (30) days after the mailing of said revised budget to the Owners, as

appropriate, unless such revised Neighborhood Assessment is subsequently disapproved in the manner provided for in this Article, respectively, if applicable. A revised Assessment shall require submission to a vote of the Lot Owners only if the original Assessment, subsequently revised, required such approval.

Section 8.5. Service Charges.

The Homeowners Association shall have the express power to separately assess a "Service Charge" against a Lot and the owner thereof for services rendered to or for the benefit of that Lot. Such Service Charge assessments shall constitute a lien on the Lot with the same status as a lien for Assessments under this Declaration, which lien for Service Charges may be foreclosed in like manner as a mortgage on real estate. The recordation of this Declaration constitutes record notice of the lien. Service Charges shall include without limitation:

(i) If a Lot Owner, members of his family, guests, invitees or tenants requests the Homeowners Association or its agent(s) to perform maintenance and repair on his Lot, or damages the Common Areas or fails to perform maintenance and repair work on his Lot as required, the expense thereof as determined by the Board of Directors or its designee may be assessed as a Service Charge.

(ii) Fees, if any, which may be established by the Board of Directors for the use and maintenance of water, sewage and other utility services and equipment if not otherwise assessed by the utility provider or as an Assessment. Utility services supplied to each Lot may be measured separately by such methods and systems established by the Board of Directors in its discretion. The expense of utility charges and of associated equipment maintenance and repair and reasonable reserve allowances may also be calculated by the Board of Directors in its discretion and assessed monthly as a service charge to each Lot. For budgeting and working capital purposes, the Board of Directors may charge Lot Owners monthly in advance for such expenses based on its reasonable estimate thereof, subject, however, to such periodic reconciliation as the Board in its discretion may deem appropriate based on the measuring system adopted by the Board. At the election of the Board of Directors, the expense of capital improvements, major repairs or renovations to the utility systems may be assessed either as a common expense or as a service charge.

Section 8.6. Lien Securing Neighborhood Assessments and Service Charges.

All Neighborhood Assessments and Service Charges, together with interest computed from the date the delinquency first occurs, late charges, costs of collection, and reasonable attorneys' fees shall be a continuing lien upon the Lot against which each Assessment is made. Initially, interest on the unpaid amounts due shall be assessed at eighteen percent (18%) per annum or such lesser rate established by the Board of Directors but not to exceed the highest rate allowed by Maine law.

All such Neighborhood Assessments and Service Charges, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of all Persons who were the Owner of such Lot at the time the Assessment arose, jointly and severally liable, except that no first (1st) Mortgagee held by an institutional lender such as a bank, mortgage company or other financial institution or their assignees or third party purchaser who obtains title to a Lot pursuant

to the remedies provided in such first Mortgage or deed in lieu of foreclosure shall be personally liable for unpaid Neighborhood Assessments which accrued prior to such acquisition of title. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

Such lien extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the Neighborhood Assessments or Service Charges become due.

Recording of this Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien is required. Such lien shall be prior to and senior in priority to all other liens and encumbrances on a Lot except: (i) liens and encumbrances recorded before the recordation of this Declaration; (ii) a first mortgage recorded before or after the date on which the Neighborhood Assessments and Service Charges became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. This subsection does not affect the priority of mechanics' or materialmen's liens.

If 2 or more Associations have liens for Assessments and Service Charges created at any time, those liens have equal priority, allocated in proportion to their respective balances. Any one Association may unilaterally enforce its lien provided that the proceeds of foreclosure and sale are shared accordingly.

Such lien may be enforced by all legal and equitable remedies available under Maine law, including judicial foreclosure in the same manner as a Mortgage.

The Homeowners Association, acting on behalf of the Owner, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Homeowners Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessment shall be assessed or levied on it; and (c) each other Lot shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged such Lot had it not been acquired by the Master Association as a result of foreclosure. Suit to recover a money judgment for any unpaid Assessment(s), interest, and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same pursuant to Maine law.

Section 8.7. Date of Commencement of Neighborhood Assessments. Except as otherwise provided under Section 1 of this Article, the Neighborhood Assessments and Service Charges provided for herein shall commence as to each Lot on the first day of the first month following (i) the date a certificate of occupancy has been issued by the Town for residential use, or (ii) the Lot is in fact occupied and used for residential use for 10 or more days, specifically excluding however Lots owned, occupied or used by Developer (including any successor Developer) for solely construction, marketing or display purposes.

Neighborhood Assessments shall be due and payable in a manner and on such schedule as the Board of Directors may provide. The first annual Assessment for each Lot shall be adjusted according to the number of days remaining in the fiscal year at the time Neighborhood Assessments commence on the Lot.

Section 8.8. Subordination of the Lien to First Mortgages. The lien of any first Mortgage upon any Lot held by an institutional lender such as a bank, mortgage company or other financial institution or their assignees shall have priority over the lien of Neighborhood Assessments, Special Assessments, Service Charges and any other Assessment hereunder, including interest, late charges, and costs (including attorneys' fees) provided for herein. The sale or transfer of any Lot shall not affect the Assessment or Service Charges lien. Notwithstanding anything to the contrary contained herein, the sale or transfer of any Lot pursuant to foreclosure of an institutional first Mortgage shall extinguish the lien of such Assessments and Service Charges that became due prior to such sale or transfer but such lien shall otherwise remain in effect. No sale or transfer shall relieve such Lot from lien rights for any Assessments thereafter becoming due. When such first Mortgagee or other purchaser of a Lot obtains title pursuant to remedies under the Mortgage, the purchaser, its successors and assigns shall not be personally liable for any Neighborhood Assessments chargeable to such Lot that became due prior to the acquisition of title to such Lot by such purchaser. A proportionate share of the deficiency arising from such unpaid Neighborhood Assessments or Service Charges shall be collectible from all the then Lot Owners, including such purchaser, its successors and assigns.

Section 8.9. Capitalization of Association. Upon the sale of a Lot to a person other than a successor Developer, the Neighborhood Association shall be paid an amount equal to two months Regular Neighborhood Assessment, which obligation shall constitute a lien on the Lot until paid. This amount shall be disbursed to the Neighborhood Association at closing for use by the Neighborhood Association to cover operating expenses, establish reserves, subsidize deficits, and other expenses incurred by the Neighborhood Association pursuant to the terms of this Declaration and the Neighborhood Association Bylaws or as the Board may determine.

Section 8.10. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Regular Neighborhood Assessments, Neighborhood Assessments, and Special Assessments: (1) all Master Common Areas; (ii) all Neighborhood Common Areas; and (iii) all property dedicated to and accepted by any governmental authority or public utilities, including, without limitation, public schools, public streets, and public parks, if any.

Article X REQUIRED DESIGN APPROVALS

Section 10.1. Required Submission and Approval. No Structures or improvements of any kind, including but not limited to, dwellings, garages, fences, patios, decks, awnings, garages, paving, parking areas, fences, walls, gardens, lawns, landscaping, greenhouses, drives, antennae, flag poles, lamp posts, mail boxes, curbs and walks shall be constructed, erected, altered, changed, demolished, added to or permitted to remain on Property, nor shall any changes in grade, excavations, clearing, grubbing, any removal of trees or shrubs be done on any portion of Property nor shall any exterior colors and finishes of Structures and improvements be changed unless the plans and specifications therefore are first approved in writing prior to commencement of such work by Developer or its delegee or by the Master Association as provided in the Master Covenants and any applicable application fee is paid in accordance with the Master Covenants.

Each Lot Owner is independently responsible for compliance with the terms of all Governmental Requirements and the Master Covenants.

Article X
USE RESTRICTIONS

The Association and the Master Association shall have standing and the power to enforce the standards and restrictions contained in the Master Covenants as fully as set forth herein, this Declaration and the Homeowners Association Bylaws.

The Neighborhood Association Board of Directors shall have the authority to review, approve or approve with conditions an Accessory Living Unit application for a Lot filed in accordance with the Master Covenants.

Article XI
GENERAL PROVISIONS

Section 11.1. Term. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Master Association, the Homeowners Association, and/or the Owner of any Property subject to this Declaration and their respective legal representatives, heirs, successors, and assigns.

Section 11.2. Amendment of Declaration. This Neighborhood Declaration may be amended or modified generally in accordance with the following procedure except as otherwise provided herein:

A. The text of the amendment is approved by the Developer so long as the Developer owns any portion of the Property or owns or has a purchase option covering the Additional Property, and by a two-thirds (2/3) vote of the Directors, who shall then call a special meeting of the Lot Owners;

B. The notice of any regular or special meeting of the Lot Owners at which a proposed amendment to this Declaration is to be considered shall contain a statement of the proposed amendment, including the proposed text thereof. Such a statement must be included in the notice of any meeting if a written request therefor is made by the person or persons calling such a meeting or by any Voting Representative. Notice shall also be sent to all Eligible Mortgage Holders. At the meeting the resolution shall be adopted if it receives the affirmative vote or written consent of Lots representing two-thirds (2/3) or more of the total votes of each Class of Members, including both the Class A and Class B members.

C. An amendment shall be effective when recorded. Copies of the amendment shall be sent to each Lot Owner, other Owners in the Property and Eligible Mortgage Holders, but the same shall not constitute a condition precedent to the effectiveness of such amendment.

E. Notwithstanding any other provision of this Declaration, Developer may (i) unilaterally amend this Declaration prior to the sale of the first Lot and may (ii) unilaterally amend

this Declaration in the course of the exercise of its rights as Developer including without limitation the submission of Additional Property in whole or part to this Declaration and the creation of additional Lots and Neighborhood Common Areas as set forth herein.

Section 11.3. Disposition of Association Assets upon Dissolution. Upon a dissolution of the Homeowner Association pursuant to Title 13-B of the Maine Revised Statutes Annotated, as amended from time to time, the Homeowner Association's assets, real, personal and mixed, including all Common Areas owned by the Homeowner Association and all Structures and improvements thereon, shall be transferred to the Master Association if it is then in existence or dedicated to an appropriate public agency or utility to be devoted to purposes, as nearly as practicable, the same as those to which they were required to be devoted by the Homeowner Association. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any other nonprofit corporation, Association, trust or other organization to be devoted to purposes, as nearly as practicable, the same as those to which they were required to be devoted by the Homeowner Association. No such disposition of the Homeowner Association properties shall be effective to divest or diminish any right or title of any Owner vested under the licenses, covenants and easements of this Declaration or under any subsequently recorded covenants and deeds applicable to the properties, unless made in accordance with the provisions of this Declaration or said covenants and deeds and in accordance with the appropriate requirements of the Town.

Section 11.4. Easement of Support; Ingress and Egress. Each Lot includes a perpetual right of ingress and egress over the Neighborhood Common Areas, subject to the right of the Homeowner Association to adopt reasonable rules and regulations to verify the identity of persons entering the Property. Each Lot and Neighborhood Common Area shall have an easement for support from every other Lot and Neighborhood Common Area.

Section 11.5. Easements for Utilities, Etc. There is hereby, reserved unto Developer (so long as Developer owns or has any interest in any Property described on Exhibit "A" or Additional Property), the Master Association and the designees of each, blanket easements upon, across, over, and under all of the Neighborhood Common Areas, if any, and, to the extent shown on any the Master Subdivision Plat or the Master Schematic Plans, over the Lots for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including, but not limited to, water, sewer, meter boxes, telephones, gas, and electricity, cable television systems, master television antenna systems, security, and similar systems, roads, walkways, bicycle pathways, ponds, wetlands, drainage systems, street lights, and signage.

No sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property by any Owner, except as may be approved by the Board of Directors or by Developer.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Property.

Section 11.6. Severability. Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect any other provision, all of which shall remain in full force and effect.

Section 11.7. Right of Entry. The Master Association, the applicable Homeowners Association, and their agents and designees shall have the right, but not the obligation, to enter into any Lot for emergency, security and safety purposes, which right may be exercised by the Board of Directors, the applicable Homeowners Association Board of Directors, and their officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Master Association or Homeowners Association to enter a Lot to cure any condition that may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request.

Section 11.8. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any condominium declaration and the Master Association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, Bylaws, rules and regulations, policies, or practice adopted or carried out pursuant thereto, those of any Homeowners Association shall be subject and subordinate to those of the Master Association. The foregoing priorities shall apply to, but shall not be limited to, the liens for Assessments created in favor of the Master Association.

Section 11.9. Use of the Words "Dunstan Crossing Homeowners Association." No Person shall use the words "Dunstan Crossing" or "Dunstan Crossing Homeowners Association" or any derivative thereof in any printed or promotional material without the prior written consent of the Homeowners Association and the Master Association. However, Owners may use the terms "Dunstan Crossing" or "Dunstan Crossing Homeowners Association" in printed or promotional matter where such term is used solely to specify that the address of a particular property is located within Dunstan Crossing.

Section 11.10. Security. NEITHER THE HOMEOWNERS ASSOCIATION NOR DEVELOPER SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN TO PROTECT PERSONS OR PROPERTY, EVEN IF DUE TO THEIR ALLEGED FAULT OR NEGLIGENCE.

ALL OWNERS, AND THE TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE HOMEOWNERS ASSOCIATION, AND DEVELOPER ARE NOT INSURERS AND THAT EACH OWNER, FAMILY MEMBER, TENANT, GUEST AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, TO UNITS, AND TO THE CONTENTS OF UNITS AND THEIR PROPERTY AND FURTHER ACKNOWLEDGE THAT NEITHER THE MASTER ASSOCIATION NOR THE HOMEOWNERS ASSOCIATION NOR DEVELOPER HAS MADE ANY REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF

MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN.

ARTICLE XII GENERAL PROVISIONS

Section 12.1. Enforcement. The failure to comply with the terms of this Declaration, the Bylaws and the Rules and Regulations adopted by the shall entitle the Homeowners Association to (a) take court action, including without limitation suit for injunctive relief, and/or (b) take such further action as permitted under the Governing Documents, (c) to impose fines and penalties in accordance with the Rules and Regulations adopted from time to time, and/or (d) enter the Unit or Common Areas in which such violation or breach exists and summarily to abate and cure the violation at the expense of the Unit Owner, and the Board of Directors shall not be deemed guilty in any manner of trespass when enforcing these terms. The exercise of any one remedy shall not preclude the exercise of other remedies provided by law or the Governing Documents. Upon any violation or failure to pay in accordance with or to comply with the Governing Documents, the Homeowner's Association shall be entitled to recover reasonable attorney's and paralegal's fees and expenses all with interest at the rate of 18% per annum.

A delay or failure of the Board of Directors to enforce any covenant, restriction or other provision of this Declaration, the Bylaws or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

Section 12.2. Lots Not Yet Separately Assessed. In the event that for any year real estate taxes are not separately taxed and assessed to each separate Lot Owner but are taxed on the Property as a whole, then each Lot Owner shall pay his proportionate share thereof.

Section 12.3. Conflict. If any provision of this Declaration, the Bylaws or the Rules and Regulations conflicts with any applicable laws, including, but not limited to, the Maine Condominium Act, then the laws shall be deemed controlling; but the validity of the remainder of this Declaration, the Bylaws and Rules and Regulations, and the application of any such provision, section, clause, phrase, or word in other circumstances shall not be affected thereby. In the event of any conflict between this Declaration or any other Homeowners Association documents, and the Master Covenants, the terms of the Master Association Declaration shall control,

Section 12.4. Severability. The invalidity of any provision of this Neighborhood Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

Section 12.5. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.

Section 12.6. Captions. The headings in this Declaration are for purposes of reference only, and shall not limit or otherwise affect the meaning hereof. The table of contents is attached to this Declaration for purposes of reference and convenience only, and shall neither limit nor

otherwise affect the meaning of this Declaration. References in this Declaration to Articles, and Schedules without references to the document in which they are contained are references to this Declaration. Schedules are attached to and incorporated by reference into this Declaration.

Section 12.7. Gender, Number, Etc. The use of the singular number in this Declaration shall be deemed to include the plural, the plural the singular, and the use of any one gender shall be deemed applicable to all genders.

Section 12.8. Power to Interpret. Any dispute or disagreement with any person other than the Developer with respect to interpretation or application of this Declaration or the Bylaws or the Rules and Regulations shall be determined by the Board of Directors, which determination shall be final and binding on all parties.

Section 12.9. Disputes with Developer and Arbitration. In any dispute with the Developer regarding the Neighborhood Common Areas, the Board of Directors shall act for all the Lot Owners, and any agreement with respect thereto by the Board of Directors shall be conclusive and binding upon the Lot Owners.

All claims, disputes and other matters in question between the Developer, on the one hand, and the Homeowners Association or any Lot Owner(s), on the other hand, arising out of or relating to a Lot, the Neighborhood Common Areas, this Declaration, the Bylaws, the Rules and Regulations, or the deed to any Lot or the breach thereof, or the course of dealing between any Lot Owner, the Homeowners Association and the Developer, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise in writing. The arbitrators shall not have the power to alter applicable law or the Governing Documents. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance applicable law in any court having jurisdiction thereof.

Section 12.10. Notices.

(a) *To Lot Owners.* All notices, demands, bills and statements or other communications shall be given to Lot Owners by the Homeowners Association in writing and shall be delivered in hand, delivered to the Lot, or sent by United States mail, postage prepaid. If such notification is of a default or lien, then it shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the Lot Owner at the address which the Lot Owner shall designate in writing and file with the Secretary of the Homeowners Association, or if no such address is so designated, the address of the Lot of such Lot Owner who is the record owner thereof.

(b) *Notice to the Homeowners Association.* All notices, demands, statements or other communications affecting the condominium given by the Lot Owners to the Homeowners Association shall be in writing, and shall be deemed to be delivered personally, securing a written receipt therefore, or sent by United States mail, postage prepaid, return receipt requested, addressed to the Homeowners Association at the principal office of the managing agent, if any, and to the secretary of the Homeowners Association at the secretary's address.

WITNESS its hand and seal as of May 17, 2007.

CHAMBERLAIN CONSTRUCTION, INC.

Jan R. Clough
Witness

By: R. Elliott Chamberlain
R. Elliott Chamberlain, its President

STATE OF MAINE
Cumberland, ss

May 17, 2007

Then personally appeared before me the above-named R. Elliott Chamberlain in his said capacity and acknowledged the foregoing to be his free act and deed and the free act and deed of said corporation.

Before me,

Jan R. Clough
Notary Public/Attorney at Law
Name: Lawrence R. Clough

LIST OF EXHIBITS

- A. Legal description of the portion of the Project subject to the Declaration.
- B. Additional lands that may be added to the Declaration
- C. Bylaws of the Homeowners Association

EXHIBIT A

Certain lots or parcels of land located in Dunstan Crossing Project Phase I situated southerly of Broadturn Road and northwesterly of Route One in the Town of Scarborough, County of Cumberland and State of Maine and being Lots #42 through #59 inclusive as shown on Plans entitled First Amended Subdivision Plan for Dunstan Crossing by Sebago Technics, Inc. and recorded in the Cumberland County Registry of Deeds in Plan Book 207, Pages 234 - 238.

EXHIBIT B

Phases II, III and IV as shown on the Master Schematic Plan

Project Phases II, III and IV
Dunstan Crossing Subdivision
Scarborough, Maine

Certain lots or parcels of land being Project Phases II, III and IV situated southerly of Broadturn Road and northwesterly of Route One in the Town of Scarborough, County of Cumberland and State of Maine as shown on as shown on Subdivision Plans entitled First Amended Subdivision Plan for Dunstan Crossing for Raynan Properties, LLC, by Sebago Technics, Inc. and recorded in the Cumberland County Registry of Deeds in Plan Book 207, Pages 234 - 238 (collectively the "Plan"), being more particularly bounded and described as follows:

Commencing on the northwesterly side of Route One at the southerly corner of land now or formerly owned by Susan G. and Martin F. Maciso as described in a deed recorded at the Cumberland County Registry of Deeds in Book 8226, Page 83;

Thence South 47°-16'-03" West by and along Route One, a distance of 356.88 feet to the POINT OF BEGINNING;

Thence by and along a curve to the right, with a radius of 25.00 feet, a length of 39.27 feet, having a chord of North 87°-43'-57" West 35.36 feet to a point of tangency;

Thence North 42°-43'-57" West by and along land now or formerly of Dunstan Crossing LLC, a distance of 57.36 feet to a point;

Thence South 47°-16'-03" West by and along said Dunstan Crossing LLC land, a distance of 12.50 feet to a point;

Thence North 42°-43'-57" West by and along said Dunstan Crossing LLC land, a distance of 282.34 feet to a point of curvature;

Thence by and along a curve to the right, with a radius of 322.50 feet, a length of 77.98 feet, having a chord of North 35°-48'-19" West 77.79 feet by and along said Dunstan Crossing LLC land to a point of tangency;

- Thence North 28°-52'-41" West by and along said Dunstan Crossing LLC land a distance of 38.25 feet to a point;
- Thence North 47°-09'-23" East by and along said Dunstan Crossing LLC land a distance of 321.13 feet to said land of Maciso;
- Thence North 49°-14'-22" West by and along land of Maciso, a distance of 186.56 feet to a point;
- Thence North 36°-43'-07" East, by and along land of Maciso and others, a distance of 310.28 feet to a point and land now or formerly of SRB, LLC;
- Thence North 57°-36'-12" West by said SRB, LLC land a distance of 154.88 feet to a point;
- Thence North 56°-10'-12" West by said SRB, LLC land a distance of 279.39 feet to a point;
- Thence North 51°-49'-12" West by said SRB, LLC land and land now or formerly of Lavopa a distance of 86.00 feet to a point;
- Thence North 57°-19'-12" West by said Lavopa land a distance of 128.55 feet to a point;
- Thence North 56°-25'-12" West by said Lavopa land a distance of 140.93 feet to a point;
- Thence North 54°-13'-12" West by said Lavopa land a distance of 93.15 feet to a point;
- Thence North 62°-31'-12" West by said Lavopa land a distance of 26.27 feet to a point;
- Thence North 36°-48'-32" East, a distance of 93.33 feet to a 5/8-inch capped rebar to be set;
- Thence North 34°-49'-32" East, a distance of 153.20 feet to a point;
- Thence North 38°-34'-32" East, a distance of 131.70 feet to a 5/8-inch capped rebar to be set;
- Thence North 32°-28'-32" East, a distance of 102.23 feet to a 5/8-inch capped rebar to be set;
- Thence North 34°-27'-32" East, a distance of 184.80 feet to a 5/8-inch capped rebar to be set;
- Thence North 31°-25'-32" East, a distance of 82.88 feet to a point;
- Thence North 38°-41'-32" East, a distance of 97.98 feet to a point;
- Thence North 32°-46'-32" East, a distance of 97.11 feet to a 5/8-inch capped rebar to be set;
- Thence North 38°-22'-32" East, a distance of 32.20 feet to a 5/8-inch capped rebar to be set;
- Thence North 32°-55'-32" East, a distance of 104.30 feet to a 5/8-inch capped rebar to be set and Project Phase I;
- Thence North 88°-26'-31" West along Project Phase I a distance of 197.64 feet to a point;
- Thence South 39°-11'-41" West along Project Phase I a distance of 87.06 feet to a point;

- Thence North $09^{\circ}-42'-18''$ West along Project Phase I a distance of 167.86 feet to a point;
- Thence North $02^{\circ}-45'-07''$ East along Project Phase I a distance of 177.37 feet to a non-tangential curve to a point;
- Thence along a curve to the right with a radius of 175.00 feet a length of 45.25 feet having a chord of North $83^{\circ}-06'-59''$ West 45.12 feet and along Project Phase I to a point of tangency;
- Thence North $75^{\circ}-42'-32''$ West a distance of 70.92 feet to a point of curvature;
- Thence along a curve to the left with a radius of 10.00 feet a length of 15.71 feet having a chord of South $59^{\circ}-17'-28''$ West 14.14 feet and along Project Phase I to a point of tangency;
- Thence South $14^{\circ}-17'-28''$ West along Project Phase I a distance of 25.00 feet to a point;
- Thence North $75^{\circ}-42'-32''$ West along Project Phase I a distance of 50.00 feet to a point;
- Thence North $14^{\circ}-17'-28''$ East along Project Phase I a distance of 25.00 feet to a point of curvature;
- Thence along a curve to the left with a radius of 10.00 feet a length of 15.71 feet having a chord of North $30^{\circ}-42'-32''$ West 14.14 feet and along Project Phase I to a point of tangency;
- Thence North $75^{\circ}-42'-32''$ West along Project Phase I a distance of 167.88 feet to a point of curvature;
- Thence along a curve to the left with a radius of 10.00 feet a length of 10.53 feet having a chord of South $74^{\circ}-06'-50''$ West a 10.05 feet and along Project Phase I to a point of reverse curvature;
- Thence along a curve to the right with a radius of 193.50 feet a length of 60.34 feet having a chord of South $52^{\circ}-52'-12''$ West 60.10 feet along Project Phase I to a point;
- Thence North $28^{\circ}-11'-48''$ West a distance of 55.00 feet to a non-tangential curvature;
- Thence along a curve to the left with a radius of 138.50 feet a length of 76.33 feet having a chord of North $46^{\circ}-00'-55''$ East 75.37 feet along Project Phase I to a point;
- Thence continuing along a curve to the left with a radius of 138.50 feet a length of 35.02 feet having a chord of North $22^{\circ}-59'-00''$ East 34.93 feet and along Project Phase I to a point of tangency;
- Thence North $15^{\circ}-44'-23''$ East along Project Phase I a distance of 310.50 feet to a point of curvature;
- Thence along a curve to the left with a radius of 122.50 feet a length of 51.89 feet having a chord of North $03^{\circ}-36'-14''$ East 51.51 feet and along Project Phase I to a point of

tangency;

Thence North $08^{\circ}-31'-56''$ West along Project Phase I a distance of 21.78 feet to a point of curvature;

Thence along a curve to the left with a radius of 10.00 feet a length of 13.19 feet having a chord of North $46^{\circ}-19'-30''$ West 12.26 feet and along Project Phase I to a point of tangency;

Thence North $84^{\circ}-07'-04''$ West along Project Phase I a distance of 42.53 feet to a point;

Thence North $05^{\circ}-52'-56''$ East along Project Phase I a distance of 50.00 feet to a point;

Thence South $84^{\circ}-07'-04''$ East along Project Phase I a distance of 25.00 feet to a point of curvature;

Thence along a curve to the left with a radius of 10.00 feet a length of 17.66 feet having a chord of North $45^{\circ}-16'-52''$ East 15.45 feet and along Project Phase I to a point of reverse curvature;

Thence along a curve to the right with a radius of 277.50 feet a length of 88.11 feet having a chord of North $03^{\circ}-46'-34''$ East 87.74 feet and along Project Phase I to a point;

Thence North $67^{\circ}-26'-56''$ West along Project Phase I a distance of 115.24 feet to a point;

Thence North $24^{\circ}-31'-52''$ East along Project Phase I a distance of 107.57 feet to Broadturn Road;

Thence North $66^{\circ}-05'-25''$ West by Broadturn Road a distance of 285.61 feet to a point and land now or formerly of Potvin;

Thence South $30^{\circ}-56'-45''$ West by said Potvin land, a distance of 153.45 feet to a point;

Thence North $66^{\circ}-05'-25''$ West by said Potvin land a distance of 149.21 feet to a point;

Thence North $30^{\circ}-56'-45''$ East a distance of 153.45 feet to Broadturn Road;

Thence North $66^{\circ}-05'-25''$ West by Broadturn Road a distance of 50.38 feet to a point and land now or formerly of Johnson;

Thence South $30^{\circ}-56'-45''$ West by said Johnson land, a distance of 152.87 feet to a point and land now or formerly of Boothby;

Thence by and along a curve to the right with a radius of 227.31 feet, a length of 206.19 feet, having a chord of South $56^{\circ}-55'-55''$ West 199.19 feet along said Boothby land to a point of reverse curvature;

Thence by and along a curve to the left with a radius of 204.48 feet, a length of 40.04 feet, having a chord of South $77^{\circ}-18'-29''$ West 39.98 feet along said Boothby land to a point;

Thence North $55^{\circ}-59'-25''$ West along said Boothby land a distance of 253.49 feet to a point and

land now or formerly of the Maine Turnpike Authority;

Thence South 34°-00'-35" West along said Maine Turnpike Authority land a distance of 1,837.41 feet to a point;

Thence North 56°-51'-25" West along said Maine Turnpike Authority land a distance of 166.40 feet to a 5/8-inch capped rebar;

Thence South 37°-45'-35" West along said Maine Turnpike Authority land a distance of 376.04 feet to a 5/8-inch capped rebar;

Thence South 55°-12'-28" East, a distance of 632.63 feet to a 5/8-inch capped rebar;

Thence South 54° 34'-21" East, a distance of 488.61 feet to a 5/8-inch capped rebar;

Thence South 55°-20'-18" East, a distance of 28.35 feet to a 5/8-inch capped rebar;

Thence South 55°-20'-18" East, a distance of 50.02 feet to a 5/8-inch capped rebar;

Thence South 55°-20'-18" East, a distance of 969.52 feet to a 5/8-inch capped rebar;

Thence South 55°-20'-18" East, a distance of 326.31 feet to a point;

Thence South 55°-26'-36" East, a distance of 559.33 feet to other land of Dunstan Crossing LLC;

Thence North 47°-09'-23" East, by and along said Dunstan Crossing LLC land, a distance of 349.18 feet;

Thence South 28°-52'-41" East, by and along said Dunstan Crossing LLC land, a distance of 24.58 feet to a point of curvature;

Thence by and along a curve to the left with a radius of 377.50 feet, a length of 91.28 feet, having a chord of South 35°- 48'- 19" East, 91.06 feet to a point;

Thence South 42°-43'-57" East, continuing along said Dunstan Crossing, LLC, a distance of 282.34 feet to a point;

Thence South 47°-16'-03" West continuing along said Dunstan Crossing, LLC, a distance of 12.50 feet to a point;

Thence South 42°-43'-57" East, continuing along said Dunstan Crossing, LLC, a distance of 57.36 feet to a point of curvature;

Thence by and along curve to the right with a radius of 25.00 feet, a length of 39.27 feet, having a chord of South 02°-16'-03" West 35.36 feet to Route One;

Thence North 47°-16'-03" East, by and along Route One, a distance of 130.00 feet to the POINT OF BEGINNING.

Meaning and intending to convey and hereby conveying all of the land known as Project

Phases II, III and IV as shown on the Plan. Bearings are based on Grid North.

Subject to the matters and notes set forth on or referred to in the Plan, including without limitation the requirements of the Town of Scarborough, and subject to the requirements of the Maine Department of Environmental Protection.

Subject to the perpetual easements set forth in a deed from Raynan Properties, LLC dated September 8, 2006 and recorded in said Registry of Deeds in Book 24454, Page 236 and now held by Dunstan Properties LLC pursuant to a deed recorded in said Registry of Deeds in Book 24454, Page 241 for all purposes over Duncroft Drive as shown on said Plan, being the strip of land separating the two parcels now of Dunstan Properties, LLC, to be used in common with Raynan Properties, LLC, its successors and assigns, running from said U.S. Route One to the most northwesterly side lines of the parcels conveyed in said deeds, for ingress and egress on foot and by motor vehicle and for utility purposes, and the installation, maintenance, repair and replacement of utility lines, poles, conduits, facilities and equipment, pavement, culverts, drainage ditches and swales together with the right to alter, excavate and pave the surface of the earth and to flow water for the foregoing purposes, subject to the consent of Raynan Properties, LLC, its successors and assigns, as to the location and nature of said improvements, which consent shall not be unreasonably withheld, which improvements shall conform to all requirements and approvals received from the Town of Scarborough and shall seek to minimize any interference with the use of said Duncroft Drive by Raynan Properties, LLC and others.

Together with the following perpetual easements over, under and across Project Phase I:

(i) A nonexclusive right and easement of access, ingress and egress over Moulton Drive, Waterhouse, Leary Road and the sidewalks forming a part of such Streets as shown on Project Phase I on the Plan, with the Chamberlain Construction, Inc. herein subject to the Chamberlain Construction, Inc.'s rights to transfer fee title to such areas to the Town of Scarborough;

(ii) A non-exclusive right and easement in common with the Chamberlain Construction, Inc. herein over said Streets and all Utility Easements as shown on the Project Phase I Plan and/or the Master Schematic Plans to use and connect into all common utilities, provided that (i) that no such easement shall run under any existing building or proposed building footprint which is not part of a designated easement area, (ii) that such connections shall minimize the disruption and damage to the surface of the land and hazards to public safety, (iii) a separate meter or sub-meter for such utility service shall be installed at the sole cost or expense of the user, and (iv) utility connections shall be consistent with the Project Phase I Plan and Master Schematic Plans. All such Utility Easements are subject to the Chamberlain Construction, Inc.'s rights to transfer such improvements to the Town of Scarborough Sanitary District, the Portland Water District and/or to any other public utility or governmental body, and to the Dunstan Crossing Master Association, a Maine nonprofit corporation.

(iii) A non-exclusive right and easement in common with the Chamberlain Construction, Inc. through the drainage areas and facilities depicted on the Project Phase I Plan and Master Schematic Plans and over the surface of the earth generally for surface water drainage from natural water flow and for the artificial collection and diversion of surface waters which may occur as a result of the construction of improvements, including, without limitation, building and building expansion, curbs, drives and paving, and sidewalks provided that that no such easement shall run under any existing building or proposed building footprint which is not part of a designated

easement area and subject to the Chamberlain Construction, Inc.'s rights to transfer such improvements to the Town of Scarborough Sanitary District, the Portland Water District and or to any other public utility or to the Dunstan Crossing Master Association pursuant to a Master Declaration of Covenants, Conditions and Restrictions recorded or to be recorded.

Together with the right to require that Project Phase I be subjected to a Master Declaration of Covenants, Conditions and Restrictions for Dunstan Crossing prior to the initial sale of a residential housing unit or lot in Project Phase I, reference being made to a Development Agreement of even or recent date between Raynan Properties LLC and Chamberlain Construction, Inc., which shall survive the closing and be binding on each of the parties, their successors and assigns.

Homeowner Covenants Dunstan 5-1-2007.doc
5/17/2007