

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION made the day of August 2018 by MONTGOMERY HEIGHTS INC. (hereinafter called the “Developer”).

WHEREAS the Developer is the owner of lands located in Charlottetown, Queens County, Province of Prince Edward Island, which lands include the property more particularly described in Schedule “A” hereto annexed;

AND WHEREAS the Developer wishes to subject the lands described in Schedule “A” to the covenants and restrictions hereinafter set forth, each and all of which is and are for the benefit of the lands described in Schedule “A”;

NOW THEREFORE the Developer declares that the lands more particularly described in Schedule “A” annexed hereto shall be held, transferred, sold, conveyed and occupied subject to the covenants and restrictions hereinafter set forth.

I. PROPERTY SUBJECT TO THIS DECLARATION

The lands subject to this Declaration are located in Charlottetown, Queens County, Province of Prince Edward Island, and are more particularly outlined and shown on a plan of survey entitled “Plan of Survey Showing Lots 3 to 23, 26 to 34 & Parcel A Being a Subdivision of of portion of Pid No. 192161 and Pid No. 192153” prepared by Derek A. French Professional Services Inc. as Drawing No. 1818-L1, certified by Derek A. French, P.E.I.L.S., dated April 19, 2018, approved by the City of Charlottetown on _____, 2018 as Case No. _____, and filed in the Land Registry Office on _____, 2018, as Plan No. _____. These covenants and restrictions shall apply to Lots 3 to 23 inclusive, lots 26 to 34 inclusive, as shown on the said plan.

II. RESTRICTIVE COVENANTS

In these covenants, the following definitions shall apply:

- (a) “Lands” shall mean the lands purchased by the Grantee from the Grantor as described in Schedule “A”;
- (b) “Lot” means a lot within the Montgomery Heights Inc. property as shown on the Plan;
- (c) “Grantor” shall mean Montgomery Heights Inc., its successors and assigns; and
- (d) “Grantee” shall mean the original purchaser(s) from the Grantor and all subsequent successors to the original purchaser’s title and shall include joint or common owners of the Lands.

The Grantee does hereby covenant and agree with the Grantor and also with the owner or owners from time to time of any other lands in the Montgomery Heights Inc. as shown on a plan of subdivision prepared by Derek A. French Professional Services Inc., dated April 19, 2018, plan no. 1818-L1 (the “Plan”) to comply with the following protective covenants made in pursuance of a building scheme established by the Grantor. The burden of these restrictions shall run with the Lands hereby conveyed forever, and the benefit of these restrictions shall run with each of the lots in the Montgomery Heights Inc. Lands. These restrictions shall be binding upon and enure to the benefit of the heirs, executors, administrators, representatives, successors and assigns of the parties.

1. Upon registration of the Deed of Conveyance attached hereto, the Grantee shall automatically become subject to all the rights, advantages and responsibilities associated with ownership of the Lands and the terms of these restrictive covenants.
2. There shall be no occurrence or activity on the lands which contravenes any applicable Municipal, County, Provincial or Federal regulations or law.
3. No structure shall be erected on the Lands unless it is a site built permanent, private dwelling building, with or without attached private garage. All plans of

construction, including colours, exterior finish and the final working drawings shall be submitted to the Grantor. The Grantor's approval in writing must be obtained, which approval shall not be unreasonably withheld subject to the restrictive covenants. A surveyor selected by the Grantor will facilitate the layout of the structure's location and elevation. Every building shall be constructed in strict accordance with the plans and drawings which have been approved by the Grantor. Construction of a single family dwelling building shall be fully completed within six months from the date construction commences. No garage shall be located on the Lands unless the garage is attached to the above-mentioned dwelling. Construction of a multi-unit building shall be fully completed within eighteen months from the date construction commences.

4. Each building unit shall have:
 - (a) a floor area greater than or equal to 800 square feet, excluding the attached garage;
 - (b) the Grantor's approval in writing.
5. The measurements for calculation of the areas referred to in paragraph 4 shall be taken as the outside measurements of the main walls of each dwelling building, excluding an attached garage, any porch, veranda, sunroom, attic and basement.
6. No structure shall be constructed on other than a concrete slab base, four foot frost concrete wall or concrete basement with no more than twelve (12) inches of exposed concrete.
7. The Lands shall not be re-graded in such a manner as will block or impede any water course or swale or cause water to be diverted over or built-up upon any adjoining lands. The Storm Water Management Plan, drawing no. 1818-SWMP prepared by Derek A. French Professional Services Inc. shall be adhered to by the Grantee. No modifications to the water flow or direction shall be made without approval by a qualified Professional Engineer, the City of Charlottetown, the PEI Department of Transportation and Infrastructure Renewal and the Grantor.
8. No accessory buildings including canvas or any other covered framed structures are permitted on the lots containing multi-unit dwellings. Single family dwelling lots are excluded.
9. The Grantee shall be responsible for all connecting charges for water, sanitary sewer, and storm sewer. A contractor selected by the Grantor will facilitate the necessary utility connections.
10. The Grantee shall be responsible for all connecting charges for electrical, telephone, internet and cable television. No aerial utility lines connecting the buildings from the street limit shall be permitted on the Lands.
11. No driveway on the Lands shall remain un-surfaced for any period beyond nine (9) months from the commencement of the construction of the dwelling building. All driveways shall be surfaced by asphalt, brick or concrete.
12. The Grantee shall landscape the Lands as soon as practicable after completion of construction of any structure, and in any event, within six (6) months after the commencement of construction of the dwelling on the Lands and thereafter shall keep the landscaping in good appearance.
13. No excavations shall be made on the Lands except excavation for the purposes of building and for the improvement of the gardens and grounds thereof. No soil, sand or gravel shall be removed from the Lands except with the prior written consent of the Grantor.
14. No building waste, or any other material of any kind shall be dumped or stored on the Lands except clean fill for the purposes of leveling in connection with the construction or erection of a residence thereon or the immediate improvement of the grounds.
15. The Grantee shall be responsible for all damages to the roads and any services occasioned during construction or any works carried on by the Grantee or at the Grantee's direction on the Lands. The Grantee also agrees that in the event that

any survey pins are lost or removed during construction or otherwise on the Lands, the Grantee, at the Grantee's expense, shall cause a licensed surveyor (of the Grantor's choice) to replace any such survey pins which may have been removed or lost.

16. No alteration, addition or change to the structure or exterior appearance (including colour) of a dwelling shall be made, done or permitted to be done except with the express written approval of the Grantor.
17. No exterior television or radio aerials or satellite receivers shall be erected or maintained on any part of the Lands with the exception of receivers that do not exceed twenty four inches in diameter. Any satellite receiver installed shall be placed in a location where it will not interfere with the appearance of the building on the Lands.
18. No trucks or other vehicles having a payload of over one (1) ton shall be placed, located, kept on or maintained on the Lands.
19. No recreational trailers or vehicles, commonly known as travel trailers, camper trailers, pick-up coaches, motorized campers, motorized homes, boats or other similar vehicles shall be located, kept on or maintained on the Lands.
20. No major repairs to motor vehicles, boats or trailers shall be carried out on the Lands except in a wholly enclosed garage.
21. So long as the Lands remain vacant, the Grantee shall keep the surface of the Lands in a good state of repair so as not to interfere with adjoining lot owners' enjoyment of their lands. Specifically, the Grantee agrees that the Grantee shall provide minimum lot maintenance by periodically cutting the grass and weeds to the tree line, pruning any damaged shrubs and trees, removing all the pruned materials, and removing any dead shrubs, fallen limbs and dead trees on the Lands and if the Grantee fails to provide this minimum maintenance, the Grantor, after two weeks' written notice to the Grantee, may enter upon the Grantee's Lands and perform the said minimum maintenance and the costs of such shall be paid by the Grantee to the Grantor and the costs constitute a debt due from the Grantee to the Grantor.
22. The Lands and structure located thereon shall not be used for any commercial purposes; nor shall anything be done or permitted upon the Lands or in any dwelling unit erected or to be erected thereon which might be a nuisance to the occupants of any neighbouring lands or building within the subdivision.
23. No signs, billboards, notices or other advertising or informational material of any kind (except signs stating civic numbers or owner's names, signs of the size and type ordinarily employed by real estate agents offering the Lands for sale or rent, temporary signs advertising a construction firm on the lot where the construction is taking place or signs placed by the Grantor to identify or market lots for sale within the subdivision) shall be placed on any part of the Lands or upon or in any structure on the Lands.
24. No owner of a dog shall permit it to run at large.
25. All proposed fence type structures shall be reviewed by the Grantor. All plans of construction, including colours, exterior finish and the final working drawings shall be submitted to the Grantor. The Grantor's approval in writing must be obtained, which approval shall not be unreasonably withheld subject to the restrictive covenants. No chain link fencing or any fencing that resembles chain link fencing may be erected on the Lands.
26. Oil tanks shall be located within the interior of the structure on the Lands.
27. The Grantee agrees and acknowledges that the Lands are subject to existing public utility easements and may be subject to further easements which may be required by proper authority to provide water, sanitary sewer, storm sewer, electrical, telephone, internet and cable television services to the area.
28. Where permission or approval of the Grantor is required or where the Grantor is given any power or authority by these protective covenants, the Grantor shall

have the right to name a representative or designate to make any such decision or to exercise such power or authority. If such a representative or designate is named, the Grantee shall be notified in writing and the decision of the representative shall be binding upon the Grantee, but shall be limited to that issue only for which the appointment was made by the Grantor. If for any reason the Grantor is unable to continue to fulfill its supervisory and other obligations hereunder, the Grantor shall name a permanent representative by written notice to all of those persons bound by these protective covenants. Any such named representative shall have the right to name a further representative, if required, under similar circumstances.

29. Developer Rights:

- (a) The Grantee hereby agrees to consent to any future land development by the Grantor;
- (b) The Grantor shall have the right to convey to any governmental agencies or other public authorities any part of its remaining lands for parks, recreational or other similar purposes, for roadways or for pipes or conduits for sewage, water, drainage, communications and electricity.
- (c) The Grantor shall have the right to grade the lands within and adjacent to the Lands as may be required for drainage and the construction of the streets, walkways, and other improvements necessarily incidental to the Montgomery Heights Inc. Lands.
- (d) The Grantor may, in its sole discretion and without the consent of the Grantee, alter, waive or modify any of the foregoing building and other covenants, provided that the substantial character of the covenants as a whole is maintained.

30. Homeowner's Association:

- (a) Upon the establishment of the Homeowner's Association by the Grantor at the Grantor's discretion, the Grantor will not be responsible for any matters with respect to the subdivision. The Homeowner's Association shall be responsible for all matters with respect to the subdivision and any reference herein to "Grantor" shall be deemed to be a reference to the Homeowner's Association.
- (b) The Grantee, together with all others who own Lots, buildings or dwelling units in the Montgomery Heights Inc. Lands, shall be members in the Homeowner's Association established by the Grantor.

31. The restrictions and provisions herein are severable, in that the invalidity or unenforceability of any restriction or provision shall not affect the validity or enforceability of any other restriction or provision.

32. The Grantee agrees to obtain from any subsequent purchaser, assignee or transferee an agreement to observe all of the stipulations, restrictions and provisions of these protective covenants herein set forth including this clause.

33. The covenants and restrictions contained herein shall run with and bind the Lands and shall enure to the benefit of and be enforceable by the Grantor, its successors and assigns.

34. Enforcement of these restrictive covenants shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, restriction, or agreement contained herein, either to restrain violation or recover damages, to enforce any obligation created by these covenants, and failure by the Grantor to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

IN WITNESS WHEREOF the Developer has hereunto set the hand of its duly authorized signing officers and has affixed its corporate seal on the day and year first above written.

MONTGOMERY HEIGHTS INC.

Per: _____

Witness

Per: _____

I/We have the authority to bind the corporation

SCHEDULE "A"

DATED: August __, 2018

***DECLARATION OF COVENANTS
AND RESTRICTIONS***

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