

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND
LIENS FOR INVERNESS AT VERMONT NATIONAL COUNTRY CLUB, A PLANNED
RESIDENTIAL DEVELOPMENT

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Pursuant to 27A V.S.A. §2-117, by affirmative vote of the requisite majority of the members of the Association, said members approved the following resolutions hereinbelow amending and restating the Declaration and Exhibits establishing Inverness at Vermont National Country Club, A Planned Residential Development which were dated December 18, 1998 and recorded in the City of South Burlington Land Records in Book 445 at Page 66; as amended by First Amendment to Declaration dated April 23, 1999 and recorded April 29, 1999 in Book 453. Page 210 of said Land Records; as amended by Second Amendment to Declaration dated June 1, 1999 and recorded June 2, 1999 in Book 455 at Page 360 of said Land Records; as amended by Third Amendment to Declaration dated July 7, 1999 and recorded July 9, 1999 in Book 457 at Page 594 of said Land Records; as amended by Fourth Amendment to Declaration dated August 6, 1999 and recorded August 6, 1999 at Book 459 at Page 616 of said Land Records; as amended by Supplemental Declaration dated July 29, 1999 and recorded August 17, 1999 in Book 460, Page 424 of said Land Records; as amended by Fifth Amendment to Declaration dated October 8, 1999 and recorded October 19, 1999 in Book 464 at Page 130 of said Land Records; as amended by Sixth Amendment to Declaration dated January 20, 2000 and recorded February 2, 2000 in Book 469, Page 685 of said Land Records; as amended by Amendment to Declaration dated October 10, 2007 and recorded January 17, 2008 in Book 805, Page 90 of said Land Records, as amended by Eighth Amendment to Declaration dated September 29, 2011 of record October 4, 2011 at Book 1030, Page 63 of said Land Records (together with all Exhibits thereto, the "Declaration"), as follows:

CITY CLERK'S OFFICE
Received Jan 15, 2013 02:10P
Recorded in VOL: 1132 PG: 217-253
OF So. Burlington Land Records
Attest:
Donna Kinville
City Clerk

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, EASEMENTS AND LIENS FOR INVERNESS AT VERMONT NATIONAL
COUNTRY CLUB, A PLANNED RESIDENTIAL DEVELOPMENT

ARTICLE I
Definitions

Unless the context shall prohibit, certain words used in this Amended and Restated Declaration shall have the definitional meaning set forth as follows:

- A. "Act" means the Vermont Common Interest Ownership Act (27A VSA Section 1-101 *et seq.*) and the real property located in the City of South Burlington, Vermont as described in Exhibit A (the "Property") of the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington, as amended, is hereby submitted to the provisions of Title 27A VSA Section 1-101 *et seq.*, as amended, known as the Vermont Common Interest Ownership Act (the "Act").
- B. "Association" shall mean and refer to the INVERNESS OWNERS ASSOCIATION, INC. a non-profit Vermont Corporation, its successors and assigns;
- B. "Board of Directors" or "Board" shall mean the persons elected or appointed as such in accordance with this Declaration and the By-Laws which shall be the governing authority of the Association and its duly authorized agents;
- C. "By-Laws" or "Bylaws" shall refer to the Amended and Restated By-Laws of the INVERNESS OWNERS ASSOCIATION, INC. attached to this Amended and Restated Declaration and incorporated herein by this reference;
- D. "Common Elements" or "Common Property" means all of the Property included in the planned Residential Development, except the lots and is all of the real estate owned by the Association for the common use and enjoyment of the Lot Owners;
- E. "Common Expenses" shall mean the actual and estimated expenses of operating the Association, including any reasonable reserve;
- F. "Declarant" shall mean and refer to HOMESTEAD DESIGN, INC. and its successors-in-title and assigns, provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in Exhibit A and depicted on the plan referenced

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in Exhibit B attached to the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records, as amended, and further provided that upon such designation of such successor Declarant, all rights of the former Declarant in and to the status as Declarant hereunder shall cease;

- G. **"Improvements"** shall mean all improvements on the Property (other than dwellings) intended for the common use and enjoyment of the Owners including, but not limited to walkways, parking areas, utility lines and landscaping;
- H. **"Limited Common Elements"** or **"Limited Common Property"** shall mean a portion of the Common Elements allocated in Article III of this Amended and Restated Declaration for the exclusive use of one or more, but fewer than all of the Lot Owners;
- I. **"Dwelling"** shall mean the single-family attached structure, including garage, if any, which is located upon or appurtenant to a Lot. The vertical boundaries of the Dwelling constitute the exterior surfaces of the exterior walls and the center of the interior party walls, extended upward to include the space above each Lot and extended downward to include the division of the underlying land;
- J. **"Lot/Unit"** shall mean a portion of the property, one of 32 units in total as depicted on the plat entitled "Final Plat, Homestead Design Vermont National Country Club", dated November 20, 1998, last revised December 10, 1998, prepared by Krebs & Lansing Consulting Engineers, Inc., recorded in Map Volume 430, Pages 52, 53 and 54 of the South Burlington City Land Records, other than the Common Property, intended for individual ownership and use as permitted in this Amended and Restated Declaration and as depicted on the Subdivision Plan. The front, rear and side boundaries of each lot/unit shall be co-terminus with the exterior walls or the centerline of any party wall. This definition of the lot/unit boundaries shall control in the event of a discrepancy with the boundaries as depicted on the Final Plan. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title and interest of an Owner in the Common Property, which shall include, without limitation, membership in the Association. Each Lot shall for all purposes constitute real property which may be owned in fee simple and which may be conveyed, transferred or encumbered in the same manner as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of his or her Lot, subject to this Amended and Restated Declaration; As used in the Declaration and in any Amendment thereto, any plat and any deed of conveyance and in the First Amendment, unless the context specifically requires otherwise, the terms "Unit" or "Units", "Lot" or "Lots" shall mean a Lot/Unit as that term is defined in this Article I, Subsection J. The Units are also depicted and identified on a plat captioned "Final Plat For First Amendment Inverness At Vermont National Country Club" which is substantially the same as the Final Plat, bearing an additional revision date of April 20, 1999, which includes additional information relevant to the Units, including the Limited Common Elements created, and is intended to cause the Final Plan to conform to the requirements of Section 2-109 of the Act (such later plat being sometimes referred to as the "First Amended Plat"). A reduced copy of the First Amended Plat is attached to the First Amendment as Exhibit G for the purpose of identifying the First Amended Plat and the First Amended Plat is incorporated into the Declaration and a full size copy of the First Amended Plat is recorded in the South Burlington City Land Records contemporaneously with the First Amendment. The full size copy of the First Amended Plat constitutes the official plat for the purposes of 27A V.S.A. §2-109. Reference is hereby also made to the Second Amended Plat, Third Amended Plat, Fourth Amended Plat, Fifth Amended Plat and Sixth Amended Plat all as more particularly set forth in the Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment and Sixth Amendment, respectively.
- K. **"Majority"** shall mean those eligible votes. Owners, or other group as the context may indicate totaling more than twenty-five percent (25%) of the total eligible number;
- L. **"Mortgage"** shall mean any mortgage deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment of satisfaction of an obligation;
- M. **"Mortgagee"** shall mean the holder of a Mortgage;

- N. "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Lot located within the Property, excluding, however, any person holding such interest merely as security for the performance of satisfaction of any obligation;
- O. "Person" shall mean any natural person, as well as a corporation, partnership (general or limited), association, trust, or other legal entity;
- P. "Project" or "Property" shall mean and refer to that certain real property and interests therein described in Exhibit A and depicted on the Plan referenced in Exhibit B attached to the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records, as subsequently amended, and all Dwellings and other improvements thereon and all easements, rights and appurtenances belonging thereto;
- Q. "Property-wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Project. Such standard may be more specifically determined by the Board of Directors;
- R. "Subdivision Plan" or "Plan" shall mean and refer to the plan of the development of the Property, a copy of attached as Exhibit B to the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records, and as it may be amended from time to time.

ARTICLE II

Property Subject to this Declaration

A. **Subject of Property to Declaration.** The Property is, by the recording of the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records, subject to the covenants and restrictions hereafter set forth and shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered, subject to this Amended and Restated Declaration.

B. **Declarant's Reservations.** Declarant reserved the right, for a period of five (5) years from the date of the Declaration dated December 18, 1998 and recorded in the City of South Burlington Land Records in Book 445 at Page 66, to amend the Declaration unilaterally, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of the Property then owned by the Declarant or its affiliates from the provisions of this Declaration to the extent included originally in error, so long as such withdrawal does not interfere with the property rights of any of the Owners in his or her Lot. Declarant also reserved the right to make changes in the plans for the Project mandated by any governmental body having jurisdiction over the Project, and to replat, combine or, subdivide any Lot and the Common Property prior to conveyance by Declarant, so long as any such division, boundary line change, or replanting shall not be in violation of any applicable land use regulations.

C. **Number and Identification of Units.** The number of Units in the common interest community is thirty-two (32) and the identification number of each Unit in the common interest community is as set forth in Exhibit F of the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records, as amended by the Sixth Amendment of record at Book 469, Page 685 of the City of South Burlington Land Records and identified on the Final Plat and amended Plats.

ARTICLE III

Common Property, Limited Common Property, Party Walls

A. Common Property.

(1) The Common Property consists of all the real and personal property and interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association or held for the common use and enjoyment of the Owners. The Common Property includes the land described in Exhibit A and depicted on Exhibit B to the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records, as both may be amended, except the Lots, and including all roadways, waterlines,

facilities, sewer lines and facilities, stormwater drainage systems, landscaping, buildings and other improvements to said lands not lying within any Lot, and includes all rights, easements, restrictions, and agreements relating to said property.

(2) Except as otherwise set forth herein as to the use of the Limited Common Property, the Common Property shall, after having been conveyed to the Association by Declarant, remain the property of the Association and shall be devoted to the common use and enjoyment of all Lot Owners. No Lot Owner or any other person shall maintain any action for partition or division thereof.

(3) Each Lot Owner may use the Common Property in accordance with the purposes for which it was intended without hindering or encroaching upon the lawful rights of other Lot Owners. Use of the Common property shall be subject to the limitations set forth herein for use of the Limited Common Property and as may otherwise be limited by the Declaration, as amended, and the Rules and Regulations regarding the use thereof as may be established from time to time by the Board of Directors.

(4) Except as otherwise specifically set forth herein with respect to the use of the Limited Common Property, no Lot Owner shall obstruct any of the Common Property nor shall any Lot Owner store anything upon any of the Common Property (except in those areas designated for such storage by the Board of Directors) without the written approval of the Board of Directors. Except as otherwise specifically set forth herein with respect to the use of the Limited Common Property, nothing shall be altered or constructed in or removed from the Common Property except upon the prior written consent of the Board of Directors.

B. Limited Common Property.

(1) The Limited Common Property is a portion of the Common property allocated for the exclusive use of one or more, but fewer than all, of the Lot Owners.

(2) The Limited Common Property shall be those areas shaded and designated on the Landscaping Plan, a copy of which is attached as Exhibit D ("Inverness at the Highlands, South Burlington, Vermont, Landscaping Plan" - Sheet S2, dated November 30, 1998, and filed with the City of South Burlington Planning Commission) to the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records.

(3) All exterior doorsteps, porches, decks, patios, doors, sliding glass doors, windows, closets, garages, garage doors, overhangs, driveways, sidewalks, parking spaces, dryer ducts and vents and other improvements designed to serve any one Lot, but located outside of the Lot's boundaries as depicted on the above-referenced plat, are Limited Common Property allocated exclusively to the use of the Lot and are to be maintained, repaired and replaced solely by the Lot Owner except the following for which responsibility of maintenance, repair and replacement have been assumed by the Association: roofs, overhangs, gutters, siding, trim, outside window sills, staining of outside doors, driveways, sidewalks, exterior doorsteps, divider hedges, dryer ducts and vents and any other items in the discretion of the Board of Directors pursuant to Article VI, Section A(3). The Lot Owner shall bear responsibility for maintenance, repair and replacement of the following, including but not limited to: garage doors, windows, sliding glass doors and patios or decks, which shall be maintained, repaired and replaced as needed in an orderly and responsible fashion, reserving unto the Board of Directors the right to require Lot Owners to make necessary repairs.

C. Party Walls.

(1) **General Rules of Law Apply.** Each wall built as a part of the original construction of the dwellings which shall serve and separate any two (2) adjoining Dwellings shall constitute a Party Wall and, to the extent not inconsistent with other provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(2) **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the wall in equal proportions.

(3) **Damage and Destruction.** If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the Party Wall may restore it, and if the other Owner or Owners thereafter make use of the Party Wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(4) **Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Declaration shall be appurtenant to the Lot and shall pass to such Lot Owner's successors-in-title.

ARTICLE IV

Association Membership and Voting Rights

A. **Authority.** The business affairs of the Property shall be managed by the INVERNESS OWNERS ASSOCIATION, INC. (the "Association"). The Association shall be governed by its By-Laws, as they may be amended and/or restated from time to time.

B. **Membership and Voting.** The Declarant, for so long as the Declarant owns any portion of the common interest community, and every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to the Declaration shall be deemed to have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Members shall be entitled to one (1) membership and one (1) vote for each Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Amended and Restated Declaration and in the By-Laws, as they may be amended and/or restated from time to time. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

C. **Powers.** The Association shall have all of the powers, authority, and duties permitted by law and the By-Laws, as amended and restated, necessary or appropriate to manage the business and affairs of the Association and collect assessments.

D. **Initial Directors Appointed by Declarant.** The initial Board of Directors was appointed by the Declarant acting in its sole discretion and serves at the pleasure of the Declarant, so long as the Declarant retains control of the Association, unless the Declarant shall earlier surrender this right to select Directors. The initial Directors selected by the Declarant need not be Owners or residents in the Property. The names of the initial Directors selected by the Declarant are set forth in the Articles of Incorporation of the Association.

E. **Declarant Control.** The Declarant conveyed title to the Common Elements and transferred control of the Association to the Unit Owners who are Members of the Association (the "Members of the Association"), and the Association has accepted said title and the Members of the Association accepted such control. Said conveyance of title and transfer of control is dated March 10, 2000 of record at Book 471, Page 587 of the City of South Burlington Land Records.

ARTICLE V

Assessments

A. **Purpose of Assessment.** The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, common benefit and enjoyment of the Owners and occupants of the Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

B. **Creation of the Lien and Personal Obligation for Assessments.** Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants agrees to pay to the Association: (a) regular assessments or charges as billed in the manner so chosen by the Association; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of the Declaration and the By-Laws, as both may be amended and restated from time to time. All such assessments, together with late charges,

interest not to exceed the maximum legal rate, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for their portion of each assessment coming due while they are the Owner of a Lot, and their grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall be governed by Article XII, Section F in the case of a First Mortgagee taking title pursuant to the remedies in the mortgage or through foreclosure.

C. **Lien for Assessments.** Pursuant to 27 V.S.A. §3-116, the Association has a statutory lien against a Unit for any assessment levied against that Unit or fines imposed against that Unit Owner in accordance with the Act.

D. **Date of Commencement of Annual Assessments: Working Capital Fund.** The annual assessments provided for herein shall commence on the date of the closing on the conveyance of title to the Lot by the Declarant, or successor Declarant, to the initial purchaser or, if the Declarant shall earlier let the Lot, upon the date of occupancy by the first tenant.

ARTICLE VI **Maintenance**

A. **Association Responsibility.**

(1) The Association shall maintain and keep in good repair the Common Property not dedicated to and/or maintained by the City of South Burlington, including without limitation, any portion of the streets, roads, sewage system, water systems, stormwater drainage system, landscaping, natural forestry, utility lines and facilities under the Association's control, and including the Limited Common Property, and exterior of the Dwellings, except for maintenance of the Limited Common Property as set forth in the Declaration, Rules and Regulations and as the Board of Directors shall, from time to time, delegated to the Owners of Lots appurtenant thereto. The Owner of each Lot by acceptance and recordation of a deed conveying the Lot, does automatically and irrevocably waive any right to demand the City of South Burlington to take over, maintain, repair or replace any of the facilities for which they have not already done so as those facilities are owned by the Association and described herein.

(2) **Additional Responsibility.** In addition, the Association shall maintain all pipes, lines, ducts, conduits, or other apparatus which serve only the Lot, whether located within or without a Lot's boundaries (including all gas, electricity, telephone, cable television, water, sewer, foundation drainage, or air conditioning pipes, lines, ducts, conduits or other apparatus serving only the Lot.)

(3) **To Maintain Limited Common Property.** Each Owner of each Lot shall also perform such maintenance to the Limited Common Property appurtenant to their Lot as the Board of Directors shall from time to time determine in its sole discretion.

(4) **Enforcement.** In the event that the Board of Directors determines that (i) any Owner has failed or refused to discharge properly their obligations with respect to the maintenance, repair, or replacement of items for which they are responsible hereunder; or (ii) that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, and is not covered or paid for by insurance, in whole or in part, then the Association may perform the repair, replacement, or maintenance and shall, except in the event of an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary. The Owner shall have ten (10) days with which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

B. **Disclaimer of Liability for Security.** Neither the Association nor the Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of

security measures undertaken. All Owners, tenants, guests, and invitees of any Owner, as applicable, acknowledge that the Declarant and the Association are not insurers and that each Owner, tenant, guest and invitee assumes all risk of loss or damage to persons, to buildings, and to contents of buildings, and further acknowledge that neither the Declarant nor the Association has made any representation or warranty, nor has Owner, tenant, guest or invitee relied upon any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose relative to any security measures recommended or undertaken.

ARTICLE VII **Use of property**

A. **Use of Lots.** Lots may be used for single-family residential use only except as set forth in Subsection D of this Article below.

B. **Common Property Use and Rights.** Every Owner shall have the right and easement of use and enjoyment in and to the Common Property only for residential, recreational, and related purposes as may more particularly be set forth in the Declaration, or amendments and restatements thereto and to any restrictions or limitations contained in any deed or amendment or restatement to the Declaration conveying to the Association or subjecting to the Declaration such property. Any Owner may delegate his or her right of enjoyment to a member of his or her family, business, and social invitees subject to reasonable regulation by the Board and in accordance with the procedures it may adopt. An Owner shall be deemed to have made such delegation to the tenant of any leased Dwelling.

C. **No Subdivision of Lots.** Except as otherwise reserved by the Declarant, no Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors.

D. **Use of property by Declarant.** The Declarant reserved the right to use or maintain the property and any portion thereof for sales offices, management offices, and models until such time as the Declarant conveyed the title thereto.

E. **Promulgation of Rules and Regulations.** The Board of Directors may, from time to time, without consent, of the members, promulgate, modify, or delete use restrictions and rules and regulations applicable to the Lots and the Common property. Such rules and regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, cancelled, or modified in a regular or special meeting by the vote of the members holding a majority of the total votes in the Association. Such rules and regulations and use restrictions may impose stricter standards than those contained in this Section. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

F. **Energy Conservation Equipment.** No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Board of Directors.

G. **Lighting.** Except for seasonal decorative lights, all exterior lights must be installed and used in a manner which will not unduly disturb surrounding Lot Owners and must be approved by the Board of Directors.

H. **Playground.** Any playground or other play areas or equipment furnished by the Association or erected within the Property shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

I. **On-Site Fuel Storage.** No on-site storage of gasoline, heating, or other fuels shall be permitted on any part of the Property, except that up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment.

J. **Fences.** No fences, walls, or any improvements or structures of any type shall be erected or maintained upon the Common Property or upon a Lot, except as are installed in accordance with the initial construction, the improvements located thereon, or as approved by the Board of Directors.

K. Outbuildings. No structures of a temporary character, trailer, tent, shack, carport, barn, or similar outbuildings may be erected on any portion of the Property at any time, either temporarily or permanently, without the consent of the Board of Directors, at its sole discretion.

L. Signs. No sign of any kind shall be erected, posted or displayed upon, in, from or about any Lot or Common Property by an Owner without the prior written approval of the Board of Directors, except for one (1) "For Rent" or "For Sale" sign, which may only be allowed to be displayed inside a window of the Dwelling and shall not be erected, posted or displayed on the exterior of any Lot or Common Property.

M. Parking. No more than two registered motor vehicles, cars, boats, boat trailers, snowmobiles, snowmobile trailers, campers, trucks, vans, motorcycles, recreational vehicles or unregistered vehicles per Lot shall be parked, stored or maintained on any portion of the Property other than in the garage which is part of the Lot or other area specifically reserved therefore, if any, by the Association. Vehicular parking for guests and invitees upon the Common Property may be regulated by the Board of Directors as promulgated through the Rules and Regulations of the Inverness Owners Association, Inc. No junk or derelict vehicles or other vehicles on which current registration plates are not displayed shall be kept upon any of the Common Property.

N. Garage. The Owner's Garage shall only be used for the parking of a registered operable automobile and shall not be structurally altered or converted for other purposes. Garages may also be used for the storage of items and material customarily stored in garages attached to single family residences as long as the storage of such items and material does not preclude or interfere with the parking of an automobile in the garage. This provision may not be amended without the approval of the City of South Burlington Planning Commission. Should this covenant not be properly enforced by the Association, the City of South Burlington may initiate legal action for injunctive or other legal relief against the offending Lot Owner, and such Owner shall be responsible for the City's costs of enforcement, including reasonable attorney's fees, if the Owner is found by a court of competent jurisdiction to be in violation of this covenant.

O. Rubbish, Trash and Garbage. All rubbish, trash, and garbage shall be stored in enclosed areas designated by the Board of Directors and regularly removed from the property. There shall be no burning of trash.

P. Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on their Lot and Limited Common property. No noxious or offensive activity shall be carried on upon any Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way are noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the property.

Q. Occupants Bound. All provisions of the Declaration, as amended and restated, the By-Laws and any Rules and Regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Lot.

R. Leasing. Units may be leased for residential purposes to no more than two (2) unrelated persons and the Association shall be provided a copy of the signed lease. All leases shall be written leases and have a minimum term of six (6) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions, and Rules and Regulations of the Association and provide that any violation thereof shall be deemed a default under the terms of the lease and that the lessor shall have the right to eject the tenant for such default. All leases shall specifically forbade the keeping of any pets in the Unit so long as the Unit is rented. All leases shall require, without limitation, that the tenant maintain a renter's insurance policy for casualty and liability and provide that any failure to obtain and maintain such insurance coverage shall be deemed a default under the terms of the lease and that the lessor shall have the right to eject the tenant for such default. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance therewith, the Board of Directors may, in addition to any other remedies available to it, in the event the Owner shall fail to initiate and reasonably maintain an action to evict the tenant after written request to do so by the Association, evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the Owner and the Owner's property.

S. **Satellite Dishes.** Satellite dishes may be installed on each Lot subject to written approval as to location of installation by the Board of Directors prior to installation, which approval shall not be unreasonably withheld.

ARTICLE VIII **Alterations**

All alterations to Dwellings must comply with all applicable permits, codes, laws, ordinances, rules and regulations and be in a manner consistent with the exterior appearance, quality of construction and landscaping with the original Dwelling to which the alterations are made. No alterations or improvements, including alterations of original exterior paint color of Dwellings or other Buildings, may be made without the written approval of the Board of Directors, which approval shall not be unreasonably withheld. No improvements or alterations may be made which would impair the structural integrity or mechanical systems or lessen the support of any portion of the Property. Erecting of structures, including but not limited to sandboxes, basketball hoops, hot tubs, pools, swing sets, children's playhouses, trampolines and the like shall be prohibited on any Lot or Common Property except with written approval of a majority of the Board of Directors. The appearance of the Common Property of the exterior appearance of any Dwelling or other Building may not be changed except as otherwise provided in the Declaration, By-Laws and/or Rules and Regulations.

ARTICLE IX **Development Permits**

A. **Permit; Compliance.** Notwithstanding anything in the Declaration or By-Laws, as amended and restated, to the contrary, the Association shall at all times maintain the common properties and the Owners, by virtue of acceptance of a deed to a Lot, all agree to comply with all terms and continuing responsibilities as may be required, with respect to all state environmental permits and local permits as may have been issued to the Declarant. With reference to the above, the Association as well as individual Owners agree specifically as follows:

- (1) The Common Properties shall be maintained by the Association with regard to plantings pursuant to the original plans and specifications as incorporated in Land Use Permit Case No. 4C0983, as amended.
- (2) Unit owners agree not to remove any water saving devices that are installed in the Units but not limited to aerator faucets, low-flow shower heads and low-flush water closets.
- (3) All Units shall be constructed and maintained with insulation with an R value of at least R-19 in the exterior walls, at least R-38 in the roof or cap, at least R-10 around the foundation or slab, insulated windows and passive solar technology.
- (4) All surface drainage systems and swales shall be maintained by the Association.

B. In the event that the Association determines to convey any of the common elements to any municipal or state authority (by way of example, roadways, pumping facilities, pipes and conduits) the Association shall be responsible for any alterations or repairs to said common element as requested by any such accepting and the Declarant shall bear no responsibility to the individual owners or to the Association for such compliance.

ARTICLE X **Easements**

A. **Easement of Encroachment.** Every owner of a Lot is hereby granted a reciprocal appurtenant easement for encroachment as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of the Declaration, as amended and restated); provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant, or the Association.

B. Easements for Use and Enjoyment.

- (1) Every Owner of a Lot is hereby granted an easement, in common with each other, through the Common Property for ingress and egress, use, and enjoyment in and to the Common

Property, which shall be appurtenant to and shall pass with the title to the Lot, including, without limitation, access to and from the Lot over the driveway running from the Lot to the adjoining street and the shared use of the sewage system, water system, stormwater drainage system, and other utilities.

(2) Said rights and easements shall be:

(a) used only for the purposes for which they are intended, subject to the Declaration, as amended and restated, and to any restrictions or limitations contained in any deed or amendment to this Declaration conveying to the Association or subjecting such property to the Declaration and to the reasonable By-Laws, rules, regulations, and restrictions that may be imposed by the Association; and

(b) subject to the right of the Association to borrow money for the purposes of improving the Common Property, or any portion thereof, or for construction, repairing, or improving any facilities located or to be located thereon, and give as security for the payment of any such loan a mortgage conveying all or any portion of the Common provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements, and privileges reserved or for the benefit of Declarant, or any Lot or Lot Owner or Mortgagee, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Property (any provision in this Declaration or in any such mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder, shall not cancel or terminate any rights, easements, or privileges herein reserved or established for the benefit of Declarant, or any Lot or Lot Owner or Mortgagee, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Property).

(3) Those portions of the Common Elements which are intended to be converted to Limited Common Elements and to be made appurtenant to the Units shall be deemed to be converted and made appurtenant to the Unit to which such Limited Common Elements are intended to be made appurtenant.

(4) Each time a Unit was included in the common interest community by the exercise of the Development Rights or the Special Declarant Rights reserved to the Declarant as provided in the Declaration, the Common Elements which were intended to be converted into Limited Common Elements and made appurtenant to the Unit being added to the common interest community shall be deemed to be converted into Limited Common Elements upon the recording of the Amendment to the Declaration that incorporates such Unit into this common interest community and immediately on such conversion, the Limited Common Elements shall become appurtenant to the Unit to which such Limited Common Elements are intended to be made appurtenant as provided in the Declaration.

(5) There shall be appurtenant to each Unit (unless specifically waived by the Declarant at the time a Unit was incorporated into the common interest community) a Limited Common Element, in addition to such other Limited Common Elements as are appurtenant to each Unit pursuant to the terms of the Declaration, consisting of the land area adjacent to each Unit identified on the First Amended Plat as the "Limited Open Space" and bounded by the dark dashed lines identified in the Legend of the First Amended Plat as "Limited Common Element line (proposed)" (hereinafter the "Lawn") Should it be necessary to recreate the locations of the Lawn appurtenant to each Unit, the Lawn appurtenant to each Unit (other than Units 109A, 109B, 110B, 117A, 137A and 143B) are generally bounded by (i) the "Party Wall Line" the centerline of the party wall (being the wall that divides one Unit from another Unit in a single building), extended to the boundary of the Common Elements to the rear of the Unit; (ii) the "Rear Line" - the boundary of the Common Elements located to the rear of the Unit; (iii) the "Side Yard Line" - by a line which commences at a point on the Front Line which is equidistant from the nearest facing walls of adjacent Units in different buildings, and proceeds equidistant from such facing walls and on a continuation of such line to the intersection with the Rear Line; (iv) the "Front Line" - the north-south line nearest the street which the Unit faces that connects adjacent Units and is depicted on the First Amended Plan. As to Unit 109A and Unit 109B, the Lawn consists of the area surrounding such Units other than the area between the front of the Unit and the street on which the Unit fronts. As to Units 110B and 143B the side Yard Line is the boundary of the Common Elements abutting the Street to the side of the Unit, and the Party

Wall Line, Rear Line and Front Line are as described above. As to Units 117A and 137A (if the conversion to Limited Common Elements is exercised, then the side Yard Line shall be the boundary of the Common Elements abutting the land which is, on the date of the First Amendment owned by Highlands Development Company, L.L.C. and the Party Wall Line, Rear Line and Front Line are as described above.

(6) Each Unit Owner, at the time the Unit Owner acquires title to the Unit, is granted the exclusive right to use the Lawn appurtenant to such Unit Owner's Unit for all purposes for which a lawn or yard may commonly be used in connection with a single family residence, excluding the right to construct structures or improvements on or in the Lawn, unless such construction is otherwise permitted by the terms of the Declaration, as amended and restated. A Lot Owner may landscape the area with plantings and customary landscape materials.

C. **Easements for Utilities.** There was reserved to the Declarant and its successors and assigns, in the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records, blanket easements upon, across, above, and under the Property, except a Lot, for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Property or any portion thereof, including, but not limited to, gas, water, sewer, telephone, and electricity, as well as stormwater drainage and other services, such as, but not limited to, a master television and/or radio system, cable television system, or security system which the Association might decide to have installed to serve the Property. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables, and other equipment related to the providing of any such utility or service. Should party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board of Directors shall have the right to grant such easement.

D. **Additional Easements.** The Board of Directors shall have the power (without submitting the same to the Lot Owners for approval) to authorize the appropriate officers of the Association to execute any and all easements as it may deem desirable for the benefit of the Lot Owners over, under, above or through any of the Common Property for such purposes and upon such terms as the Board, in its sole judgment, deems desirable.

PROVIDED, HOWEVER, all such easements shall be subordinate to the liens and rights of all Mortgages and deeds of trust recorded prior in time thereto unless the Mortgagee or trustee shall join therein.

E. **Upkeep.** Maintenance, repair and replacement of the Common Property and of the Lots, Dwellings, and all other improvements shall be as provided for in the Declaration and the By-Laws, as both may be amended and restated, notwithstanding boundaries of Lots and Common Property. The Association shall afford to the Lot Owners and their agents and employees access across the Common Property as is reasonably necessary for those purposes. If damage is inflicted on the Common Property or any Dwelling or other improvement through which access is taken, the Lot Owner responsible for the damage, or the Association, if it is responsible, shall promptly repair such damage.

F. **Declarant's Reserved Easements.** Notwithstanding any provisions contained in the Declaration to the contrary, the Declarant expressly reserved in the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records unto itself and its successors and assigns a non-exclusive, perpetual right, privilege, and easement with respect to the Property for the benefit of Declarant, its successors and assigns, over, under, in, and/or on the Property, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development, sale, lease, maintenance, repair, replacement, use, and enjoyment, and/or otherwise dealing with the Property. The reserved easement shall constitute a burden on the title to the Property and specifically includes, but is not limited to:

(1) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in the Property, and the right to tie into any portion of the Property with driveways, parking areas and walkways, and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage -lines and facilities constructed or installed in, on, under and/or over the Property; and

(2) the right to construct, install, replace, relocate, maintain, repair, use, and enjoy signs, model residences, and sales offices in the Property; and

(3) no rights, privileges, and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the Property, but shall be held independent of such title and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quit claim deed from Declarant releasing such right, privilege, or easement by express reference thereto.

G. **Existing Easements and Licenses.** Easements and licenses to which this planned community is subject are recited in Exhibit E of the Declaration dated December 18, 1998 and recorded in Book 445 at Page 66 of the City of South Burlington Land Records, as amended. In addition, the planned community may be subject to other easements or licenses granted by the Declarant pursuant to Article X, Sections C and F therein or by the Association subsequent to transfer of control to the Association.

ARTICLE XI **Condemnation**

A. **Common Property.** If the taking involves a portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, and at least sixty-seven percent (67%) of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available thereof.

B. **Award Upon Taking.** The individual Lot Owners may maintain an independent action in any proceeding before a condemning authority and be entitled to such direct award as allowed by a condemning authority, separate and apart from any action maintained by the Association.

ARTICLE XII **Mortgage Provisions**

A. **Limitations on Ability to Sell/Right of First Refusal.** Any right of first refusal in the Declaration, if any, shall not adversely impact the rights of a mortgagee or its assignee to:

- (a) Foreclose or take title to a Unit pursuant to the remedies in the mortgage;
- (b) Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor; or
- (c) Sell or lease a Unit acquired by the mortgagee or its assignee.

B. **Amendments to Documents.**

(a) Any amendments of a material adverse nature to mortgagees shall be agreed to by mortgagees that represent at least fifty-one percent (51%) of the votes of Unit estates that are subject to mortgages.

(b) Any action to terminate the legal status of the project after substantial destruction or condemnation occurs or for other reasons shall be agreed to by mortgagees that represent at least fifty-one percent (51%) of the votes of the Unit estates that are subject to mortgages.

(c) Implied approval shall be assumed when a mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

C. **Rights of Mortgagees and Guarantors.** The mortgagee and guarantor of the mortgage on any Unit in the Development shall be given timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage;

(b) Any sixty (60) day delinquency in the payment of Assessments or charges owed by the owner of any Unit on which it holds the mortgage;

(c) A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

(d) Any proposed action that requires the consent of a specified percentage of mortgagees.

D. **First Mortgagee's Rights Confirmed.** No provision of the Declaration shall give a Unit Owner or any other party priority over any rights of the First Mortgagee of the Unit pursuant to its mortgage in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

E. **Common Property Taxes.** First Mortgagees may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of a policy for the Common Property, and First Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

F. **Unpaid Dues.** Any First Mortgagee who obtains title to a Unit pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than six (6) months of the Unit's unpaid regularly budgeted dues or charges accrued before acquisition of the title to the Unit by the Mortgagee. If the Association's lien priority includes costs of collecting unpaid dues, the First Mortgagee will be liable for any fees or costs related to the collection of the unpaid dues, and shall be liable for all unpaid assessments which continue to accrue after the First Mortgagee obtains title.

G. **Notice to Association.** Each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Lot.

H. **Priority.** In the event of a conflict between this provision section of the Declaration and the provisions in any other section of this Declaration, this section shall control.

I. **Approval of Amendments Required by FNMA, FHLMC & VA.** The Declaration and Bylaws may be amended by affirmative vote of a majority of the Board of Directors of the Association at any regular or special meeting without further action of the Unit Owners or mortgagees where such amendment is necessary in order to comply with the requirements of the Federal National Mortgage Association (hereinafter "Fannie Mae" or "FNMA"), the Federal Home Loan Mortgage Corporation (hereinafter "Freddie Mac" or "FHLMC"), and/or the Veterans Administration (hereinafter "VA"). The Board of Directors is hereby designated as proxy for all of the Unit Owners and mortgagees to adopt such amendments and to authorize one or more of the officers of the Association to execute any and all documents necessary and property accomplish such amendment.

ARTICLE XIII

Insurance

A. **Casualty Insurance.** In order to ensure that sufficient reconstruction or repair funds, or both, will be available to the Association if and when needed, the Board of Directors shall insure the facilities (which means all Dwellings regardless of ownership, Common Elements and Limited Common Elements on the Property, and shall also include the Lots as well as improvements and/or betterments installed by the Owner) that are normally included in coverage, in such amounts as it shall determine, to provide not less than one hundred percent (100%) of the current replacement value (exclusive of land, excavations, and other items that are normally excluded from such insurance coverage) in the event of damage or destruction from the casualty against which such insurance is obtained. Such insurance shall protect against fire and all other hazards or perils customarily covered for similar types of associations and the proceeds of such insurance shall be used only for the repair, replacement and reconstruction of the Common Elements, Dwellings and Limited Common Elements, unless determined otherwise in accordance with 27A V.S.A. §2-118. The Board of Directors may elect such endorsements and deductible provisions as are in its judgment, consistent with good business practice and the purpose for which the insurance is bought. Policies of casualty insurance hereunder shall name the Association as the insured and the person to which payment is to be made as trustee on behalf of the Unit Owners and lienholders as their interests may appear. Any such policy shall provide that it may not be cancelled or substantially changed, except upon at least ten (10) days' written notice to the insured.

B. Liability Insurance. The Board of Directors shall also purchase commercial general liability insurance, including medical payments insurance, in amounts determined by the Board of Directors but not less than any amount specified in this Declaration, covering all occurrences commonly insured against for bodily injury or property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements. Any such policy shall provide that it cannot be cancelled or substantially changed, except upon at least ten (10) days written notice to the insured.

C. Fidelity and Errors and Omissions Insurance. The Board of Directors shall also purchase fidelity and errors and omissions insurance coverage against dishonest acts, errors and omissions on the part of the Board of Directors, managers, employees and volunteers, including but not limited to coverage for those responsible for handling funds belonging to or administered by the Association in such amounts and in such forms as prudent common interest ownership community management practices suggest. Any such policy shall provide that it cannot be cancelled or substantially changed, except upon at least ten (10) days written notice to the insured.

D. Insurance Provisions. Insurance policies carried pursuant to this Article shall provide that:

(1) Each Unit Owner is an insured person under the policy to the extent of liability, if any, arising out of their interest in the Common Elements or membership in the Association.

(2) The insurer waives its rights to subrogation under the policy against any Unit Owner or member of their household.

(3) No act or omission by any Unit Owner, unless acting within the scope of their authority on behalf of the Association, will void the policy or be a condition to recover under the policy.

(4) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. However, if such loss is as a result of the actions of a Unit Owner, such Unit Owner shall be responsible for payment of any deductible payable under the Association's policy.

(5) Nothing shall be done or kept in any Unit or on the Common Property which will increase the rate of insurance for the Property or any part thereof applicable to residential use. No Owner shall permit anything to be done or kept in their Unit or on the Common Property which will result in the cancellation or insurance on the Property or any part thereof or which would be in violation of any law, regulations or administrative ruling. No waste shall be committed on the Common Property.

E. Premiums. Premiums and expenses for all insurance and fidelity coverage purchased by the Association shall be Common Expenses. Where insurance premiums are increased as a result of increased risk attributable to a particular Unit, the Unit at issue shall be responsible for the increase, based upon the insurance carrier's appraisal of risk inherent to said Unit. A levy made against a Unit for an increase in premiums may be enforced in the same manner as Common Expenses.

F. Separate Insurance. No insurance purchased by the Association shall in any way prejudice the right of each Unit Owner to obtain insurance for their own Unit and the property herein for their own benefit as required by the Amended and Restated Bylaws of the Inverness Owners Association, Inc., nor shall the insurance purchased by the Owner prejudice the Association's rights and protection under policies purchased by the Association under this Declaration. All such separate policies of insurance obtained by a Unit Owner shall contain a waiver of subrogation if available.

G. Adjustment; Insurance Trustee. Any covered loss by the property policy shall be adjusted with the Association, but the proceeds for that loss are payable to any insurance trustee designated in the policy for that purpose, or otherwise to the Association, in either case to be held in trust for the Association, each Unit Owner and such Unit Owner's mortgagee, as their interest may appear.

ARTICLE XIV
Declarant's Rights

A. **Sale or Lease of Lots by Declarant.** Notwithstanding anything to the contrary contained herein, Declarant in the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records retained the right to sell or lease Lots and to erect and maintain signs to facilitate such sales or leases as it, in its sole discretion, deemed appropriate and shall not be required to comply with the provisions of the Declaration regarding signs and leases.

B. **Notices.** Any notice required to be given Declarant shall be effective on receipt and shall be sent by registered or certified mail, return receipt requested, or personally delivered, addressed as follows, unless or until otherwise directed to the Association in writing by the Declarant:

HOMESTEAD DESIGN, INC.
183 Talcott Road, Suite 301
Williston, VT 05495

C. **Contracts Executed During Declarant Control.** All contracts or leases executed by or on behalf of the Association prior to extinguishment of the Declarant's veto power shall contain a termination clause permitting the Association to terminate the contract or least at any time after extinguishment of the Declarant's veto power, without cause and without penalty, upon not more than ninety (90) days written notice.

D. **Development Rights.** The Declarant in the Declaration dated December 18, 1998 of record at Book 445, Page 66 of the City of South Burlington Land Records reserved the following development rights:

(a) The right to develop Units 112A, 112B, 113A, 113B, 114A, 114B, 115A, 115B, 116A, 116B, 117A, 117B, 137A, 137B, 138A, 138B, 139A, 139B, 140A, 140B, 141A, and 141B, as each is depicted on the Final Plat and on the First Amended Plat. Declarant reserved the right to exercise all Development Rights through January 4, 2004, after which such rights expired as provided in the Act. Declarant made no assurances as to the order in which the Development Rights as to a particular Unit were to be exercised nor whether Development Rights in a particular Unit were to be exercised at all.

There are no Development Rights reserved to add additional property (meaning thereby land and improvements other than the Property) or additional units to the common interest community, other than the Units described in Subpart (a) above.

(b) The right to allocate to a Unit the Limited Common Elements adjacent to such Unit, including each item identified as Limited Common Element in the Declaration and as depicted on the First Amended Plat, all as amended.

(c) In extension of and intending to enhance those rights reserved in Article II, Section B of the Declaration, Declarant specifically reserved the right to relocate the footprints of Units 115A, 115B, 116A, 116B, 117A, 117B, 137A, 137B, 138A and 138B to accommodate certain conditions that may arise during construction of the footprints thereof, subject to obtaining amendments to permits and approvals as may be required by applicable law.

ARTICLE XV Compliance and Default

A. **Compliance.** Each Lot Owner shall be governed by and shall comply with, all of the provisions of the Declaration and the By-Laws of the Association and any resolutions, rules, or regulations promulgated by the Board of Directors of the Association, and similar instruments, as the same may be amended or restated from time to time. In addition to the remedies provided by the Act, the Declaration, or the By-Laws, all as amended or restated, the failure of a Lot Owner to comply with any of said requirements shall entitle the Association, acting through its Board of Directors or through its Management Agent or an aggrieved Lot Owner, to the following relief, after appropriate notice to the defaulting Lot Owner:

(1) **Liability.** A Lot Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by their act, neglect, or carelessness or by that of any of their guests, employees, agents, lessees, or other invitees. No Lot Owner shall conduct any activity which may result in an increase in insurance rates occasioned by use, misuse, occupancy, or abandonment of a Lot or its appurtenances, or of the Common Property.

(2) **Fines.** The Board of Directors shall have the right to impose upon a defaulting Lot Owner a reasonable fine, commensurate with the severity of the violation of any of the provisions of the above-referenced documents, which fine shall become a continuing lien against the Lot of the defaulting Lot Owner enforceable in the manner provided by the By-Laws. The Board of Directors shall adopt a schedule of fines applicable to the various provisions of the Declaration, the By-Laws, and rules, regulations, restrictions, and any resolutions lawfully adopted by the Association or the Board of Directors.

(3) **Injunctions.** The Board of Directors of the Association and/or any aggrieved Lot Owner shall have the right to abate, enjoin, or remedy by appropriate legal proceedings, either in law or in equity, the continuance of any violation of the provisions of the above-referenced documents, including, without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any combination thereof, and any other relief afforded by a court of competent jurisdiction. Such remedies shall be deemed cumulative and shall not constitute an election of remedies. The failure of the Association or its Board of Directors to enforce any rights, covenants, or conditions of the Property shall not constitute a waiver of the right to enforce such rights, covenants, or conditions in the future. There shall be, and there hereby is created and declared to be, a conclusive presumption that any violation or breach, or any attempted violation or breach, of any of the covenants and restrictions of this Declaration the By-Laws shall so damage the Property and its values that it cannot be adequately remedied by action at law or exclusively by recovery of damages.

(4) **Costs and Attorneys' Fees.** In any proceeding arising because of an alleged failure of a Lot Owner to comply with the terms of the Declaration, the By-Laws, or the rules, regulations, and restrictions of the Association, all as amended or restated, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

B. Rights of the Lot Owner. Each Lot Owner shall have a right of action against the Association for failure of the Association to comply with the provisions of the Project Documents or the decisions made by the Association.

C. Waiver. No provision of this Declaration shall be deemed to have been waived by reason of any failure to enforce regardless of the occurrence of violations or breaches from time to time.

D. Self Help. In addition to any other remedies provided for herein, the Association, or its duly authorized agent, shall have the power to enter upon a Lot or any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any erection, thing, or condition which violates the Declaration, the By-Laws, the rules, regulations, or restrictions, all as amended or restated. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days' written notice of its intent to exercise Self Help. All costs of Self Help, including reasonable attorneys' fees actually incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

ARTICLE XVI **General Provisions**

A. Duration. The provisions of the Declaration, as amended and restated, shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law; provided, however, so long as Vermont law limits the period which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, and such provisions may be renewed or extended, in whole or in part, beyond the initial period permitted by such law for successive periods not to exceed the period permitted by such law, provided such renewal or extension is approved by at least a majority of the votes of the Members of the Association present or represented by proxy are entitled to cast at a meeting duly called for such purpose. Further, no such renewal or extension shall be effective unless there is filed for record in the Land Records of the City of South Burlington, Vermont, on or before the effective date thereof, an instrument executed by the President and Secretary of the Association which shall state the terms of such renewal or extension and which shall contain a certification by such Secretary that such extension and renewal was duly approved by members of the Association. Every purchaser or grantee of any interest in any real property subject to the Declaration, as amended or restated, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of the Declaration, as amended or restated, may be extended and renewed as provided in this Subparagraph A.

B. Amendment. This Declaration may have been amended, unilaterally at any time and from time to time by Declarant so long as Declarant retained control of the Association, (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to the Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lot subject to the Declaration; provided, however, any such amendment shall not have adversely affect the title to any Owner's Lot unless any such Lot Owner shall have consented thereto in writing. Further, so long as Declarant retained control of the Association, Declarant may have unilaterally amended the Declaration for any other purpose; provided, however, any such amendment shall not have materially adversely affected the substantive rights of any Lot Owner thereunder; nor shall it have adversely affected title to any Lot without the consent of the affected Lot Owner.

In addition to the above, the Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least sixty-seven percent (67%) of the Lot Owners and at least fifty-one percent (51%) of the Mortgagees that are subject to Mortgages held by First Mortgagees, if such First Mortgagees consent is required pursuant to Article XII, and the consent of the Declarant, so long as the Declarant owns any Lot subject to the Declaration, or has an unexpired option to subject property to the Declaration. Amendments to the Declaration shall become effective upon recordation in the Land Records of the City of South Burlington, Vermont unless a later effective date is specified therein.

C. Partition. The Common Property shall remain undivided and no Lot Owner nor any other person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Property and without the written consent of all holders of all mortgages encumbering any portions of the property, including but not necessarily limited to, the Lots located within the Property.

D. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

E. Severability. Whenever possible, each provision of this Amended and Restated Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Amended and Restated Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application and, to this end, the provisions of this Amended and Restated Declaration are declared to be severable.

F. Captions. The captions of each Article and Section hereof are only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

G. Indemnification. The Association shall indemnify every officer and director against any and all expenses, including counsel fees imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including of any suit or proceeding, if approved by the Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, or otherwise, except for their own individual willful malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which an officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

H. Books and Records.

(1) **Inspection by Members and Mortgagees.** The Declaration, the By-Laws, copies of rules and use regulations, all as amended or restated, membership register, books of account, and minutes of meetings of the members of the Board of Directors and of any committee shall be made available for inspection and copying by any member of the Association or by their duly appointed aid by holders, insurers, or guarantors of any first mortgage at any reasonable time and for a purpose reasonably related to their interest as a member or holder, insurer or guarantor of a first mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

(2) **Rules for Inspection.** The Board of Directors shall establish reasonable rules with respect to:

- (a) notice to be given to the custodian of the records;
- (b) hours and days of week when such an inspection may be made; and
- (c) payment of the cost of reproducing copies of Documents.

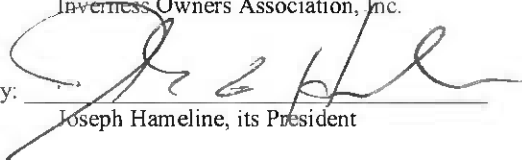
(3) **Inspection by Directors.** Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extra copies of documents at the reasonable expense of the Association.

I. **Audit.** An audit of the accounts of the Association may be made annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's audit at the annual meeting, the members, by a majority vote, may require that the accounts of the Association be audited as a expense by a public accountant. Upon written request of any institutional holder of a first mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of the annual audited financial statement within ninety (90) days after the end of each fiscal year.

IN WITNESS WHEREOF, the undersigned hereby certifies that as of the 20 day of SEPTEMBER, 2012, the foregoing is a true and accurate copy of the Amended and Restated Declaration of Covenants, Conditions, Restrictions, Easements and Liens and By-Laws of Inverness Owners Association, Inc. as adopted by resolution at a duly called and noticed meeting of the Association held on the 20 day of SEPTEMBER, 2012 at which a quorum was achieved and the foregoing passed by at least sixty-seven (67) percent of the votes cast and that as of the date hereof, these resolutions have not been modified or rescinded and remain in full force and effect.

Inverness Owners Association, Inc.

By:

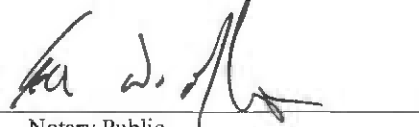


Joseph Hameline, its President

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

At South Bennington, in said County and State, this 20 day of SEPTEMBER, 2012, personally appeared Joseph Hameline, President and Duly Authorized Agent of the Inverness Owners Association, Inc., and he acknowledged the within instrument, by him subscribed, to be his free act and deed and the free act and deed of the Inverness Owners Association, Inc.

Before me,



Notary Public

Commission Expires: February 10, 2015