

PART II  
EXHIBITS

EXHIBIT A

Declaration  
of  
Covenants, Conditions and Restrictions

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DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made the \_\_\_\_ day of \_\_\_\_\_, 1987, by Ontario Heights Development, Inc., hereinafter called "Declarant".

WHEREAS , Declarant is the owner of certain real property in the Town of Victor and Village of Victor, County of Ontario and State of New York, more particularly described in Schedule A attached hereto and made a part hereof, said land in its entirety being hereinafter referred to as the "Properties"; and

WHEREAS, Declarant has subdivided the Properties and desires to subject the same to those certain covenants, agreements, easements, restrictions, charges and liens (hereinafter referred to collectively as "Restrictions") as hereinafter set forth; and

WHEREAS, THE DRUMLINS HOMEOWNERS' ASSOCIATION, INC., is a New York Not-for-Profit Corporation formed for the purpose described in its Certificate of Incorporation;

NOW, THEREFORE, Declarant hereby declares that all of the Properties, together with any and all improvements thereon and appurtenances thereunto, shall be held, sold and conveyed subject to the following covenants, easements, restrictions and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, burden and bind the Properties for and during the period of time specified hereafter and all parties having any right, title or interest in the Properties or any part thereof, their heirs, executors, administra-

tors, successors, and assigns forever, and shall inure to the benefit of each owner thereof.

## ARTICLE I

### DEFINITIONS

Section 1. "Association" shall mean and refer to THE DRUMLINS HOMEOWNERS' ASSOCIATION, INC., its successors and assigns.

Section 2. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 3. "Restricted Common Area" shall mean and refer to that part of the Common Area which is set aside for the exclusive use of a particular owner.

Section 4. "Declarant" shall mean and refer to ONTARIO HEIGHTS DEVELOPMENT, INC., and its successors and assigns if such successors or assigns shall acquire more than one undeveloped lot from Declarant for the purpose of development.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map or resubdivision map of the Properties, with the exception of the Common Area.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Properties, including contract sellers, excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions

thereto as may hereafter be brought within the jurisdiction of the Association.

Section 8. "Unit" shall mean and refer to the structure built on any given Lot.

ARTICLE II  
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, excluding any restricted common area, including any necessary rights of ingress and egress to Owner's property over the Common Area, which easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association, pursuant to its bylaws, to adopt rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

(b) the right of the Association to suspend the right to the use of any facilities on the Common Area by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed 60 days for any infraction of its published rules and regulations.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority,

or utility for such purposes and subject to such conditions as may be agreed upon by the members approving such transfer. Except for such dedications or transfers disclosed to initial Owners or otherwise required for Subdivision approval, no such dedication or transfer shall be effective unless an instrument signed by 75% of each class of members, and their mortgagees, agreeing to such dedication or transfer, has been recorded.

(d) the right of invitees and business visitors of any Owner to ingress and egress over those portions of the Common Areas that lie within private roadways.

(e) the right of the Association to designate certain portions of the Common Area as restricted common areas and as parking lots for vehicles of Owners, their invitees and business guests.

(f) the right of the Association to designate certain portions of the Common Area as sidewalks for the use of Owners, their invitees and business guests.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

### ARTICLE III

#### EASEMENTS

Section 1. Easements for Utilities. Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities and utility companies over any part of the Properties.

Section 2. Easements for Encroachments. Each Lot, and the property included in the Common Area, shall be subject to an easement for encroachments created by construction, settling and overhangs for all buildings constructed by Declarant. A valid easement for said encroachments, and for the maintenance of same, shall and does exist so long as such encroachments stand. In the event that any structure containing two or more living units is partially or totally destroyed and then rebuilt, or is in need of repair, the Owners of the living units so affected agree that minor encroachments of parts of the adjacent living units on adjoining Lots or on the Common Area due to such construction shall be permitted, and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 3. Other Easements. There is hereby created a blanket easement upon, across, over and under all of the Properties, for ingress, egress, installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master cable television antenna system. By virtue of this easement it is expressly permissible to erect and maintain the necessary transformers or other equipment on the Properties, and to affix and maintain electrical or telephone wires and conduits, sewer and water lines on or below any residence or land owned by any Owner. An easement is hereby granted to the Association, its officers, agents, employees, including employees of any management company having a contract with the Association, over all of the

Common Area and over all of the Lots, and to enter any residence to perform the duties of maintenance, landscaping and repair of the residences or Common Area or lawn areas within Lots, to maintain any utilities for which an easement has been granted and to prevent damage to any other residence. An easement is hereby reserved to Declarant to enter the Common Area and any Lot during the period of construction and sale of the Properties, or any additions to the Properties, and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of residences, including, without limitation, a business office, sales office, storage area, construction yards, signs and model units, provided that this does not unreasonably obstruct access by members of the Association.

#### ARTICLE IV

##### MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subjected by this Declaration to assessment by the Association shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Voting Rights. The Association shall have two classes of voting membership.

Class A members shall be all Owners with the exception of Declarant. On \_\_\_\_\_, 1994, or at such time

as all 237 Lots have been conveyed by Declarant, whichever first occurs, each Class A member shall be entitled to one vote. When more than one person holds an interest in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. Prior to \_\_\_\_\_ 1994, or such time as title to all 237 Lots has been conveyed by Declarant, whichever first occurs, Class A members shall not be entitled to vote.

Class B members shall be Declarant or its successors or assigns, and shall be the only members entitled to vote until \_\_\_\_\_, 1994, or such time as title to all 237 Lots has been conveyed by Declarant, whichever first occurs, at which time Class B membership shall cease and be converted to Class A membership.

## ARTICLE V

### COVENANT FOR ANNUAL OR SPECIAL ASSESSMENT

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Properties, hereby covenants to pay to the Association, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The covenant in this Section shall not constitute a guarantee or promise of any kind by Declarant to pay any assessment or any other obligation of any Owner other than Declarant. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall be the personal obligation of the person who is the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively (i) to operate, maintain, repair, improve, construct, reconstruct and preserve, on a non-profit basis, the Common Area owned by the Association, exclusively for the benefit of its members, their guests, tenants and invitees; and (ii) to maintain, repair, reconstruct, replace and preserve, on a non-profit basis, the Lots, and the improvements constructed thereon, for the purpose of preserving the exterior appearance and configuration of said Lots and Units, including, but not limited to, foundations, all exterior (outside) walls, including window casements (excluding, nevertheless, all glass replacements or breakage and window screens and excluding window cleaning), exterior chimney and exterior doors (excluding, nevertheless, storm and screen doors), roof and roof members, facia

and exterior trim, gutters and down spouts, driveways, walks and parking areas, trees, shrubs and grasses, and other exterior improvements (excluding patio areas). The maintenance and cleaning of window glass and screens, storm and screen doors, and patio areas shall be the responsibility of Owners, provided, however, that if an Owner shall fail to maintain and clean satisfactorily after fifteen (15) days notice from the Association, the Association may perform such maintenance and cleaning and charge the Owner for the expense thereof. Except for the structural portion of the exterior walls and roof members, there shall be no obligation on the part of the Association to maintain, repair, reconstruct, replace or preserve any part of the interior of any Unit or any fixtures or mechanical system (including but not limited to heating, including chimney, lighting, plumbing, air-conditioning) for any Owner. The above obligation shall not include any maintenance, repairs or replacements caused by fire or other casualty to a Unit, except as provided under Article VII, Section 3 and Article X.

Section 3. Date of Commencement of Annual Assessments and Due Dates. The assessments provided for herein shall be fixed from time to time, but at least annually, and shall commence as to all Lots on the first day of the month following the recording of this Declaration, and shall be prorated on the basis of the Estimated Budget for the first year, published in the Offering Plan, according to the number of months remaining in the fiscal year. The Board of Directors shall fix the amount of

subsequent assessments from time to time, but at least annually, for each Lot at least thirty (30) days in advance of annual assessment period. Written notice of the assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and, unless otherwise provided, the Association shall collect each month from the Owner of each Lot one-twelfth (1/12) of the annual assessment for such Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer, or the Managing Agent, if any, of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction repair or replacement of a capital improvement upon the Common Area, and the Lots, or any of them, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members entitled to vote, present in person or by proxy, at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the

purpose of taking any action authorized under Section 4 of this Article V shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The presence of Members, in person or by proxy, entitled to cast two-thirds (2/3) of all the votes of the membership shall constitute a quorum.

Section 6. Uniform Equal Rate of Assessment. Both annual and special assessments must be fixed at a uniform equal rate for all Lots and may be collected on a monthly or quarterly basis.

Section 7. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum prevailing legal rate per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property, including foreclosure by an action brought in the name

of the Association in a like manner as a mortgage foreclosure on real property and such Owner hereby expressly grants to the Association a power of sale in connection with the foreclosure of said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of the Lot Owners, shall have the power to bid for the interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium for fire and other hazard insurance. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or abandonment of his Lot, or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance thereof by the Association, a deed in lieu of foreclosure.

Section 8. Subordination of the Association Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage given to any bank, savings bank, savings and loan association, pension fund, or other institutional lender to Declarant. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of any first mortgage, or by deed in lieu of foreclosure, given

as above provided, shall extinguish the lien of such assessments as to payments which became due prior to the foreclosure sale and transfer. No foreclosure sale or transfer shall relieve such Lot owner from liability for any assessments thereafter becoming due or relieve the Lot from the lien thereof.

Section 9. Reserves and Surplus. The Association's Board may establish, from time to time, reserves for such lawful purposes as in its sole discretion it may determine necessary to be desirable for the greater financial security of the Association and the effectuation of its purposes. The Association shall not be obligated to spend in any fiscal year all the sums collected in such year, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply any such surplus to the reduction of the amount of the annual assessment in the succeeding year, but may carry forward the same from year to year.

Section 10. Contractual Authority. The Association shall be entitled to contract with any corporation, firm or other entity in the performance of various duties imposed on the Association hereunder and the performance of any such entity shall be deemed the performance of the Association hereunder.

Section 11. In spite of any provision to the contrary in this Article V, Declarant shall not be liable for the payment of common charges for any unsold Lots owned by it, unless and until said Lots are improved by completed units. For purposes of this section a completed unit shall be a unit for which a certi-

ificate of occupancy has been issued by the Village of Victor or Town of Victor, as the case may be. Declarant shall, however, contribute to the Association that amount equal to the difference between the cost of operating the Association and the assessments collected from Owners as set forth in the Estimated Budget. Similarly, Declarant shall not be obligated to make any capital contribution except for the units which have been completed and are retained by Declarant.

#### ARTICLE VI

#### EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows: lawn mowing, maintenance of trees and shrubs, paint, repair, replace and care of roofs, gutters, downspouts and exterior building surfaces. Such exterior maintenance shall not include glass surfaces or doors, screens or screen doors, nor shall it include the maintenance or snow shoveling of individual sidewalks and steps, if any. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance and repairs shall be added to and become part of the assessment to which such Lot is subject. The above obligation does not include any maintenance or repairs caused by fire or other casualty to the premises owned individually by members of the Association.

*See p. 10-8*

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the dwelling units upon the Properties and placed on the dividing line between any two Lots shall constitute a party wall for the purposes of this Declaration only, and to the extent not inconsistent with the provisions of this Article the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 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 proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall he shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or

willful act causes the party wall to be exposed to the elements shall bear the whole costs of furnishing the necessary protection against such elements.

Section 5. Right of Contribution Runs with the Land.

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration.

In the event of any dispute arising concerning a party wall or under the provisions of this Article, except for disputes involving Declarant, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator and the decision shall be by a majority of all of the arbitrators and be binding upon the parties. Judgment upon the award of the arbitrators may be taken in any court of law with jurisdiction thereof.

ARTICLE VIII

USE OF PROPERTY

The use of the Properties shall be restricted to and in accordance with the following provisions:

A. Type of Dwellings: No building shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling and a garage.

B. Use of Common Elements. The Common Area shall be used for the furnishing of benefits and activities for which the same are reasonably intended, for the enjoyment of the Units.

C. Occupancy. No Unit shall be occupied by any persons taking possession in violation of the provisions of Article IX below.

D. Nuisances. No nuisances shall be allowed upon the Properties nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the Properties by their residents.

E. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Properties or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The respective responsibilities of the Owners and the Board of Directors of the Association for complying with the requirements of governmental bodies which require maintenance, modification or repair of the Properties shall be the same as hereinabove provided for the maintenance and repair of that portion of the Properties subject to such requirement.

F. Interpretation. In interpreting deeds, mortgages, and plans, the original existing physical boundaries of a Unit, (or in the event the Unit is reconstructed in substantial accordance with the original plan, its existing physical boundaries as reconstructed), shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed, mortgage or plans, regardless of minor variance between

boundaries shown on the plans or in the deed and those of the building.

G. Regulations. Regulations concerning use of the Properties may be promulgated by the Board of Directors as hereinabove set forth; provided, however, that copies of such regulations are furnished to each Owner prior to the time that the same become effective. The initial regulations, which shall be deemed effective until amended by the Board of Directors, are annexed to and made a part of the Bylaws. Such regulations shall not impair or limit the rights of mortgagees as elsewhere recited.

H. Application To Declarant. These restrictions shall not apply to the business activities of Declarant or its successors during construction or any additions thereto, so long as there are no undue delays. ✕

## ARTICLE IX

### ARCHITECTURAL CONTROL

No building, fence, wall, mail box or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association. In the event said Board fails to approve or disapprove such design and

location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

#### ARTICLE X

#### INSURANCE AND CASUALTY DAMAGES

The Board of Directors shall obtain and maintain, to the extent obtainable, at Owners' expense, insurance coverage insuring the structures and all other insurable improvements upon the Properties, including all Association property and all individual Units, and improvements and betterments, and all personal property as may be owned by the Association, in an amount equal to the maximum insurable replacement value thereof as determined annually by the insurance company affording such coverage. Such coverage shall afford protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement and such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the Units and Association structures, including but not limited to, vandalism, malicious mischief, windstorm and additional perils.

Insurance covering public liability and property damage shall be provided in such amounts and in such forms as shall be required by the Board of Directors, but in no event less than \$500,000.00 for bodily injury to one person per occurrence; \$1,000,000.00 for aggregate bodily injury to all persons per one

occurrence and \$250,000.00 property damage per occurrence; including, but not limited to, hired automobile, non-owned automobile and off-premises employee coverage (if there are any employees).

In the event workers compensation insurance is required by law for the Association, a workers compensation policy meeting those requirements shall be procured.

With the exception of the insurance furnished by the Sponsor during construction, all insurance policies upon the Properties (with the exception of the policies purchased by Owners themselves as outlined in the following paragraph) shall be purchased by the Board of Directors for the benefit of the Owners and their respective mortgagees, as their interest may appear, subject, however, to the loss payment provisions in favor of the Association hereinafter set forth. The policies shall provide for the issuance of certificates of insurance with mortgagee endorsements to the holders of first mortgages on the Units or any of them, and shall provide that the insurer waives its right of subrogation as to any claims against Owners, the Board of Directors and their respective employees, agents and guests. Such policy will also contain waivers of invalidity on account of acts of the insured, and ten days notice prior to any cancellation of any such policy. Each Owner delegates to the Board of Directors his right to adjust with insurance companies all losses under policies purchased by the Board of Directors of the Association subject to the rights of mortgagees of the

Owners. All net proceeds under the policies shall be payable to the Association as Trustee.

Each Owner may obtain insurance, at his own expense, affording coverage upon his personal property and for his personal liability, and additional insurance required by law, if any, but all such insurance shall contain the same waiver of subrogation as that to which reference is made above, and may be obtained from the insurance company from which the Board of Directors obtains coverage against the same risk, liability or peril, if the Board of Directors has such coverage. To the extent that an Owner obtains coverage for any risk related to his Unit from an insurer other than the Association's insurer, he shall provide current certificates of coverage and deliver them to the Board of Directors.

Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Association and charged to Owners as common expenses or in other appropriate manner.

The Board of Directors will arrange for repair of the Units in the event of casualty loss, unless at a meeting of the Board of Directors the Association Declaration is terminated. In the event the insurance proceeds are not sufficient to defray the cost of reconstruction and repair to the Units, the balance of the cost of such reconstruction and repair or the estimate thereof will be assessed against all Owners. In the event of a casualty loss, the Owner will continue to pay the common charges on his Unit.

The Association may secure such other forms of insurance coverage as its Board of Directors may from time to time direct to be paid as a common expense.

## ARTICLE XI

### GENERAL PROVISIONS

Section 1. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any property subject to this Declaration, their respective heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded, after which time the covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then Owners of seventy-five percent (75%) of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. This Declaration may be amended during the first thirty (30) year period by an instrument, signed by not less than ninety percent (90%) of the Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners. Any amendment must be recorded in the Ontario County Clerk's Office to be effective.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall

in no way effect any other provisions, which shall remain in full force and effect.

Section 3. Enforcement. The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

## ARTICLE XII

### ADDITIONAL PROPERTIES

Declarant, its successors or assigns, shall have the right, without the consent of the members of the Association, within seven (7) years of the date of this Instrument, to bring within the scheme of this Declaration additional properties to be developed substantially as the properties contained herein. However, neither Declarant nor its successors and assigns shall be bound to make such additions. Such additions shall be made by filing in the Ontario County Clerk's Office a supplemental Declaration with respect to the additional properties, which shall extend the scheme of this Declaration to such properties. Such supplemental Declaration may contain additions and modifications to the covenants and restrictions contained in this Declaration which are not inconsistent with the scheme of this Declaration.

In no event, however, shall such supplemental Declaration revoke the covenants established by this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1987.

ONTARIO HEIGHTS DEVELOPMENT, INC.

By: \_\_\_\_\_  
John G. Turner, President

STATE OF NEW YORK)  
COUNTY OF ONTARIO) ss.:  
VILLAGE OF VICTOR)

On this \_\_\_\_\_ day of \_\_\_\_\_, 1987, before me personally came JOHN G. TURNER, to me personally known, who, being by me duly sworn, did depose and say that he resides in the Town of Victor, New York; that he is the President of Ontario Heights Development, Inc., the corporation described herein, and which executed the within Instrument; that he signed his name hereto by order of the Board of Directors of said corporation.

\_\_\_\_\_  
NOTARY PUBLIC