

BY-LAWS  
OF  
SOUTHERN HILLS HOMEOWNERS ASSOCIATION, INC.

ARTICLE I. PURPOSE AND OFFICE.

1.1 PURPOSE.

SOUTHERN HILLS HOMEOWNERS ASSOCIATION, INC. has been formed for the purpose of owning, operating and maintaining, preserving and arranging for architectural control of the Lots and Common Area of the Southern Hills Manor Subdivision, exclusively for the benefit of its members.

1.2 OFFICE.

The principal office of the Association shall be located in the Town of Henrietta, Monroe County, New York.

ARTICLE II. DEFINITIONS.

2.1 "Association" shall refer to the Southern Hills Homeowners Association, Inc. and its successors and assigns.

2.2 "Properties" shall refer to the real property described in the Declaration of Covenants, Easements and Restrictions of Southern Hills, Ltd. recorded on even date with these By-Laws ("Declaration").

2.3 "Common Area" shall refer to all real property owned by the Association for the common use and enjoyment of the Owners.

2.4 "Lot" shall refer to any plot of land shown upon any recorded subdivision or resubdivision map of the Properties excluding the Common Area, and further excluding Lot Nos. R-4-1, R-4-2, R-4A-1, R-4A-2, R-11-1, R-11-2, R-11-3, R-11-4 and 10.

Upon the recording of an instrument in the Monroe County Clerk's Office by all of the owners and any mortgagees of any of said excluded lots, except Lot 10, subjecting such lot owner to the Declaration, such exclusion shall cease.

2.5 "Owner" shall refer to the record owner, whether one or more persons or entities, of the title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.

2.6 "Declarant" shall refer to Southern Hills, Ltd., a New York Corporation, its successors and assigns.

### ARTICLE III. MEMBERS AND MEETING.

#### 3.1 MEMBERSHIP.

The Association shall have as voting members only Owners of Lots. All Owners, upon becoming such, shall be deemed automatically to have become members of the Association and there shall be no other qualification for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of any obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

#### 3.2 ASSESSMENTS.

As more fully provided for in the Declaration, each member is obligated to pay to the Association, annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. 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 assessment or foreclose any lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise relieve himself from liability for the assessments provided for him by non-use of the Common Area or abandonment of his Lot or by renunciation of membership in the Association.

### 3.3 ANNUAL MEETINGS.

The annual meeting of the members of the Association shall be held at the principal office of the Association on the 15th day of July of each year, and if a legal holiday, then the next succeeding Friday if not a legal holiday, for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting.

### 3.4 NOTICE OF ANNUAL MEETINGS.

Notice of the time, place and purpose of the annual meeting shall be served, either personally or by mail, not less than ten (10) nor more than forty (40) days before the meeting upon each person who appears upon the books of the Association as a member and, if mailed, such notice shall be directed to the member at his address as it appears on the books of the

Association, unless he shall have filed with the Secretary of the Association, a written request that notice intended for him be mailed to some other address, in which case, it shall be mailed to the address designated in such request.

### 3.5 SPECIAL MEETINGS.

Special meetings of the members, other than those regulated by statute, may be called at any time by the President or by two directors and must be called by the President on receipt of the written request of one-third (1/3) of the members of the Association.

### 3.6 NOTICE OF SPECIAL MEETINGS.

Notice of a special meeting stating the time, place and purpose or purposes thereof shall be served personally or by mail upon each member not less than five nor more than forty days before such meeting and, if mailed, such notice shall be directed to each member at his address as it appears on the books or records of the Association, unless he shall have filed with the Secretary of the Association a written request that notices intended for him shall be mailed to some other address, in which case, it shall be mailed to the address designated in such request.

### 3.7 PLACE OF MEETINGS.

All meetings shall be held at the principal office of the Association in the Town of Henrietta, except in cases in which the notice thereof designates some other place; but all such meetings shall be held within Monroe County, New York.

### 3.8 QUORUM AND VOTES REQUIRED.

At any meeting of members of the Association the presence of members holding one-third (1/3) of the votes of all members, in person or by proxy, shall be necessary to constitute a quorum for all purposes except as otherwise provided by law, and the vote of a majority of the votes cast by members present at any meeting at which there is a quorum shall be the act of the full membership except as may be otherwise specifically provided by statute, by the Declaration or by these By-Laws.

### 3.9 VOTING.

a. At every meeting of members, each member shall be entitled to one vote in person, or by proxy. If a person or entity shall own more than one lot, such person or entity shall be entitled to cast only one vote. The vote for directors and, upon the demand of any member, the vote upon any question before the meeting, shall be by ballot. All elections shall be held and all questions decided by a majority of the votes cast by the members present in person or by proxy.

b. The Association's Board of Directors may make such regulations as it deems advisable for any meeting of members, in regard to proof of membership in the Association, evidence of right to vote, registration of members for voting purposes, and such other matters concerning the conduct of the meetings and voting as it shall deem fit.

c. The Board of Directors may issue rules specifying the method by which the Secretary shall be appraised of the names and

addresses of all Owners and the number of votes which each is entitled to cast at any meeting of the membership.

d. A member may vote as such either in person or by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from its date, unless otherwise provided in the proxy. Every proxy shall be in writing, subscribed by the member or his duly authorized attorney-in-fact and dated, but need not be sealed, witnessed nor acknowledged.

e. At each meeting of members a full, true and complete list in alphabetical order of all members entitled to vote in such meeting, certifying the number of votes each member is entitled to cast, shall be furnished by the Secretary.

f. So long as Declarant, its successor and assigns, shall own two or more Lots, within the period of three (3) years from the date of recording of the Declaration, then and in such event, it shall have the right to designate three members of the Board of Directors.

g. So long as the Declarant retains control of the Board of Directors, pursuant to the preceding paragraph, no mortgage lien may be placed upon the property of this Association without the prior consent 51% of the owners, other than Declarant.

### 3.10 WAIVER OF NOTICE.

Whenever under the provisions of any law or under the provisions of the Certificate of Incorporation or By-Laws of this Association, the Association or the Board of Directors or any

committee thereof is authorized to take any action after notice to the members of the Association or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of any period of time, if at any time before or after such action be completed, such requirements be waived in writing by the person or persons entitled to such notice or entitled to participate in the action to be taken or by his attorney thereunto authorized.

### 3.11 INSPECTORS OF ELECTION.

If requested by any member, the President shall at the Annual Meeting appoint two persons, who need not be members, to serve as inspectors of election.

### 3.12 REMOVAL OF DIRECTORS OR OFFICERS.

Any director (except one designated by Declarant under Paragraph 3.09(g) or officer may be removed from office by the majority of the votes cast by the members present either in person or by proxy, at any regular or special meeting called for that purpose, for conduct detrimental to the interests of the Association, for lack of sympathy with its objectives, or for refusal to render reasonable assistance in carrying out its purposes. Any such officer or director proposed to be removed shall be entitled to at least five (5) days' notice in writing by mail of the meeting at which such removal is to be voted upon and shall be entitled to appear before and be heard at such meeting.

### 3.13 COMPENSATION AND EXPENSES.

Members shall not receive any compensation for services rendered the Association. The Board of Directors shall have power, in its discretion, to contract for and to pay to members rendering unusual or special services to the Association special compensation appropriate to the value of such services.

## ARTICLE IV. DIRECTORS.

### 4.1 ELECTION.

The business and property of the Association shall be managed and controlled by a Board of Directors, who shall be elected annually by the members to hold office for three (3) years or until the election of their respective successors, except as hereinafter otherwise provided for filling vacancies. The directors need not be members of the Association and shall, subject to provisions of Section 3.9 hereof, be chosen by ballot at such meeting by a majority of the votes of the members, voting either in person or by proxy. At the first annual meeting, five (5) directors will be elected, one for a term of one year (Class I), two for a term of two years (Class II), and two for a term of three years (Class III). Successive terms for each class of director shall be for a term of three years. Until the first annual meeting, the members of the Board of Directors shall be designated by Declarant and hold office until the election of directors at the first annual meeting.

### 4.2 RESIGNATION.

Any director may resign at any time by giving written notice of such resignation to the Board of Directors.



#### 4.3 VACANCIES.

Any vacancy in the Board of Directors occurring during the year, may be filled by the directors then serving, although less than a quorum, by affirmative vote of the majority thereof. Any director so elected by the Board of Directors shall hold office until the next succeeding annual meeting of the members of the Association at which time an election will be held to fill such position for the unexpired portion of the term (if any).

#### 4.4 ORGANIZATIONAL MEETING.

Immediately after each annual election the newly elected directors shall meet at the principal office of the Association for the purpose of organization, the election of officers, and the transaction of other business, and if a quorum of the directors be then present, no prior notice of such meeting shall be required to be given. The place and time of such first meeting may, however, be fixed by written consent of all the directors.

#### 4.5 SPECIAL MEETINGS.

Special meetings of the Board of Directors may be called by the President and must be called by the President on the written request of any member of the Board.

#### 4.6 NOTICE OF MEETINGS.

Notice of all directors' meetings, except as herein otherwise provided, shall be given by mailing the same at least three days or by telegraphing the same at least one day before the meeting to the usual business or residence address of the

director, but such notice may be waived by any director. Regular meeting of the Board of Directors may be held without notice at such time and place as shall be determined by the Board. Any business may be transacted at any directors' meeting. At any meeting at which every director shall be present, even though without notice or waiver thereof, any business may be transacted.

#### 4.7 CHAIRMAN.

At all meetings of the Board of Directors, the President, or in his absence a chairman chosen by the directors present, shall preside.

#### 4.8 QUORUM.

At all meetings of the Board of Directors, a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by these By-Laws.

#### 4.9 CONTRACTS AND SERVICES.

The directors and officers of the Association may be interested directly or indirectly in any contract relating to or incidental to the operations conducted by the Association, and may freely make contracts, enter transactions, or otherwise act for and on behalf of the Association, notwithstanding that they may also be acting as individuals, or as directors of corporations, or as agents for other persons or business

concerns, or may be interested in the same matters as stockholders, directors, or otherwise; provided, however, that any contract, transaction, or act on behalf of the Association in a matter in which the directors or officers are personally interested as stockholders, directors, or otherwise shall be at arm's length and not violative of the proscriptions in the Certificate of Incorporation against the Association's use or application of its funds for private benefit. In no event, however, shall any person or other entity dealing with the directors or officers be obligated to inquire into the authority of the directors and officers to enter into and consummate any contract, transaction, or other action.

#### 4.10 COMPENSATION.

Directors shall not receive any compensation for their services as such. The Board of Directors shall have power, in its discretion, to contract for and to pay to directors rendering unusual or exceptional services to the Association special compensation appropriate to the value of such services.

#### 4.11 POWERS.

All the Association powers, except such as are otherwise provided for in these By-Laws and in the laws of the State of New York, shall be and are hereby vested in and shall be exercised by the Board of Directors. Such powers shall include, but shall not be limited to, the following:

- a. To adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the

members and their guests and to establish penalties for the infraction thereof.

- b. To authorize the officers to enter into management agreements with third parties in order to facilitate the efficient operation of the Properties. It shall be the primary purpose of such management agreements to provide for the administration, management, repair and maintenance of the Properties, all improvements included therein and designated as Common Areas, the foundations, exterior walls, roofs, patios and/or decks of the homes, and the receipt and disbursement of funds as may be authorized by the Board of Directors. The term of these management agreements shall be determined by the Board to be in the best interests of the Association and shall be subject in all respects to the Certificate of Incorporation, these By-Laws and the Declaration.

#### 4.12 DUTIES.

The Board of Directors shall present at the annual meeting of members and file with the minutes thereof a report, verified by the President and Treasurer, or by a majority of the Directors, showing (a) the whole amount of real and personal property owned by the Association, where located, and where and how invested; (b) the amount and nature of the property acquired during the year immediately preceding the date of the report and the manner of the acquisition; (c) the amount applied, appropriated or expended during the year immediately preceding such date and the purposes, objects, or persons to or for which such applications, appropriations, or expenditures have been made; and (d) the names and places of residence of the persons

who have been admitted to membership during the year. It shall be the duty of the Board of Directors to:

a. As more fully provided in the Declaration:

- (1) To adopt the annual budget and fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period;
- (2) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each assessment period; and
- (3) Foreclose any lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the assessments.

b. Issue or cause to be issued upon demand of any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

c. To procure and maintain adequate liability insurance, to procure adequate hazard insurance on property owned by the Association, and to procure insurance on all Homes within the Association, as Trustee for all members, being shown as one of the payees of the proceeds of the insurance, all as the Directors deem advisable;

d. To cause all officers or employees having fiscal responsibility to be bonded, as it may deem appropriate.

e. To cause the Common Area to be maintained.

f. To cause the foundations, exterior walls, roofs, decks and/or patios of the homes to

be maintained.

- g. To cause the trees, shrubs (in existence as of the date of the Plan or thereafter installed by the Homeowners Association) and grasses of the yards of all homes to be maintained, excluding nevertheless, all landscape plantings made by the homeowner, which plantings are to be maintained by the homeowner.

## ARTICLE V. OFFICERS.

### 5.1 NUMBER.

The officers of the Association shall be the President, Secretary, Treasurer, and such other officers with such powers and duties not inconsistent with these By-Laws, as may be appointed and determined by the Board of Directors. Any two offices, except those of President and Secretary, may be held by the same person.

### 5.2 ELECTION, TERM OF OFFICE AND QUALIFICATIONS.

The President shall be elected annually by the Board of Directors from among their number, and the other officers shall be elected annually by the Board of Directors from among such persons as the Board of Directors may see fit, at the first meeting of the Board of Directors after the annual meeting of the members of the Association.

### 5.3 VACANCIES.

In case any office of the Association becomes vacant by death, resignation, retirement, disqualification, or any other cause, the majority of the directors then in office, although less than a quorum, may elect an officer to fill such vacancy,

and the officer so elected shall hold office and serve until the first meeting of the Board of Directors after the annual meeting of members next succeeding and until the election of his successor.

5.4 PRESIDENT.

The President shall preside at all meetings of members and of the Board of Directors. He/She shall have and exercise general charge and supervision of the affairs of the Association and shall do and perform such other duties as may be assigned to him by the Board of Directors.

5.5 SECRETARY.

The Secretary shall have charge of such books, documents, and papers as the Board of Directors may determine and shall have the custody of the corporate seal. He/She shall attend and keep the minutes of all the meetings of the Board of Directors and members of the Association. He/She shall keep a record, containing the names, alphabetically arranged, of all persons who are members of the Association, showing their places of residence, and such book shall be open for inspection as prescribed by law. He/She may sign with the President, in the name and on behalf of the Association, any contract or agreements authorized by the Board of Directors, and when so authorized or ordered by the Board of Directors, he may affix the seal of the Association. He/She shall, in general, perform all the duties incident to the office of Secretary, subject to the control of

the Board of Directors, and shall do and perform such other duties as may be assigned to him by the Board of Directors.

#### 5.6 TREASURER.

The Treasurer shall have the custody of all funds, property, and securities of the Association, subject to such regulations as may be imposed by the Board of Directors. He/She may be required to give bond for the faithful performance of his duties, in such sum and with such sureties as the Board of Directors may require. When necessary or proper, he may endorse on behalf of the Association for collection checks, notes, and other obligations, and shall deposit the same to the credit of the Association at such bank or banks or depository as the Board of Directors may designate. He/She shall sign all receipts and vouchers and, together with such officer or officers, if any, as shall be designated by the Board of Directors, he shall sign all checks of the Association except in cases where the signing and execution thereof shall be expressly designated by the Board of Directors or by these By-Laws to some other office or agent of the Association. He/She shall make such payments as may be necessary or proper to be made on behalf of the Association. He/She shall enter regularly on the books of the Association to be kept by him for the purpose, full and accurate accounts of all monies and obligations received and paid or incurred by him for or on account of the Association, and shall exhibit such books at all reasonable times to any director or member on application at the offices of the Association. He/She shall, in general,



perform all the duties incident to the office of Treasurer, subject to the control of the Board of Directors.

#### 5.7 COMPENSATION AND EXPENSES.

Officers shall not receive any compensation for their services as such. The Board of Directors shall have power, in its discretion, to contract for and to pay to an officer rendering unusual or exceptional services to the Association special compensation appropriate to the value of such services. The fact that any officer is a member of the Association or a director, or a member of an advisory committee, shall not preclude him from receiving a salary or from voting on the resolution providing for the same.

#### 5.8 REMOVAL.

Any officer may be removed from office by the majority vote of all the directors at any regular or special meeting called for that purpose, for nonfeasance, malfeasance, or misfeasance, for conduct detrimental to the interests of the Association, for lack of sympathy with its objects, or for refusal to render reasonable assistance in carrying out its purposes. Any officer proposed to be removed shall be entitled to at least five (5) days' notice in writing by mail of the meeting of the Board of Directors at which such removal is to be voted upon and shall be entitled to appear before and be heard by the Board of Directors at such meeting.

ARTICLE VI. ADVISORY COMMITTEE.

6.1 The Board of Directors may appoint from their number, or from among such persons as the Board may see fit, one or more advisory committees, and at any time may appoint additional members thereto. The members of any such committee shall serve during the pleasure of the Board of Directors. Such advisory committees shall advise with and aid the officers of the Association in all matters designated by the Board of Directors. Each such committee may, subject to the approval of the Board of Directors, prescribe rules and regulations for the call and conduct of meetings of the committee and other matters relating to its procedure.

The members of any advisory committee shall not receive any stated salary for their services as such. The Board of Directors shall have power in its discretion to contract for and to pay to any member of any advisory committee, rendering unusual or exceptional services to the Association, special compensation appropriate to the value of such services.

ARTICLE VII. FISCAL YEAR.

7.1 The fiscal year of the Association shall commence on January 1st of each year and end on December 31st.

ARTICLE VIII. PROHIBITION AGAINST SHARING IN CORPORATE EARNINGS.

8.1 No member, director, officer, or employee of, or person connected with the Association, or any other private individual shall receive at any time any of the net earnings or pecuniary profit from the operations of the Association; provided

that this shall not prevent the payment to any such person such reasonable compensation for services rendered to or for the Association in effecting any of its purposes or as shall be entitled to share in the distribution of any of the Association assets upon the dissolution of the Association.

ARTICLE IX. EXEMPT ACTIVITIES.

9.1 Notwithstanding any other provision of these By-Laws, no member, director, officer, employee or representative of this Association shall take any action or carry on any activity by or on behalf of the Association not permitted to be taken or carried on by a Not-for-Profit Corporation organized under the laws of New York State as they now exist or as they may hereafter be amended.

ARTICLE X. INDEMNIFICATIONS.

10.1 To the extent permitted by law, the Association shall indemnify and demand any person made a party to any proceeding by reason of the fact that he is, or was, a director or officer of the Association against any loss and expense incurred by him by reason of such proceeding, including the settlement thereof, except in relation to matters which such person is adjudicated to be liable for gross misconduct in the performance of his duties.

ARTICLE XI. AMENDMENT.

11.1 Subject to the restrictions contained herein, the By-Laws may be altered, amended or repealed at any meeting of members of the Association by any affirmative vote of two-thirds

(2/3) of all votes cast by the members, represented either in person or by proxy at such meeting, provided that (1) a full statement of the proposed amendment is inserted in the notice of such meeting, and (2) said Declaration, except that Paragraph 3.9(g) of these By-Laws may not be amended, within the period of three (3) years from the date of recording of the Declaration, without the express written consent of Declarant, its successors or assigns. However, no amendment will affect or impair the validity or priority of a Lot Owner's interest or the interest of holders of a mortgage encumbering any Lot.

ARTICLE XII. DISSOLUTION.

12.1 Subject to the restrictions contained herein, and in the Declaration, the Association may be dissolved by action of the members at any meeting of members of the Association by an affirmative vote of the members, represented either in person or by proxy, in the percentage required for termination of the Declaration, provided that the proposed action is inserted in the notice of such meeting, except that no action to dissolve this Association may be taken within the period of three years from the date of the recording of the Declaration, without the express written consent of Declarant, its successors and assigns.

ARTICLE XIII. RIGHTS OF NON-PURCHASING TENANTS.

13.1 It shall be the obligation of any Owner to notify, in writing, any non-purchasing tenant of his home of any change in ownership thereof. Such notice to be delivered personally or by Certified or Registered Mail, Return Receipt Requested, within

ten (10) days of such change. Such notice shall include the name and address of the new owner and the disposition, if any, of any security deposit previously deposited by the non-purchasing tenant.

13.2 Each Owner of a home occupied by a non-purchasing tenant is deemed to have designated the Association, and any Managing Agent of the Association, as his agent for the purpose of providing services and facilities to the tenant as required by the existing lease or any applicable law.

13.3 Each such Owner shall keep on deposit with the Association, an amount equal to two (2) months maintenance charges, such fund to be replenished upon (thirty) 30 days notice from the Association or its Managing Agent. The failure to replenish such fund shall entitle the Association to a lien comparable to that for unpaid annual or special assessments.

#### ARTICLE XIV. MISCELLANEOUS.

##### 14.1 SEVERABILITY.

Should any of the covenants, terms or provisions herein imposed by void or be or become unenforceable at law or in equity, the remaining provisions of these By-Laws shall, nevertheless, be and remain in full force and effect.

##### 14.2 CONSTRUCTION.

Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter; singular or plural; wherever the context so requires.

Declaration of Covenants, Easements and Restrictions attached hereto and made a part hereof as Schedule "A."

2. Agent shall provide the following services to Owner:

(a) Cause to be hired, paid and supervised all persons necessary in order to maintain and operate the Premises, said persons to be, in each and every case, the employee of the Owner and not of the Agent, and cause to be discharged, all persons unnecessary or undesirable. Agent shall use due care in the selection of such persons, provided, however, that Agent shall not be under any responsibility whatsoever for any act or omission of any such person. Agent is specifically authorized to delegate such duties to one or more persons in the general employ of Agent.

(b) Cause the Premises to be maintained in a condition approved by Owner, including cleaning, routine repairs (and incidental alterations of the Premises) to be made, including, but not limited to, electrical, plumbing, carpentry, masonry, decorating and such other routine repairs (and incidental alterations) as may be required in the course of the ordinary maintenance and care of the Premises, subject however to the limitation contained herein. Agent shall not proceed with any ordinary repair or alteration involving an expenditure in excess of Five Hundred Dollars, (\$500.00), for any one item, without obtaining the prior approval of the Owner, in accordance with the By-Laws of the Owner. Emergency repairs immediately

necessary for the preservation or safety of the Premises or for the safety of persons, or required to avoid the suspension of any necessary service on the Premises, may be made by the Agent, without regard to the cost thereof, and without the prior approval of the Owner.

(c) Recommend and report to the Owner such acts and things as, in the judgment of the Agent, are necessary to be done in or about the Premises to comply with any and all statutes, codes, rules, ordinances or regulations of any federal, state or municipal authority having jurisdiction of the Premises, and necessary to comply with any and all orders thereof, and any and all orders of the New York Board of Fire Underwriters, the New York Fire Insurance Exchange or other similar body. If, in the judgment of the Agent, the failure to promptly comply with any such order might expose the Owner or Agent to criminal liability, the Agent may take such action as is necessary to comply with such order, or notice of violation, without regard to the cost thereof.

(d) Enter into contracts for electricity, gas, telephone, cleaning services, rubbish removal services, detective agency protection, vermin extermination, architect and engineer services required for the planning and supervision of alterations and improvements made or proposed to be made to the Premises, and such other services as shall be advisable, provided, however, that any contract for a term longer than two (2) years, or requiring annual payments in excess of One Thousand Five Hundred

Dollars, (\$1,500.00), shall be first authorized by the Owner.

(e) Purchase all supplies necessary to properly maintain and operate the Premises and to make all such contracts and purchases, in either the Owner's or the Agent's name, as the Agent shall elect, provided that the Agent shall credit to the Owner any discounts or commissions obtained for purchases or otherwise.

(f) Advise the Owner with respect to proper insurance coverage of the Premises, its employees and its members and, if requested by Owner, to purchase and maintain insurance in such amounts and in such form, and through such carriers, as the Owner shall designate or approve.

(g) Review all bills received for services, work and supplies ordered in connection with maintaining and operating the Premises and to pay or cause to be paid such bills, water charges, sewer rents, assessments, real estate taxes and corporate income and other taxes assessed against the Owner or the Premises as and when the same shall become due and payable.

(h) Bill, or cause to be billed, Owner's members for maintenance charges, in accordance with the By-Laws of Owner. When directed by Owner, and on behalf of Owner, Agent shall sue for maintenance charges which may at any time be or become due, as aforesaid, from any such member.

(i) Receive and respond, where necessary, to complaints of Owner's members. Agent shall advise Owner of any complaint which Agent deems to be unreasonable and shall state,



to Owner, the reason for its conclusion that such complaint is unreasonable.

(j) Cause to be prepared and filed all necessary forms for Unemployment Insurance, Withholding and Social Security Taxes and all other such tax and forms relating to employment of employees, in the maintenance and operation of the Premises, as may be required by any federal, state or municipal authority.

(k) Maintain and render, on a monthly basis, statements of collections and disbursements to the Owner.

(l) Maintain orderly files of all documents, correspondence, bills, vouchers, insurance policies and other papers pertaining to the Premises and to the repair and maintenance thereof, all of which shall be at all times the property of and available to the Owner.

(m) Cooperate and assist accountants employed by Owner in regard to the preparation and filing of Federal, State, City and other income and other tax returns required by any governmental authority.

(n) Prepare and submit an Operating Budget to the Board of Directors, on an annual basis, setting forth the anticipated income and expense of the Owner for the ensuing year, including thereon a comparison of said budget to the income and expenses of the preceding and current years and any required explanations with regard thereto.

(o) Upon request of Owner, to send notices to the directors and members of Owner, prepare agendas and attend the

annual meeting and such other special meetings as may be called in accordance with the By-Laws of Owner and to record and keep minutes of such meetings.

(p) Prepare and send letters and reports as may be directed by Owner, from time to time.

(q) Generally, to carry out the directions of the Board of Directors with respect to all things reasonably and necessarily related to the proper management of the Premises.

3. Owner authorizes Agent, for and on behalf of Owner, to perform any act or do anything necessary or desirable in order to carry out the obligations of the Agent pursuant to this Agreement and everything done by the Agent in accordance with the terms hereof shall be done as Agent for Owner and the obligations or expenses incurred thereunder shall be at the expense of the Owner.

Owner shall provide Agent with funds sufficient to carry out the obligations of the Agent hereunder. The Agent shall not be obligated to make any advance to or for the benefit or account of the Owner or to pay any amount except out of such funds as are held by the Agent as aforesaid. Moreover, the Agent shall not be obligated to incur any extraordinary liability or obligation unless the Owner shall furnish the Agent with the necessary funds therefor. Any amount voluntarily advanced by the Agent for the Owner's account which is reasonably and necessarily related to the maintenance and operation of the Premise shall be immediately reimbursed by the Owner upon demand by Agent.

4. Agent shall deposit all funds collected for Owner in a bank in an account in the name of the Association and will not comingle such funds with any other funds collected by Agent, as Agent or otherwise. The Agent shall be under no liability or responsibility to the Owner for any loss resulting from the insolvency of such depository. The Owner may, from time to time, designate the bank or trust company in which said funds are to be deposited and the Agent agrees that it will, within ten (10) days after receipt of such instructions from Owner, deposit all funds held by it on behalf of Owner in an appropriate account in such designated bank or trust company.

5. Agent shall not be liable to the Owner for any loss or damage not caused by the Agent's own gross negligence or failure to comply with its obligations hereunder. Owner hereby agrees to indemnify and hold Agent harmless from any liability, damage, cost or expense, including reasonable attorney's fees, sustained or incurred for injury to any person or property, from any cause whatsoever except Agent's own gross negligence or failure to comply with its obligations and from any liability, damage, penalty, cost and expense, statutory or otherwise, for acts properly performed by the Agent pursuant to the instructions of the Owner provided, however, that the Agent shall promptly advise Owner of receipt of any information concerning such injury and the amount of such liability, damage, penalty, cost or expense. Owner shall carry liability insurance in amounts acceptable to Agent, Workmens' Compensation and Employer's Liability Insurance

and will include the Agent as a named insured under any and all such policies and will deliver copies of such policies to Agent, or a Certificate evidencing such coverage. Owner agrees that it shall defend any action or proceeding arising out of any claims for injury to persons or properties and/or acts performed by the Agent on behalf of Owner, at Owner's sole cost and expense. Agent shall cooperate fully with Owner and its attorneys at all stages of such claims, actions or proceedings.

The Owner shall pay Agent, as compensation for its services under, an annual management fee of \$4,200.00, payable in two semi-annual installments, the first such installment being due six months from the recording of the Declaration and the second installment being due one year from the recording of the Declaration and semi-annually thereafter.

Owner shall in addition, pay any and all out-of-pocket expenses incurred by Agent for such items as postage and photocopying, in addition to providing funds necessary as hereinabove provided. Agent is specifically authorized to deduct and retain its compensation out of funds collected by and on behalf of Owner and Owner agrees that it shall, upon demand, pay any deficiency to Agent.

Agent shall, at all times, maintain a bond, in the minimum amount of \$100,000.00, issued by a surety company authorized to do business in the State of New York, covering Agent against a falcation by its officers and office employees, the cost and expense of such bond to be paid by Owner.

8. This Agreement shall become effective upon recording of the Declaration of Covenants, Easements and Restrictions and shall continue in full force and effect for a period of two years. Thereafter, this Agreement shall continue in full force and effect unless and until either party hereto shall serve written notice of cancellation upon the other party, either personally or by Certified Mail, whereupon this Agreement shall terminate sixty (60) days thereafter. Notwithstanding the foregoing, this Agreement may, at any time, be terminated for cause.

Upon termination, the parties shall account to each other with respect to any and all uncompleted business and Agent shall deliver to Owner any and all documents or writings in its possession. Agent shall also pay over and deliver any and all funds held by it on behalf of Owner, less any compensation due Agent pursuant to the terms hereof and Owner shall pay to Agent the amount of any deficiency.

This Agreement shall be binding upon the parties hereto and may not be changed orally. Neither party shall, without the consent of the other party, assign this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SOUTHERN HILLS, LTD.

By: \_\_\_\_\_  
(Owner)

SOUTHERN HILLS HOMEOWNERS  
ASSOCIATION, INC.

By: \_\_\_\_\_  
(Agent)