

## DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS FOR ROSEGATE FARM SUBDIVISION

DECLARATION made as of this 23rd day of September, 1998, by Pinkerton Hills Development Corp, a New Hampshire corporation with a principal place of business at 317 South River Road, Bedford, Hillsborough County, New Hampshire, which hereby declares its intent to submit the land and improvements herein described, and all easements and appurtenances thereto, located in Manchester, Hillsborough County, New Hampshire, to be held, conveyed, encumbered, leased, used, occupied and improved subject to the provisions of this Declaration.

### I. DEFINITIONS.

Certain of the terms used in this Declaration are defined and shall have meaning as follows, unless the context clearly indicates a different meaning therefor:

1.1 "Association" means the Rosegate Farm Homeowners' Association, a not for profit corporation, to be formed by Declarant pursuant to the terms of this Declaration.

1.2 "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the repair and maintenance of the Common Property, including entry lighting and any reasonable reserve, all as may be found to be necessary and appropriate by the Board of Directors of the Association pursuant to the Declaration, the Articles of Agreement, and the By-Laws.

1.3 "Common Property" shall be land, improvements, and easements devoted to the social welfare, use, and enjoyment of owners of the lots within the Property and designated in the deed conveying such land or easements to the Association.

1.4 "Declarant" means Pinkerton Hills Development Corp. and any successors in interest thereto, except for purchasers of individual Lots for residential use.

1.5 "Declaration" means this instrument (as amended from time to time).

1.6 "Lot" means each of the lots identified by number on the Plan.

1.7 "Owner" means one or more persons or entities owning a Lot.

1.8 "Plan" means the plan of land entitled "Rosegate Farm Subdivision, Phase 1, Phasing Plan, Corning Road, Manchester, NH", dated August 12, 1998 and recorded in the Hillsborough County Registry of Deeds as Plan No. 29445.

1.9 "Property" means the real property and all interests therein described in Appendix A hereto, including all buildings, structures and other improvements now or hereafter existing thereon, all easements, rights and appurtenances belonging thereto which is hereby made subject to the Declaration.

## II. DEVELOPMENT OF SUBDIVISION

2.1 Declarant is developing the Property as a subdivision for single family homes in accordance with the Plan. Declarant hereby submits the Property to be held, transferred, sold and occupied subject to this Declaration, which restricts the use of the Lots and governs the use of the Common Property.

2.2 The roads shown on the Plans shall be dedicated to the City of Manchester for acceptance as public rights-of-way. If requested by the City of Manchester, Declarant shall deed the fee simple interest in the roads to such municipality.



2.3 The Association shall own and be responsible for the Common Property through a deed to be executed upon the first conveyance of a Lot to an Owner, or such later date as Declarant deems advisable.

### III. ROSEGATE FARM HOMEOWNERS ASSOCIATION

3.1 The Rosegate Farm Homeowners' Association, Inc. will be a nonprofit corporation created pursuant to RSA Chapter 292, and charged with the duties and empowered with the rights set forth in this Declaration. The affairs of the Association shall be governed by its Articles of Agreement and By-Laws, and in conformity with the requirements of the Declaration.

3.2 The Owner of each Lot is deemed to have a membership in the Association. There shall be one (1) vote for each Lot. If a Lot is owned in common by multiple Owners, there shall still be only one (1) vote to be cast per agreement of the multiple Owners. If the multiple Owners are unable to agree as to how the vote shall be cast, the vote shall not be exercised.

3.3 The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Common Property and enabling the maintenance, repair, replacements, and improvements to the Common Property. The rules and regulations adopted by the Board of Directors shall be consistent with the rights and duties established by this Declaration.

3.4 Each Lot may be assessed an annual charge for Common Expenses. The terms and conditions governing the annual charge and the collection thereof shall be determined by the Association. The Association shall have the right to adopt

reasonable rules and regulations to make an assessment against a Lot for purposes of Common Expenses. There is and shall be a present lien, with statutory power of sale pursuant to RSA 479:25, against each Lot to secure the payment of all assessments levied against the Lot. The obligation to pay such assessments shall run with the land so that each successive record Owner of a Lot shall become liable to pay all such assessments. The Association shall have the right to enforce and collect such assessments either through a suit at law or proceedings to foreclose the lien established by this Declaration. The lien of assessments may be perfected upon recording a notice of lien against a Lot.

3.5 The Association shall be responsible for maintenance, repair, replacement, and upkeep of the Common Property. All costs associated with maintenance, repair, and replacement of Common Property shall be a Common Expense to be allocated among and paid by all Owners.

#### IV. RESTRICTIONS ON COMMON PROPERTY

4.1 The Common Property as shown on the Plan, shall remain undeveloped property for the exclusive use and enjoyment of the Owners, except any portion shown as reserved for public use and/or acquisition.

4.2 No structure or improvement shall be constructed or placed on the Common Property, except for the installation and operation of sewer, water, and other utilities or improvements required or requested by the City of Manchester.

4.3 The operation of off-road vehicles and other recreational vehicles shall be prohibited on the Common Property.



4.4 The Common Property may be further restricted by rules and regulations properly adopted by the Association through its Board of Directors.

## V. RESTRICTIONS ON LOTS

The Property is intended for residential use only and the following provisions are in furtherance of this purpose:

5.1 Each Lot shall be occupied and used only for residential purposes by the Owner and his or her family, or by lessees or guests of the Owner, and only for such business or home occupation purposes as shall now or hereafter be permitted by any City of Manchester rule, ordinance or regulation, or by the Rules. This restriction shall not be construed to prohibit Owners from leasing buildings located on Lots in accordance with the provisions hereof. Any rental shall be by written lease and shall be for a period of no less than six months. All such leases shall refer to and incorporate by reference all of the restrictions and obligations contained in this Declaration. Declarant shall also have the right to lease buildings located on Lots which it owns.

5.2 No building or structure shall be erected, placed or maintained on any Lot except one dwelling to be used for a single family, a garage designed for not more than three (3) automobiles, and other structures accessory to a single family residence.

5.3 No noxious or offensive use shall be made of any part of the Property and nothing shall be done therein which is or will become a nuisance or which shall impair the soundness or safety of any part of the Property. No use shall be made of any part of the Property which will constitute a fire hazard.

5.4 No animals, livestock or poultry, except a reasonable number of common household pets, shall be kept anywhere on the Property. No dogs shall be permitted to run free on the Property except within a Lot which is adequately fenced to protect the escape of any such dog.

5.5 No building material of any kind or character shall be placed upon any Lot except for the immediate purpose of construction of a dwelling, or accessory structure.

5.6 The structures and ground on any Lot shall be maintained in a neat and attractive manner. All Lots shall be kept free of rubbish, debris, dead or fallen trees, or material of any kind which render the same unsanitary, unsightly, offensive or detrimental to any part of the Property.

5.7 No activity shall be carried on upon any Lot which may create annoyance or a nuisance. Any exterior lighting installed on any Lot shall be indirect or controlled with respect to direction, focus and intensity in such a manner as not to disturb the residents of adjacent property.

5.8 All oil or liquid fuel tanks maintained on any Lot shall be buried or confined within a dwelling house or other permitted structure.

5.9 Lot grades shall not be changed in such a way as to divert the natural flow of water onto adjoining properties, or to flood or damage public roads.

5.10 No earth, stone or gravel removed from the site of the foundations of the improvements of any Lot shall be allowed to remain on the Lot in an unsightly manner.



5.11 No incinerator shall be erected or maintained by any Owner.

5.12 All lawns or other suitably landscaped areas shall be maintained in an attractive manner.

5.13 No trash, waste, debris or junk shall be allowed to remain on any Lot.

5.14 No obstruction of traffic on the public roads and no blocking of entries to the various Lots by reason of the parking of vehicles and trailers is allowed. Owners shall be responsible for the removal by any such obstruction whether caused by members of their household or their lessees, invitees or guests.

5.15 Except as specifically permitted by this Declaration, no sign of any kind shall be erected or displayed to the public anywhere on the Property without the prior written consent of the Declarant.

5.16 No mortgage or deed of trust made in good faith and for value upon any Lot or any part of the Property shall be defeated or rendered invalid by any breach of restrictions as to such land. In the event of any mortgage foreclosure, said restriction shall be binding upon the mortgagees as well as any new Owner acquiring through foreclosure, trustee's sale or otherwise.

5.17 No Lot may be further subdivided.

5.18 A breach of any one or more of the foregoing covenants and restrictions shall entitle the Declarant and/or the other Owners to pursue any and all legal and equitable remedies; however, if no action shall have been commenced and notice

thereof filed with the Hillsborough County Registry of Deeds within twelve (12) months after the completion of any building, structure or other improvement, addition or landscaping, the same shall then be conclusively deemed to be in compliance with these restrictions. None of the foregoing restrictions shall limit or affect Declarant's rights and easements reserved hereunder for the development and construction of the Rosegate Farm Subdivision or other adjacent or nearby property acquired by Declarant.

## VI. CERTAIN RESERVED RIGHTS AND EASEMENTS.

6.1 Easement to Facilitate Development of the Property. The Declarant hereby reserves to itself and its agents, representatives, employees and contractors the right and easement to enter upon all or any portion of the Property with men, vehicles, machinery and equipment for purposes of constructing, erecting, installing, operating, maintaining, repairing, modifying, rebuilding, replacing, relocating and removing buildings and their appurtenances, utilities of every character, roads, drives, walks and all such other structures and improvements as the Declarant shall deem necessary or desirable to complete the development of the Property. This easement shall include, without limitation, the right to store vehicles, machinery, equipment and materials used or to be used in connection with such development work at, in or upon the Property, the right to remove sand, gravel, stone and soil from any portion of the Property, and other rights necessary or useful in Declarant's discretion to the development of the Property. Declarant's blanket development easement, including the right of hauling materials to and from all portions of the Property and to engage in construction on or about the Property shall continue until the Rosegate Farm Subdivision, and any adjacent or nearby land acquired by Declarant shall be developed and completed in all respects.



## 6.2 Easement to Facilitate Sales.

a. Model Homes and Houses. The Declarant and/or its representative(s) shall have the right and easement to maintain such model homes and sales offices on the Property as it, from time to time, may determine appropriate.

b. Signs. The Declarant or its representative(s) shall have the right and easement to erect and maintain on any portion of the Property, including in or upon the buildings and structures forming any part thereof, such signs and other advertising and promotional notices, displays and insignia as it shall deem necessary or desirable. This Section, III(B)(2), shall not give the Declarant any rights with respect to Lots not owned or occupied by the Declarant or any agent of Declarant. All such signs shall be in compliance with applicable law. The Declarant may prohibit all other signage until Declarant has completed the initial sales of homes in the Subdivision, including the sale of the model home.

## 6.3 Other Easements.

a. Sewer Easements. The Declarant hereby reserves to itself, its successors and assigns, an easement for the installation, construction, maintenance and repair of sewer lines beneath, within and through all roads now existing and to be constructed within and upon the Property and all extensions thereof and all cul-de-sacs relating thereto, as described on the Plan.

b. Drainage Easements. The Declarant hereby grants to the City of Manchester an easement for the purpose of permitting the drainage and flowage of surface water from the roadways (which roadways the Declarant intends to dedicate to the City of Manchester) to and over those portions of the Lots over which such water flows.

c. Other Utility Easements. The Declarant, its successors and assigns, shall have the right to reserve or convey any easements across, over, under or through any Lot or roadway reasonably necessary to provide electric, water, or other services to any Lot. The location of such easements shall not unreasonably interfere with the use of any Lot for residential purposes.

IN WITNESS WHEREOF, Pinkerton Hills Development Corp. has caused this Declaration to be signed by Robert S. LaMontagne, President, hereunto duly authorized this 23rd day of September, 1998.

WITNESS

PINKERTON HILLS DEVELOPMENT CORP.

Robert S. LaMontagne

By: Robert S. LaMontagne  
Robert S. LaMontagne, President

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH, SS.

The foregoing instrument was acknowledged before me this 23rd day of September, 1998, by Robert S. LaMontagne, President of Pinkerton Hills Development Corp., a New Hampshire corporation, on behalf of the corporation.

Donna H. Stalling  
Justice of the Peace/Notary Public



#### APPENDIX A

A certain parcel or tract of land located on the southerly side of Corning Road, Manchester, Hillsborough County, New Hampshire, known as Parcels 1 and 2 appearing on a certain "Survey Plan for Timberlore Corporation, Corning Road, Manchester, N.H." dated July, 1988, said plan being recorded in the Hillsborough County Registry of Deeds as Plan #22271, being more specifically described as follows:

Beginning at a point on the southerly side of Corning Road, said point being the northerly-most point of the within described parcel; thence

1. S 52° 39' 55" E a distance of 533.08 feet to an iron pipe found; thence
2. N 55° 45' 45" E a distance of 317.53 feet to a point; thence
3. S 48° 20' 14" E a distance of 358.16 feet to an iron pipe found; thence
4. S 48° 20' 14" E a distance of 677.42 feet to a stake and stones; thence
5. S 35° 16' 31" W a distance of 721.27 feet to a stake and stones; thence
6. S 54° 12' 20" E a distance of 720.75 feet to a stake and stones; thence
7. S 55° 20' 03" E a distance of 549.68 feet to a stake and stones; thence
8. S 42° 49' 34" W a distance of 364.70 feet to a stake and stones; thence
9. S 44° 12' 13" W a distance of 310.44 feet to a four inch square bound; thence
10. N 53° 50' 00" W a distance of 1766.56 feet to a stake and stones; thence
11. N 54° 54' 07" W a distance of 789.99 feet to a point; thence
12. N 55° 40' 21" W a distance of 94.48 feet to a point; thence
13. N 46° 07' 58" E a distance of 85.95 feet to a point; thence
14. N 45° 44' 21" E a distance of 247.77 feet to a point; thence
15. N 49° 02' 41" E a distance of 159.16 feet to a point; thence
16. N 47° 15' 35" E a distance of 57.37 feet to a point; thence

17. N 43° 27' 44" E a distance of 161.66 feet to a point; thence
18. N 49° 10' 35" W a distance of 123.41 feet to a point; thence
19. N 65° 51' 01" W a distance of 26.82 feet to a point; thence
20. N 46° 29' 29" W a distance of 31.26 feet to a point; thence
21. N 56° 02' 30" W a distance of 160.75 feet to a point; thence
22. N 53° 35' 35" W a distance of 145.30 feet to a point; thence
23. N 35° 51' 51" E a distance of 20.00 feet to a point; thence
24. N 44° 02' 59" W a distance of 138.00 feet to the southerly side of Corning Road; thence, along the southerly side of Corning Road, the following courses and distances:
  25. N 56° 19' 04" E a distance of 6.47 feet; thence
  26. N 69° 06' 14" E a distance of 114.36 feet; thence
  27. N 68° 12' 28" E a distance of 78.01 feet; thence
  28. N 69° 23' 48" E a distance of 15.47 feet; thence
  29. N 68° 12' 08" E a distance of 200.01 feet; thence
  30. N 68° 10' 00" E a distance of 14.06 feet; thence
  31. N 67° 54' 39" E a distance of 116.69 feet; thence
  32. N 67° 54' 39" E a distance of 9.99 feet to the point of beginning.

Containing 67.49 acres, more or less.

For title, reference is made to the deed of Filip's Farm Development Corp. to Pinkerton Hills Development Corp. dated July 1, 1998 and recorded with said Registry of Deeds prior hereto.