

## SCHEDULE "C"

### **PROTECTIVE COVENANTS FOR BOBAK PLACE**

The lands and premises situated on Bobak Place described on the legal subdivision plan(s) creating lots 06-04 thru 06-28 and as registered in the York County Registry Office, Fredericton, NB (herein called the "Property") are subject to the following stipulations, restrictions, and provisions for the benefit of all owners, their heirs, executors, administrators and successors in title (herein called the "Grantee" or "Grantees") in the West Hills development community:

1. NO construction of any type shall be allowed on the Property (as described in Schedule "A") unless approved in writing by West Hills Golf Club Ltd. and/or its successors and/or assigns (herein called the "Grantor").
2. NO permanent, temporary, seasonal, or structure of any type shall be erected on the Property other than dwelling units constructed by the Grantor.
3. NO fence or barrier, including swimming pools, of any kind shall be erected on the Property without the written approval of the Grantor. In general, fences will not be allowed unless it can be reasonably shown for such need. In granting any such approval, the fence shall not be erected within the public utility easement, allowing the Grantor full and unencumbered access to perform their maintenance obligations.
4. NO signs, billboards, notices, or other advertising matter of any kind. Signs normally employed by real estate brokers offering the Property for sale or rent shall be allowed.
5. NO commercial vehicle of any kind larger than a  $\frac{3}{4}$  ton truck and no trailer, boat, snowmobile, all-terrain vehicle, or any other recreational vehicle shall be kept, stored, or parked on the Property for more than one (1) week at a time with two (2) week intervals unless in a wholly enclosed garage.
6. NO erections of any type, including but not limited to, exterior television, radio aerials, or satellite TV systems in excess of 750mm in diameter, heat pumps, selkirk/propane chimneys and above ground storage tanks may be installed or maintained on any part of the Property without the prior written consent of the Grantor, except where originally placed by the Grantor.
7. The Property shall be kept clean, sanitary free from refuse, debris and fire hazard, and contain no unsightly storage of miscellaneous materials at all times.
8. NO living tree in excess of one hundred millimetres (100mm) or four inches (4") in diameter at ground level shall be cut down or removed without the consent of the Grantor. If any such tree be cut down, destroyed or removed in contravention of this restriction, the same will be replaced at the expense of the Grantee.
9. The Grantor shall from time to time use its best efforts, using the sums collected pursuant to paragraph 10 and/or 11 hereof; to provide and/or arrange from time to time for the provision of the following services, (referred to as the "Services"), namely:
  - (i) mowing and generally maintaining, and in its own discretion improving, the lawns, shrubbery, trees and landscaping in or upon the Property; and
  - (ii) constructing, improving, repairing, maintaining, replacing or relocating, removing or clearing snow from driveways and walkways over or upon the Property.
10. Except for the remaining calendar year upon which the Property is first purchased, in each and every year thereafter, the Grantor shall use reasonable efforts to

assess, levy and collect from each and every Grantee, and each and every Grantee shall pay to the Grantor upon notice being given of the amount payable from time to time, a sum of money in Canadian funds equivalent to a proportionate pro-rata share, based on the total number of units existing and developed to a maximum of twenty-five (25) units, from time to time within or in conjunction with the building plan:

- (i) the estimated or actual total annual cost to the Grantor of providing and/or arranging for the provision of the Services and of the collection of payments from the Grantees as herein provided; and
- (ii) an estimated or actual annual management fee which the Grantor shall be entitled to receive for providing and/or arranging for the provision of the Services, which fee shall be five percent (5%) plus HST of total costs for the five years after the Grantor first transfers the Property, and in such amount as the Grantor shall determine from time to time thereafter; and
- (iii) any amount which the Grantor in its sole discretion may deem expedient or advisable to collect during such year as the Grantor may deem necessary or sufficient to provide and/or arrange for the provision of the Services at any future time.

Notwithstanding anything contained herein, the said annual costs, fees, and charges may vary from time to time. Such annual amounts will be assessed at the conclusion of each year, and billed and collected within the first five (5) months of the following calendar year. Payment to the Grantor shall be paid in full for the current calendar year.

11. The first Grantee of the Property shall pay a sum of money in Canadian funds equivalent to a proportionate pro-rata share, based on the total number of units existing from time to time within or in conjunction with the building plan, as set in subparagraphs 10(i) through 10(iii) for the remainder of the first calendar year, in full to the Grantor upon closing.
12. Any notice given from time to time to a Grantee pursuant to paragraph 10 and/or 11 hereof may be given by the Grantor in advance with respect to assessments payable and shall be deemed to have been received by such Grantee in the ordinary course of mail if posted under cover of ordinary mail, postage prepaid, to the address of such Grantee as last known to the Grantor.
13. The Grantor shall out of the amounts collected pursuant to paragraphs 10 and/or 11 from time to time pay or arrange for the payment of all amounts due or accruing due for providing and/or arranging for the provision of the Services from time to time hereunder, together with the fees, costs, charges and amounts provided for in paragraph 10 hereof.
14. Notwithstanding anything contained herein, the Grantor may at any time or from time to time, as it may in its sole discretion deem expedient or advisable, in relation to providing and/or arranging for the provision of the Services, preserving and protecting its own interest, the Property and the interests of the Grantees, or otherwise in the premises, do or concur in the doing of any of the following things, namely:
  - (i) from time to time establish, promulgate and enforce rules and regulations relating to the good order, management and operation of the Property and the building plan generally;
  - (ii) settle, adjust, refer to arbitration, compromise and arrange any accounts, controversies, questions, claims and demands whatsoever;
  - (iii) execute and do any contracts, deeds, documents and things and institute, maintain, defend and abandon any actions, suits and proceedings of any nature or kind;
  - (iv) act on the opinion or advice of, or information obtained from any counsel or other expert, provided it shall not be bound to act upon such opinion, advice

or information and shall not be responsible for any loss occasioned by so acting or not acting, as the case may be, and pay proper and reasonable compensation for all legal or other expert advice or assistance from time to time received by it, which payment shall be deemed a cost of providing and/or arranging for the provision of the Services;

- (v) deposit any moneys in its hands with any chartered bank, trust company or other reputable depository;
- (vi) levy fines for breaching any of the restrictions and covenants herein;
- (vii) contract to any person, firm or corporate body all or any of the powers, rights, duties and discretions by these presents or otherwise vested in it, and any such contract may be made upon such terms and conditions and subject to such regulations, including power to subcontract, as the Grantor may in its sole discretion deem advisable;
- (viii) appoint or delegate any person, firm or corporate body to act as its agent or attorney for the collection of any amounts payable to it hereunder by the individual Grantees, or any of them, and, by court proceedings or otherwise, enforce and recover payment of such amounts and the costs of doing so, as well as interest incurred and fines levied, which shall all constitute debts due the Grantor; and
- (ix) generally act in such manner and on such terms as it may deem expedient or advisable to carry out and further the purpose and intent of these presents.

The foregoing shall be in addition to any and all other rights, powers and discretions by these presents, or otherwise, vested in the Grantor and shall not in any manner limit, restrict, abridge or otherwise adversely affect the rights, powers and discretions elsewhere by these presents, or otherwise, vested in the Grantor.

15. Should the Grantor no longer wish to provide Services to the Grantees, the Grantor may assign the provision of Services to a company of its choosing or the Grantor may assign the provision of Services to a trustee, designated by a majority vote by fifteen (15) out of the twenty-five (25) units of Bobak Place. Each unit shall have one vote. If a trustee is designated and the Grantor assigns the provision of Services to the trustee, the elected trustee shall open a trust account at a chartered bank in their name, along with no less than two Grantees having full access and signing authority on said trust account.
16. The Grantee consents to allow the Grantor full and complete access to the Public Utility and/or Municipal Service Easement areas.
17. Ponds and reserved green spaces are private property with restricted access, requiring the consent of the Grantor.
18. The Grantor may, at its sole and absolute discretion, and without the consent of the Grantee, alter, waive or modify any of the foregoing building and other restrictions so long as their substantial character is maintained.
19. Failure of the Grantee to comply with the restrictions and covenants contained herein shall constitute grounds for action which may include the following: interest, an action in damages or for injunctive relief, or any combination thereof, and including costs and lawyers' fees. Furthermore, the Grantor may take such emergency enforcement action to enforce restrictions and covenants herein where such action is necessary to protect the health and welfare of persons as it deems necessary to abate or remedy the condition or violation, including the right to enter upon the land on which such condition or violation exists, and the Grantor and its authorized agents shall not thereby become liable in any manner to the Grantees for trespass or in damages. The above remedies are in addition to the Grantor's power to levy fines and collect debts due to the Grantor.
20. Notwithstanding anything contained herein, the Grantor shall not at any time, or from time to time, be or be held to be liable or responsible for any expense, damage, loss, injury, inconvenience or cost directly or indirectly caused or resulting

to any person, firm or corporation whatsoever by reason of any misfeasance, nonfeasance or neglect of the Grantor, its servants, agents or contractors, in providing or arranging for the provision of the Services, or any part thereof or otherwise in the presents, unless such misfeasance, nonfeasance or neglect is clearly and unmistakably willful or intentional; no immunity conferred on the Grantor hereby shall be lost or impaired by reason of the Grantor having intervened in any situation or matter when not obligated so to do under the terms hereof.

21. The restrictions herein contained are severable and the invalidity or unenforceability of any restriction shall not affect the validity or enforceability of any other restrictions.
22. The within covenants and restrictions shall run with the lands hereby conveyed, and each and every part thereof, for the benefit of the land which now or may hereafter comprise part of the building plan of which the lands hereby conveyed form a part, and each and every part thereof, and are accepted by the transferee and shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, executors, administrators, successors and assigns.
23. This Transfer is made by the transferor and accepted by the transferee subject to the within terms, covenants, restrictions, conditions and stipulations, which shall run with and be binding upon the lands and premises conveyed herein, and every part thereof, for the benefit of the Property and each and every part thereof, and shall enure to the benefit of and be binding upon each transferor and transferee of the Property, and their respective heirs, administrators, successors and assigns.