

BK 5049 PG 2557

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**FIRST AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS  
PRESCOTT ORCHARDS SUBDIVISION  
EPPING, NEW HAMPSHIRE**

NOW COMES, PRESCOTT ORCHARDS LAND DEVELOPMENT, LLC (hereafter referred to as "POLD") of Portsmouth, New Hampshire, and hereby amends the Declaration of Restrictive Covenants, Prescott Orchards Subdivision, Epping, New Hampshire dated June 23, 2009 and recorded on June 26, 2008 in the Rockingham County Registry of Deeds at Book 4930, Page 0188, as follows:

WHEREAS, in accordance with Paragraph 20(c) of said Restrictive Covenants, provided that POLD owns any lot in the subdivision, POLD is authorized to amend said Covenants.

WHEREAS, POLD is the owner of at least one lot in the Subdivision and therefore is authorized to amend the covenants and wishes to do so;

NOW THEREFORE, The Declaration is hereby amended as follows:

1. To delete Paragraph 4a in its entirety and replace it with the following:

"a. Garages. Each single family dwelling shall have a private garage attached to the dwelling unit for at least one car and the garage must be built at the time of construction of the dwelling. "Drive under" garages shall be permitted so long as they are located at the side or rear of the dwelling. POLD shall retain the right to determine placement of the garage when reviewing plans submitted."

2. To delete Paragraph 4c in its entirety and replace it with the following:

"c. Each residence shall have a driveway which conforms with the Town of Epping driveway regulations, as may be amended from time to time, currently require that the first twenty (20) feet of pavement from the right of way be paved. Any portion of the driveway which the Town of Epping driveway regulations do not require to be paved shall be paved or covered with a permeable or impermeable surface material which is approved by POLD.

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ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

BK 5049 PG 2558

3. To delete Paragraph 5 in its entirety and replace it with the following:

"Each single family dwelling unit shall have a gross living area of not less than 1,500 square feet not including attic, basement, garage, porches, or breezeways except Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 which shall have a gross living area of not less than 1,200 square feet not including attic, basement, garage, porches or breezeways.

POLD reserves the right to require larger gross living area for the dwellings to be constructed in Phases II, III, IV and V."

4. To delete Paragraph 6a in its entirety and replace it with the following:

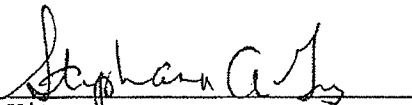
"a. All buildings and structures shall be architecturally designed in keeping with traditional styles. Approval of the plans and specifications of all residences and other structures shall be by POLD, in its sole and absolute discretion, for as long as POLD is the owner of any lot in the subdivision. At such time as POLD conveys its last lot, the responsibility and/or authority for any architectural approvals in accordance with these restrictive covenants shall become the responsibility of the Homeowners Association. POLD reserves the right to turn over responsibility for architectural approvals to the Association at any time prior to its conveyance of the last lot it owns."

5. To delete Paragraph 7b in its entirety and replace it with the following:

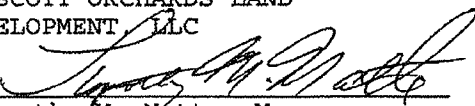
"b. Floor plan for the dwelling showing a minimum of 1,500 square feet or 1,200 square feet, as applicable in accordance with Paragraph 5 above."

Unless specifically amended herein, all other provisions of the Restrictive Covenants shall have the same force and effect.

EXECUTED as of this 8<sup>th</sup> day of September, 2009.

  
Witness

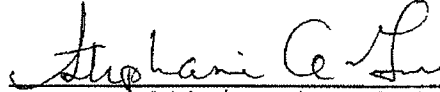
PRESCOTT ORCHARDS LAND  
DEVELOPMENT, LLC

By:   
Timothy M. Matte, Manager

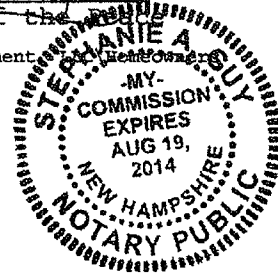
BK 5049 PG 2559

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM, ss.

Sworn and subscribed to on this date, before me on this 8<sup>th</sup> day  
of September, 2009 by Timothy M. Matte, Manager of Prescott Orchards  
Land Development, LLC, a New Hampshire limited liability company, on  
behalf of said LLC.

  
Notary Public/Justice of the Peace

S:\DA-DE\Developer Finance Corporation\Prescott Orchards Land Development  
Association\first Amdment to Restrictive Covenants final 090309.rtf



DECLARATION OF  
RESTRICTIVE COVENANTS  
PRESCOTT ORCHARDS SUBDIVISION  
EPPING, NEW HAMPSHIRE

NOW COMES PRESCOTT ORCHARDS LAND DEVELOPMENT, LLC

(hereafter referred to as POLD or Developer or Subdivider and at all times including any entity or individual to whom POLD may assign its rights as developer/subdivider) owner of all of the lots in a subdivision known as Prescott Orchards Subdivision as shown on a plan entitled: "Open Space Subdivision Plan "The Orchards" for Beede Road Realty, L.L.C. (Part of Tax Map 7, Lot 6), (Tax Map 8, Lot 2-1), (Tax Map 14 ,Lots 12, 13, 14 & 20-2), Prescott Road, Epping, New Hampshire," , dated April 12, 2005 through revision #1 dated 12/15/06, prepared by Doucet Survey, Inc. and recorded in the Rockingham County Registry of Deeds as Plan No. D-34467 (hereinafter "Plan") and hereby submits all of the lots in the subdivision to the following restrictive covenants, which covenants shall run with the land, in perpetuity.

1. APPLICABILITY.

Each and every owner of the lots hereinabove made subject to these covenants, in accepting a deed or contract for any of said lots, agrees for himself or herself, his or her heirs, executors, administrators, successors or assigns, to be subject to these Restrictive Covenants.

Every purchaser of an unimproved lot, as a condition of taking title to the lot, shall sign a Compliance and Disclosure Agreement prepared by POLD in the form attached to these Restrictive Covenants. Said Compliance and Disclosure Agreement will include any modifications which may be made to these

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ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

Restrictive Covenants by POLD subsequent to the recording of these covenants.

This provision shall apply to all purchasers of unimproved lots whether the lot was sold to such purchaser by POLD or any transferee of said entity.

## 2. USE OF LOTS.

a. The Subdivision Lots in the subdivision shall be used only for single family residential purposes. Commercial or business use of any nature or kind shall not be permitted unless such use conforms with the Town of Epping zoning ordinance as a home occupation.

b. Further subdivision of the lots is expressly prohibited without the express written permission of POLD and the Epping Planning Board.

## 3. CONSTRUCTION TIME.

a. Construction of a dwelling shall commence no later than twenty four (24) months after the conveyance of a lot by POLD to any purchaser, unless extended in writing for a particular lot. POLD reserves the right to waive this provision.

b. When the construction of the buildings on the premises is begun, work shall continue without significant interruption and shall be completed not more than ten (10) months from commencement date and prior to issuance of an occupancy permit. Application for extension of the ten month period may be made to POLD, its successors or assigns. Such extension will not be unreasonably withheld, provided that the lot owner provides a specific time frame in which completion of construction is expected to occur. If the work is not completed within the ten (10) month period and prior to an occupancy permit being issued, the owner of the dwelling or structure shall be subject to penalty assessments as provided in these covenants until completion of the work.

## 4. OUTBUILDINGS, ADDITIONAL STRUCTURES, ETC.

a. Garages. Each single family dwelling shall have a private garage attached to the dwelling unit for not less than two cars. Lots 1-11 in Phase I may have a garage for one,

rather than two, cars, subject to the approval of POLD. The garage must be built at the time of construction of the dwelling. POLD shall retain the right to determine placement of the garage when reviewing plans submitted.

b. Fuel Storage. No fuel tanks or similar storage receptacles may be exposed to view from the road and may be installed only within a screened area as approved by POLD or the Homeowners Association or buried under ground.

c. Each residence shall have a driveway which is either paved or covered with a permeable or impermeable surface material which is approved by POLD, however, in no event shall gravel driveways be allowed.

#### 5. SIZE OF DWELLINGS.

Each single family dwelling unit shall have a gross living area of not less than 1,600 square feet not including attic, basement, garage, porches, or breezeways. If the dwelling is less than 2,000 square feet total, the first floor minimum area shall be 1,200 square feet of finished space. A single story house shall also have a minimum of 1,600 square feet not including attic, basement, garage, porches, or breezeways.

POLD reserves the right to require larger gross living area for the dwellings to be constructed in Phases II, III, IV and V.

#### 6. DESIGN AND PLAN APPROVALS.

a. All buildings and structures shall be architecturally designed in keeping with traditional styles. Vinyl siding shall not be allowed, however vinyl trim shall be allowed subject to approval by POLD or the Homeowners Association after control is relinquished to it. Approval of the plans and specifications of all residences and other structures shall be by POLD, in its sole and absolute discretion, for as long as POLD is the owner of any lot in the subdivision. At such time as POLD conveys its last lot, the responsibility and/or authority for any architectural approvals in accordance with these restrictive covenants shall become the responsibility of the Homeowners Association. POLD reserves the right to turn over responsibility for architectural approvals to the Association at any time prior to its conveyance of the last lot it owns.

b. No construction of any kind shall be commenced on any lot nor shall any exterior addition or change or alteration be made to any structure nor shall utility lines be erected or installed until plans for the foregoing have been approved in writing by POLD. A copy of any approved plans shall be provided to POLD for its records.

c. POLD shall have no liability to any lot owner or any other individual except for bad faith exercise of its rights to make decisions regarding approval of plans as specified in these covenants. Upon relinquishment of responsibility for approvals to the Homeowners Association, POLD shall have no liability of any kind for any actions taken by the Association. By acceptance of a deed to a lot, the lot owner(s) agree to indemnify and hold POLD harmless with respect to any expenses incurred or monies paid as a result of any claim, lawsuit or damages resulting from the approval process. The Homeowner's Association likewise agrees to indemnify and hold POLD harmless from any claims by individual owners for actions by POLD relating to the approval process except for bad faith by POLD.

#### 7. PLANS REQUIRED.

Prior to commencement of construction on each Lot, the lot owner shall submit to POLD, or its designee, for approval, some or all of the following as requested by POLD:

a. A site plan showing the location on the lot of the dwelling, the garage, the driveway, landscaping and any proposed tree cutting.

b. Floor plan for the dwelling showing a minimum of 1,600 square feet of living space;

c. Elevation plans showing all facades of all buildings on the lot;

d. Exterior color scheme for the dwelling and appurtenant structures. If the color is not approved with plan submittal or prior to beginning painting of the house, then the color will be a neutral earth tone.

e. POLD, in its sole and absolute discretion, reserves the right to approve alternate architectural features in keeping with the character and quality of the subdivision.

#### 8. FENCES.

a. Fences may be placed no closer than three (3) feet from any lot line. No fence exceeding six (6) feet in height shall be permitted on any lot, except as part of an approved tennis court layout or swimming pool enclosure. No fence shall be constructed between the front plane of any house and the street unless approved by POLD. All fences shall be constructed with finished side facing away from the dwelling.

Notwithstanding the above, POLD, or the Homeowners Association upon transfer of POLD's rights to the Association, may place ornamental posts and fencing along the entrance of the subdivision and portions of the roadway in proximity to the entrance to enhance the aesthetics of the road.

b. A lot owner wishing to install any fence shall submit a drawing of such fencing and a sample of materials to be used to POLD prior to installation. No such fence shall be installed without obtaining POLD's approval.

#### 9. SIGNS.

No commercial or advertising signs of any kind shall be erected, placed, permitted or maintained on any lot or improvement except for a single sign no larger than four square feet advertising a lot or house for sale. Also permitted shall be a sign no larger than four square feet bearing the name of the builder of a dwelling during construction.

#### 10. NO VEHICLE STORAGE.

No off-road vehicles or snowmobiles shall be used on the premises nor shall any such vehicles nor any commercial vehicles, pleasure or commercial boats, motor homes, campers, trailers, be kept on the premises except out of sight of the roadway or in a neat and orderly manner conforming to these covenants. Unregistered or uninspected automobiles or automobiles being repaired, refinished or restored for a period of more than seven (7) days shall be stored in a garage or other enclosed structure or out of sight from the road.



POLD, or the Homeowners Association upon transfer of POLD's rights to the Association, and subject to any applicable approval from the Town of Epping, may designate a parking area within the Open Space Area to allow parking of pleasure boats, motor homes, campers and trailers; however, such parking area shall not be paved nor shall the topography be altered to create such parking area.

#### 11. ANIMALS.

No farm animal or fowl shall be maintained on any lot. A reasonable number of household pets shall be allowed, but shall not be bred or maintained for purposes of resale.

No pet shall create unreasonable noise or create a nuisance or annoyance to neighbors.

#### 12. BUILDING AND SITE MAINTENANCE.

a. During construction, materials shall be neatly stacked or placed within the immediate area of the incomplete structure. Stockpiling of materials, and parking of construction vehicles and equipment when not in use, shall be no closer than 20 feet from the roadway. Construction workers' vehicles shall be parked off of the public road whenever possible. Construction debris shall be kept in a dumpster and POLD or the Homeowners Association shall have the right to impose additional reasonable controls on construction. The owner on whose lot construction is taking place, along with the builder, shall be responsible for compliance with the provisions of this paragraph.

b. Owners of vacant lots, lots with houses under construction, and lots with finished homes shall at all times keep and maintain their property in an orderly manner, not permit lawns to become overgrown, and prevent any accumulation of rubbish or debris on the premises. Front yards shall be free of unattended lawn chairs, swing sets, swimming pools and the like.

#### 13. TREE REMOVAL AND LANDSCAPING

a. POLD may plant trees and install landscaping as it deems appropriate, along the front lot line of each lot. Homeowners will be required to maintain that landscaping and

will only remove landscaping from that area with permission from POLD or the Homeowners Association after control of the subdivision has been turned over to the Homeowners Association.

b. No trees shall be cut within fifteen (15) feet of any property line including the lot frontage on the roadway, without the express approval of POLD.

c. Each owner shall

(1) loam and seed all disturbed areas after construction,

(2) install a front walk using suitable materials such as blue stone, flagstone, brick, etc.,

(3) plant a minimum of eight 2-foot tall shrubs along the front plane of the dwelling.

#### 14. ADDITIONAL RESTRICTIONS.

The following are prohibited:

a. Clotheslines are prohibited except those which are in the rear of the residence and are within 25 feet of the residence;

b. Above-ground swimming pools in front of the house or visible from the road;

c. Antennas or satellite dishes with diameters larger than 24 inches;

d. Additions, sheds or outbuildings or appurtenances unless prior approval has been obtained;

e. Any basketball hoops, soccer nets or other personal property in the right of way;

f. Pesticides may be used only in limited quantities and only by professional application. In areas where it is reasonably apparent that runoff drains into wetlands or where wetlands are within 50 feet of the property line as shown on the subdivision plan, a lot owner shall take reasonable precautions to avoid application of pesticides or fertilizer which would have an adverse impact on the wetlands;

g. There shall be no filling of wetlands on individual lots.

15. HOMEOWNERS ASSOCIATION.

The Homeowners Association shall be established upon the sale of all lots in Phase I. When established the Association may be either an unincorporated or an incorporated association. The Association shall have the responsibilities and powers specified in these covenants.

16. COMMON LANDSCAPING, GRADING, DRAINAGE AND UTILITY EASEMENT AREAS, WELL RADII AND COMMUNITY LEACH FIELD

a. POLD has reserved "DRAINAGE EASEMENT" as depicted on the Subdivision Plan. These Drainage Easement Areas are located on Lots 9, 10, 23, 24, 44, 45, 62, 63, 72, 103, 104 and the Open Space Areas all as shown on said Plan. Said Drainage Easements are for the proper drainage of the roadway.

b. POLD has also reserved "GRADING, DRAINAGE AND UTILITY EASEMENTS" over each lot, of variable width, running along the roadways as shown on said Plan. Developer intends to install utilities within those easement areas. Any utilities installed and any work to maintain or repair the utilities shall minimize disturbance to and will not interfere with the drainage function on said areas.

c. POLD intends to install landscaping and possibly ornamental fencing and granite posts in the above "GRADING, DRAINAGE AND UTILITY EASEMENT" are. The Association shall assume responsibility for maintaining these improvements at such time as POLD so notifies the Association or when POLD no longer owns any lot in the subdivision, whichever occurs first. The Association shall regularly maintain the landscaping and shall replace any diseased or dead plantings, shrubs or trees and shall maintain any fencing or granite posts in good order and repair.

d. POLD has also reserved "WELL RADIUS EASEMENTS" over various lots and the Open Space all as shown on said Plan. Within said Well Radius Easement Areas no septic system or other above or below ground disposal of effluent shall occur.

e. POLD has also reserved a "20' SEWER EASEMENT" over Lots 8 and 9 as well as an easement over a portion of Open Space A and a Grading, Drainage and Utility Easement as referenced in paragraph b above to contain sewer trunk lines, pump station and a community leach field as shown on said Plan for the benefit of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11. The obligations for these easements are more particularly set forth in the common leach field expense declaration attached hereto as Exhibit B.

f. POLD intends to install landscaping in the area depicted as "RAISED LANDSCAPE ISLAND" within the cul-de-sac on "Rudy's Blend Way" and "Hetnar's Way". The Association shall assume responsibility for maintaining the landscaping at such time as POLD so notifies the Association or when POLD no longer owns any lot in the subdivision, whichever occurs first. The Association shall regularly maintain the landscaping and shall replace any diseased or dead plantings, shrubs or trees and shall maintain any fencing or granite posts in good order and repair.

g. Any disturbance to the lots on which any of the above easements in paragraphs a, b, c and f are situated which occurs as a result of maintaining the easements, whether done by POLD or the Association, shall be reasonably restored to the condition in which it existed prior to the maintenance being undertaken.

h. POLD and the Homeowners' Association shall indemnify and hold harmless the lot owners on whose property the above easements are located from any claims arising out of the use of said easement areas, except for acts which are the fault of said owners, their guests or invitees.

i. POLD initially and the Homeowner's Association after control is relinquished to it, shall be responsible for arranging for liability insurance for easement areas a, b, c and f with minimum limits of \$1,000,000.00 per occurrence.

j. The easements described above in Section a, b, c and f will be maintained by the Homeowners Association with the exception of the drainage easements referenced in paragraphs a and c above which shall be the responsibility of the Homeowners Association until such time as the Town accepts the drainage easement areas which are associated with the roadway. Should

the Town not accept the easements, then the Homeowners Association shall continue to be responsible for maintenance of said easements.

#### 17. SHARED SEPTIC SYSTEMS

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 shall share a community leach field and pump station which are located within Open Space A and Lot 10, respectively. Any sewer service lines, tanks or other septic system equipment (but not including the sewer trunk line) located within the boundaries of each individual lot shall be the sole responsibility of the lot owner. Each of the above lot owners shall be equally responsible for any installation, maintenance, repair and/or replacement of the leach field, the sewer trunk line and the pump station. The lots owners for Lots 1-11 shall maintain casualty insurance on the leach field, sewer trunk line and pump station. In the event that the leach field, sewer trunk line or the pump station requires maintenance, repair or replacement, and lots owners 1-11 fail to do so within a reasonable period of time, then POLD, or the Homeowners Association after control is relinquished to it, may perform such maintenance, repair or replacement and the cost of same may be collected as set forth in Section 19 below.

#### 18. OPEN SPACE AREAS

POLD intends by this Declaration to impose upon the Open Space Areas, as depicted on said Plan, the following restrictions for the benefit of the owners of all of the lots depicted on said Plan.

##### A. STATEMENT OF PURPOSE

- i. To assure that the Open Space Areas will be retained forever in their undeveloped, scenic and open space condition and to prevent any use of the Conservation Restriction Areas that will significantly impair, or interfere with, its conservation value, and to utilize as appropriate the maintenance guidelines set forth in the open space management plan referenced in the Epping Planning Board approval, and;

- ii. To protect the natural habitat of birds and animals.

B. RESTRICTIONS

The Open Space Areas shall be subject to the following use restrictions:

- i. They shall be maintained in perpetuity as open space;
- ii. No person shall be allowed to enter the Open Space Areas except for enforcement purposes, provided that the owners of any lot depicted on said Plan and such owners' invitees and licensees, may enter upon the Open Space Areas for any purpose not inconsistent with the within restrictions;
- iii. There shall be no motorized vehicles permitted upon the Open Space Areas except such which are reasonably required to maintain the areas and those which are allowed to park in a designated parking area pursuant to Paragraph 10 above;
- iv. No structure or improvement of any kind, size or shape shall be constructed, placed or introduced onto the Open Space Areas, except as may be necessary to enhance the conservation uses of the Open Space Areas or boundary delineation;
- v. No filling or excavation of soil or other alteration of topography or cutting or removal of standing trees shall be allowed, except those that present an imminent threat to person or property. In addition, trees may be removed in accordance with accepted silva cultural practices as outlined by USDA best management practices.
- vi. There shall be no dumping or depositing of trash, debris, stumps, yard waste, hazardous fluid or materials, vehicle bodies or part within the Open Space Areas.

- vii. No discharge of firearms or shooting with a bow and arrow shall be permitted upon the Open Space Areas in violation of RSA 207:3-a, as amended.

C. ENFORCEMENT

The burden of these restrictions shall run with the land and be enforceable by any present or future owners of any lot within the subdivision, or by the Prescott Orchards Homeowners Association, or by any official of the Town of Epping, however, the Town of Epping shall not be deemed to have any obligation with respect to such enforcement.

D. VIOLATION OF RESTRICTIONS

- i. In the event that a violation of any provision of this Declaration of Open Space Areas comes to the attention of the owner of any lot within the subdivision or the Town of Epping, the party allegedly causing such violation shall be notified in writing of the nature of such violation, which notice shall be delivered in hand or by certified mail, return receipt requested.
- ii. Said party shall have ten (10) days after receipt of such notice to undertake appropriate actions including restoration, which are reasonably calculated to swiftly cure the conditions constituting the violation.
- iii. If said party fails to take such curative action, the owner of any lot within the subdivision may undertake any actions that are reasonably necessary to cure the violation, including the filing of appropriate legal action to enjoin prohibited conduct; the cost of any curative measure, including reasonable attorney's fees, shall be paid by the violating party.

E. ACCEPTANCE BY PURCHASER

Acceptance of any deed for any lot within the subdivisions constitutes acknowledgment by the purchaser of the existence of

this restriction and agreement to be bound by it and that said purchaser will not take any action which might violate any provision herein.

19. COMMON AREA FEES AND ASSESSMENTS.

a. The cost for maintenance of, and liability insurance for common areas shall be the responsibility of the Homeowners Association regardless of whether the maintenance function is performed by POLD or the Association. Lot owners shall be assessed for such costs as provided below.

b. All fees and assessments, together with interest and costs of collection, shall be the personal obligation of the person who was the owner of a lot at the time when the fee or assessment became due. In the case of co-ownership of a lot, all co-owners of the lot shall be jointly and severally liable for the entire amount of the fees and assessments.

c. Once POLD has turned over responsibility for maintenance to the Association, the Association shall have the power to establish the annual budget and assess common area fees for the purpose of maintaining these common areas. At such time as the annual budget is set by POLD or voted by the Association, all owners of each lot shall be obligated for an equal portion of the budget to be paid within 30 days of notification of the amount due or in such other reasonable manner as specified by POLD or the Association.

d. If the assessment is not paid within thirty (30) days after the due date, interest shall accrue at the rate of 1.5 percent per month on the outstanding balance and the Association may bring an action against the owner(s) personally obligated to pay the same and place a lien against the lot, and there shall be added to the amount due all costs and expenses incurred, including reasonable attorneys' fees. Upon written request of an owner, the Association shall provide a statement of the status of a lot owner's common area maintenance account to any prospective purchaser of that owner's lot or a lending institution specified by the owner.

e. POLD shall be responsible for common area maintenance during the 2009 calendar year. Thereafter, POLD shall establish a Homeowner's Budget for a yearly fee (May 1 to April 30) per



lot payable on May 1<sup>st</sup> of each year or at the time of purchase of any lot. POLD, or the Association once responsibility is transferred to it, shall have the authority to adjust the amount of the annual assessment each year based upon the projected budget for the year.

## 20. GENERAL PROVISIONS.

a. All of the foregoing covenants, conditions, reservations and restrictions shall continue and remain in full force and effect for a period of twenty-five (25) years from the date of recording after which said covenants will be automatically extended for successive periods of ten (10) years.

b. POLD, as long as it owns an interest in any lot or remains obligated for any development work, reserves the right to itself, its agents, employees, contractors, and subcontractors, to enter upon the land covered by these restrictions for the purpose of carrying out and completing the development of the subdivision as well as to abate, remove, or correct any violations of these restrictions, and such entry, abatement or removal shall not be deemed a trespass, conversion or other actionable wrong. However, the provisions of this paragraph shall not be deemed to obligate POLD to in fact take such action once it has turned over authority or responsibility for enforcement of these covenants to a successor subdivider/developer or to the Homeowners Association.

c. The foregoing covenants, conditions, reservations, and restrictions may be amended by an instrument signed by POLD, as long as POLD owns any lot in the subdivision. Upon sale of POLD's last lot or voluntary relinquishment of this right to amend, amendment will then be by a vote of two-thirds of the then owners of the lots within said subdivision agreeing to change said covenants in whole or in part. Any amendment to these covenants shall be recorded in the Rockingham County Registry of Deeds.

d. POLD or the Homeowners Association upon POLD's relinquishment of the enforcement rights, shall have the right to assess a penalty in the amount of One Hundred (\$100.00) dollars per day for the violation or breach of any of these covenants, conditions, reservations, or restrictions upon failure of a lot owner to cure such violation after reasonable notice to the violator.

e. Invalidation of any one of these covenants by court order shall in no way affect any of the other provisions which shall remain in full force and effect.

f. Failure to specifically refer to and include or incorporate these covenants in deeds to any lot shall not in any manner affect the validity and effectiveness of these restrictions.

g. Notices provided for in these covenants shall be served by being delivered by hand or mailed to the dwelling on any lot, or to such other address or location as a lot owner may have specified in writing to POLD or to the Association. Such notice shall also be deemed delivered if properly addressed and sent by first class mail except in a case where the penalty assessment provisions of these covenants may be invoked for failure to comply, in which case such notice shall be sent by certified mail, return receipt requested, and shall be deemed received upon signing of the receipt or five (5) days after the first notice of attempt to deliver certified mail.

h. At the time of closing, each lot owner shall sign a Disclosure and Compliance Agreement indicating receipt of and review of these covenants, and such other matters as in POLD's reasonable judgment are appropriate to be contained in the Disclosure and Compliance Agreement.

i. POLD reserves the right to add additional land to the subdivision, which land may be divided into additional lots. POLD may exercise this right at any point before the last lot in the Subdivision is sold. The additional lots may be on land abutting the subdivision property or land in close proximity to the subdivision property which may be subdivided and connected to the subdivision roadway. In such event, these covenants may be modified by Developer, if necessary to accommodate the additional lots. In no event, however, shall the covenants governing the additional lots be less restrictive than the provisions of these covenants with respect to the residential use of lots, the size, kind and quality of residential structures which may be placed upon lots, the approval requirements for plans and construction procedures, and the landscaping requirements.

These covenants were executed by Prescott Orchards Land Development, LLC on this 23<sup>rd</sup> day of June, 2008.

PRESCOTT ORCHARDS LAND  
DEVELOPMENT, LLC

Stephanie C. Guy  
Witness

By: Timothy M. Matte  
Timothy M. Matte, Manager  
Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

Sworn and subscribed to on this date, before me on this 23<sup>rd</sup> day of June, 2008, by Timothy M. Matte, Manager of Prescott Orchards Land Development, LLC, a New Hampshire limited liability company, on behalf of said limited liability company.

Stephanie C. Guy  
Notary Public/Justice of the Peace  
Print Name: \_\_\_\_\_  
My Commission Expires: SEP 8, 2009

S:\DA-DE\Developer Finance Corporation\Prescott Orchards Land Development, LLC\Sale of Lot 1\Final Documents\final covenants 061808.doc

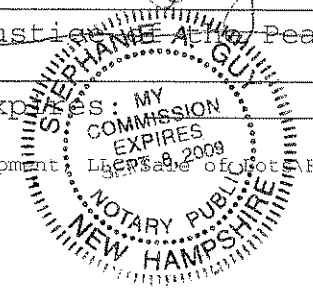


EXHIBIT A**PRESCOTT ORCHARDS SUBDIVISION COMPLIANCE AGREEMENT  
REGARDING RESTRICTIVE COVENANTS**

NOW COME, Prescott Orchards Land Development, LLC (hereafter POLD) and \_\_\_\_\_, Purchaser(s) of Lot \_\_\_\_\_ in the Prescott Orchards Subdivision, Epping, New Hampshire and certify as follows:

1. I/We have received a copy of and have read and understand all provisions of the Restrictive Covenants recorded in the Rockingham County Registry of Deeds at Book \_\_\_\_, Page \_\_\_\_ and any amendments thereto.
2. The plans for siting of the dwelling and construction of my/our house with floor plans. Elevation plans: (circle and initial correct response)
  - a. Have been submitted and approved as required by the Restrictive Covenants.
  - b. Have been submitted but are not yet approved.
  - c. Will be submitted for approval prior to commencement of construction.
3. Exterior color scheme for the dwelling and appurtenant structures: (circle and initial correct response):
  - a. Have been submitted and approved as required by the Restrictive Covenants.
  - b. Have been submitted but are not yet approved.
  - c. Will be submitted for approval prior to any paint being applied.
4. Purchaser acknowledges that the contractor who will construct the residence on Lot \_\_\_\_\_ has executed this Compliance Agreement or will sign prior to commencement of construction. Purchaser shall ensure that the contractor complies with the appropriate provisions of the Restrictive Covenants concerning construction or be subject to the penalty provisions of the Restrictive Covenants.

IN WITNESS WHEREOF, I/We have executed this Agreement this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Prescott Orchards Land Development, LLC

_____ Witness	_____ Date	_____ By: Timothy M. Matte, Manager
_____ Witness	_____ Date	_____ 
_____ Witness	_____ Date	_____ 

On behalf of Purchaser, who has contracted the above Buyer(s) to construct a residence on Lot \_\_\_\_, the undersign hereby agrees to comply with the appropriate provisions of the Restrictive Covenants concerning construction of the residence to be subject to any penalty provisions of the Restrictive Covenants for failure to do so.

Builder: \_\_\_\_\_  
By: \_\_\_\_\_