

crossroads ventures llc

DRAFT
Environmental Impact Statement

Appendix 4A

Draft Covenants Highmount Estates

The Belleayre Resort at Catskill Park

**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, EASEMENTS, CHARGES
AND LIENS FOR CROSSROADS VENTURES, LLC**

This Declaration of Covenants, Conditions and Restrictions for **CROSSROADS VENTURES, LLC** (this "Declaration") made this ___ day of _____, 2002 by **CROSSROADS VENTURES, LLC**, a New York limited liability company, whose address is P.O. Box 267, Mt. Tremper, New York 12457, hereinafter referred to as "Grantor," hereby states that in order to preserve the natural beauty of the land and to ensure that all construction thereon is in harmony with existing and proposed construction and improvements, the following covenants, conditions, restrictions, easements, charges and liens shall bind the lands owned by Crossroads Ventures, LLC, its successors and assigns, as shown on a certain subdivision plan entitled Highmount Estates dated _____ (the "Subdivision Plan/Subdivision") which is hereby referenced and made part of this Declaration.

WITNESSETH:

WHEREAS, the Grantor owns certain parcels of real property located in the [name counties] (said parcels being more fully described in Schedule A attached hereto) which real property the Grantor intends to develop into a Planned Development District known as "Highmount Estates" (hereinafter sometimes referred to as the "District"); and

WHEREAS, Parcel A of the District as described in Schedule A attached to this Declaration consists of approximately ___ acres of land upon which may be developed up to specifications; and

WHEREAS, the Grantor desires that the amenities of the lands described be available for use by the residents of the District; and

WHEREAS, the Grantor has deemed it desirable, for the efficient preservation of the values and amenities in said District to create an agency to which should be delegated and assigned the powers of:

- (i) maintaining and administering the Association Property and facilities;
- (ii) administering and enforcing the Covenants, Conditions and Restrictions; and
- (iii) collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Grantor has reserved the right to incorporate a Homeowners Association under the Not-for-Profit Corporation Law of the State of New York for the purpose of exercising the aforesaid functions.

NOW, THEREFORE, the Grantor, for itself, its successors and assigns, declares that the real property described in Schedule A hereof is and shall be held, transferred, sold, conveyed and occupied, subject to the Covenants, Conditions, Restrictions, Easements, Charges and Liens set forth here in this Declaration.

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following words, phrases or terms when used in this Declaration or in any Supplemental Declaration shall, unless the context otherwise prohibits, have the following meanings:

A. **ASSOCIATION** shall mean and refer to the HIGHMOUNT ESTATES HOMEOWNERS' ASSOCIATION, INC.

B. **ASSOCIATION PROPERTY** shall mean and refer to all land, improvements thereon and other properties, personal or mixed, heretofore or hereafter owned by the HIGHMOUNT ESTATES HOMEOWNERS' ASSOCIATION, INC.

C. **DECLARATION** shall mean and refer to this document of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens of HIGHMOUNT ESTATES HOMEOWNERS' ASSOCIATION, INC., as it may from time to time be supplemented, extended or amended in the manner provided for herein.

D. **DISTRICT** shall mean and refer to the approximately __ acre parcel of land located in the [name counties], New York on which will be developed the planned development district known as "HIGHMOUNT ESTATES" as more fully shown on Schedule B attached hereof.

E. **OWNER** shall mean and refer to the holder of record title, whether one or more persons or entities, of the free interest in any Lot or Residence, whether or not such holder actually resides in such Residence, and shall include the Grantor with respect to any unsold Lot.

F. **PROPERTY** shall mean and refer to all properties as are subject to this Declaration.

G. **SITE PLAN** shall mean and refer to the Site Plan attached hereto as Schedule B.

H. **GRANTOR** shall mean and refer to CROSSROADS VENTURES, LLC, its successors and assigns.

I. **RESIDENCE** shall mean and refer to each completed residential dwelling, if any, situated upon the Property, (as evidenced by a Certificate of Occupancy issued by the Town of _____), including garage of those Residences having one, whether such Residence is Owner-occupied or leased to a tenant by the Residence Owner. Unless the context clearly indicates otherwise, the term “Residence” shall be deemed to include the term “LOT.”

1. **UTILITY EASEMENTS.** Subject to any agreement made, or to be made, by Grantor, its successors or predecessors in title, with any agency, corporation of authority for the supply of gas, electric, water, sewage, telephone, telegraph, drainage of similar facilities and services, together with all appurtenant installations, lines, pipes, culverts, conduits, poles, wires and the like, whether overhead, surface or underground; easements and rights-of-way for the same being expressly reserved along a 10 foot wide strip on the street front of the Property, and along a 10 foot wide strip on the side and near lines thereof, provided, however, that all utility and other lines shall be installed to each individual Residence of the Property by undergrounding the same from the existing overhead line. In accordance with Section One (1) of this Declaration, Lots 4 and 5 of the Subdivision shall have a utility easement on their shared boundary, and Lots 11 and 12 of the Subdivision shall have a utility easement on their shared boundary.

2. **ROADS AND GROUND EASEMENTS.** Notwithstanding that title is to be conveyed to any land lying in the bed of any street or road in front of, or adjoining a Subdivision lot, as more particularly shown on the Subdivision Plan, each and every Owner shall have, for the purpose of ingress and egress, an unobstructed and unrestricted right of free and reasonable travel, but not for parking, over the road or street, as shown on the Subdivision Plan, as and when the same are open to general use. Such travel shall be at the risk of the Owner, his heirs, invitees and assigns, without any liability to Grantor. The right to change, alter, widen or extend the lines of any road or street shown on the Subdivision Plan, or to cut new streets or roads through the tract, is expressly reserved to Grantor and his successors and assigns, provided such change or changes shall not unreasonably interfere with or impede the Owner's access for ingress and egress or to alter the size of the Property herein conveyed. No trucks and no commercial type vehicles shall be stored or parked on any street or road, except while engaged in service to the Lot Owner. Grantor reserves unto itself, its successors and assigns, the exclusive right to dedicate the roads or streets depicted on the Subdivision Plan, or hereafter constructed to public or private use, without the joinder, release or consent of the Owner, to which dedication the Owner consents by accepting delivery of a deed subject to these covenants without claim for damages of any kind whatsoever.

In addition to the aforementioned, Lot 11 shall have a two (2) acre (47 wide) ski trail easement that extends over the full length of the Lot. Said ski trail easement shall continue along the boundary of Lot 12 for half of the distance and shall angle to the opposite corner. Lot 17 and 18 shall have a walking easement, in order for Resort guests to access the trails located on the Adelstein portion of the project. Grantor reserves unto itself, its successors and assigns, an overall ground easement covering the Subdivision.

3. **HOMEOWNERS ASSOCIATION.** Grantor reserves unto itself, its successors and assigns, the option to transfer ownership of the lands and streets within the Subdivision, at no cost, to a Homeowners Association (the “Association”) to be formed pursuant to the Not-for-Profit Corporation Law of the State of New York. The membership of the Association shall be limited to the Owners in the Subdivision (“Members”), as well as any other Subdivision(s) which Grantor may develop out of the real property referenced to in this Declaration. All owners shall, upon becoming such, be deemed automatically to have become Members and there shall be no other qualification for membership. Any person or entity which holds an interest in a lot in the Subdivision merely as security for the performance of an obligation shall not be a Member and shall have no voting rights.

Upon formation of the Association, and the transfer of ownership pursuant to Section Three (3) of this Declaration, the Association shall assume the obligation to maintain the roads within the Subdivision(s), the entry area to the Subdivision(s), and such other maintenance and obligations which the members thereof agree to assume. Road maintenance costs shall be shared by all Owners if the annual maintenance fee is insufficient. The Association shall own, operate and maintain the Association Property, enforce the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration, the Certificate of Incorporation and By-Laws of the Association, as the same may be amended from time to time. Subject to the additional limitations provided in this Declaration, the By-Laws and the Certificate of Incorporation, the Association shall have all the powers and be subject to the limitations of a not-for-profit corporation as contained in the New York State Not-for-Profit Corporation Law, as the same may be amended from time to time.

4. **MAINTENANCE CHARGE.** The Owner of each lot in the Subdivision shall pay as a maintenance fee ("Maintenance Charge") the sum of _____ Dollars (\$_____). The purpose of the Maintenance Charge shall be to fund the maintenance, repair, replacement and improvement of the Property and the promotion of the recreation, safety and welfare of the Owners. Said sum shall be paid to the Association on June 1st of each year. The annual Maintenance Charge for each Lot shall be billed in advance, or on or before June 1st of each year, and shall be paid within sixty (60) days thereof. All sums assessed, but unpaid, together with any accelerated installments, late charges and fees for violations of such rules and regulations, as may be established by the Association By-Laws, and interest thereon, shall be the personal obligation of the Owner in default and shall constitute a lien upon the Owner's Residence. All costs and expenses incurred in collection of past due Maintenance Charges, including reasonable attorneys' fees, shall also be the personal obligation of the Owner, but shall not be a lien against the Residence. In the event that the Grantor establishes common areas and facilities, the failure to pay the annual Maintenance Charge shall automatically suspend the Owner's right to use the common areas and all facilities during the period in which any such Maintenance Charge remains outstanding, but in no event shall any such suspension preclude ingress and egress by the Owner to and from the Owner's Residence or Lot.

5. **BUILDINGS AND STRUCTURES.** No structure shall be erected on the Property other than a single family dwelling of a minimum enclosed living area of not less than 1,600 square feet nor greater than 6,500 square feet, exclusive of garages, porches, breezeways, patios and other appurtenant structures. The Residence shall be suitable for the exclusive and sole purpose of a private single family dwelling, with one private one to four car garage attached to, or detached from, the Residence and to be used only by the occupants of such Residence.

There shall be permitted a guest house, caretaker's residence, utility buildings, bath house and tool shed. The combined square footage with the dwelling structures shall not exceed an aggregate total of 10% total lot size or 10,000 square feet, whichever is less. This restriction is not deemed to prevent the installation of a swimming pool or tennis court.

6. **RESALE RESTRICTIONS.** No part of the conveyed Property shall be subdivided, conveyed, or transferred apart from the whole thereof.

7. **EXCAVATION AND GRADING.** No excavation shall be made on any tract, except for the purpose of building thereon, and not until the time when building operations are commenced. No earth or sand shall be removed from the Property, except as part of the aforementioned excavation. Once building operations are commenced, the exterior shall be completed within six (6) months from the date of the commencement of the building construction. The finished grade of any parcel after construction shall conform with any drainage plan approved by Grantor, and all drainage swales or ditches required by the drainage plan shall be kept free and clear of spoil, debris or other material by the Owner, and any landscaping carried out by the Owner shall not interfere with or, alter in any way, the drainage plan.

8. **USE AND OCCUPANCY.** Except as hereinafter provided and in accordance with Section Five (5) of this Declaration, no structure erected on any parcel shall be used for any purpose other than that of a private single family residence and guest residence only, and garage, together with the other improvements referred to in Section Five (5) of this Declaration, nor shall any parcel, without a structure, be so used, nor shall anything be done on any parcel, or in any structure thereon, which may be an annoyance or nuisance to the Owners or occupants of the

neighboring lands. No trailer, tent, shack, recreational vehicle or other temporary or transportable structure shall be erected on any lot, and no basement or garage shall, at any time, be used as a residence, either temporarily or permanently, and no house shall be occupied prior to completion. The parcel or any building thereon erected, or any part thereof, shall not be used or occupied as a club, profit or non-profit, or for the carrying on of any public trade or business. No poultry, cattle or any livestock whatsoever shall be kept or bred or raised upon the tract, or in any building thereon erected, or any part thereof. Oil or gas wells shall not be drilled on any parcel, or on any part thereof. There shall be no underground heating oil storage tanks on any parcel, or on any part thereof.

9. **SEWAGE.** Before occupancy of any dwelling, a sewage disposal system of a standard design shall be installed by the Owner, and such system shall comply with the requirements of all local and state sanitary codes. The hook up of the sewage system will be at the resort ("Resort") for sewer and water. The effluent from such disposal system shall not be permitted to discharge into any storm water, sewer, open ditch, drain, stream, pond or lake, but shall be disposed of in accordance with local and state sanitary codes. No sewage disposal system or seepage pit, drainage field, etc., nor any part thereof, shall be located within 100 feet of the highwater mark of any lake, pond or stream. No outhouse, privy, or chemical toilet shall be erected or installed on any parcel, or on any part thereof.

10. **PROPERTY MAINTENANCE.** The exterior of all structures shall be maintained in good repair and shall be structurally sound. Except as is reasonably necessary in construction of the improvements upon the Residence and driveway, no trees in excess of 4" caliper or any shrubbery may be removed within the area between any building set back lines

and the exterior property lines of any tract. The Owner may cut dead and fallen trees or branches on the tract and cause the removal of same. The Owner shall maintain the lot in a neat condition. Every parcel shall be kept in a sanitary condition. All garbage and refuse shall be immediately taken or carried away. Dumping of garbage or refuse on other lands is strictly prohibited. No outdoor storage or disposal of garbage, or refuse is permitted, except for temporary storage in screened and enclosed receptacles. The storage of any appliances, junk, furniture or vehicles not in running condition, outside of any permanent structure is strictly prohibited. No flammable materials of any nature whatsoever shall be burned on any tract or part thereof, except that the Owner may burn picnic fires in any permanent outdoor fireplace. The Owner may use propane gas grills in a well-ventilated area outdoors. No pesticides, herbicides or other chemical treatment for land, vegetation or animals may be used, unless its use is safe for humans and will not contaminate any source of drinking water.

11. **BUILDING LOCATION.** Unless otherwise provided in writing by Grantor, or on recorded Subdivision Plans, no part of any structure shall be erected closer than 50 feet to any side line of the tract, with a combined total of not less than 100 feet for both side yards, nor closer than 100 feet to the property line adjoining the street on which the tract abuts, nor shall any part of any structure be erected closer than 25 feet from any other interior tract lines, provided that in the event that any boundary line of the tract adjoins any lake, pond, stream or water course, no part of any structure shall be erected closer than 100 feet from such lake, pond, stream, or water course. Grantor reserves the right to modify any distance based upon the configuration of a Subdivision lot, if such setback would obstruct views from other lots.

12. **VEHICLES.** No trucks and no commercial-type vehicles shall be stored or parked on any residential street, except while engaged in service to the property owner. No trailer, camper, truck, bus or commercial vehicle may be kept or stored on any portion of a lot visible to the road, except for a small tow trailer for boating or recreational purposes. No off-road vehicle, including snowmobiles, motor bikes or all-terrain vehicles, may be used, except for maintenance patrol or emergency purposes. Off-road vehicles may not travel the roads in the Subdivision. All off-road vehicles must be housed in an enclosed covered building. Helicopter or fixed aircraft operation is strictly prohibited.

13. **FENCES AND SIGNS.** The Property herein conveyed may be fenced by Owners, in whole or in part, provided that all fencing shall be 4-rail split rail fence or such other fencing as approved by Grantor, and further provided that no barbed wire or similar material, or any other fencing material upon which birds, animals, or persons may be impaled or injured be used, and provided further that such fences shall not interfere with, obstruct or impede the free use by others of the streets and roads adjoining or fronting on the Property, or the free and reasonable access to utility lines, water, gas, and electric lines, required for the purchase of maintenance and operation thereof. All signs are prohibited, except for the use of a sign, not to exceed three (3) square feet, to designate the Owner's name and street address to be located at the entrance of each Owner's driveway as approved by the Grantor. Specifically prohibited are "for sale" signs of any type and for any purpose.

14. **MISCELLANEOUS.**

A. No diversion or damming of springs or streams shall be permitted without the express written consent of the Grantor.

- B. No pet shall be permitted which by making noise or straying disturbs occupants of another lot.
- C. No tent or temporary shelter which is visible from another lot, the roads or trails of the Subdivision shall be permitted. Notwithstanding any provision set forth in Section Eight (8) of this Declaration, a tent or temporary structure may be erected upon a lot for weddings, parties and similar occasions, however, no tent or temporary shelter shall be visible from another lot, the roads or trails of the Subdivision.
- D. The roads and trails of the Subdivision shall not be used for storage, repair or washing of any motor vehicle, boat, trailer or camper or for parking, except in designated areas.
- E. No clothesline or other outdoor device for drying laundry shall be permitted.
- F. No lot or structure erected thereon may be leased for less than a ninety (90) day period, or more than two (2) times in any calendar year. For purposes of this restriction, any change, by sub-lease or otherwise, in the party entitled to the use or possession of the property, or a break in the continuity of such right of use or possession, will be deemed a new lease. No guest house or room may be leased separately from the dwelling.
- G. The discharge of firearms within the Subdivision is strictly prohibited.
- H. Hunting on the Property, or any portion of the Subdivision, or any portion of the lands owned by Grantor, is strictly prohibited.