



**SCHEDULE "B" –MOUNTAINWAY ESTATES
PROTECTIVE COVENANTS**

1. The lands to which these covenants shall apply (hereinafter called the "Said Lands") include the property described in the Purchase and Sale Agreement annexed hereto and conveyed by way of Warranty Deed.
 2. "Garage" as used herein shall include any structure used, or to be used, for the housing or protection of motor vehicles.
 3. No building shall be erected on the Said Lands other than a detached private dwelling house, to and for the use of a single family, with or without an appropriate garage attached thereto. A detached garage may be permitted at the discretion of the Grantor obtained in advance in writing. R-2 type lots shall be permitted to have semi-detached private dwellings.
 4. No more than one dwelling house shall be erected, or shall stand, at any one time upon the Said Lands except R-2 type lots, which shall contain semi-detached dwellings.
 5. No dwelling house shall be created, or stand upon the Said Lands or any part thereof, which shall have a ground floor area of less than:
 - (a) for conventional "R-1" type lots:
 - (i) a minimum of 1,200 square feet in the case of a one storey dwelling;
 - (ii) a minimum of 900 square feet in the case of a dwelling of more than one storey but not a full two storeys; and with a minimum of 1,300 square feet of total dwelling habitable floor area;
 - (iii) a minimum of 800 square feet in the case of a dwelling of two storeys or more, provided that there shall be the total minimum of 1,500 square feet of total dwelling habitable floor area.
 - (b) for conventional "R-2" type lots:
 - (i) minimum 650 square feet with a minimum of 1,300 square feet of total habitable floor area.
 - (ii) each owner of an R-2 property acknowledges the right of the adjoining owner to enter into, on or about the property to install, repair, maintain or replace common features of the dwelling house, including, but not limited to, the party wall, roof, gutters and siding. This right of access is to be exercised upon reasonable notice and at reasonable times, and any damages to the dwelling house shall be repaired immediately by the offending party.
- The measurements for calculations of the areas referred to in this paragraph shall be taken as the outside measurements of the main walls of each dwelling house, excluding any garage, veranda or sunroom.
6. No building shall be erected on the Said Lands, or any addition or alteration made thereto, unless the design of such building, addition or alteration and plans therefore, drawn by a duly qualified architect, has been approved by the Grantor in writing.
 7. The Grantee agrees to complete the development of the Said Lands, including, but not limited to, dwelling construction, landscaping and completion of the driveway areas, as soon as possible, but in any event no later than one (1) year from the start of construction of the dwelling house on the Said Lands. The Grantee is responsible to ensure that lot grading and landscaping is done in accordance with all approved plans and that no work or landscaping is done that will adversely affect the natural drainage patterns of this lot and surrounding lots.
 8. Notwithstanding anything herein contained, no building, fence or erection of any kind shall be erected on the Said Lands unless the plans, dimensions, specifications and location thereof, as indicated by site plan (including the distances from the front, side and rear limits) shall have been first submitted to and approved in writing by the Grantor or the architect for the time being of the Grantor, and no building, fence or other erection shall be constructed or placed on the Said Lands otherwise than in conformity with such plans, specifications and site plan.
 9. It is the policy of Kimberly-Lloyd Developments Limited to be very conscious of the design and appearance of the front of the house. Therefore, the same house design shall not be repeated within a five lot radius, so as to provide an aesthetically pleasing streetscape.
 10. No mud, debris, building materials or other matter shall be placed by the Grantee or those working or engaged on his behalf within the street right-of-way or on other lands not owned by the Grantee. If such mud and debris is deposited, it shall be removed by the Grantee within twenty-four (24) hours of receipt of a request to do so from the Grantor, and if it is not so removed then the Grantor may cause the mud debris, building materials or other matter to be removed and recover the cost thereof from the Grantee.
 11. The lands or any building erected, or to be erected thereon, shall not be used for the purpose of any profession, trade, employment, service, manufacturing or business of a description, nor as a school house, hospital or other charitable institution, nor as a hotel, apartment house, rooming house or place of public resort, nor for any sport (other than such games as are usually played in connection with the normal occupation of a private residence) or for any purpose other than a private residence for the use of one family only to each dwelling unit, nor shall anything be done or permitted upon any of the said lands or buildings erected, or to be erected thereon, which shall be a nuisance to the occupants of any neighboring lands or building unless approved under the City of Moncton By-Laws, and by the Grantor.

12. No fence shall be erected or maintained on the Said Lands or any part thereon other than an ornamental wire, iron or wooden fence of open construction, with or without brick or stone foundations, unless approved in writing by the Grantor, and no such fence shall be higher than four feet (4'), or be situated within thirty feet (30') of the street line in front of the lot on which said fence is erected or within ten feet (10') of any other street line. Screens for landscaping purposes may be erected upon written approval by the Grantor.
13. No signs, billboards, notices or other advertising matter of any kind (except the ordinary sign offering the Said Lands or buildings thereon for sale or rent) shall be placed on any part of the Said Lands or upon or in any buildings or on any fence, tree or other structure on the Said Lands without the consent of the Grantor in writing.
14. No trailer, other than for recreational purposes, shall be parked or placed upon any part of the Said Lands.
15. Satellite dishes with a diameter of less than eighteen (18) inches may be mounted only on the side or rear exterior of the dwelling house.
16. No excavation shall be made on the Said Lands except excavation for the purpose of building the original dwelling or for repairs or the improvement of the gardens and grounds thereof. No soil, sand or gravel shall be removed from the Said Lands except with the prior permission of the Grantor.
17. No living tree with a butt diameter of more than four inches (4") shall be cut or removed from the Said Lands, other than those standing within an area to be excavated for the erection of a building thereon or the immediate improvement of the grounds.
18. No building waste or other material of any kind shall be dumped or stored on the said lands except clean earth for the purpose of leveling in connection with the construction or repair of a building thereon or the immediate improvement of the grounds.
19. No horses, cattle, hogs, sheep, poultry or other stock or animals, other than household pets normally permitted in private homes in urban residential areas, shall be kept upon the Said Lands, and no breeding of pets shall be carried out upon the Said Lands.
20. The Grantee shall not withhold consent to the construction of sidewalks, pavement, sewers, watermains and other local improvements which may be petitioned for by the Grantor, and the Grantee shall not withhold consent to the erection or installation and maintenance at the front or side of any lot contained in Mountainway Estates of electric, telephone and/or television poles, lines and equipment and guys and anchors in connection therewith and underground cables, all for common use, with all necessary access from time to time for all employees of the person, firm or corporation, or persons, firms or corporations furnishing, maintaining and repairing same.
21. The Grantor shall have the right to convey to the City of Moncton or other public authority any part of development lands (other than the lands already conveyed) for park, recreational or similar or public purposes without the requirement for all or any restrictive covenants.
22. The Grantee will not permit the condition of the surface of the Said Lands, or any part thereof, to be in such a condition as to be below the standard of landscaping of the surface of lots which is normally found in a first class residential neighborhood. The Grantee shall be responsible for landscaping between the curb and the streetline abutting his property. The front and side yards shall be fully landscaped and the rear yard shall be fully landscaped for a minimum distance of twenty (20) feet from the rear of the dwelling, and all disturbed areas must be landscaped beyond the required twenty (20) feet. All landscaping of disturbed areas shall be effected through the installation of sods.
23. Footing drain leaders, footing drains, roof leaders, sump pumps and swimming pool drains shall not be connected to the sanitary sewer system. The Grantor reserves the right to enter onto any property to correct any improper action at any time should the property owner fail to take corrective action within ten (10) days of written notification to do so. The Grantee shall provide access for the carrying out of testing and repairs to sanitary sewer laterals when requested. Any and all costs incurred by the Grantor because of improperly constructed lateral connections shall be the responsibility of the Grantee.
24. The Grantee shall meet any and all requirements imposed on his individual lot by City of Moncton By-Laws, and any permits issued pursuant to City of Moncton By-Laws, and by the New Brunswick Department of the Environment. If infractions are not complied with, the Grantee shall allow the Grantor or his agents to access Said Lands for the purpose of rectifying the problem. The Grantor will back charge the Grantee for any costs associated with the foregoing, and these costs will be due and payable immediately by the Grantor.
25. Any damage to any of the municipal services which have been installed by or on behalf of the Grantor (which services shall include, but are not limited to, water service lines and curb stops) caused by the Grantee, or by any person working or engaged on his behalf, shall be repaired at the Grantee's expense. If the Grantee does not effect such repairs within a reasonable time upon receipt of a notice to repair from the Grantor, then the Grantor may repair the same and recover the cost thereof from the Grantee.
26. Provided always that notwithstanding anything herein contained, the Grantor and its successors shall have the power, by instrument or instruments in writing from time to time, to waive, alter or modify the above covenants and restrictions in their application to the Said Lands or to any part thereof without notice having to be given to the owner of any other lot in the Said Lands.
27. Contraventions shall not affect the validity or enforceability or any other restrictions. The Grantor is not responsible for the enforcement of compliance with these covenants, however in the event that the Grantor chooses to enforce compliance with the covenants, the party in fault with the covenants is responsible to the Grantor for all costs, ie. providing letters to third parties confirming non compliance with the terms of these covenants, claims, damages, costs or expenses resulting therefrom, including legal fees on a solicitor-client basis.
28. "Grantor" means Kimberly-Lloyd Developments Limited and its successors and assigns.
"Grantee" means the grantee and successors in title.