



DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER & SEWER OPERATIONS

TEMPLATE FOR DECLARATION OF DEED RESTRICTION AND MAINTENANCE

SAMPLE LANGUAGE - Modify as necessary

DECLARATION OF DEED RESTRICTION AND MAINTENANCE

DECLARATION made this \_\_\_ day of \_\_\_, 1999 by \_\_\_ Road Associates, having its principal office at \_\_\_ Avenue, Staten Island, New York (hereinafter referred to as "Declarant").

WHEREAS, the DECLARANT is the above owner of certain real property situated in the Borough of Staten Island, County of Richmond and State of New York, known and designated as Block \_\_\_, lots 1, 18 and 26 [the "Premises"], as shown on the tax map of the City of New York for the County of Richmond; and

WHEREAS, the DECLARANT proposes to construct three (3) commercial buildings (completed buildings available for rental only) in accordance with plans filed with the City of New York Department of Buildings and the NYC Department of Environmental Protection under NB Nos. (the "Buildings"); and \_\_\_\_\_

WHEREAS, the Buildings are to be served by a common area (the "Common Area") parking facilities, common storm and sanitary drain disposal systems including internal drains and storm water detention /retention facilities, connections, common water mains and other public or private utility lines serving more than one of the buildings' ("Common Facilities").

WHEREAS, the Common Area is shown in the attached diagrammatic sketch entitled Exhibit "A" and is more particularly described as follows:

All that certain plot, piece or parcel of land situate living and being in the Borough of Staten Island, County of Richmond, City and State of New York, bounded and described as follows:

SEE ANNEXED EXHIBIT "B" for DESCRIPTION

Excepting therefrom all those plots, pieces and parcels of land located therein and upon which there have been erected buildings described as NYC Building Department NB Nos. 1013/99 and 1015/99; and

WHEREAS, the DECLARANT proposes to construct the internal sanitary and storm drains; storm water detention/retention facilities and connections within the Common Area in accordance with site connection proposal plan on file with the City of New York Department of Buildings under NB Nos. 10 \_\_\_/99, 10 \_\_\_/99 and 10 \_\_\_/99; and Department of Environmental Protection under site connection proposal application number \_\_\_\_\_

WHEREAS, the DECLARANT must obtain from the City of New York Department of Buildings and Department of Environmental Protection approval for the construction of the aforesaid internal drains, storm water detention/retention facilities and connections; and



**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF WATER & SEWER OPERATIONS**

**TEMPLATE FOR DECLARATION OF DEED RESTRICTION AND MAINTENANCE**

WHEREAS, the City of New York Department of Buildings and Department of Environmental Protection require as a condition precedent to the issuance of the aforesaid permit, a firm commitment by the Declarant establishing said Common Areas as well as providing for the maintenance and repair of the internal sanitary and storm drains, storm water detention/retention facilities, connections and of the restrictions therefore, as hereinafter set forth.

NOW, THEREFORE, it is agreed as follows:

1. The Declarant, and its successors and assigns covenant that the Premises and Buildings may not be subdivided and shall be held in single ownership unless and until a prospectus or no-action letter is approved and filed with the NY State Department of Law and a Declaration of Homeowners/Condominium or Shopowners Association and Declaration of Covenants, Restrictions, Charges and Liens is recorded against the premises provided this is accomplished in accordance with applicable laws, rules and regulations in effect at that time and the revised site connection proposal plan reflecting such subdivision is filed and certified by the City of New York Department of Environmental Protection.

2. The Declarant, its successor and assigns, does hereby establish and create for the benefit of the lawful occupants of the Buildings, future owners of the lots, and members of any Homeowners/Condominium or Shopowners Association that may be formed does hereby give, grant and convey the following, licenses, rights and privileges within the above described Common Area:

(i) Right-of-Way for ingress and egress by vehicles or pedestrians over the Common Area for purposes.

(ii) Right to connect with, maintain and make use of public or private utility lines, wires, pipes, conduits, internal drains, storm water detention/retention facilities and connections which may be from time to time be in or along the Common Area.

3. The Declarant, its successor and assigns agree to construct, maintain and keep in good repair the internal sanitary and storm drains, storm water detention/retention facilities and connections installed within the bounds of the above described Common Area in accordance with a plan filed with the Department of Buildings and the Department of Environmental Protection.

4. The Declarant, its successors or assigns agree that the internal sanitary and storm drains, storm water detention/retention facilities and connections shall forever be kept free and clear of any and all obstructions to the drainage flow pattern as set forth in the aforesaid site connection proposal plan.

5. The Declarant, its successors or assigns agree that the internal sanitary and storm drains, storm water detention/retention facilities and connections shall not be extended or modified without the prior written approval of the City of New York Department of Environmental Protection.

6. The Declarant, its successors or assigns agree to allow all necessary parties, including but not limited to, tenants, leasees (subject to lease requirements) and future owners, and member of Homeowners/Condominium or Shopowners Association to enter into and upon the Premise for the purpose of



**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF WATER & SEWER OPERATIONS**

**TEMPLATE FOR DECLARATION OF DEED RESTRICTION AND MAINTENANCE**

constructing, inspecting, using, maintaining, repairing or replacing the subject internal sanitary and storm drains, storm water detention/retention facilities and connections installed or to be installed upon the premises pursuant to the aforesaid site connection proposal plan.

7. The parties hereto, their successors and assigns shall, at all times, indemnify and hold harmless the City of New York against any claims which may result from the construction, operation, maintenance, inspection, malfunction, repair or replacement of the aforementioned drainage systems and site connections.

8. The Declarant agrees that any deed for conveyance by, for or on behalf of the Declarant of the properties herein above described shall contain the terms, conditions and obligations stated herein above described and shall be subject to the terms, conditions and obligations stated herein and provisions shall be made to obligate the Declarant heirs, successors and assigns to construct, inspect repair, replace or otherwise maintain the aforesaid internal drains, storm water detention/retention facilities and connections and to indemnify and hold harmless the City of New York from any claims whatsoever which may arise from such construction, operation maintenance, inspection repair or replacement.

9. This agreement may not be amended, terminated or modified without the prior written consent of the New York City Department of Buildings and the Department of Environmental Protection.

FURTHERMORE, this Declaration shall be a covenant running, with the land, in perpetuity and shall be binding upon the grantees, heirs, assigns and successors of the Declarant, and shall remain in full force and effect until such time as the common area wherein the said internal drains, storm water detention/retention facilities and connections are located is owned and/or maintained by a Homeowner/Condominium or Shopowners Association approved and filed with the NYS Department of Law.

IN WITNESS WHEREOF, this Declaration has been duly executed the day and year first above written.