

## **STORM WATER FACILITIES MAINTENANCE AGREEMENT**

THIS AGREEMENT, made the    day of June, 2024, Between Marlboro on the Hudson Condominiums HOA, Inc. (“the facilities owner”) having an address of Post office Box 344, Marlboro, New York 12542 hereinafter referred to as “MOH HOA” and the Town of Marlborough Ulster County, New York (“the Town”) a municipal corporation having its offices at 21 Milton Turnpike, Suite 200, Milton, New York 12547, hereinafter referred to as “Municipality”. Jointly both herein referred as the “Parties”.

WHEREAS, MOH HOA manages the condominiums located on Hudson Circle a road located within the Town of Marlboro, New York and has a Retention Ponds and a Storm Water Management System. This property defined by Property Tax Map of the Town as Section 108.12 Block 8 Lot 23 being and intended to be the property described in a deed from Highland Avenue Marlboro, LLC., the facility owner, dated April 2<sup>nd</sup> 2021 and recorded in the Ulster County Clerk’s office in Liber 6799 at Page 120 as instrument # 2021-6526, and being more particularly described in Schedule Annexed hereto (the “Property”) and

WHEREAS, the Town(Municipality) and the Facility owner(MOH) desire that the Stormwater Control measures with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued for the period of time set forth in the Agreement by the facility owner, its heirs, successors and assigns in order to ensure optimum performance of the components.

THEREFORE, the Town(Municipality) and the facility owner(MOH) agree as follows:

1. This Agreement binds the Town(Municipality) and the facility owner(MOH), its heirs, successors and assigns to the construction, maintenance and continuation of stormwater control measures depicted in the approved project plans entitled “                  ” by                    dated                    for Final approval (the

Site Plan) on file with the Town and intended to be made part of this Agreement as if more fully set forth herein.

2. The facility owner(MOH), it heirs, successors and assigns shall construct, maintain, clean, repair, replace and continue the stormwater control measures depicted in the Site Plan as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures may include, but shall no be limited to, the following drainages ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices, catch basins, manholes and stormwater treatment and management ponds.
3. The facility owner(MOH), it heirs, successors and assigns shall be responsible for all expenses related to the construction, maintenance and continuation of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
4. The facility owner(MOH), it heirs, successors and assigns shall provide for the periodic inspection of the stormwater control measures, not less than once in every one-year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a professional engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Town, with thirty(30) days of the inspection, a written report of the findings, including recommendation for those actions necessary for the repair and/or continuation of the stormwater control measures.
5. The facility owner(MOH), its heirs, successors and assigns shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with the written approval of the Town(Municipality), which approval the Town can withhold in its sole discretion.
6. The facility owner, its heirs, successors and assigns shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town in accordance with the recommendations of the inspecting engineer.
7. This Agreement shall be recorded in the Office of the County Clerk, County of Ulster. The Agreement and the requirements contained herein, shall run with the land and shall bind the facility owner, it heirs, successors and assigns for a term of ninety-nine

(99) years, unless discontinued with the written approval of the Town in accordance in accordance with [Par. 5] of the Agreement. The facility owner(MOH) it heirs and successors and assigns agree to execute any documents required by the Town in connection with this Agreement and the implementation of this Agreement and failure to do so execute any such documents shall constitute a violation of this Agreement.

8. If every the Town(Municipality) determines that the facility owner(MOH), it heirs, successors and assigns has failed to construct or maintain the stormwater control measures in accordance with the project plans or has failed to undertake corrective action specified by the Town or by the inspecting engineer, or if the facility owner(MOH), it heirs, successors and assigns has failed to execute any documents required by the Town in connection with this Agreement and the implementation of this Agreement, the Town is authorized to undertake such steps as may be reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures including entry onto the Property to perform an performance of work and to levy and assess the expenses thereof as a lien against the Property and to collect such amounts in the same manner as Real Property Taxes, and to take any and all other actions against the facility owner, its heirs, successors and assigns as may be allowed by local, county, state or federal law.

9. Whenever reference is made in this Agreement to the “the Town”, the same shall also be deemed to mean agents, officers, employees, contractors, and subcontractors of the consultants to the Town.

WHEREAS, **MOH HOA** grants to the **Municipality** a permanent Maintenance Easement for the purpose of maintenance of **MOH HOA** Storm Water Management System. [see Exhibit A, for boundaries & Site Plan)

WHEREAS, the **Municipality** shall have the irrevocable rights to ensure the operation at all times of the Storm Water Management System on said property. The **Municipality** may engage as they deem necessary with equipment, employees, contractors, appointees to ensure proper operation.

## STORMWATER MANAGEMENT AND CONTROL

This Agreement and Permanent Easement, shall inure to the benefit of the respective **Parties**, their heirs, successors, grantees and assigns, and shall constitute an agreement running with the land.

This Agreement is effective as of the \_\_\_\_\_ day of **JUNE, 2024**.

Marlboro on Hudson Condominium HOA, Inc.

By: \_\_\_\_\_ President \_\_\_\_\_ Date: \_\_\_\_\_

James M. Bello as President	Title:
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Town of Marlborough

By: \_\_\_\_\_ Title \_\_\_\_\_ Date: \_\_\_\_\_

Name(Print): \_\_\_\_\_ Title: \_\_\_\_\_

STATE OF NEW YORK      )  
                                  )SS:  
COUNTY OF ULSTER      )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024 before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted executed the instrument

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Notary Public

## STORMWATER MANAGEMENT AND CONTROL

STATE OF NEW YORK    )  
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Notary Public

# **EXHIBIT A**