

## PERPETUAL CONSERVATION EASEMENT

This grant of an historic preservation easement is made this 30<sup>th</sup> day of December 2008 by and between Marvin Boris and Judith Boris, 88 Main Street, Roslyn, County of Nassau, State of New York, as Grantors, and the Roslyn Landmark Society, located at P.O. Box 234, Roslyn, County of Nassau, State of New York, as Grantee.

### WITNESSETH

WHEREAS Grantors are the owner in fee simple of the entire plot of real property and structures erected thereon and known as 88 Main Street, Roslyn Village, New York, as more fully described in Schedule A attached hereto as Exhibit 1 and incorporated by this reference herein (the "Property"); and

Sec: 7                WHEREAS Grantors are the owner of the structures maintained on the Property; and

Block: F            WHEREAS the Property has substantial and important historical, aesthetic,  
Lots: 650            architectural, scenic, and cultural character and is located within the Roslyn Village Historical  
and 1031            District; and

WHEREAS the Grantors desire to preserve and maintain the historic, aesthetic, and cultural character of certain elements of the Property, and the Grantee, is authorized by state law to accept easements and other grants of rights in the Property, in order to preserve and maintain the historic, aesthetic, and cultural character of such Property; and

WHEREAS the Grantors desire this perpetual conservation easement to have effect retroactive to November 17, 2004;

NOW THEREFORE, in recognition of the foregoing and as a gift to Grantee, Grantors hereby grant to Grantee a perpetual conservation (covenant) easement in the Property (referred to as a "Conservation Easement"). This gift is made to the Grantee for the purpose of which will be to severely restrict an area along the rear of the Property covered by a field stone wall as well as a segmented portion of the primary frontage on Main Street. The granting of such a covenant will not only be a cloud on title of the entire Property but it also relinquishes exclusive use of the land and the designated retaining walls. Further, under this grant, the Property cannot be sub-divided or achieve its highest and best use. The terms and conditions under which such grant is made are as follows:

1.        This Conservation Easement conveys to Grantee an interest in the Property consisting of the benefit of the following affirmative and negative covenants on the part of the Grantors and Grantors' successors and assigns:

(a)       Without the express written permission of the Grantee, its successors or assigns, signed by a duly authorized representative thereof, no construction, alteration or remodeling or any other thing shall be undertaken or permitted to be undertaken which would

affect either the area along the rear of the Property covered by a field stone wall as well as a segmented portion of the primary frontage on Main Street or the appearance of those items on the Property as depicted in the descriptions attached hereto and incorporated, by this reference herein as Exhibit 2 and 3, or which would adversely affect the structural soundness and aesthetics of the Property; provided, however, that the reconstruction, repair or refinishing of presently existing parts or elements of the Property subject to the Conservation Easement, damage to which has resulted from casualty loss, deterioration, or wear and tear, shall be permitted without the prior approval of the Grantee, provided that such reconstruction, repair or refinishing is performed in a manner which will not alter the appearance of those elements of the Property subject to this Conservation Easement as they are as of this date. Changes which shall require the consent of Grantee shall include, but not be limited to, any substantial structural change or any change in design or materials.

(b) The elements subject to this Conservation Easement on the Property shall not be demolished without the prior written consent of Grantee.

(c) Grantors agree at all times to maintain the structure, integrity and aesthetics of the elements covered by this Conservation Easement of the Property in a good and sound state of repair so that no more than minimal deterioration in its present exterior appearance as described in Exhibits 2 and 3 hereto, shall take place, subject to the casualty provisions set forth in Paragraph 6 herein.

2. Value. Grantors' agree that this Conservation Easement gives Grantee a property right immediately vested in Grantee with a fair market value that is twenty (20%) percent of the fair market value of the Property. In the event a change in conditions gives rise to extinguishment of this Conservation Easement in accordance with Paragraph 6 herein, Grantee, on a subsequent sale, exchange or involuntary conversion of the Property, is entitled to twenty (20%) percent of the proceeds therefrom, subject to the conditions set forth in Paragraph 6 herein; provided, however, that in the event the Grantors, its successors or assigns are entitled under New York law to the full proceeds from involuntary conversion without regard to the terms of this Conservation Easement, Grantee shall not be entitled to a proportion of the proceeds from such involuntary conversion.

3. Right to Alter Exterior and Interior of the Property. It is understood and agreed between the parties that it is the Grantors' intent not to convey the right to alter the Exterior of the building structure or the interior of the building on the Property. Nothing in this Agreement shall be deemed to restrict the Grantors' right to make such alterations or modifications they desire, as long as such alterations or modifications do not substantially alter the appearance of those areas protected by this Conservation Easement, as listed in Paragraph 1(a) herein.

4. Maintenance and Repair of Property. Grantors and/or assigns shall be responsible for maintenance, repair, repainting, and refinishing of the Property as necessary to comply with

Paragraph 1 herein, Grantor shall provide maintenance, repair, repainting, and refinishing of the building on the Property because of wear and tear.

5. Waste. The Grantors agree not to commit or permit waste (i.e., abuse, unreasonable or improper use or deterioration of the Property) of the Property.

6. Extinguishment. In the event the Property is destroyed or damaged by fire or other casualty to an extent that the repair or reconstruction of the existing improvements and/or the elements subject to this Conservation Easement is rendered impracticable, in Grantors' reasonable judgment, or in the event a subsequent unexpected change in the conditions surrounding the Property renders it impossible or impractical to continue to use the Property for the purpose of preserving the elements subject to this Conservation Easement of the Property, the restrictions set forth herein may be extinguished, provided that (a) such restrictions are extinguished by judicial proceeding and (b) the Grantee shall use its share of the proceeds received from a subsequent sale or exchange or involuntary conversion of the Property (as calculated in accordance with Paragraph 2 herein) for purposes of preserving historic, open space, and scenic values.

7. Inspection. Grantors hereby agree that representatives of Grantee, its successors or assigns shall be permitted at all reasonable times to inspect the Property. Inspections will normally take place from the street; however, Grantors agree that representatives of Grantee, its successors or assigns shall be permitted to enter and inspect the improvements to the Property to insure maintenance of structural soundness of the elements subject to this Conservation Easement; inspection of the elements subject to this Conservation Easement will not, in the absence of evidence of deterioration, take place more often than annually. Inspection of the interior will be made at a time mutually agreed upon by Grantors and Grantee, its successors or assigns, and Grantors covenant not to withhold consent unreasonably in determining a date and time for such inspection. Other inspections required or permitted by law, are in no way limited hereby.

8. Consent, Disapproval and Appeal. Where the terms of this Agreement require the consent of Grantee, such consent shall be requested by written notice, as provided in Paragraph 11 herein, to Grantee and consent shall be deemed to have been given within thirty (30) days after mailing of the notice by Grantors or their successors or assigns unless Grantee gives written notice to the Grantors specifying reasons for disapproval. Approval or consent by Grantee shall not be unreasonably withheld.

9. Nature and Duration. The covenants expressed herein shall be deemed to run with the Property in perpetuity and be binding upon Grantors and the Grantors' successors and assigns for the benefit of the Grantee.

10. Assignments, Successors and Assigns. Except as provided in Paragraph 6 herein:

(a) Grantors agree that these restrictions will be inserted by it in any subsequent deed or in any legal instrument by which it divests itself of either the fee simple title to or its possessory interest in the Property or any part thereof.

(b) Grantee covenants and agrees that it shall, not transfer this Conservation Easement to another unless (i) the transfer is to a charitable corporation or trust dedicated to the preservation of historic properties or scenic open space which is an "eligible donee" within the meaning of Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder; and (ii) as a condition of such transfer the transferee agrees to continue to preserve the historic, open space, and scenic value of the Property in perpetuity.

(c) In the event that the Grantee shall at any time in the future become a fee simple owner of the Property, Grantee covenants and agrees in the event of subsequent conveyances of the Property to another, to create a new easement containing the same restrictions and provisions as are contained herein, and either to retain such easement in itself or to convey such easement to a similar charitable corporation or trust dedicated to the preservation of historic properties or scenic open space which is an "eligible donee" within the meaning of Section 170(h)(3) of the Internal Revenue Code of 1986, as amended and the regulations thereunder.

11. Notice. Any notice required hereunder shall be in writing and shall be given by certified or registered mail, with postage prepaid and return receipt requested, addressed to the Grantors, as follows:

Marvin Boris and Judith Boris  
88 Main Street  
Roslyn, New York 11576.

Or addressed to the Grantee, as follows:

Roslyn Preservation Corporation  
P.O. Box 234  
Roslyn, New York 11576

12. Construction. This Agreement shall be construed to promote the preservation of the historic, cultural, architectural, and aesthetic character of the Property and to conserve its natural, scenic, and open condition for both this generation and future generations, while maintaining the usefulness of the Property to the Grantors or its successors or assigns.

13. Governing Law. The terms of this Agreement shall be construed in accordance with the Laws of the State of New York.

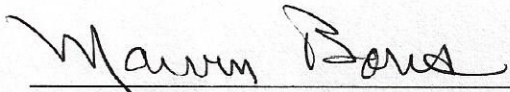
14. Entire Agreement. This constitutes, the entire agreement between the parties.

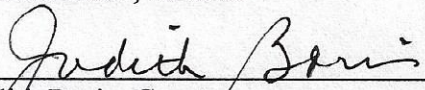
15. Hold Harmless. The Grantors or its successors or assigns shall hold the Grantee harmless from any and all liability and claims which may be asserted against the Grantee as a result of this Conservation Easement or the exercise of the authority granted to Grantee by the Conservation Easement.

16. Non-waiver of Breach Clause. The failure of the Grantee to at anytime enforce any provision of this Agreement shall not be deemed a waiver of its, right to later enforce that or any other provision of this Agreement.

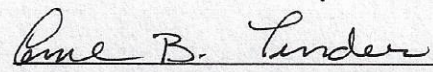
17. Legal Remedies. The parties hereto may seek to such interim relief in law and equity as they may deem necessary to enforce the terms of this Agreement. Should it become necessary for either party to institute legal proceedings to enforce the terms of this Agreement, the substantially prevailing party shall be entitled to its costs thereof and reasonable attorneys' fees.

DATED the day and year first above written.

  
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Marvin Boris, Grantor

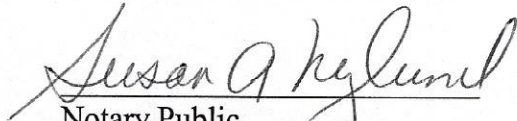
  
\_\_\_\_\_  
Judith Boris, Grantor

Roslyn Preservation Corporation

  
\_\_\_\_\_  
By: Anne B. Tinder, Director

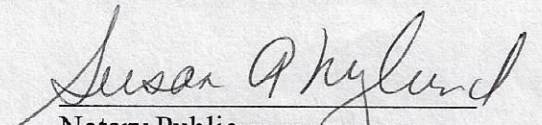
STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NASSAU )

On the 30<sup>th</sup> day of December, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared MARVIN BORIS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public  
SUSAN A. NYLUND  
Notary Public, State of New York  
No. 4765698  
Qualified in Nassau County  
Commission Expires April 30, 2010

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NASSAU )


On the 30<sup>th</sup> day of December, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared JUDITH BORIS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public  
SUSAN A. NYLUND  
Notary Public, State of New York  
No. 4765698  
Qualified in Nassau County  
Commission Expires April 30, 2010

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NASSAU )

On the 30<sup>th</sup> day of December, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared ROSLYN PRESERVATION CORPORATION 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.

*Anne B. Tinder of the*

  
Notary Public

PAUL A. LANNI  
Notary Public, State of New York  
No. 4898999  
Qualified in Suffolk County  
Commission Expires June 29, 2011

# EXHIBIT 1

## SCHEDULE A

RUNNING THENCE south 23 degrees 18 minutes 50 seconds east along the westerly side of Main Street 48.39 feet;

THENCE south 19 degrees 14 minutes east still along the westerly side of Main Street 33.10 feet to land now or formerly of J. Zander;

THENCE south 70 degrees 21 minutes 30 seconds west along said land 101.39 feet (actual) 101.86 feet (deed) to land now or formerly of Eastman;

THENCE north 11 degrees 32 minutes west along said land 18.04 feet;

THENCE south 83 degrees 55 minutes west still along said land 40.38 feet (actual) 40.50 feet (deed);

THENCE north 43 degrees 27 minutes west still along said land 61.55 feet (actual) 60.30 feet (deed) to land now or formerly of Bogart;

THENCE north 71 degrees 10 minutes east along said land 160.10 feet to the westerly side of Main Street, at the point or place of BEGINNING.

Said Premises being known as 88 Main Street, Roslyn, New York.



# EXHIBIT 2

Description Preservation Easement #1

Situate on premises of

Dr. Marvin Boris

Inc. Village of Roslyn

Nassau County, N.Y.

BEGINNING at a point on the westerly side of Main Street were the division line between Lots 649 and 650, Block F, Section 7 of the Nassau County Land and Tax Map intersect said street line and running thence the following seven (7) courses and distances:

1. South 70 degrees, 21 minutes, 30 seconds west 5.00 feet
2. North 19 degrees, 14 minutes, 00 seconds west 23.00 feet
3. South 70 degrees, 21 minutes, 30 seconds west 8.00 feet
4. North 19 degrees, 14 minutes 00 seconds west, 12.00 feet
5. North 70 degrees, 21 minutes, 30 seconds east, 8.00 feet
6. North 23 degrees, 18 minutes, 50 seconds west, 12.00 feet
7. North 66 degrees, 41 minutes, 10 seconds east, 4.86 feet to the westerly side of Main Street

Thence running southerly along the westerly side of Main Street south 23 degrees, 18 minutes, 50 seconds east 14.22 feet and south 19 degrees 14 minutes 00 seconds east 33.10 feet to the place or point of beginning, comprising part of Lot 650, Block F, Section 7 of the Nassau County Land and Tax Map.

EXHIBIT 3

Description

Preservation Easement #2

Situate on premises of Dr. Marvin Boris

Inc. Village of Roslyn

Nassau County, N.Y.

BEGINNING at a point on the southerly side of Lot 650, Block F, Section 7 of the current Nassau County Land and Tax Map, at the southeasterly corner of the preservation easement being described; said point being distant westerly and northerly the following three (3) courses and distances from a point on the westerly side of Main Street were the division line between Lots 649 and 650 intersects:

1. South 70 degrees, 21 minutes, 30 seconds west 101.39 feet
2. North 11 degrees, 32 minutes, 00 seconds west 18.04 feet
3. South 83 degrees, 55 minutes, 00 seconds west 23.84 feet

Thence running the following eight (8) courses and distances:

1. South 83 degrees, 55 minutes, 00 seconds west 6.84 feet
2. North 49 degrees, 05 minutes 00 seconds west, 17.00 feet
3. North 52 degrees, 35 minutes, 00 seconds west, 28.00 feet
4. North 34 degrees, 05 minutes, 00 seconds west, 15.00 feet
5. North 55 degrees, 55 minutes, 00 seconds east, 5.00 feet
6. South 34 degrees, 05 minutes, 00 seconds east 14.19 feet
7. South 52 degrees, 35 minutes 00 seconds east 27.34 feet
8. South 49 degrees, 05 minutes, 00 seconds east 21.81 feet to the place or

point of beginning, comprising part of Lot 650, Block F, Section 7 on the Nassau County Land and Tax map.