

24894132

NOV 29 2007

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Form 13

TRANSFER

Land Titles Act, S.N.B. 1981, c.L-1.1, s.21

Standard Forms of Conveyances Act, S.N.B. 1980, c.S-12.2, s.2

Parcel Identifier: See attached Schedule "A"

Transferor: **Skymark Development Corporation**
4 Kingswood Avenue
Rothesay, NB, E2E 5R4

Transferee: **Rothesay Landings Estates Inc.**
4 Kingswood Avenue
Rothesay, NB, E2E 5R4

Manner of Tenure: Not Applicable

The recitals attached hereto as Schedule "D" form part of this transfer.

The transferor conveys to the transferee in the manner of tenure specified the specified parcel.

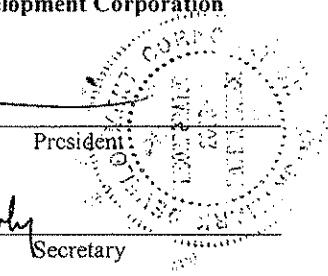
To the intent that the burden of this covenant run with the parcel described in Schedule "A" attached hereto, the transferor and the transferee respectively covenant and agree with each other and, as to the transferee, with the owner or owners of any other parcel to which is attached the benefit of the restrictions set out in Schedule "E" attached hereto, that the transferee and its successors in title will comply with the restrictions set out in Schedule "E" attached hereto and will exact covenants, the same as those contained herein, from the transferee in any transfer which the transferee herein may make of the parcel or any part thereof.

Date: November 29, 2007

Skymark Development Corporation

Per: [Signature]
President

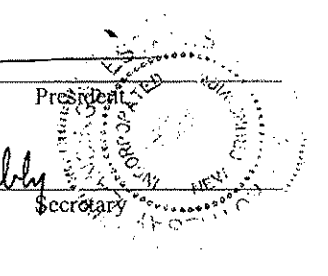
Per: [Signature]
Secretary



Rothesay Landings Estates inc.

Per: [Signature]
President

Per: [Signature]
Secretary



SCHEDULE "A"

Parcel Identifier:	Description of Parcel
30246391	Lot T-1
30246409	Lot T-2
30246417	Lot T-3

SCHEDULE "A"

Parcel Identifier:	Description of Parcel
30246193	Lot 1-A
30246201	Lot 1-B
30246219	Lot 2
30246227	Lot 3
30246235	Lot 4-A
30246243	Lot 4-B
30246250	Lot 5-A
30246268	Lot 5-B
30246276	Lot 5-C
30246284	Lot 5-D
30246292	Lot 6-A
30246300	Lot 6-B
30246318	Lot 7-A
30246326	Lot 7-B
30246334	Lot 7-C
30246342	Lot 7-D
30246359	Lot 8-A
30246367	Lot 8-B
30246375	Lot 8-C
30246383	Lot 8-D

SCHEDULE "D"

It is recited as follows:

It is the intention of the parties hereto to establish a building scheme (the "building scheme") in, upon and with respect to the lands and premises conveyed by Arthur James Miller to Skymark Development Corporation by transfer dated April 12, 2006 and registered in the New Brunswick Land Titles Office on April 24, 2006 as Number 21995973;

The building scheme will be established in phases, the timing and location of which except for the first phase (as hereinafter defined) are unknown as of the date hereof;

The parties hereto have agreed to establish the first phase (the "first phase building scheme") in, upon and with respect to the twenty (20) individual building lots (individually a "building lot" and collectively the "buildings lots") respectively designated as Lots 1-A, 1-B, 2, 3, 4-A, 4-B, 5-A, 5-B, 5-C, 5-D, 6-A, 6-B, 7-A, 7-B, 7-C, 7-D, 8-A, 8-B, 8-C and 8-D, and the three (3) adjacent parcels of trustee lands (as hereinafter defined), all of which are shown upon a Subdivision Plan, The Rothesay Landings Subdivision - Phase 1, Town of Rothesay, Kings County, NB, prepared by Kierstead Quigley and Roberts Ltd. dated April 19, 2007, assented to pursuant to s. 56. Community Planning Act, by the Town of Rothesay on April 10, 2007, approved for registration by the Development Officer of the Town of Rothesay on June 18, 2007 and filed in the New Brunswick Land Titles Office on June 20, 2007 as Number 24012537 (the "Subdivision Plan") more particularly described in Schedule "A" to a transfer made between the transferor, as transferee, and 630459 N.B. Inc., as transferor, dated the date of this transfer and registered in the New Brunswick Land Titles Office as Number 24894074;

Pursuant to section 56(4.02) of the New Brunswick Community Planning Act and Regulation 84-217 thereunder, utility easements (the "public utility easement") as shown and designated as "Public Utility Easement" on the Subdivision Plan vested in each of Bell Aliant Regional Communications, Limited Partnership and the New Brunswick Power Distribution and Customer Services Corporation upon the filing of the Subdivision Plan;

Under and pursuant to the first phase building scheme, there will be constructed:

- (a) on two (2) building lots a self-contained single-family dwelling (individually a "single-family residence" and collectively the "single-family residences"); and
- (b) on eighteen (18) building lots a self-contained single-family dwelling known as a garden home (individually a "garden home" and collectively the "garden homes");

Under and pursuant to the first phase building scheme each of the garden homes will have a party wall to and with the garden home constructed on the building lot lying adjacent to the building lot upon which each of the garden homes is constructed;

Under and pursuant to the first phase building scheme each of the building lots, with a single-family residence or with a garden home constructed thereon, will be sold and conveyed to individual purchasers, (individually an "individual purchaser" and collectively the "individual purchasers");

Under and pursuant to the first phase building scheme it is provided that the transferor will grant and convey to the transferee, in trust and subject always to the terms, reservations, restrictions, covenants, conditions, stipulations and trusts herein, and in the first phase building scheme as established and set out herein, all that portion of the first phase lands and premises which does not comprise the building lots, (the "trustee lands as shown and designated as "Trustee Lands" on the Subdivision Plan;

It is in the interest and to the benefit of the parties hereto and of the first phase building scheme and of each and every of the individual purchasers that the trustee lands be conveyed and held in trust by the transferee to be managed and maintained in the manner and subject to the terms, covenants, restrictions, conditions, stipulations and trusts herein and in the first phase building scheme established and set out as to ensure the continued overall well-being of the first phase building scheme, and the additional phases, when established, and for the aforesaid purposes the parties hereto have agreed to enter into this deed.

SCHEDULE "E"

1. Except for such portions thereof as may from time to time be laid out and reserved as and for pedestrian walkways and subject to the public utility easements, the trustee lands shall be reserved as and for the purpose of a green or park area.

2. Except for such portions thereof as may from time to time be laid out and reserved as and for pedestrian walkways and subject to the public utility easement, the trustee lands shall be reserved and maintained for the common benefit and enjoyment of the individual purchasers, and each of them, and their respective heirs and assigns, and in keeping with such purpose no one or any of the individual purchasers, nor their respective heirs and assigns, shall use the trustee lands or any part thereof, in any manner whatever, for the erection, placing or maintenance (other than such maintenance of any fences from time to time erected on the trustee lands as may be specified to be the responsibility of any of the individual purchasers) of clotheslines, incinerators or garbage disposal equipment, satellite receiving dishes, utility outbuildings, sand boxes, barbecues, flag poles, trees, recreation or athletic equipment, fences, barriers or obstructions of any kind, hedges, gardens or other vegetation, nor for the disposal of rubbish, garbage or waste, nor for any other purpose not specifically permitted under or consistent with the terms, covenants, restrictions, conditions and stipulations of the first phase building scheme as established and set out herein and in the transfer between 630459 N.B. Inc. and the transferor.

3. Each and every of the individual purchasers from time to time, and their respective heirs and assigns, and their respective servants, agents, invitees and guests, shall have, in common with each and every of the other individual purchasers from time to time, and their respective heirs and assigns, the right of access, ingress, egress and regress over, across and upon the trustee lands, provided that such right shall be subject to the public utility easements, to any interference caused by such fences as may be from time to time designated, reserved or erected on the trustee lands pursuant to the first phase building scheme and shall further be subject to the express terms, covenants, restrictions, conditions and stipulations set out herein or in the transfer between 630459 N.B. Inc. and the transferor.

4. Each and every of the individual purchasers, and their respective heirs and assigns, and their respective servants, agents, invitees and guests shall have a right-of-way, in common with each and every other of the individual purchasers, and their respective heirs and assigns, and their respective servants, agents and guests, with full right of access, ingress, egress and regress, over, across and upon all pedestrian walkways from time to time designated and laid out over or upon the trustee lands, provided, however, that such common right-of-way shall be subject to the public utility easements and shall not extend to or affect any pedestrian walkways which provide or are intended to provide access solely to any one or more of the building lots.

5. The first phase lands and premises, or any part thereof, or any single-family residence or any garden home now or hereafter erected thereon, shall not at any time be used directly or indirectly for the purpose or purposes of any trade, manufacture, business, profession, commercial sport or amusement, school, charitable institution, multiple family dwelling, boarding house, lodging house or public resort, nor for any other purpose which is inconsistent with the first phase building scheme.

6. The transferee shall from time to time use its best efforts, using the sums collected pursuant to paragraph 7 and/or 8 and/or 9 hereof, to provide and/or arrange from time to time for the provision of the following services, (hereinafter referred to as the "management services"), namely: -

- (a) mowing and generally maintaining, and in its own discretion improving, the lawns, shrubbery, trees and landscaping in or upon the trustee lands and the building lots: and
- (b) constructing, improving, repairing, maintaining, replacing or relocating, and removing or clearing snow from streets, pedestrian walkways,

driveways and parking spaces over or upon the trustee lands and the building lots; and

- (c) constructing, improving, repairing, replacing or relocating fences over or upon the trustee lands; and
- (d) arranging, procuring and maintaining a policy or policies of insurance insuring against liability for bodily injury and/or property damage occurring in, on or in respect of the trustee lands or any structures erected thereon with such limits on liability as the transferee shall in its sole discretion deem advisable from time to time; and
- (e) arranging for the payment of or paying any and all rates, taxes, charges or assessments levied against or with respect to the trustee lands or any structures erected thereon, by any competent authority; and
- (f) providing for such other services and/or improvements to or with respect to the trustee lands as it may deem advisable in its sole discretion, but consistent with the intent and purpose of the first phase building scheme.

7. In each and every month in each and every year the transferee shall use reasonable efforts to assess, levy and collect from each and every of the individual purchasers, and each and every of the individual purchasers shall pay to the transferee upon notice being given of the amount payable from time to time, a sum of money equivalent to a proportionate pro-rata share, based on the total number of single-family dwellings and garden homes existing from time to time within or in conjunction with the building scheme (including the total number of single-family residences and garden homes existing from time to time in the additional phases, when established) of which the trustee lands comprise a part of

- (a) the estimated or actual total monthly cost to the transferee of providing and/or arranging for the provision of the management services and of the collection of payments from the individual purchasers as herein provided; and
- (b) an estimated or actual monthly management fee which the transferee shall be entitled to receive for providing and/or arranging for the provision of the management services, which fee shall be in such amount as the transferee, shall determine from time to time having regard to the accepted charges prevailing in the Town of Rothcay, New Brunswick from time to time for such or similar services; and
- (c) estimated or actual interest charges on its own funds which may be advanced for management services, as provided in paragraph 11 hereof; and
- (d) any amount which the transferee in its sole discretion may deem expedient or advisable to collect during such month in order to provide such reserves as the trustee may deem necessary or sufficient to provide and/or arrange for the provision of the management services at any future time.

Notwithstanding anything contained herein, the aforesaid monthly costs, fees, charges and amounts may from time to time, if the transferee in its sole discretion deems it expedient or advisable, be averaged and/or estimated by the transferee in advance for or in respect of any period of one month or more, and in such event may be assessed or collected by the transferee monthly as aforesaid on any such averaged and/or estimated basis.

8. Notwithstanding anything contained herein, if the sums of money collected by the transferee pursuant to paragraph 7 hereof are at any time from time to time insufficient to pay the costs of providing and/or arranging for the provision of the management services as specified in paragraph 6, together with the fees, costs, charges and amounts provided for in paragraph 7 hereof, the transferee may at any time from time to time make a special

proportionate pro-rata assessment, based on the total number of single-family residences and garden homes existing from time to time within or in conjunction with the building scheme (including the total number of garden homes existing from time to time in the additional phases, when established) of which the trustee lands comprise a part against each and every of the individual purchasers for such amount as may be required to meet such deficiency, and each of the individual purchasers shall pay any such special assessment upon notice thereof being given.

9. Notwithstanding anything contained herein, if at any time from time to time the sums of money collected by the transferee pursuant to paragraphs 7 and 8 hereof, are, by reason of the failure of one or more of the individual purchasers to pay any sum of money assessed against him, insufficient to pay the costs of providing and/or arranging for the provision of the management services as specified in paragraph 6, together with the fees, costs, charges and amounts provided for in paragraph 7 hereof, the transferee may make a special proportionate pro-rata assessment, based on the total number of single-family residences and garden homes existing from time to time within or in conjunction with the building scheme (including the total number of single-family dwellings and garden homes existing from time to time in the additional phases, when established) of which the trustee lands comprise a part against the remainder of the individual purchasers for such amount as may be required to meet such deficiency, and each of such individual purchasers so assessed shall pay any such special assessment upon notice thereof being given.

10. Any notice given from time to time to an individual purchaser pursuant to paragraph 7 and/or 8 and/or 9 hereof may be given by the transferee in advance with respect to assessments payable in any specified number of subsequent months (and shall in such case be effective for such subsequent months subject only to the provision herein for additional special assessments), and shall be deemed to have been received by such individual purchaser in the ordinary course of mail if posted under cover of ordinary mail, postage prepaid, to the address of such individual purchaser as last known to the transferee.

11. The transferee shall out of the amounts collected pursuant to paragraphs 7 and/or 8 and/or 9 from time to time pay or arrange for the payment of all amounts due or accruing due for providing and/or arranging for the provision of the management services from time to time hereunder, together with the fees, costs, charges and amounts provided for in paragraph 7 hereof, and shall use reasonable efforts to obtain the benefit of discounts, rebates or reductions, and for the purpose of providing the management services it may from time to time in its absolute discretion use its own funds or borrow funds in its own account to pay such amounts, in which case it shall be entitled to charge or pay, as the case may be, reasonable interest charges for such funds and collect such funds and interest charges or payments in the manner provided in paragraphs 7 and/or 8 and/or 9 hereof.

12. Notwithstanding anything contained herein, the transferee may at any time from time to time, as it may in its sole discretion deem expedient or advisable, in relation to providing and/or arranging for the provision of the management services, preserving and protecting its own interest, the trustee lands and the interests of the individual purchasers, or otherwise in the premises, do or concur in the doing of any of the following things, namely: -

- (a) settle, adjust, refer to arbitration, compromise and arrange any accounts, controversies, questions, claims and demands whatsoever;
- (b) execute and do any contracts, deeds, documents and things and institute, maintain, defend and abandon any actions, suits and proceedings of any nature or kind;
- (c) act on the opinion or advice of, or information obtained from any counsel or other expert, provided it shall not be bound to act upon such opinion, advice or information and shall not be responsible for any loss occasioned by so acting or not acting, as the case may be, and pay proper and

reasonable compensation for all legal or other expert advice or assistance from time to time received by it, which payment shall be deemed a cost of providing and/or arranging for the provision of the management services;

- (d) deposit any moneys in its hands with any chartered bank, trust company or other reputable depository;
- (e) contract or delegate to any person, firm or corporate body all or any of the powers, rights, duties and discretions by these presents or otherwise vested in it, and any such contract or delegation may be made upon such terms and conditions and subject to such regulations, including power to sub-delegate or sub-contract, as the transferee may in its sole discretion deem advisable;
- (f) appoint or delegate any person, firm or corporate body to act as its agent or attorney for the collection of any amounts payable to it hereunder by the individual purchasers, or any of them, and, by court proceedings or otherwise, enforce and recover payment of such amounts, and the costs of doing so, which shall constitute debts due the transferee;
- (g) generally act in such manner and on such terms as it may deem expedient or advisable to carry out and further the purpose and intent of these presents.

The foregoing shall be in addition to any and all other rights, powers and discretions by these presents, or otherwise, vested in the transferee and shall not in any manner limit, restrict, abridge or otherwise adversely affect the rights, powers and discretions elsewhere by these presents, or otherwise, vested in the transferee.

13. Notwithstanding anything contained herein

- (a) the transferee shall not at any time from time to time be or be held to be liable or responsible for any expense, damage, loss, injury, inconvenience or cost directly or indirectly caused or resulting to any person, firm or corporation whatsoever by reason of any misfeasance, nonfeasance or neglect of the transferee, its servants, agents or contractors, in providing or arranging for the provision of the management services, or any part thereof, or otherwise in the presents, unless such misfeasance, nonfeasance or neglect is clearly and unmistakably willful or intentional; no immunity conferred on the transferee hereby shall be lost or impaired by reason of the transferee having intervened in any situation or matter when not obligated so to do under the terms hereof;
- (b) the transferee shall not at any time from time to time be or be held to be liable or responsible for any expense, damage, loss, injury or cost directly or indirectly caused or resulting to any person, firm or corporation whatever by reason of any defect which may exist in its title to the trustee lands, or by reason of any inaccuracy in any statement of fact or recital herein;
- (c) any relaxation or indulgence extended or allowed by the transferee to the individual purchasers, or any of them, with respect to any of the provisions hereof, or any waiver by the transferee of any right, power or discretion of the transferee hereunder, shall not in any way thereafter prejudice or impair the rights, powers and discretions of the transferee hereunder, nor shall it be taken or regarded as a precedent or permission for any further infringement of or non-compliance with the provisions hereof by the individual purchasers, or any of them; and
- (d) any right, remedy, power or discretion of the transferee hereunder shall be cumulative and shall not be exclusive of but in addition to every other

right, remedy, power or discretion given hereunder, or otherwise existing or to exist by law or statute.

14. No implied covenants on the part of the transferee shall be read into this instrument on behalf of the individual purchasers, of any of them, or on behalf of any other person, firm or corporation whatever.

15. Notwithstanding anything contained herein, the transferee may at any time hereafter make application to a Judge of the Court of Queen's Bench of New Brunswick, for an order

- (a) naming or appointing a successor to the transferee and providing that such successors shall be vested with and subject to the same powers, rights, benefits, discretions, duties, liabilities and responsibilities in the premises as would have been the case had such successors, in the place and stead of the transferee, been named as transferee in the within indenture; and
- (b) discharging, relieving and divesting the transferee of and from all and any further powers, rights, benefits, discretions, duties, liabilities and responsibilities hereunder.

Any such application by the transferee shall be made upon such notice to the individual purchasers and to such other persons, and given in such manner and upon such terms as the said Judge in his absolute discretion may direct; and no such order may be obtained naming or appointing a successor as aforesaid unless the said Judge approves such successor as fit and proper to be so named or appointed, having regard generally to the preservation and protection of the interests of the individual purchasers and the preservation and protection of the trustee lands. In the event of an order being granted naming or appointing a successor as aforesaid, the transferee and such successor shall, in addition to doing such other acts and things as the said Judge may order or direct, execute all such conveyances, instruments and assurances as may be ordered by the court so as to vest title to the trustee lands in such successor and so as to assure to such successor a full estate in the premises. Any order of the said Judge pursuant to any such application by the transferee shall be final and binding upon the trustee lands, on registration thereof in the New Brunswick Land Titles Office, and upon all persons affected thereby, and shall not be subject to appeal; provided always that if the said Judge refuses or neglects to name or appoint a successor to the transferee pursuant to any such application, the transferee may make subsequent applications, in the manner and upon the terms aforesaid, for the naming of a successor to the transferee, and so on from time to time until such a successor may be so named or appointed.

16. Notwithstanding anything contained herein, the transferee, or the owners of at least seventy-five per cent (75%) of the building lots in the phase or phases then established, may at any time from time to time hereafter make application to a Judge of the Court of Queen's Bench of New Brunswick for an order varying or amending the terms hereof. Any such application shall be made upon such notice given in such manner and upon such terms as the Judge in his absolute discretion may direct. Any order pursuant to any such application shall be made upon such terms and contain such directions and provisions as the Judge may order or direct, having regard generally to the preservation, protection, benefit or advancement of the interests of the transferee and of the individual purchasers as a group, and shall be final and binding upon the trustee lands on registration thereof in the New Brunswick Land Titles Office, and upon all persons affected thereby and shall not be subject to appeal.

17. Should any provision herein or part thereof be found or held to be invalid by reason of any statute, regulation, proceeding or law whatsoever, then such invalid provision or part thereof shall not affect the remaining portion hereof which shall remain and continue in full force and effect.

18. These presents are to be governed by and construed according to the laws of the Province of New Brunswick.

19. Whenever the context or exigencies so require, words herein importing or connoting the singular number shall include the plural, and vice versa, and words importing the masculine gender shall include the feminine gender, and vice versa, and words importing persons shall include firms and corporations, and vice versa, and their respective heirs, executors, administrators, successors and assigns.

20. This indenture is made by the transferor and accepted by the transferee subject to the within terms, reservations, covenants, restrictions, conditions and stipulations, which shall run with and be binding upon the first phase lands and premises, and every part thereof, for the benefit of the first phase lands and premises and each and every part thereof, and shall enure to the benefit of and be binding upon the transferor and the transferee, and their respective successors and assigns.

Form 45

AFFIDAVIT OF CORPORATE EXECUTION

Land Titles Act, S.N.B. 1981, c.L-1.1, s. 55

Deponent: M. Scott Robinson
 4 Kingswood Avenue, Rothesay, NB, E2E 5R4

Office Held by Deponent: President

Corporation: Rothesay Landings Estates Inc.

Other Officer Who Executed the Instrument: Kemal Debly

Office Held by Other Officer Who Executed the Instrument: Secretary

Place of Execution: Saint John, New Brunswick


Date of Execution: November 20, 2007

I, M. Scott Robinson, the deponent, make oath and say:

1. That I hold the office specified above in the corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to.
2. That the attached instrument was executed by me and the other officer specified above as the officers duly authorized to execute the instrument on behalf of the corporation.
3. That the seal of the corporation was affixed to the instrument by order of the Board of Directors of the corporation.
4. That the instrument was executed at the place and on the date specified above.
5. That the ownership of a share of the corporation does not entitle the owner thereof to occupy the parcel described in the attached instrument as a marital home.

SWORN to at the City of Saint John, in)
 the County of Saint John, in the Province)
 of New Brunswick, this 20 day of)
 November, 2007,)
 before me:)


 Commissioner of Oaths)
 Being a Solicitor)


 M. Scott Robinson

CERTIFICATE OF EFFECT

Parcel Identifier: 30246391, 30246409, 30246417

THIS IS TO CERTIFY that the effect of the registration of the attached Transfer on the current Certificate of Registered Ownership for the specified parcel is as follows:

1. To change the registered owner on the specified parcel as follows:-

Rothesay Landings Estates Inc.
4 Kingswood Avenue
Rothesay, NB
E2E 5R4
Manner of Tenure: Not Applicable

2. To add as a benefit to the legal description on the specified parcel as follows:-

Together with the benefit of the rights, privileges and easements described in Transfer Number ~~2487407~~ registered in the New Brunswick Land Titles Office on November 29, 2007.


3. To add as a benefit to the legal description on the specified parcel as follows:-

Together with the benefit of the rights, privileges and easements described in Transfer Number ~~24894132~~ registered in the New Brunswick Land Titles Office on November 29, 2007.

4. All other encumbrances are not affected by the registration of the Transfer.

Date: November 29, 2007

Subscriber:


D. Hayward Aiton, Q.C.
Stewart McKelvey
Barristers and Solicitors
P. O. Box 7289, Station "A"
Saint John, N. B., E2L 4S6
Subscriber Number: 4077