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October 24, 2024

Young Drive, LLC  
548 Cabot Street  
Beverly MA 01915

Re: 9 & 11 Young Drive Condominium in Durham, New Hampshire

**FOR PROFESSIONAL SERVICES:**

- Telephone conference with Francis Chase
- Review plan prepared by Henry Boyd
- Draft Declaration and By-Laws

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LEGAL FEE:	\$500.00
<b>TOTAL DUE:</b>	<b><u>\$500.00</u></b>

#2024-018-S

**DECLARATION OF CONDOMINIUM  
OF  
9 & 11 YOUNG DRIVE CONDOMINIUM**

**YOUNG DRIVE LLC** (hereinafter with its successors and assigns who come to stand in the same relation to the Condominium as their predecessor, called the "Declarant") does hereby declare:

**I. SUBMISSION OF PROPERTY.** The Declarant hereby submits the land located in Durham, Strafford County, New Hampshire and more particularly described in Exhibit A attached hereto (hereinafter referred to as the "Land"), together with the buildings, all improvements heretofore or hereafter constructed thereon, and all easements, rights and appurtenances thereto described in said Exhibit A, all of which are owned by the Declarant, to the provisions of the Condominium Act of the State of New Hampshire, Chapter 356-B of the Revised Statutes Annotated, in order to create a plan of condominium ownership in such property.

**II. DEFINITIONS.** As provided in Section 12, I of the Condominium Act, capitalized terms not otherwise defined herein, or in the By-Laws recorded herewith, shall have the meanings specified in Section 3 of the Condominium Act. The following terms are expressly defined herein.

a. "By-Laws" means the By-Laws providing for the self-government of the Condominium, recorded herewith, as amended from time to time.

b. "Common Area" means all portions of the Condominium other than Units, as more fully set forth in Paragraph III(h) of this Declaration, and includes the Limited Common Area.

c. "Condominium" means **the 9 & 11 Young Drive Condominium**, the condominium established by this Declaration.

d. "Condominium Act" means Chapter 356-B of the New Hampshire Revised Statutes Annotated, as amended.

e. "Land" shall have the meaning set forth hereinabove.

f. "Owner or Unit Owner" means any Person or Persons, who holds or hold fee simple title to a Unit. No mortgagee shall be deemed to be an Owner until such mortgagee has acquired such title pursuant to foreclosure or any procedure in lieu of foreclosure.

g. "Percentage Interest or Undivided Percentage Interest" means the percentage undivided interest of each Unit in the Common Area as set forth in Exhibit B attached hereto.

h. "Property" means the land and buildings and all other improvements heretofore or hereafter constructed thereon, and all easements, rights and appurtenances thereto, and all articles of personal property intended for common use in connection therewith, except as any of the foregoing may be limited in Exhibit A attached hereto.

i. "Registry" means the Strafford County Registry of Deeds.

j. "Rules" means those rules and regulations adopted from time to time by the Condominium Association, provided they are not in conflict with the Condominium Act, the Declaration or the By-Laws.

k. "Site Plan and Floor Plans or Plans" means the plat of the entire property described in this Declaration, and all floor plans relative thereto, recorded simultaneously herewith or recorded subsequently pursuant to Section 20 or Section 21 of the Condominium Act.

l. "Unit" means a unit as defined by the Condominium Act, which is bounded and described as shown on the plans of the Condominium and as provided in Paragraph III(d) hereof.

m. "Unit Owners' Association" or "Association" means all of the Owners acting together in accordance with this Declaration and/or the By-Laws.

**III. STATUTORY REQUIREMENTS.** The following information is provided pursuant to the provisions of Section 16 of the Condominium Act:

a. Name. This condominium shall be known as "**9 & 11 YOUNG DRIVE CONDOMINIUM.**"

b. Location. This condominium is located at 9 & 11 Young Drive in Durham, Strafford County, New Hampshire.

c. Description of Land as required by R.S.A. 356-B:16(c). A legal description by metes and bounds of the land submitted to the Condominium is contained in Exhibit A.

d. Description of Units.

i. Buildings. The condominium consists of one (1) building containing two (2) units. Unit 9 contains 2,616 square feet, more or less, including the basement. Unit 11 (to be constructed) will contain 2,244 square feet, more or less, including the basement. The location and dimensions of these units are shown on the Site and Floor Plan.

ii. Units. Each of the Units is hereby declared to be held in fee simple and may be retained, occupied, conveyed, transferred, encumbered, inherited or devised in the same manner as any other parcel of real property independent of the other individual Units. Annexed hereto and made a part hereof as Exhibit B is a list of the Units, their respective identifying numbers or Unit designations, and the Undivided Percentage Interests in the Common Area appurtenant to each.

e. Description of the Boundaries of the Units including the Horizontal Boundaries as well as the Vertical Boundaries, as Required by R.S.A. 356-B 16(d).

The Condominium consists of one (1) building containing two (2) units. The units are constructed, or are to be constructed, as shown on the site and floor plan entitled "Condominium Plan in Durham, NH Showing Units 9 & 11 of the Condominium at 9 & 11 Young Drive, Assessor's Map 107 Lot 92) dated October 23, 2024," as prepared by Millennium Engineering, Inc. and to be recorded in the Strafford County Registry of Deeds. Said plans are to be recorded, incorporated herein and made a part hereof.

The Condominium Units consist of the entire physical structures comprising the buildings together with the volume of interior space which said structures enclose and any utilities shared by the units, all of which are limited common areas to the units.

The boundaries of each unit are defined as follows:

Horizontal Boundaries: The horizontal boundaries of each unit shall be:

Lower Boundary: The lower surface of the basement concrete of each unit.

Upper Boundary: The upper surface of the roof sheathing of each unit.

Vertical Boundaries: The vertical boundaries of each unit shall be:

Exterior Walls: The exterior surface of the concrete foundation or the exterior surface of the wall sheathing.

Common Walls: The mid-point of any common walls and the line extending vertically from the mid-point of the Common Walls to the interior surface of the roof, in the event such walls have not been constructed.

The unfinished surface of the exterior of doors, windows and skylights.

f. Description of the Limited Common Areas, Showing or Designating the Units to which each is Assigned.

The Limited Common Area is set forth on the "Condominium Plan in Durham, NH Showing Units 9 & 11 of the Condominium at 9 & 11 Young Drive" as the back, side yards and those areas in front of and to the sides of each Unit, as well as that portion of the driveway leading to a Unit, as set forth on the Plan.

g. Description of all Common Areas not within the Boundaries of any Convertible Land which may be Subsequently Assigned as Limited Common Areas.

None.

h. Description of the Common Area and Limited Common Area.

i. Common Area. Common Area consists of the entire property other than the Units and includes, but not by way of limitation: the land, shrubbery and other plantings, and other land interests included and described in Exhibit A hereto; the water supply, sewage disposal, electrical, telephone and other utility systems serving the condominium to the extent said systems are located within the Property and are not owned by the supplier of the utility service (but not including any portions thereof servicing a single unit and contained either within a unit and the pipes, ducts, chutes, conduits, plumbing, wires, meters meter housings and other facilities for the furnishing of utility services or waste removal located within a unit, which serve parts of the condominium other than the unit within which they are located); any other amenities constructed or to be constructed on the Land; and all other parts of the Condominium, including personal property acquired by the Association, necessary or convenient to its existence, maintenance and safety, or normally in common use, and including any easements serving the Property set forth in Exhibit A hereto.

ii. Limited Common Area. Designations of any Limited Common Area are shown on the Plans. Each Limited Common Area is owned in common by all of the Owners, but is restricted to the use and benefit of the Unit or Units which it serves.

iii. Use. The use of the Common Area shall be limited to the Owners and to their tenants and to their guests. The use of each Limited Common Area shall be further restricted to the Owner of the Unit to which it is appurtenant, to his tenants, and to his guests. The use including responsibilities for maintenance and repair, of the Common Area and Limited Common Area, shall be governed by the Declaration and By-Laws and the Rules as adopted and amended from time to time by the Association.

i. Allocation of Percentage Interests as Required by R.S.A. 356-B:17.

Unit 9 shall have a 50% interest in the common area.

Unit 11 shall have a 50% interest in the common area.

j. Statement of Purposes and Restrictions of Use as Required by R.S.A. 356-B:16(h). The Condominium and each of the Units are intended for residential use and the following provisions, together with the provisions of the By-Laws and the Rules, are in furtherance of this purpose:

i. No unregistered or junk cars shall be permitted to be parked in any common or limited common area.

ii. No clotheslines shall be placed in any front yard.

iii. No above-ground pools shall be allowed to be placed in any front yard.

iv. No signs, billboards, or advertising devices of any kind except those customarily used in connection with offers for sale of property shall be placed or otherwise installed.

v. Said property is subject to the restriction recorded at Book 4908, Page 751 which states that no portion of this property/unit may be occupied by any undergraduate college student unless that student's parent or legal guardian also occupies the same property/unit.

vi. Easement to Facilitate Completion and Sales. Declarant shall be deemed to be the Owner of any Units which have not been sold and conveyed. Declarant and its duly authorized agents, representatives and assigns may make such reasonable use of the Condominium as may facilitate the completion of construction of the Units and Common Area and such sale and conveyance, including, without limiting the generality of the foregoing, the right to enter all unbuilt Units and Common Area for construction purposes, and the right to store materials, the maintenance of a sales office and a rental office, the showing of property and the displaying of signs. The Declarant and its duly authorized agents, representatives and employees shall have the right to use any and all unsold and un conveyed Unit or Units as sales offices and/or model units.

Such Units shall be Units within the meaning of this Declaration and the Condominium Act, and not parts of the Common Area. The Declarant shall have the absolute right to convey or lease such Units. Further, the Declarant reserves the right to enter into certain agreements with other Unit Owners who may agree to lease their Units to the Declarant for use by the Declarant as model units and/or sales offices.

vii. Easement for Structural Encroachments. None of the rights and obligations of the Owners created herein, or in any deed conveying a Condominium Unit from the Declarant to a purchaser thereof, shall be altered in any way by encroachments as a result of construction of any structures or due to settling or shifting of structures. There shall be valid easements for the maintenance of such encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an

Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners.

viii. Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines, and Other Common Areas Located Inside of Units, Support. Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Area located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Area serving such other Units and located in such Unit. The President and/or Treasurer of the Condominium Association shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the Common Area contained therein or elsewhere in the buildings. Every portion of a Unit which contributes to the structural support of a building shall be burdened with an easement of structural support for the benefit of all other Units and the Common Area.

ix. Owners Subject to Declaration, By-Laws and Rules and Regulations. All present or future Owners, tenants and occupants of Units, or any other person who might use the facilities of the Property in any manner are subject to the provisions of this Declaration, the By-Laws and the Rules. The acceptance or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the By-Laws and the Rules, as they may be lawfully amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be enforceable servitudes and covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed of conveyance or lease thereof.

The Declaration and By-Laws, the Rules to be adopted by the Association, and the decisions and resolutions of the Association or its representatives, as lawfully amended from time to time, all contain, or will contain certain restrictions as to use of the Units or other parts of the Condominium. Each Owner shall comply therewith and failure to comply with any such provision, decision, or resolution shall be grounds for an action by the Association or any Unit Owner to recover sums due, for damages or for injunctive relief. All such actions in law or at equity by the Association shall be authorized by the Association or Unit Owner shall be entitled to recover all reasonable costs and expenses of such actions, including attorney's fees, all as more particularly set forth in the By-Laws.

x. Condominium Subject to Easements for Ingress and Egress and Use. Subject to the provisions of this Declaration, the By-Laws and the Condominium Act, each Unit Owner shall have an easement in common with the Owners of all other Units for ingress and egress through, and use and enjoyment of, all Common Area. Each Unit shall be subject to an easement for ingress and egress through, and use and enjoyment of, all Common Area by persons lawfully using or entitled to the same.

xii. Property Subject to Covenants, Easements and Restrictions of Record.

The submission of the Property is subject to all covenants, conditions, easements and restrictions of record, including without limitation those which are set forth or referred to in Exhibit A, as well as on the Plans.

xiii. Reservation of Utility Easements.

The Declarant reserves on behalf of itself and the Association and their successors and assigns, perpetual easements over all Units and the Common Area for installation, construction, reconstruction, maintenance, repair, operation and inspection of all utility services necessary or desirable in connection with operation of the Condominium, including water, sewage disposal, telephone, heating and air conditioning, gas and electrical systems, all for the benefit of the respective Owners of the Condominium, which reservation includes the right to convey such easement directly to suppliers and/or distributors of such utility services.

xiv. No Subdivision or Partition.

No Unit may be divided or subdivided into a smaller Unit; no Unit or portion thereof shall be added to or incorporated into another Unit. The Common Area shall remain undivided and no Unit Owner or any other person shall bring any action for the partition or division thereof; nor shall the Common Area be abandoned by act or omission unless the Condominium shall be terminated pursuant to the Condominium Act.

xv. No Harmful or Offensive Use of Condominium.

No harmful or offensive use shall be made of any part of the Condominium and nothing shall be done therein which is or will become in the judgment of the Board of Directors annoyance or nuisance to the other Unit Owners. No use shall be made of any part of the Condominium which will constitute a fire hazard, result in the cancellation of insurance on any part of the Condominium or be in violation of any law, ordinance, or governmental regulation applicable thereto. No use shall be made of any part of the Condominium which would increase the rate of insurance on the Common Area without the prior written consent of the Association.

1. Determination of Action Following Casualty Damage as Required by R.S.A. 356-B 16(i). In the event of damage to any portion of the Common Areas of the Condominium by fire or other casualty, the proceeds of the master casualty policy shall, pursuant to Section 43, III of the Condominium Act, be used to repair, replace or restore the Common Area structure or Common Area damaged, unless the Unit Owners vote to terminate the Condominium pursuant to Section 34 of the Condominium Act. The Association is hereby irrevocably appointed the agent for each Owner of a Unit and for each mortgagee of a Unit and for each owner of any other interest in the Condominium to adjust all claims arising under such policy, or otherwise resulting from such damage, and to execute and deliver releases upon the payment of claims; and proceeds of insurance shall be payable to the Association as trustee for the benefit of the Unit Owners, or any mortgagees as their interests may appear. The procedure for reconstruction and repair is set forth in the By-Laws.

m. Responsibility for Maintenance, Operation, Replacement of Utilities. Each Unit owner shall be equally responsible for the maintenance, operation, replacement and protection of



the water supply and any other utilities, including but not limited to all lines which are to be considered a part of the said systems.

n. Maintenance of Architectural Integrity. The architectural integrity of the building shall be preserved without modification, and to that end, without limiting the generality of the foregoing, without the prior written approval of the Board of Directors, no awning, screen, antenna, sign, banner or other device, and no exterior addition, structure, projection, decoration or other feature shall be erected or placed upon or attached to the exterior of any Unit, the Common Areas or any part thereof nor shall the appearance of such exterior (including, without limitation the exterior Unit doors, windows, door and window frames) or the Common Areas be changed.

o. Maintenance of Common Areas. Each owner shall be equally responsible for maintenance of the Common Areas.

IV. AMENDMENT OF DECLARATION. Except as otherwise provided in the Condominium Act and in this Declaration and By-Laws, this Declaration and By-Laws may be amended by agreement of one hundred (100%) percent of the Owners, provided, however, that (i) if any such amendment shall be executed by such one hundred (100%) percent of the Owners or by the President and Treasurer of the Association accompanied by a certification of vote of the Clerk; (ii) evidence of such amendment shall be duly recorded at said Registry pursuant to Section 34, IV of the Condominium Act; (iii) so long as the Declarant owns one or more Units, no amendment to the Declaration shall be adopted that could interfere with the construction, sale, lease or other disposition of such Unit(s); (iv) no such amendment shall be contrary to the provisions of the Condominium Act; and (v) no such amendment shall affect any rights reserved to the Declarant herein or in the By-Laws without the written consent of the Declarant.

V. ASSOCIATION. The operation of a condominium which shall be by an unincorporated or incorporated Association which shall be organized and shall fulfill its function pursuant to the following provisions:

1. Name. The name of the Association shall be **9 & 11 YOUNG DRIVE CONDOMINIUM ASSOCIATION.**

2. Powers. The Association shall have all of the powers and duties as set forth in the Condominium Act except as limited by this Declaration and all of the powers and duties reasonably necessary to operate the condominium as set forth in this Declaration and as they may be amended from time to time.

3. Membership in the Association.

(a) Qualification. The members of the Association shall consist of all record Owners of the Unit(s).

(b) **Change of Membership.** Change of membership in the Association shall be established by recording in the Registry of Deeds for Strafford County, State of New Hampshire, a deed establishing record title to a Unit in the Condominium. The owner designated by such instrument shall thereby become a member of the Association. At such time, the membership of the prior owner shall be thereby terminated.

(c) **Voting Rights.** A member of the Association shall be entitled to cast a vote for each Unit owned in the percentage attributed to each Unit. Where there is more than one record owner of a Unit, any such persons may attend any meeting of the Association, but it shall be necessary for those present to act unanimously in order to cast the votes to which they are entitled. The Declarant shall be entitled to vote with respect to any Unit(s) owned by the Declarant.

(d) **Restraint Upon Assignment of Shares in the Association.** The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.

4. **Indemnification.** Every officer of the Association shall be indemnified by the Association against all expenses and liabilities including counsel fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been an officer of the Association, or any settlement thereof, whether or not he is an agent or officer at such time the expenses are incurred, except in such cases wherein the officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification hereby shall apply only when the Owners' Association approves such settlement and reimbursement as being in the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such officers may be entitled.

5. **Limitation Upon Liability of the Association.** Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association.

**VI. BY-LAWS.** The By-Laws of the Association shall be in the form attached hereto as Appendix A.

**VII. INSURANCE.**

The Association shall obtain and maintain at all times insurance of the type and kind and in the amounts hereafter provided, and including insurance for such other risks of a similar or dissimilar nature as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design and use, which insurance shall be governed by the provisions of this section. For the benefit of the unit owners, the Association shall obtain and maintain at all times, and shall pay out of the common expense funds, the following insurance:

**SECTION A.** A Master Policy, or subscription policies, of fire insurance on all common areas, limited common areas, buildings and units with extended coverage, special extended coverage, and use and occupancy coverage for at least 100 percent of the replacement value of all common areas, limited common areas and units, and such other fire and casualty insurance as the Association shall determine to give substantially equal or greater protection to the unit owners, and their mortgagees, as their respective interests appear for coverage of the units, which policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee, or mortgagees, of each unit, if any; provided, however, that notwithstanding such mortgagee loss payable endorsement, the application of all proceeds recovered thereunder shall be determined by the Association in its sole and uncontrolled discretion.

**SECTION B.** A Master Policy, or subscription policies, insuring the Association, its Association, the Unit Owners and the Manager, if any, against any liability to the public and the owners of unit and their invitees or tenants, occurring in, on, or about the units and common elements, or either thereof, arising out of, or incident to, the ownership of any use of the project, and including the personal liability exposure of the unit owners. Limits of liability under such insurance shall not be less than \$1,000,000 for all persons injured in any one accident, and shall not be less than \$500,000 for property damage in each occurrence (such limits and coverage to be reviewed at least annually by the Association and to be increased in its discretion). In addition, the Association shall maintain an umbrella liability policy of \$1,000,000 insuring against the same risks. The policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsements wherein the rights of named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

**SECTION C.** Workmen's Compensation insurance to the extent necessary to comply with any applicable laws.

All policies shall be written by a company or companies licensed to do business in New Hampshire.

Exclusive authority to adjust losses under policies hereafter in force on the project shall be vested in the Association, or its authorized representative acting on behalf of all insureds, including the individual unit owners and their mortgagees.

In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual unit owners or their mortgagees.

Each owner may obtain additional insurance at his own expense; provided, however, that no owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all the unit owners, may realize under any insurance policy which the Association may have in force on the project at any particular time.

At least annually, the Association shall review all insurance carried by the Association and such review shall include an appraisal of all improvements to the project by a representative of the insurance carrier writing the master policy.

In the event of damage to any portion of the condominium by fire or other casualty, the proceeds of the master casualty policy shall, pursuant to Section 43 III of the Condominium Act, be used to repair, replace or restore the structure or Common Area damaged, unless the Unit Owners vote to terminate the Condominium pursuant to Section 34 of the Condominium Act. The Association is hereby irrevocably appointed the agent for each Owner of a Unit and for each mortgagee of a Unit and for each Owner of any other interest in the Condominium to adjust all claims arising under such policy, or otherwise resulting from such damage, and to execute and deliver releases upon the payment of claims. If the insurance proceeds are insufficient to reconstruct the damage or destroyed building, or buildings, the damage to, or destruction of, such building or buildings, shall be promptly repaired and restored by the manager of the Association, using the proceeds of insurance, if any, on such building or buildings, for that purpose, and the unit owners of units in such building or buildings shall be liable for assessment for any deficiency, such deficiency to take into consideration as the unit owner's contribution any individual policy insurance proceeds provided by such owner.

**VIII. FNMA/FHLMC COMPLIANCE.** Notwithstanding anything to the contrary elsewhere in the Condominium Instruments, the following provisions shall govern and be applicable insofar and for so long as the same are required in order to qualify mortgages of Units in the Condominium for sale to the Federal Home Loan Mortgage Corporation (FHLMC) or the Federal National Mortgage Association (FNMA) under laws and regulations applicable thereto, and until such time thereafter as amended, to wit:

a. Any holder, insurer or guarantor of a first mortgage of a Unit in the Condominium shall, upon written request, be entitled to written notification from the Association of any of the following (holders of first mortgages who have submitted such written requests will be referred to as "Eligible Mortgage Holders"):

i. A condemnation of loss which affects a material portion of the property or such Unit on which such first mortgage holds a first mortgage lien;

ii. Any 60-day delinquency in the payment of assessments or charges owed by a mortgagor of such Unit;

iii. Any lapse, cancellation or material modification or any insurance policy or fidelity bond maintained by the Association;

iv. Any action for which the consent of Eligible Mortgage Holders is required pursuant to this Declaration.

b. Any first mortgagee of a Unit in the Condominium who obtains title to the Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrue prior to the acquisition of title of such Unit by the mortgagee.

c. Unless one hundred (100%) percent of the Eligible Mortgage Holders (based upon votes appurtenant to Units subject to such mortgages) have given their prior written approval, the Owners and the Association shall not be entitled to: (i) by act or omission, seek to abandon or terminate the Condominium Project; (ii) change the Percentage Interests or obligations of any Unit for purposes of (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or (b) determining the pro rata share of ownership of each Unit in the Common Area; (iii) Partition or subdivide any Unit; (iv) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer, the Common Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Declarant or the Association shall not be deemed a transfer within the meaning of this clause); (v) use hazard insurance proceeds for losses to the Property (whether to Units or to Common Area) for other than the repair, replacement or reconstruction of such Property; or (vi) amend, modify or otherwise change any material rights or obligations under this Declaration or the By-Laws. In the case of termination of the Condominium for any reason other than substantial destruction or condemnation, prior written approval of one hundred (100%) percent of Eligible Mortgage Holders shall be required.

d. The Association shall assure that its books, records, and financial statements, as well as current copies of the Declaration, By-Laws and Rules are available for inspection by the Unit Owners or holders, insurers or guarantors of first mortgages on Units during normal business hours or under other reasonable circumstances.

e. An adequate operating reserve fund and a reserve fund for maintenance, repairs and replacements of any Common Area which must be replaced on a periodic basis shall be established by the Association and shall be funded by regular monthly payments rather than by special assessments, unless the Association votes otherwise.

f. No provision of this Declaration, the By-Laws or the Rules shall be construed to grant to any Unit Owner, or to any other party, any priority over any rights of first mortgagees of the Condominium Units pursuant to their mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to, or a taking of, Units and/or the Common Area or any portions thereof.

g. This Declaration and the By-Laws contain provisions concerning various rights, priorities, remedies and interests of first mortgagees of Units. Such provisions are to be construed as covenants for the protection of such mortgagees on which they may rely in making loans secured by mortgages on the Units. Accordingly, any Owner who gives a first mortgage on his Unit shall notify the Association of the name and address of the first mortgagee of such Unit, and shall file a conformed copy of the mortgage with the Association. All first mortgagees with respect to which the Association have received such notice shall be given written notice of any damage or loss where the cost of restoring the Common Area exceeds Ten

Thousand and no/100 (\$10,000.00) Dollars, and the first mortgagee of a Unit shall be given written notice of damage or loss to the Unit covered by its mortgage where the cost of restoration of such damage or loss exceeds One Thousand and no/100 (\$1,000.00) Dollars, the Board is made aware of such damage or loss and notice of such mortgage has been supplied to the Association.

h. If FHLMC or FNMA holds any interest in one or more mortgages of Units:

i. The Association shall be required to obtain and maintain, to the extent obtainable, and permitted by applicable law, such insurance other than that which may be required by the By-Laws, in such amounts and containing such terms, as may be required from time to time by FHLMC or FNMA.

ii. Whenever any Unit and/or Common Area is damaged by fire or other hazard the Association shall give notice to such persons as may be required by FHLMC or FNMA.

i. Any holder, insurer or guarantor, or grantor of a first mortgage on any Unit shall be entitled to have the Board of Directors provide a copy of the audited financial statement for the immediately preceding fiscal year of the Association. If no such audited statement exists, the requesting party is entitled to have an audited statement prepared at its own expense, or at its option to receive a copy of an unaudited statement. Upon any such request, the Association must provide the financial statement to the requesting party within a reasonable time.

**IX. VALIDITY.** It is the intention of the Declarant that the provisions of this Declaration are severable so that if any provision, condition, covenant or restriction hereof shall be invalid or void under any applicable federal, state or local law or ordinance, the remainder shall be unaffected thereby. In the event that any provision, condition, covenant or restriction hereof is, at the time of recording this Declaration, void, voidable or unenforceable as being contrary to any applicable law or ordinance, the Declarant, its successors and assigns and all Persons claiming by, through or under this Declaration, covenant and agree that any future amendments or supplements to the said laws having effect of removing said invalidity, voidability, or unenforceability, shall be deemed to apply retrospectively to this Declaration, thereby operating to validate the provisions of this instrument which otherwise might be invalid, and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein declared as fully as if they had been in effect at the time of this instrument.

**X. WAIVER.** No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same (except where a right is dependent upon notice to be given within a specified period), irrespective to the number of violations or breaches which may occur.

**XI. GENDER.** The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural and vice versa, whenever the context so requires.



**EXHIBIT A**  
**PROPERTY DESCRIPTION**

A certain parcel of land with the buildings thereon, situate on the Northerly and Easterly sides of Young Drive in Durham, New Hampshire being Lot #12A as shown on a plan of land entitled "Revised Final Plan, Stony Brook Development, Fischer Homes Inc. Durham, New Hampshire" dated March 1966 by G.L. Davis and Associates and recorded at the Strafford County Registry of Deeds Pocket #9, Folder #2, Plan #7, to which plan reference is made for a detailed description of the property. Said parcel contains 15,480 square feet +/- according to said plan.

Said property is conveyed subject to a Sewer Contract with the Town of Durham as recorded in the Strafford County Registry of Deeds at Book 843, Page 379.

Said property is conveyed subject to the restriction recorded in the Strafford County Registry of Deeds at Book 4908, Page 751 which states that no portion of this property/unit may be occupied by any undergraduate college student unless that student's parent or legal guardian also occupies the same property/unit.

Meaning and intending to describe a portion of the premises conveyed by deed of Walter W. Fischer, Trustee of the Walter W. Fischer 1993 Trust to Young Drive LLC, dated May 10, 2013 and recorded at the Strafford County Registry of Deeds Book 4126 Page 0615.



**EXHIBIT B**  
**ALLOCATION OF PERCENTAGE INTEREST**

Unit 9	50%
Unit 11	50%

## APPENDIX "A"

### BY-LAWS

I. Association. The affairs of the Association of Owners shall be conducted by an unincorporated association.

II. Meetings.

A. Meetings of the Unit Owners' Association shall be held in accordance with the provisions of the Declaration of Condominium at least once every year after the formation of the Association.

B. Notice of Annual or Regularly Scheduled Meeting. The secretary of the Association shall, at least 21 days in advance of any annual or regularly scheduled meeting, and at least 7 days in advance of any other meeting, provide to each Unit Owner notice of the time, place and purpose or purposes of such meeting in conformity with RSA 356-B:37-a. The minimum time to give notice may be reduced or waived for a meeting called to deal with an emergency. Purposes of the meeting shall include any budget changes or proposal to remove an officer or member of the Board of Directors.

C. Affidavit. The secretary or other duly authorized officer of the Unit Owners' Association who shall also be a member of the Board of Directors of the Unit Owners' Association, shall prepare an affidavit which shall be accompanied by a list of the addresses of all Unit Owners currently on file with the Association and shall attest that notice of the Association meeting was provided to all Unit Owners on that list in a manner conforming to RSA 356-B:37-a. A copy of the affidavit and Unit Owners list shall be available at the noticed meeting for inspection by all owners then in attendance and shall be retained with the minutes of that meeting. The affidavit required in this section shall be available for inspection by Unit Owners for at least 3 years after the date of the subject meeting.

D. Meetings of the Association shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised.

E. Unit Owners shall be given a reasonable opportunity at any meeting to comment regarding any matter affecting the Association.

F. Meeting by Telephonic, Video or Other Conferencing Process. The Association members may meet by telephone, video, or other conferencing process, as provided in RSA 356-B:37-b provided that the requirements of RSA 356-B:37-c are also met.

G. The Association shall make copies of the minutes of all meetings available to the Unit Owners within 60 days of the meeting or 15 days of the date such minutes are approved by the Board, whichever occurs first. The Association may opt to provide the minutes electronically or publish them on the Association website, in which case the Owners shall be informed of the web address.

H. Special Meetings. The Association shall hold a special meeting of Unit Owners to address any matter affecting the Unit Owners or the Association if its president, a majority of the Board of Directors or Unit Owners having at least 50 percent or any lower percentage specified in these By-laws, of the votes in the Association request that the secretary call the meeting. If the Association does not notify Unit Owners of a special meeting within 30 days after the requisite number or percentage of Unit owners request the secretary to do so, the requesting members may directly notify all the Unit Owners of an informational meeting, the purpose of which shall be to present the issue to fellow residents and Unit Owners. Only matters described in the meeting notice required by RSA 356-B:37-a may be considered at a special meeting.

### III. Term.

A. The members of the Association shall automatically serve for one (1) year. At each annual meeting, the Association shall elect new members. Any member can be elected to the Association without regard to the number of terms he may have served. For the purposes of this Section, a "member" of this Association includes both spouses or joint tenants, or tenants in common, and any such person can be elected to the Association.

### IV. Resignation and Removal.

A. Any member of the Association may resign at any time by giving written notice to the Manager, and any member may be removed from membership of the Association by an affirmative vote of Owners. Whenever there shall occur a vacancy on the Association due to death, resignation, removal, or any other cause, the remaining Members elect a successor member to serve until the next annual meeting of the Association of owners, at which time said vacancy shall be filled for the unexpired term.

### V. Powers and Authority of the Association.

A. The Association, for the benefit of the Condominium and the Owners, shall enforce the provisions hereof and shall acquire and shall pay for out of the common expense fund, without limitation, the following:

1. Water, sewer, garbage collection, snow removal, electrical, telephone and gas and other necessary utility service for the Common Area (and to the extent not separately metered or charged, for the Units and Limited Common Area).

2. A policy or policies of fire insurance as the same are more fully set forth in the Declaration.

3. The services of a person or firm to manage its affairs herein called the "Manager" to the extent deemed advisable by the Association as well as such other personnel or property as the Association shall determine shall be necessary for the operation of the Common Areas, whether such personnel are employed directly by the Association or are furnished by the Manager.

4. Legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of the Declaration.

5. Painting, maintenance, repair and all landscaping of the Common Area and Limited Common Area, and such furnishings and equipment for the Common Area as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Area and access the cost thereof as a common expense.

6. Any other materials, supplies, labor services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration or By-Laws or which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of the Declaration, provided that if any such materials, supplies, labor services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for a particular Limited Common Area, the cost thereof shall be specially assessed to the Owner of the Unit with which the Limited Common Area is associated.

B. It shall be the duty of the Association to prepare an annual budget, which shall be presented by the Treasurer of the Association at the Annual Meeting of the Association, or at any Special Meeting of the Association called for the purpose of acting upon budgetary or financial matters.

C. The Association shall have the right to establish rules and regulations pertaining to the use of any of the Common Areas:

D. The Unit Owners' Association shall act on behalf of each unit owner in condemnation proceeds against the common areas of the condominium.

## VI. Voting Provisions.

A. Vote. Each Unit shall have one vote. Where there shall be more than one person having legal title to a Unit and more than one such person shall be present at any meeting of the association, the vote pertaining to the Unit shall be cast only in accordance with the unanimous agreement of such persons.

B. Proxies.

- (1) The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owner, or, in cases where the Unit Owner is more than one person, by or on behalf of all such persons. A person may not cast undirected proxies representing more than 10 percent of the votes in the Association. The proxy or proxies shall list the name of the person who is to vote. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the Unit Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated or if it purports to be revocable without the required notice. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy. The Board of Directors shall deliver to the Unit Owners, together with their notice of meeting and agenda, proxy forms bearing a control number which the Board of Directors shall correlate to the list of all Unit Owners then entitled to vote. At the noticed meeting, the Board of Directors shall recover all proxies and compare them to the control list maintained for that purpose. Any proxies which are on a form other than that provided by the Board of Directors or which do not correlate with the control list maintained by the Board of Directors shall be disregarded for purposes of determining whether a quorum was present at the meeting and for purposes of casting any vote at that meeting; provided, however, this paragraph shall not apply if the condominium is comprised of time-sharing interests.
- (2) The Board of Directors shall retain all proxies delivered to the Board of Directors and all independent written confirmation of any such proxies for inspection by the Unit Owners for a period of not less than 3 years from the date of the Unit Owners' Association meeting.

C. Notice of Meetings of the Association. The Association shall deliver any notice required to be given by the Association to any mailing or electronic mail address a Unit Owner designates. If the Unit Owner does not designate an address, the Association shall deliver notices by hand delivery, United States Mail, postage prepaid, or commercially reasonable delivery service to the mailing address of each Unit.

D. Voting Without a Meeting. The Association may conduct a vote without a meeting. In that event, the following requirements apply:

- (1) The Association shall notify the Unit Owners, in the manner prescribed by RSA 356-B:37-a, that the vote will be taken by ballot and deliver a paper or electronic ballot to every Unit Owner entitled to vote on the matter.
- (2) The ballot shall:
  - (a) Set forth each proposed action and provide an opportunity to vote for or against the action.
  - (b) Indicate the number of responses needed to meet the quorum requirements.
  - (c) State the percentage of votes necessary to approve each matter other than election of directors.
  - (d) Specify the time and date by which a ballot must be delivered to the Association to be counted, which time and date may not be fewer than 10 days after the date the Association delivers the ballot.
  - (e) Describe the time, date and manner by which the Unit Owners wishing to deliver information to all Unit Owners regarding the subject of the vote may do so.
- (3) Except as otherwise provided in the Declaration or By-laws, a ballot is not revoked after delivery to the Association by death or disability or attempted revocation by the person that cast that vote.
- (4) Approval by ballot pursuant to this section is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

## **VII. Officers of Association.**

The officers of the Association of Owners shall be a President, Treasurer and Clerk.

A. President. The President shall preside at all meetings of the Association of Owners and may exercise the powers ordinarily allocatable to the presiding officer of an Association including the appointment of committees.

B. Treasurer. The Treasurer shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of income and expense payments to the authorized Manager of the Condominium Association.

C. Secretary. The Secretary shall keep minutes of all proceedings of the Association and of the meetings of the Association of Owners and shall keep such books and records as may be necessary and appropriate for the records of the Association and its Association.

**VIII. Meetings of the Board of Directors and Committees.** The following requirements apply to meetings of the Board of Directors and Committees of the Association authorized to act for the Association:

A. For purposes of this section, a gathering of Board members at which the Board members do not conduct Association business is not a meeting of the Board of Directors. The Board of Directors and its members may not use incidental or social gatherings of Board members or any other method to evade the open meeting requirements of this section.

B. Not less than once each quarter, the Board of Directors shall, subject to the provisions of RSA 356-B:37-d, hold an open regular meeting during which Unit Owners shall be afforded a reasonable opportunity to comment on any matter affecting the Association. At its discretion, the Board of Directors may meet in a meeting not open to Unit Owners provided the meeting is recorded and the recording is made available to Unit Owners for up to 30 days upon request.

C. Unless the meeting is included in a schedule given to the Unit Owners or the meeting is called to deal with an emergency, the secretary or other officer specified in the By-Laws shall give notice of each meeting of the Board of Directors to each Board member and to the Unit Owners. The notice shall be given at least 10 days before the meeting and shall state the time, date, place and agenda of the meeting.

D. If any materials are distributed to the Board of Directors before the meeting, the Board of Directors at the same time shall make copies of those materials reasonably available to Unit Owners, except that the Board of Directors need not make available copies of unapproved minutes or matters that are to be considered in executive session.

E. In the case of self-managed community associations, meetings of the Board of Directors or committees expressly for purposes of implementation of decisions made in open meetings shall be exempt from the requirements of RSA 356-B:37, 356-B:37-a and RSA 356-B:37-c.

F. Executive Session. The Board of Directors and any Association committees may hold an executive session only during a regular or special meeting of the Board or a committee.

No final vote or action may be taken during an executive session. An executive session may be held only to:

- (1) Consult with the Association's attorney.
- (2) Discuss existing or potential litigation or mediation, arbitration or administrative proceedings.
- (3) Discuss labor or personnel matters.
- (4) Discuss contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the Association at a disadvantage or prevent public knowledge of the matter to be discussed if the Board of Directors or a committee determines that public knowledge would violate the privacy of any person.

G. Meeting by Telephonic, Video or Other Conferencing Process. The Board of Directors and Association committees may meet by telephone, video, or other conferencing process, as provided in RSA 356-B:37-b provided that the requirements of RSA 356-B:37-c are also met.

#### **IX. Removal of Directors and Officers.**

A. Unit Owners present in person or by proxy at any meeting of the Unit Owners at which a quorum is present, may remove any member of the Board of Directors and any officer elected by the Unit Owners, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, provided that:

- (1) A member appointed by the Declarant may not be removed by a Unit Owner vote during the period of Declarant control.
- (2) The Unit Owners may not consider whether to remove a member of the Board of Directors or an officer elected by the Unit Owners at a meeting of the Unit Owners unless that subject was listed in the notice of the meeting.

B. At any meeting at which a vote to remove a member of the Board of Directors or an officer is to be taken, the member or officer being considered for removal shall have a reasonable opportunity to speak before the vote.

C. A Director may be removed by the Unit Owners only at a meeting called for the purpose of removing him and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the Director.



X. Common Expenses.

A. Assessments. During the period beginning with the conveyance of the first Unit, until the Association shall have voted upon a budget and the amount of the monthly assessments, as provided in these By-Laws, the Declarant shall establish the amount of the Common Expenses and contract for maintenance services and shall assess each Unit Owner accordingly.

Upon the said vote of the Association establishing an assessment, the Association shall, thereafter, make all assessments for regular annual expenses and any special assessments.

B. At least annually, the Board of Directors shall adopt a proposed budget for the Unit Owners' Association for consideration by the Unit Owners. Not later than 30 days after adoption of a proposed budget, the Board of Directors shall provide to all the Unit Owners a summary of the budget, including any reserves, and a statement of the basis on which any reserves are calculated and funded. Simultaneously, the Board shall set a date not less than 10 days or more than 60 days after providing the summary for a meeting of the Unit Owners to consider ratification of the budget. Unless at that meeting 2/3 of all Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present. If a proposed budget is rejected, the budget last ratified by the Unit Owners continues until the Unit Owners ratify a subsequent budget.

C. At any time, the Board of Directors may propose a special assessment. Except as otherwise provided in paragraph D below, the assessment is effective only if the Board of Directors follows the procedures for ratification of a budget described in paragraph (a) and the Unit Owners do not reject the proposed assessment.

D. If the Board of Directors determines by a 2/3 vote that a special assessment is necessary to respond to an emergency:

- (1) The special assessment becomes effective immediately in accordance with the terms of the vote.
- (2) Notice of the special assessment shall be provided promptly to all Unit Owners.
- (3) The Board of Directors may spend the funds paid on account of the special assessment only for the purposes described in the vote.

E. Default in Payment of Assessment. Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the Owner against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosure or waiving the lien securing the same. The Association, on behalf of the Association, shall have the authority to effect the lien procedures provided for in R.S.A.

