

## AMENDMENT TO EASEMENT

This AMENDMENT TO EASEMENT is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025 by and between **JESP ENTERPRISES LLC**, a New Hampshire limited liability company having an address of 25 Garden Lane, Durham, New Hampshire 03824 (“JESP”), and **THE HOTEL NEW HAMPSHIRE CONDOMINIUM ASSOCIATION**, a New Hampshire association having an address of 2 Main Street, Durham, New Hampshire 03824 (the “Hotel Condominium Association”).

### RECITALS:

WHEREAS, JESP is the owner of certain property located at 3 Dover Road, Durham, New Hampshire by virtue of a deed recorded in the Strafford County Registry of Deeds (the “Registry”) at Book 4530, Page 617 (the “JESP Property”); and

WHEREAS, the Hotel Condominium Association manages and operates a certain condominium known as The Hotel New Hampshire Condominium (the “Hotel Condominium”) as described in the Condominium Declaration and By-Laws of The Hotel New Hampshire Condominium dated June 9, 2006, and recorded in the Registry at Book 3386, Page 357 (the “Hotel Condominium Governing Documents”) and has the power to grant easements pursuant to the terms of the Hotel Condominium Governing Documents; and

WHEREAS, the JESP Property benefits from the right to use, in common with others, a twelve (12) foot right of way adjoining the JESP Property (the “Right-of-Way Easement”), which is located on and burdens the Hotel Condominium; and

WHEREAS, the Hotel Condominium Association and JESP desire to amend the terms of the Right-of-Way Easement as hereinafter set forth.

NOW THEREFORE, the parties hereby agree as follows:

1. EXPANDED EASEMENT AREA. The Right-of -Way Easement shall be 25’ in width, in the location of the existing driveway on the common area of the Hotel Condominium

(the “Amended Easement Area”). The Amended Easement Area extends in a general northwesterly direction from Route 108 (aka Durham Road) and is located easterly of Unit 3 of the Hotel Condominium and westerly of the JESP Property, all as more particularly shown on a plan entitled “As-Built Condominium Site Plan of Hotel New Hampshire Condominium, Tax Map 4, Lot 50, Main Street (Route 108), Durham, New Hampshire”, dated June 7, 2006, prepared by Doucet Survey Inc., and recorded in the Strafford County Registry of Deeds as Plan 86-1.

2. GRANT OF EASEMENT RIGHTS. The Hotel Condominium Association hereby grants to JESP, its employees, tenants, guests and invitees, a perpetual and non-exclusive right and easement, to be used in common with the owners of the Hotel Condominium, to pass and repass over and upon the Amended Easement Area for the purposes of ingress and egress to and from the JESP Property to Route 108 (aka Durham Road) by foot, cars, trucks and other motor vehicles subject to the terms of this amended easement.

3. MAINTENANCE OF AMENDED EASEMENT AREA. The Hotel Condominium Association shall be responsible to maintain and repair the Amended Easement Area, including the driveway, landscaping, drainage facilities and any other improvements located therein. The costs of maintenance, repair and replacement of the Amended Easement Area shall be subject to reimbursement by JESP as provided below. Such maintenance includes (but is not limited to) sweeping, washing and removal of trash, litter and refuse, removal of snow and ice from pavement and walkways, painting and striping, repair and replacement of paving as necessary, repair and replacement of lighting, fixtures, signage, directional signs, lines and markers. Paved areas shall be maintained in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall be comparable in quality, use, and durability. All work shall be performed in a good, workmanlike fashion, in accordance with any and all laws, codes, rules, regulations and ordinances, and with any and all governmental approvals and permits.

4. REIMBURSEMENT. The Hotel Condominium Association shall be entitled to reimbursement from JESP for fifty percent (50%) of the actual reasonable out of pocket costs and expenses incurred in the maintenance of the Amended Easement Area (the “Maintenance Costs”). The Hotel Condominium Association shall bill JESP from time to time, which billings shall set forth both the total amount of Maintenance Costs incurred and not previously reimbursed, and the share of such costs to be paid and reimbursed by JESP (the “Reimbursement Amount”). The Reimbursement Amount shall be paid within thirty (30) days of receipt of the bill. The Hotel Condominium Association shall keep records showing all expenditures incurred as Maintenance Costs for a period of three (3) years following each billing, and such records shall be made available for inspection and photocopying by JESP. The parties shall attempt in good faith to resolve any dispute with respect to the calculations of the Maintenance Costs or Reimbursement Amount.

5. DAMAGE. Any user who disturbs or damages the Amended Easement Area in the exercise of any rights or obligations hereunder, shall, in a prompt and workmanlike manner, and at its sole cost and expense, repair and restore such damage or disturbance as nearly as practicable to the condition that existed prior to such damage or disturbance.

6. INDEMNIFICATION/INSURANCE. Each Party shall maintain commercially reasonable liability insurance covering such party's use of the Amended Easement Area. JESP shall indemnify, defend and hold the Hotel Condominium Association harmless from any and all actions, causes of actions, suits, demands and claims resulting from any damage, injury, loss, liability, expense, fee or cost arising out of or in connection with JESP's use or maintenance of the Amended Easement Area, including the use of the Amended Easement Area by JESP's tenants, guests and invitees, unless such damage, injuries, losses, expenses, fees and costs were caused by the negligence or willful misconduct of the Hotel Condominium Association or its tenants, guests or invitees. The Hotel Condominium shall indemnify, defend and hold JESP harmless from any and all actions, causes of actions, suits, demands and claims resulting from any damage, injury, loss, liability, expense, fee or cost arising out of or in connection with the Hotel Condominium's use or maintenance of the Amended Easement Area, including the use of the Amended Easement Area by the Hotel Condominium's tenants, guests and invitees, unless such damage, injuries, losses, expenses, fees and costs were caused by the negligence or willful misconduct of JESP or its tenants, guests or invitees.

7. ENFORCEMENT.

A. All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by a party or its permitted users (collectively, jointly and severally, the "Defaulting Owner") of any of the terms, covenants, restrictions or conditions hereof, the other party shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach from the Defaulting Owner. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any party to cancel, rescind, or otherwise terminate this Agreement.

B. Self-Help. In addition to all other remedies available at law or in equity, upon the failure of the Hotel Condominium Association to perform the maintenance required pursuant to Paragraph 3 hereinabove, and such failure continues for thirty (30) days following written notice thereof (provided that no notice shall be required in the event of an emergency), JESP shall have the right to perform such maintenance and be reimbursed by the Hotel Condominium Association, upon demand for the reasonable costs thereof.

C. Attorneys' Fees. In any legal or equitable proceeding to determine the rights of the parties to enforce or restrain the breach of this Agreement, the losing party or parties, as determined by the court, hearing officer, other tribunal, or arbiter utilized for this purpose, shall pay the reasonable attorneys' fees, legal costs and expenses of the prevailing party or parties.

8. BINDING EFFECT. This Amended Easement shall be perpetual in nature, shall benefit the JESP Property, and shall be binding upon the Hotel Condominium Association, their successors and assigns.

9. MISCELLANEOUS.

A. Severability. If any provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision, to any other person or circumstance shall not be affected thereby; the remainder of this Agreement shall be given effect as if such invalid or inoperative portion had not been included.

B. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of New Hampshire.

C. Notices. All notices, approvals, consents or requests given or made pursuant to this Agreement shall be made in writing and shall be deemed given upon receipt by personal delivery; or United States certified mail, return receipt requested, with postage prepaid; or one (1) day after deposit with a recognized overnight carrier, charges prepaid. Notices shall be addressed as set forth in the introduction hereof until a new address for notices shall be designated.

D. Counterpart Execution. This Agreement may be executed in two (2) or more counterparts, each of which shall be an original but such counterparts together shall constitute one and the same instrument notwithstanding that all Parties are not signatories to the same counterpart.

*[The signature page follows.]*

DATED as of the date hereinabove written.

JESP ENTERPRISES LLC

By: \_\_\_\_\_  
Name:  
Title:  
Duly Authorized

THE HOTEL NEW HAMPSHIRE  
CONDOMINIUM ASSOCIATION

By: \_\_\_\_\_  
Name:  
Title:  
Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, the duly authorized \_\_\_\_\_ of JESP Enterprises LLC, a New Hampshire limited liability company, on behalf of the limited liability company.

\_\_\_\_\_  
Notary Public/Justice of the Peace

My Commission Expires: \_\_\_\_\_

(SEAL)

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, the duly authorized \_\_\_\_\_ of The Hotel New Hampshire Condominium Association, , a New Hampshire association, on behalf of the association.

\_\_\_\_\_  
Notary Public/Justice of the Peace

My Commission Expires: \_\_\_\_\_

(SEAL)

