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ROCKINGHAM COUNTY
REGISTRY OF DEEDS

DECLARATION

**MOODY POINT CONDOMINIUM II
(THE RIDGE AT MOODY POINT)**

This amended Declaration of Condominium made this 29th day of January 2010 by the Moody Point Condominium II Association, a New Hampshire RSA Chapter 356-B Unit Owners' association hereby supersedes and replaces the previous Declaration and all previous Declaration amendments of the Moody Point Condominium II Association; being the sole Owner of real estate being more particularly bounded and described in Exhibit A, same being located in the Town of Newmarket, County of Rockingham and State of New Hampshire, hereby submits said real property described in said Exhibit A together with the buildings and improvements erected thereon and all easements, rights and appurtenances belonging thereto (hereafter collectively referred to as the Property) to the provisions of RSA 356-B, as amended, known as the New Hampshire Condominium Act and hereby creates with respect to said property a condominium to be governed by and be subject to the provisions of RSA 356-B, hereinafter referred to as the Condominium Act or the Act.

ARTICLE I — NAME, ADDRESS AND DESCRIPTION OF LAND

- 1.1. Name and Address: The name by which this condominium is to be identified is "MOODY POINT CONDOMINIUM II;" and its address is Cushing Road, Newmarket, New Hampshire.
- 1.2. The legal description of the land hereby submitted to the Act is shown on Exhibit A attached hereto.
- 1.3. The drawing location of the list of the units and their addresses is referred in Exhibit B or you can go to www.nhdeeds.com, search by site plan and plan number is 32436.

ARTICLE II — DEFINITIONS

- 2.1. "Board of Directors" or "Board" means an executive and administrative entity, by whatever name denominated, designated in the condominium instruments as the governing body of the Unit Owners' association.
- 2.2. "Common area" or "common areas" means all portions of the condominium other than the units.
- 2.3. "Common profits" means all income collected or accrued by or on behalf of the Unit Owners'

- association, other than income derived from assessments pursuant to RSA 356-B:45.
- 2.4. "Common expenses" means all expenditures lawfully made or incurred by or on behalf of the Unit Owners' association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments; "future common expenses" shall mean common expenses for which assessments are not yet due and payable.
 - 2.5. "Condominium" means real property and any interests therein, lawfully submitted to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter. No project shall be deemed a condominium within the meaning of this chapter unless the undivided interests in the common area are vested in the Unit Owners.
 - 2.6. "Condominium instruments" is a collective term referring to the Declaration, Bylaws, and site plans and floor plans recorded pursuant to the provisions of this chapter. Any exhibit, schedule or certification accompanying a condominium instrument and recorded simultaneously therewith shall be deemed an integral part of that condominium instrument. Any amendment of certification of any condominium instrument shall, from the time of the recordation of such amendment or certification be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of this chapter.
 - 2.7. "Condominium unit" means a unit together with the undivided interest in the common area appertaining to that unit.
 - 2.8. "Convertible land" means a building site which is a portion of the common area, within which additional units and/or a limited common area may be created in accordance with this chapter.
 - 2.9. "Days" mean calendar days, unless modified by the word "business" in which case said term shall include all days except Saturdays, Sundays, and legal holidays in the State of New Hampshire.
 - 2.10. "Dispose" or "Disposition" refers to any sale, contract, assignment or any other voluntary transfer of a legal or equitable interest in a condominium unit, except as security for a debt.
 - 2.11. "Expandable Condominium" means a condominium to which additional land may be added in accordance with the provisions of the Declaration and of this chapter.
 - 2.12. "Identifying number" means one or more letters and/or numbers that identify only one unit in the condominium.
 - 2.13. "Limited common area" means a portion of this common area reserved for the exclusive use of

- those entitled to the use of one or more, but less than all, of the units.
- 2.14. "Offer" means any inducement, solicitation or attempt to encourage any person or persons to acquire any legal or equitable interest in a condominium unit, except as security for a debt.
- 2.15. "Officer" means any member of the board of directors or official of the Unit Owners' association.
- 2.16. "Person" means a natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof.
- 2.17. "Purchaser" means any person or persons who acquire by means of a voluntary transfer a legal or equitable interest in a condominium unit, except as security for a debt.
- 2.18. "Size" means the number of cubic feet, or the number of square feet of ground and/or floor space, within each unit as computed by reference to the floor plans and rounded off to a whole number. Certain spaces within the units including, without limitation, attic, basement, and/or garage space may but need not be omitted from such calculation or partially discounted by the use of a ratio, so long as the same basis of calculation is employed for all units in the condominium, and so long as that basis is described in the Declaration.
- 2.19. "Unit" shall mean a portion of the condominium designed and intended for individual ownership and use.
- 2.20. "Unit Owner" means one or more persons who own a condominium unit, or, in the case of a leasehold condominium, whose leasehold interest or interests in the condominium extend for the entire balance of the unexpired term or terms.
- 2.21. "Association" means the Moody Point Condominium II Association.

**ARTICLE III — DESCRIPTION OF UNITS, UNIT BOUNDARIES,
COMMON AREAS AND LIMITED COMMON AREAS**

- 3.1. Description of Units: There shall be a maximum of twenty-six (26) units within the condominium. See Plan entitled "Designation of Building, Unit and Parking Space Numbers and Designation of Common Land and Convertible Land, Moody Point Condominium II Association, Inc., Lots 7 & 8, Newmarket, NIT dated November 17, 1992, by Lamprey River Survey Company of record for building and unit designations for Lots 7 and 8. Each building is designated a specific number and each unit is designated a specific letter (shown as an upper case letter), on the Plan at Exhibit B.

- 3.2. Units. Each of the designated 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. Each garage is designated by the upper case letter G with the letter of the unit to which it belongs. For example, the garage that belongs to Unit A is lettered "GA."
- 3.3. Unit Boundaries. The unit boundaries of each unit with respect to floors, ceilings, walls, doors and windows are defined below.
- 3.3.1. Floors: The unfinished interior surface of the lowermost floors.
- 3.3.2. Ceilings: The underside plane of the roof rafters. Insulation, no matter where located, shall be part of the unit.
- 3.3.3. Perimeter walls: The inside plane of the wall studs making up the exterior and/or perimeter walls, and the interior surface of the supporting concrete walls. Any insulation between the wall studs/supports shall be part of the unit.
- 3.3.4. Windows, window frames, doorframes, door thresholds and doors: The exterior surface of all glass, the exterior unfinished surface of the window frames, doorframes and all entrance doors. The garage door, to the exterior unfinished surface, shall be part of the unit.
- 3.3.5. Units shall specifically include: All doors and windows therein, and all wallboard, insulation, plaster, paneling, tile, wallpaper, paint, finished flooring and any other materials constituting the finished surfaces thereof. All other portions of such walls, floors, and/or ceilings shall be deemed a part of the common area. Each unit shall include the portions of the building within said boundaries and the space enclosed by said boundaries, except any intervening floors (the area between the exterior surface of the wallboard of the downstairs ceiling and the unfinished upper surface of the second floor, and the area between the exterior surface of the wallboard of the cellar ceiling, if finished, or the exterior surface of the floor joists, if unfinished, and the unfinished upper surface of the first floor) which are common area.
- 3.3.6. If any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, pipes, vents or any other apparatus lie partially within and partially outside of the designated boundaries of a unit, any portions thereof serving only that unit shall be deemed a part of that unit, while any portions thereof serving more than one unit or any portion of the common area shall be deemed a part of the common area.

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3.3.7. Subject to the provisions of paragraph (3.3.6) above, all space, interior partitions, and other fixtures and improvements within the boundaries of a unit shall be deemed a part of that unit.

3.3.8. Any shutters, awnings, window boxes, doorsteps, porches, balconies, outside light fixtures (except light bulbs), patios, and any other apparatus designed to serve a single unit, but located outside the boundaries thereof, shall be deemed a limited common area appertaining to that unit exclusively.

3.3.9. All heating, ventilating and air conditioning systems, including all pipes, wires, conduits or other apparatus or equipment associated therewith, no matter where located, shall be a part of the unit, and same shall be maintained, repaired, or replaced at the expense of the Unit Owner.

3.3.10. All units may include one or more masonry fireplaces with masonry chimney running through the ceiling and roof of the condominium and beyond; or zero clearance fireplaces with a metal collar in the ceiling of the unit and a metalbestos flue pipe running from the ceiling, through the roof of the condominium and beyond. All of the above components of the fireplace system are designed to serve the one unit to which they are attached and, notwithstanding that a portion of same is located outside of the boundaries of that unit, they shall be a part of that unit. The fireplace and the flue pipe running from said fireplace to the metal collar in the ceiling of the unit shall be part of the unit. (See Article XI, A, 2, c. for provisions for maintenance of the fireplace system.)

3.4. Common Area. The common areas consist of the entire tract described in Exhibit A, not set aside as part of the individual Units. It includes the general Common Areas as shown on the site and floor plans, if any, and the entire property other than the units and limited common area, and it includes, but not by way of limitation, the land and the walks, shrubbery and other plantings and other interests in the land. The water supply, sewage disposal, lawn irrigation system, 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 not including the parts of any heating, ventilating and/or air-conditioning systems which are part of the units as described under Article III,C,9 hereof) and the roofs, foundations, columns and supports of the building are considered as common areas. The decks, patios, covered porticos, appurtenant to the units, if any; and any stairs, walks, stairway landings and hallways which are not within a unit; the pipes, ducts, fireplace flues, chutes, conduits, plumbing, wires, meters, meter housings and other facilities for the furnishing of utility services or waste removal not located within a unit and such facilities located within a unit, which serve parts of the condominium other than the unit within which they are located; and other amenities constructed or which may be constructed on the land; and all

other parts of the condominium, including personal property acquired by the Association, Inc., necessary or convenient to its existence, maintenance and safety, or normally in common use, and including any easements serving the property.

- 3.4.1. Sewer system: All pipes, conduits and equipment associated with the sewer system and located outside of the unit boundaries and not owned or maintained by the Town of Newmarket shall be part of the common area. The expense of the maintenance, operation, repair and replacement of same shall be borne by the Moody Point Community Association, Inc. (MPCA).
 - 3.4.2. Water system: The Condominium is serviced by a private water system. The wells, cistern and pump house of the system are the responsibility of the Moody Point Community Association (MPCA). The main water distribution loop adjoins the roads shown on the Moody Point subdivision plan or within the Condominium Lots. Easements for this utility are provided in the deeds to the various Lots and Properties. The maintenance and repair expense of the system, from the wells to the curb stop on the distribution system for each dwelling, is borne by the MPCA. The connection from the curb stop to the dwelling and the metering is the responsibility of the Condominium Association, unless the Condominium Owner caused a problem with that connection. Each condominium unit shall be separately metered for domestic use.
 - 3.4.3. Lawn Irrigation System: The condominium is serviced by a lawn irrigation system. The irrigation system and Well #4, which supplies its water, shall be owned by the Condominium Association as a common area infrastructure. The maintenance and repair of said system shall be the responsibility of said Association. Turning on and turning off the system is the responsibility of the MPCA.
- 3.5. Limited Common Areas. Entrance ways, steps, and stairways not part of the unit which serve less than all units are limited common areas. Each limited common area is owned in common by the Owners, but is restricted to the use and benefit of the units which it serves directly.
- 3.5.1. Parking spaces: Each unit shall be entitled to the exclusive use of two (2) parking spaces which shall be limited common areas, (not including the area within any garage). The parking spaces are situated directly in front of the openings to the garages. The location and designation of said spaces is shown on a plan entitled "As-Built Site Plan of Lot 8, Building No. 5, Moody Point Condominium II Association, Inc., Cushing Road, Newmarket, NH dated May 12, 1994, by Doucet Survey Company of record. The location and designation of said space is shown on the site plan of record by a lower case letter corresponding to the unit letter. The spaces designated for Unit A are spaces "a"

and the spaces designated for Unit B are spaces "b" and so on.

- 3.5.2. **Use of Parking Spaces:** There shall be no parking or storage of recreational vehicles, boats, trailers, travel or camping trailers in the parking spaces described above. No unregistered or uninspected motor vehicles shall be parked or stored in said spaces for more than ten (10) days. The Board of Directors shall have the right to remove by whatever means, at the vehicle Owner's expense, any unregistered or uninspected motor vehicle which remains on the property after ten (10) days.
- 3.5.3. **Decks:** Each Unit Owner shall have exclusive use of a deck or decks attached to the unit. The exact number of decks attached to a particular unit, and the location and dimensions of each deck is as shown on the floor Plans to be recorded herewith. The Unit Owner shall be responsible for the general maintenance of the deck or decks attached to his unit and shall further keep same in a neat and orderly manner. The Association of Unit Owners shall be responsible for the painting, staining and repair of the decks and shall maintain same in a uniform color and condition. The expense of painting, staining and repair made necessary by ordinary wear and tear, accident, or act of God, shall be borne by the Association. Painting, staining and repair made necessary by damage resulting from abuse beyond ordinary wear and tear or negligence of the Unit Owner shall be performed by the Association but at the expense of the Unit Owner. Determination as to what constitutes damages caused beyond ordinary wear and tear or negligence of the Unit Owner shall be made exclusively by the Board of Directors. The Association shall be entitled to a lien against the unit for any repairs made by it which the Board of Directors determines to be caused by abuse beyond ordinary wear and tear or negligence of the Unit Owner for which the Unit Owner refuses to pay. Liability and hazard insurance for the decks shall be the responsibility and expense of the Association.
- 3.5.4. **Gutters and Attachments:** The Association shall be responsible for the maintenance and cleaning of gutters and downspouts. The Board must approve any replacement or new project; of which the Association pays for labor and the Owner pay for materials.
- 3.5.5. **Appurtenances:** The maintenance and repair of any Owner-added appurtenance, such as an awning, to a unit is the sole responsibility of that Unit Owner. All such appurtenances must be approved in writing by the Board of Directors or risk being removed at the Unit Owner's expense.
- 3.6. **Allocation of undivided interest in common areas:** An equal undivided interest in the common areas is allocated to each unit. The total number of units shall not be more than twenty-six (26).

- 3.7. The maximum number of units in the condominium is twenty-six (26) and the minimum percentage interest in the common areas to be allocated to each unit after reallocation is 3.85% (1/26).

ARTICLE IV — USES AND RESTRICTIONS

- 4.1. Units within this condominium shall be restricted to use only as a single-family residence. In no event shall any Owner occupy or use his unit or permit the same, or any part thereof to be occupied or used for any purpose other than a private residence for the Owners and the Owner's family or the Owner's lessee or guests.
- 4.2. Every Unit Owner and all those entitled to occupy units shall comply with all lawful provisions of the Act and all provisions of this Declaration and other Condominium instruments. Any lack of compliance shall be grounds for an action or suit to recover sums due for damages or injunctive relief or for any other remedy available at law or in equity maintainable by the Unit Owners association, or by its Board of Directors, or any managing agent on behalf of such association or, in any proper case, by one or more aggrieved Unit Owners on their own behalf or as a class action.
- 4.3. No Unit Owner is to paint, stain or otherwise change the external appearance of the Owner's unit, any other units, the limited Common Area, or the Common Area (including any building exterior, windows, window grids and coverings, awnings or doors) without the prior written consent of the Board.
- 4.4. The Board may establish, adopt or revise from time to time the standards for certain improvements typically requested by the Owners.

ARTICLE V — RECONSTRUCTION OR REPAIR AFTER CASUALTY AND VOTING REQUIREMENTS IN EVENT OF DAMAGE OR DESTRUCTION

- 5.1. Determination to reconstruct or repair: If any part of the Condominium property shall be damaged by casualty whether or not it shall be reconstructed or repaired shall be determined in the following manner:

5.1.1. Common areas and facilities and limited common areas: if the damaged improvement is a common area, the damaged property shall be reconstructed or repaired unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

5.1.2. Residential buildings:

5.1.2.1. Partial Destruction: If the damaged improvement is a residential building and if any unit in the building is found by the Board of Directors to be tenantable, the damaged property shall be reconstructed and repaired.

5.1.2.2. Total Destruction: if the damaged improvement is a residential building, and if none of the units in the building is found by the Board of Directors to be tenantable, the damaged property will be reconstructed or repaired unless, within 60 days after the casualty, at least 75% of all of the Unit Owners and 51% of institutional mortgagees holding mortgages constituting first liens on units within the condominium, vote not to reconstruct the destroyed building, and in such event, the property shall be deemed to be owned by the Unit Owners; the undivided interest in the property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the common areas and facilities; and liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Unit Owners in the property as provided herein; and the property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the Unit Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the property, after first paying out of the respective shares of the Unit Owners to the extent sufficient for the purpose, all liens on the undivided interests in the property owned by each Unit Owner.

- 5.2. Plans and Specifications: Any reconstruction and repair must be substantially in accordance with the plans and specifications for the original building or, if not, then according to plans and specifications approved by the Board of Directors of the Association.
- 5.3. Responsibility: If the damage is only to those parts of a unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Board may, at its sole discretion and in accordance with procedures it so determines, assign responsibility for reconstruction and repair to the affected Unit Owner(s). In all instances, except as noted elsewhere, the responsibility of reconstruction and repair after casualty shall be that of the Association through the Board of Directors.
- 5.4. Estimates of Costs: Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Board

of Directors shall obtain reliable and detailed estimates of the cost to rebuild or repair.

- 5.5 Assessments: Subject to Section F below, if the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair are insufficient, assessments shall be made against the Unit Owners in the case of damage to common areas, in sufficient amounts to provide funds for the payment of such costs. Such assessments against Unit Owners for damage to units shall be in proportion to the cost of reconstruction and repair of their respective units. Such assessments on account of damage to common areas shall be in proportion to the Owner's share in the common areas.
- 5.6. Deductible Assessment:
- 5.6.1. In the event of an insurance loss where the Association's deductible is excepted from any loss settlement, the Board of Directors shall assess the full deductible against the Owner(s) and/or Unit(s) which is/are the cause of the loss, or, as determined by solely by the Board of Directors, against the Owner(s) and/or Unit(s) for which the insurance claim was processed, or prorated, in a manner to be determined by the Board of Directors, and may be assessed against multiple units if affecting more than one Unit.
- 5.6.2. Unit Owner(s) who have been assessed all or a portion of the Association's deductible shall be obligated to pay, subject to the collection policies established by the Board of Directors, said deductible within 30 days of the billing invoice or notice, or upon the Board's discretion, any such deductible contribution from the Unit Owner may be deducted from any insurance proceeds payments made by the insurer and/or the Board to the Unit Owner. If allowed, Unit Owners may seek reimbursement of any such payments from their individual Unit insurance policies.
- 5.7. Unit Owner: The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a Unit Owner shall be paid by the Board of Directors to the Unit Owner, or if there is a mortgage endorsement as to the unit, then to the Unit Owner and the mortgagee, jointly, who may use such proceeds as they may be advised.
- 5.8. Surplus: The first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be retained by the Board of Directors and distributed to the Association's reserve or capital fund.

ARTICLE VI — INSURANCE

The insurance, other than title insurance, that shall be carried upon the Condominium property and the property of the Unit Owners shall be governed by the following provisions:

- 6.1. **Authority to Purchase and Named Insured:** All insurance policies upon the condominium property shall be purchased by the Board of Directors in the name of and on behalf of the Association. Unit Owners may obtain coverage at their own expense for their personal property for any betterments or improvements made to their unit that are in addition to the unit as originally built, and other risks.
- 6.2. **Coverage:**
 - 6.2.1. **Casualty:** All buildings and improvements upon the land, including all common and limited common areas and all of the units as originally built or modified (such as kitchens or bathrooms), shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs. All personal property included in the common areas shall be insured for its value, all as determined annually by the Board of Directors for the Association. Such coverage shall afford the protection against:
 - 6.2.1.1. Loss or damage by fire and other hazards covered by a standard extended coverage and endorsement.
 - 6.2.1.2. Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism and malicious mischief.
 - 6.2.2. **Public Liability:** In such amounts and with such coverage as shall be required by the Board of Directors of the Association and with cross liability endorsement to cover liabilities of the Unit Owners jointly and severally and the Association, but in a minimum amount of \$1,000,000 per occurrence for bodily injury and property damage.
 - 6.2.3. **Workers' compensation policy** to meet the requirements of New Hampshire law.
 - 6.2.4. Such other insurance as the Board of Directors of the Association shall determine from time to time to be desired.

- 6.3. Premiums: Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.
- 6.4. Insurance Trustee Shares of Proceeds: All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees, as their interests appear, and shall provide that all proceeds covering property losses shall be paid over to the Board of Directors.
- 6.5. Agent: The Board of Directors is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a unit and for each Owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

ARTICLE VII — COMMON AREAS AND LIMITED COMMONS AREAS

The common area and limited common areas shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the units.

ARTICLE VIII — NUISANCES

No nuisances shall be allowed upon the condominium property, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate, nor any fire hazard allowed to exist. No Unit Owner shall permit any use of his unit or make any use of the common areas that will increase the cost of insurance upon the condominium property.

ARTICLE IX — LAWFUL USE

No immoral, improper, offensive or unlawful use shall be made of the condominium property nor any part of it; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

ARTICLE X — ASSOCIATION OF UNIT OWNERS

Each Unit Owner, by virtue of his ownership of a unit shall be a member of the condominium association, to be known as Moody Point Condominium II Association, Inc., hereinafter referred to as the Condominium Association. Such membership shall be appurtenant to the unit and may not be transferred except together with the unit to which it is so appurtenant. The purpose of the Association shall be to operate the condominium. It shall be a non-profit corporation under the laws of the State of New Hampshire.

- 10.1. The Association of Unit Owners shall have all of the powers and duties as set forth in the Act except as limited by this Declaration and Bylaws, and all of the powers and duties reasonably necessary to operate the Condominium as set forth in this Declaration and Bylaws and as they may be amended from time to time. Provided, however, that the power of the Association of Unit Owners, acting through its Board of Directors, to purchase a unit of the Condominium shall be limited to the purchase at involuntary sales and foreclosures of units for assessments for common expenses at which sale the Association of Unit Owners shall bid no more than the amount secured by its lien. This provision shall not be changed without the unanimous approval of the members and the joinder of all record Owners of mortgages upon the condominium units.
- 10.2. Change of membership in the Association of Unit Owners shall be established by recording in the Registry of Deeds for Rockingham County, State of New Hampshire, a deed establishing record title to a unit in the Condominium. The buyer, upon request from the Board of Directors, shall deliver to the Board of Directors of the Association a copy of the deed showing the Book, Page, and time of the recording of the Deed in the Rockingham County Registry of Deeds. The Board of Directors shall keep such copy on file as evidence of the grantee's membership in the Association of Unit Owners for all purposes, rights and obligations as set forth in this Declaration and Bylaws. The Owner designated by such instrument shall thereby become a member of the Association of Unit Owners. At such time the membership of the prior Owner shall be thereby terminated.
- 10.3. Voting Rights: Each Unit in the Association shall be entitled to cast one (1) vote. Where there is more than one record Owner, any of such persons may attend any meeting of the Association of Unit Owners, but it shall be necessary for those present to act unanimously in order to cast the votes to which they are entitled.
- 10.4. Board of Directors: The affairs of the Association of Unit Owners shall be conducted by a Board of five (5) directors who shall be designated in the manner provided in the Bylaws.

- 10.5. **Indemnification:** Every director and every officer of the Association of Unit Owners shall be indemnified by the Association of Unit Owners 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 a director or officer of the Association of Unit Owners, or any settlement thereof, whether or not he is a director or officer at such time the expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or of malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association of Unit Owners. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

ARTICLE XI — MAINTENANCE, REPAIRS, ALTERATION AND IMPROVEMENT

The responsibility for the maintenance of the condominium property, and restrictions upon the alteration and improvements thereof, shall be as follows:

11.1. Units:

- 11.1.1. By the Association of Unit Owners. The Association of Unit Owners shall maintain, repair and replace:

11.1.1.1. All portions of the common area and facilities and limited common areas appurtenant to the units and not included within the boundaries of the units as elsewhere defined, which portions shall include but not be limited to, all portions of a building, except wall board and interior surfaces, contributing to the support of the building, and all outside walls of the building, and all fixtures on the exterior thereof, including the decks, boundary walls between units, floor and ceiling slabs, intervening floors, load bearing columns and load bearing walls. All such repairs shall be at the Association of Unit Owner's expense, except as hereinafter or herein before set forth.

11.1.1.2. All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portion of a building maintained by the Association of Unit Owners, and all such facilities contained within a unit which service part or parts of the condominium other than a unit within which contained.

11.1.1.3. All incidental damage caused to a unit by such work shall be promptly repaired at the expense of the Association of Unit Owners.

11.1.1.4. All water lines and all sewer lines that do not belong to the Town of Newmarket or the private water company that are located on the condominium property (and not within a condominium unit) shall be common areas, and shall be maintained and repaired by either the Association or the Moody Point Community Association.

11.2.1. By the Unit Owner: The responsibility of the Unit Owner shall be as follows:

11.2.1.1. To maintain, repair and replace, at his expense, all portions of his unit, except the portions to be maintained, repaired and replaced by the Association of Unit Owners.

11.2.1.2. To clean, repair and replace all glass, outside light bulbs, outside water and electrical outlets and all doors appurtenant to this unit, although the glass, outside lights, outside water and electrical outlets and exterior doors may be common areas and facilities, or to pay the cost as assessed by the Association to clean, repair and replace the glass, outside light bulbs, outside water and electrical outlets and doors which the Unit Owner has neglected to repair.

11.2.1.3. To maintain, repair and replace, at his expense any fireplace vent system which is a part of an individual unit, including the metal collar in the ceiling of the unit, and the metalbestos flue pipe running from the ceiling, though the roof of the condominium and beyond, or in the case of a masonry fireplace system, all of said flue and chimney extending through the ceiling and roof of the condominium and beyond. The Unit Owner shall be responsible for the cleaning of the wood stove vent system which shall be maintained in a safe condition at all times. All such cleaning shall be performed by a professional chimney cleaner. The Association shall, however, have a professional chimney cleaner inspect all vent systems annually. Any vent system deemed by it to require cleaning shall be cleaned by said professional chimney cleaner at the time. The Association shall have such easements as are necessary to accomplish same. The Association shall pay for such annual inspection. Any additional cleaning and any needed repairs shall be performed only by professional contractors or chimney cleaners as needed at the expense of the Unit Owner. Notwithstanding the above, the Unit Owner and not the Association shall be solely responsible for the safe operation of the venting system.

11.2.1.4. To not disturb the rights of other Unit Owners in effectuating maintenance, repair and replacement of his unit.

11.2.1.5. To promptly report to the Association any defects or need for repair, the remedying of which is that of the Association of Unit Owners.

11.2. The limited common area shall be the responsibility of the Association of Unit Owners and a common expense, except as otherwise provided herein.

ARTICLE XII — ASSESSMENTS

The making and collection of assessments against the Unit Owners for common expenses shall be pursuant to the Bylaws and subject to the following provisions:

- 12.1. Share of common expenses and common profit: Each Unit Owner shall be liable for an equal share of the common expenses and shall share in the common profits, such shares being the same as the undivided shares in the common area and facilities and limited common area which is appurtenant to the unit owned by him as set forth in Article 3, Section 6. Provided, however, that the share of the common expenses and common profits attributable to any unit declared to have been untenable for over 60 days because of damage due to casualty or fire by Board of Directors of the Association of Unit Owners, shall be abated until said untenable unit is determined to be tenable by the Board of Directors. During such periods of abatement, the share of the common expenses and common profits attributable to such unit or units shall be prorated and borne among the remaining completed units in the shares which their shares in the common areas bear to each other. In the event of foreclosures by an institutional mortgagee holding a mortgage constituting a first lien on a unit within the condominium, said mortgagee shall be exempt from payment of any assessment due prior to foreclosure. Said delinquent assessments may be reallocated as a common expense payable by all Unit Owners.
- 12.2. Interest/Application of Payments: Assessments and installments shall be due and payable on the 1st day of each month and shall be considered late if not received or postmarked by the 15th day of each month. Each assessment not paid when due shall accrue a late charge in the amount of \$25.00. All or any late fees assessed may be waived at the discretion of the Board of Directors for good cause shown.
- 12.3. Lien for Assessment: The lien for unpaid assessments as provided in NH RSA356-B:46 shall also secure reasonable attorney's fees incurred by the Association of Unit Owners incident to the collection of such assessment in the enforcement of such lien. Any such lien shall be subordinate to any first mortgage lien of record at the time of recording the lien for Assessments.

- 12.4. **Rental Pending Foreclosure:** In any foreclosure of a lien for assessment, provided by NH RSA 356-B:46, the Owner of the unit subject to the lien shall be required to pay a reasonable rental for the unit and the Association of Unit Owners shall be entitled to the appointment of a receiver to collect same.

ARTICLE XIII — MOODY POINT COMMUNITY ASSOCIATION, INC.

The Moody's Point Company, the original Owners of the land upon which this Condominium, other condominiums, and other single-family houses have been or may be constructed, have transferred, subject to certain restrictions, Lots #4 and #11 as shown on a plan entitled "Final Site Plan, Moody Point," Owner: Moody Point Company, Newmarket, N.H., revised August 1985 by Frederick E. Drew Associates of record in the Rockingham County Registry of Deeds, to the Moody Point Community Association, Inc. by deed of record at said registry. Additional rights and easements were also conveyed to said Association in said deed. Other provisions with respect to said Community Association are as follows:

- 13.1. The said Community Association is a New Hampshire voluntary corporation formed under the provisions of NH RSA 292. Each Unit Owner in the Moody Point Condominium II, Inc., by virtue of his ownership of said unit, is hereby required to be a member in said Community Association.
- 13.2. Membership in said Community Association is separate and distinct from membership in the Condominium Association. The Community Association and any land or interests in land, owned, dedicated or leased by it, are specifically not dedicated nor shall they be dedicated to the Condominium Act under the provisions of NH RSA 356-B.
- 13.3. All present or future Owners of the following properties shall similarly be required to be members of the Moody Point Community Association, Inc.:
- 13.3.1. Lot #1 on the Moody Point Subdivision plan.
- 13.3.2. Lot #12 on the Moody Point subdivision plan (or any re-configuration of same) if same is not made a part of the Moody Point Condominium and is alternatively established as a single family house lot.
- 13.3.3. Lot #6 on a plan entitled "Final Subdivision Plan for Roland F. Cate, Smith Garrison Road and Moody Point Drive, Newmarket, N.H." KB. Moore and B.C. Staples, land surveyors, April 1977, recorded as Plan D-6855 at the Rockingham County Registry, which lot with the buildings situate thereon at the time Moody Point Community Association, Inc. was developed

was owned by The Moody's Point Company.

13.3.4. Thirty-six (36) units in Moody Point Condominium and Moody Point Condominium - Phase II, as situated on Lot #3 and Lot #5 as shown on a plan entitled "Revised Final Site Plan, Moody Point" Owner, The Moody's Point Company, dated August 1982, Revised October 1983, August 1985, and April 1987, by Frederick F. Drew Associates, recorded October 14, 1987, as Plan D-17107 at the Rockingham County Registry of Deeds.

13.3.5. Twenty (20) Lots situated at "The Hill at Moody Point" as shown on the plan entitled "The Hill at Moody Point, Revised Final Site Plan Lots 10-1 through 10-16 and 9-1 through 9-4 (being a revision of original Lots 9 and 10), Moody Point, Construction Phase, Step 1," Newmarket, N.H., of record at the Rockingham County Registry of Deeds.

13.3.6. Eleven (11) Lots as shown on a plan entitled "Lubberland at Moody Point on Great Bay, Revised Final Site Plan Lots 6-1 through 6-11 (being a revision of original Lot 6, Moody Point, Construction Phase, Step 1," Newmarket, N.H., of record at the Rockingham County Registry of Deeds.

- 13.4. Each member shall be entitled to cast one vote for each of the above described condominium unit or units and one vote for each of the above described house lot or lots which he or she owns and each member shall be required to pay an equal share of the assessments levied by said association.

ARTICLE XIV — NOTICE AND APPROVAL

- 14.1. Any mortgagee shall be entitled to and shall receive notice of any action in such instances as notice to the Unit Owner is required, including but not limited to condemnation, casualty loss, delinquency in payment of assessments, and/or changes or cancellations in insurance or any action requiring consent of said Unit Owner.
- 14.2. In addition thereto, any matters requiring the approval of the Unit Owners relating to (1) termination of legal status, (2) any decision to establish new Management by the Owner's Association, or any additions or amendments to the condominium documents, shall require the approval of two-thirds (2/3) of eligible Unit Owner voters.

ARTICLE XV — AMENDMENTS

Except as otherwise provided in the Act and herein, this Declaration may be amended by the vote of at least two-thirds (2/3) of the Unit Owners, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws.

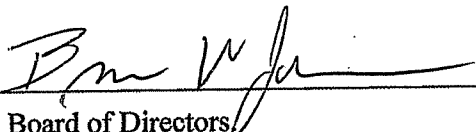
ARTICLE XVI — INTERPRETATION

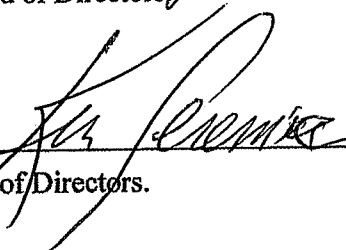
The provisions of the Declaration shall be liberally construed in accordance with the common law and statutory law of the State of New Hampshire in order to affect its purpose of creating a uniform plan for the development and operating of a condominium project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provisions or any other provision hereof.

ARTICLE XVII — SEVERABILITY

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or un-enforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

MOODY POINT CONDOMINIUM II ASSOCIATION, Newmarket, N.H.

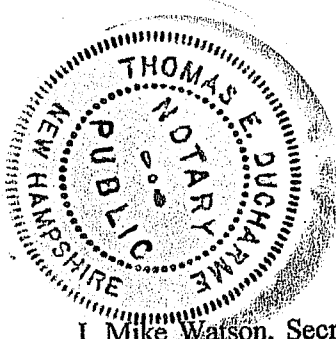
Board President: 
Name: Bruce Johnson, Board of Directors

Board Vice President: 
Name: Ken Geremia, Board of Directors.

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Personally appeared Bruce Johnson, Board President, and Ken Geremia, Board Vice President, who acknowledged themselves to be President and Vice President of the Moody Point Condominium II Association, and acknowledge that they executed the foregoing instruments for and on behalf of said Moody Point Condominium II Association for the purpose herein contained and acknowledged the foregoing to be their free act and deed.

Date: January 29, 2010



Thomas E. Ducharme
Thomas E. Ducharme
Notary Public
My Commission Expires on December 21, 2010

CERTIFICATION OF THE CLERK

I, Mike Watson, Secretary of the Moody Point Condominium II Association do hereby certify that the above amended Declaration was approved by a written affirmative vote of the Unit Owners in the Association representing at least 2/3rds of the Units at the Moody Point II Condominium Association and that said vote complied with the requirements of the Declaration for amending the Declaration.

Date: 1/29

Mike Watson
Mike Watson, Secretary
Moody Point Condominium II Association

Moody Point Condominium II Association
c/o Evergreen Management, Inc.
17 Commerce Drive
Bedford, NH 03110

EXHIBIT A

Description of Lots 7 and 8 that is made part of the condominium under this declaration and as shown on a plan entitled "Moody point Condominium II Association, Incorporated, Revised Final Site Plan, Lots 7 & 8 (Being a revision of original lots 7 & 8), Newmarket, New Hampshire, dated August 4, 1992, by Lamprey River Survey company, of record in the Rockingham county Registry of Deeds.

Lot 7:

Beginning at a point on the southerly sideline of said Cushing Road at Lot #8 as shown on said plan; thence running by and along said Cushing Road the following courses and distances:

On a curve to the left with a radius of 1,025.0 feet a distance of 64.0 feet; N 80° 32' 59" E a distance of 243.72 feet on a curve to the right with a radius of 75.0 feet a distance of 130.77 feet; S 00° 26' 46" W a distance of 315.37 feet on a curve to the right with a radius of 95.0 feet a distance of 212.12 feet; N 51° 37' 15" W a distance of 167.80 feet on a curve to the left with a radius of 225.00 feet a distance 143.11 feet to a point at Lot #8; thence turning and running N 02° 22' 59" E by and along said Lot #8 a distance of 263.99 feet to a point on the southerly sideline of said Cushing Road and the point of beginning. Containing 3.53 acres.

Lot 8:

Beginning at a point on the southerly sideline of said Cushing Road at Lot #7 as shown on said plan; thence running S 02° 22' 59" W by and along said Lot #7 a distance of 263.99 feet to a point on the northerly sideline of said Cushing Road; thence turning and running by and along said Cushing Road the following courses and distances: N 88° 03' 47" W a distance 514.07 feet on a curve to the right with a radius of 25.0 feet a distance of 39.27 feet; N 01° 56' 12" E a distance of 172.84 feet on a curve to the right with a radius of 75.0 feet; a distance of 122.41 feet; S 84° 33' 09" E a distance of 277.99 feet on a curve to the left with a radius of 1,025.0 feet a distance of 202.52 feet to a point at Lot #7 and the point of beginning. Containing 3.33 acres.

EXHIBIT B

Go to www.nhdeeds.com, search by site plans, enter plan number 32436 to view the registered drawing that provides the list of units and their addresses.