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ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

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BURNHAVEN  
WILLOW BROOK ROAD  
STRATHAM, NEW HAMPSHIRE

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**DECLARATION OF BURNHAVEN,  
A Condominium Project Submitted Under R.S.A. CHAPTER 356:b  
Willow Brook Road  
Stratham, New Hampshire  
To be Known as the "Burnhaven Project"**

**WHEREAS**, Burnhaven, Inc., a New Hampshire Corporation, with a place of business at 142 Portsmouth Avenue, Stratham, New Hampshire, desires to establish a twelve (12) unit project to be called "BURNHAVEN".

**NOW, THEREFORE**, the following is hereby declared:

1. This Declaration shall become effective on the date it shall be recorded in the Rockingham County Registry of Deeds.

2. Burnhaven, Inc. is the owner of the land submitted herein and the improvements thereon, or to be placed thereon, by virtue of a deed recorded at the Rockingham County Registry of Deeds at Book 2898, Page 1776. The Submitted Land is described in Exhibit A. The entire development is shown on a Plan recorded at the Rockingham County Registry of Deeds as Plan #D-19725.

3. The Declarant hereby submits the above land and buildings to the form of ownership and use, in the manner provided by RSA Chapter 356:B.

I. **DEFINITIONS**

A. **Association** means the Association of the Unit Owners of the Burnhaven Project. (Also sometimes referred to herein as the "Project").

B. **Common Area** means the areas, facilities and all portions of the Project other than the units, including but not limited to the roadways, utilities, sewer, water and well facilities and the land areas not included within the units. The common area sewer facilities shall include all of the sewer

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septic systems, pipes, lines, pumps, stations or equipment servicing the Project, which are or may be located on the common areas.

C. Limited Common Area. There are no limited common areas within this Project.

D. Common Expenses include, expenses of administration, expenses of maintenance, operation, repair or replacement of the Common Areas and facilities and the portions of the units to be maintained by the Association (if any), expenses assessed for reserves and such future common expenses for which assessments are not yet due and payable. The term Common Expenses shall include any valid charge against the Project as a whole.

E. Declarant means Burnhaven, Inc. and is synonymous and interchangeable with the term "developer".

F. Unit means a single "land unit" or a land unit which contains a dwelling (sometimes referred to as an "entire unit").

G. Owner shall mean the record title holder of a unit.

H. Site Plan shall mean the Plan entitled Burnhaven Phase I Plan, recorded at the Rockingham County Registry of Deeds as Plan #D-2430, and any additional or supplementary site plans which may be recorded at the Rockingham County Registry of Deeds.

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II. DEVELOPMENT PLAN

A. This Project consists of a maximum of sixty (60) single family residential "units". Under the Town of Stratham Zoning and Land Use Ordinance "clustered" developments of the kind declared herein are permitted under the Condominium form of ownership. The Site Plans approved by the Town of Stratham Planning Board which depict the entire development are recorded at the Rockingham County Registry of Deeds as Plan #D-19725.

The Declarant has chosen to construct or develop and the Project in phases. The first phase includes units 1, 2, 3, 4, 5, 6, 55, 56, 57, 58, 59 and 60, or a total of twelve (12) units.

The Declarant has also chosen to declare the units as "land units" with the requirement and stipulation that the entire unit consist not only of the land unit but also the residential structure constructed or which in accordance with this Declaration, may be constructed thereon. Thus, any purchaser of a "land unit" shall be required to construct a single family dwelling thereon, in accordance with the provisions of this Declaration, in order to complete the entire unit or, in the event that the purchaser shall not contract the single family dwelling, be subject to the rights of the Declarant or the Association as described hereunder. The Declarant itself, may chose to engage in the construction of those dwellings and to market and sell both the land units and the dwelling as a completed unit.

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The "land unit" is shown on the Site Plan. For the purposes of RSA Chapter 356-B, that Site Plan shall serve as the Floor Plan for the land unit component of each of the units declared hereunder. In the event that the Declarant shall sell or convey any land unit, the purchaser shall at the time of the conveyance, be required to record floor plans which comply with RSA Chapter 356-B:20 and, upon the completion of the dwelling to record the certification by a registered engineer which also shall comply with RSA Chapter 356-B:20. Any sales or conveyances by the Declarant of any land unit with dwelling thereon, as a completed unit, shall be accompanied by floor plans and an engineer's certificate which shall comply with the provisions of RSA Chapter 356-B:20.

B. The land area submitted to this Project is described in Exhibit A attached hereto.

C. This Condominium is an Expandable Condominium, whereby the number of units may be increased to not more than a total of sixty (60) units. See Exhibit B for a description of the Expandable provisions of this Condominium.

D. Access to the Project shall be by way of Willow Brook Road, a public road.

E. The roadways, and water systems are private systems and, will be maintained by the Association.

F. The maintenance, repair, upkeep and replacement of the units shall be the responsibility of the individual unit owner, subject to the rights of the Association, as provided in the By-Laws.

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In addition, the each unit owner shall be responsible for the payment of a proportionate share of the cost of the maintenance and repair of the septic system which services his unit. The term "proportionate share" shall be equal to the total of the said costs divided by the number of units serviced by the said septic system. The Site Plan shows which units are serviced by each septic system. For the purposes of this Declaration each unit owner shall be deemed to have granted an easement over and upon his land unit to the other unit owner(s) whose unit(s) shall be serviced by the septic system or portion thereof which is located upon his unit. Those easements shall be deemed reciprocal in nature such that each unit shall be serviced by a septic system which lies in whole or in part within the land unit of another unit owner shall have all rights necessary to use the said system, and pipes, pumps, or other apparatus associated therewith; to service his unit. The By-Laws contain the provisions granting authority in the Board of Directors to engage in the maintenance and repair of the said septic system.

III. THE FOLLOWING PROVISIONS SHALL DETERMINE THE BOUNDARIES OF EACH UNIT

The boundaries of the land unit component of each unit are shown on the Site Plan. Upon the completion of the construction of the dwelling portion of each unit, the boundaries of each unit shall continue to be the boundaries of the land unit.



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IV. THE PERCENTAGE OF THE UNDIVIDED INTEREST IN THE  
COMMON AREAS AND FACILITIES PERTAINING TO EACH UNIT

Subject to the expandable land provisions recited in Exhibit B, each of the twelve (12) units declared hereunder shall have a 1/12th undivided interest in the common areas and facilities. This provisions shall apply regardless of the size of the land units or buildings constructed or to be constructed within the Project.

V. STATEMENT OF PURPOSES; USES AND RESTRICTIONS

A. Provisions Pertaining to the Construction of the  
Dwelling Unit - Components of Each Unit

1. The Declarant, or the Board of Directors of the Association (when it shall be elected), shall constitute an "Architectural Control Committee" (hereinafter referred to as the "Committee"). The purposes of that Committee shall be to approve of any construction of the dwelling which are to be constructed within the condominium, and to enforce the "Architectural Controls" provisions of this Declaration.

2. Prior to the purchase of any land unit as described in this Declaration, each purchaser of a land unit shall submit and shall obtain the approval by the Committee, of all building plans for any dwelling or accessory structures, including garages, breezeways, fences, walls, or swimming pool. The approval of those plans by the Committee shall be evidenced by a document signed by the Committee which shall accompany the floor plans for the said building which shall be recorded at the Rockingham County Registry of Deeds at the time of the conveyance of the said land unit.

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Each purchaser of a land unit shall be required to commence construction of the dwelling upon the land unit, not later than five (5) years after the date of the recording of the land unit deed to the purchaser, and upon the commencement of construction, to complete the said dwelling within six (6) months thereafter.

In the event that the purchaser shall fail to comply with the above construction provisions, the Committee shall have the right to purchase the land unit with any conditions or improvements thereon for an amount equal to the original sales price of the land unit, plus the actual costs of any improvements made to the land unit, or the amount of any outstanding mortgage balance(s), whichever is more. The Committee shall exercise the said re-purchase right by written notice which shall be sent to the unit owner and any mortgagee, not later than forty-five (45) days after the applicable date of the purchaser's default as provided above. The closing shall occur within forty-five (45) days after the date of the said notice. This right to re-purchase shall be deemed to be an encumbrance on the title to any land unit, and shall take precedence over any other lien, mortgage or encumbrance placed upon the said unit, or any improvements constructed thereon, except real estate taxes or any other statutorily superior lien or encumbrance. The Committee shall have the right to use the proceeds of the purchase price to pay and satisfy any mortgage, lien, encumbrance or taxes which may apply to the said unit.

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Upon the purchase by the Committee of any such unit, it shall have a period of three (3) years during which it shall do or perform one of the following:

a) If the land unit shall contain a partially completed dwelling, the Committee shall (i) either complete the dwelling and become the owner of the completed unit, with all of the rights and duties of a unit owner hereunder, or (ii) convey the said unit to a third party purchaser, who shall be obligated to complete the said dwelling within a one (1) year period from the date of purchase, provided that such a purchaser shall, as a condition to that purchase, bond the completion of the said unit by an Irrevocable Letter of Credit in an amount as shall be determined by the Committee. If the said purchaser shall fail to complete the said dwelling within the said one (1) year period, the Committee shall exercise its rights under the Letter of Credit and use the proceeds thereof to complete the dwelling, all within one (1) year after the receipt of the Letter of Credit proceeds. Upon the completion of the dwelling, as provided above, either the third party purchaser, or the Committee, shall have all of the rights and duties of a unit owner hereunder.

If the Committee shall exercise either of the alternatives described in a) (i) or a) (ii) above, it shall have the right to change or approve of any change to the original floor plans which may have been recorded in connection with any partially completed unit, provided that all such floor

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plan changes or amendments shall be recorded at the Rockingham County Registry of Deeds, at the time of any conveyance of the said unit by the Committee.

If the Committee shall choose not to exercise its re-purchase rights as described above, the said land unit shall not be sold, conveyed, mortgaged or encumbered, without the consent of the Committee, under such terms as it shall deem advisable and necessary for the completion of a residential dwelling thereon.

b) If the said land unit shall not contain any improvements after the purchase by the Committee of the said land unit, as provided above, the Committee shall have the same rights and duties as the Declarant under this Declaration, with respect to the sale of land units.

c) The Committee shall record at the Rockingham County Registry of Deeds such affidavits, certifications or documents reasonably necessary to inform any third party as to the actions which may or shall be taken by the Committee pursuant to the above.

**B. Architectural Controls**

Subsequent to the completion of any building accessory use or other improvement as described or provided for in Paragraph 2 above, no other, or additional building, garage, breezeway, patio, septic system, walkway, driveway, fence, wall, swimming pool, or other structure shall be commenced, erected, placed, altered or maintained within any unit, nor shall exterior addition to or change or alteration

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therein be made, nor shall utility lines and associated facilities be granted or permitted until the building plans, specifications shall have been submitted to and approved in writing by the Committee. Provided, however, that unit owners shall be allowed to construct attached garages where the initial construction did not include a garage, and to add a deck, porch or other similar structure to the back of a dwelling, and to install a swimming pool in the back yard, all subject to the review and approval by the Committee.

C. Use and Other Restrictions

The following restrictions shall be applicable to this Project.

(a) No building or other structure shall be erected, placed, or allowed to stand on any unit for any purpose other than for a residence for a single family or in connection with such a residence, nor shall such a building or structure be used in whole or in part for carrying on any trade, commerce or profession. It is not meant hereby to prohibit use of the structures by its occupants as accessory office and work space in conjunction with a primary office and work location outside the home. Such use will be allowed only if no external evidence of such use exists, and such use complies with the Town of Stratham Zoning Ordinance.

(b) Grades shall not be changed in such a way as to divert the natural flow of water onto adjoining properties, or to flood or damage public roads or common drainage systems unless dictated by state or local authorities.

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(c) No unit shall be used or maintained as a dumping for rubbish, trash, old automobiles or similar materials offensive or degrading in appearance. No trash, garbage or other waste shall be kept except in sanitary containers not visible from any street or any other unit (except when such items are placed outside for pickup on the day of collection). All other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Garbage, trash or other refuse shall be removed at suitable, regular intervals, and no burning of garbage, trash or other refuse shall be done.

(d) No farm animal or fowl shall be maintained on any unit, other than household pets, as may be approved by the Declarant or the Board of Directors of the Association, nor shall such pets be bred or maintained for purpose of resale.

(e) No sign or advertising material shall be displayed on any unit, save for purposes serving the initial construction or subsequent resale of the residence thereon.

(f) No above ground swimming pool shall be permitted on any unit, and any approved swimming pool shall be suitably screened from adjacent units by approved trees, shrubs and/or fences.

(g) No permanent installation of a radio, television and/or cable receiving antenna or dish shall be constructed on the exterior of any building nor on any portion of any unit except upon approval by the Committee.

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(h) No exterior lighting shall be permitted of such intensity that would unreasonably disturb owners of other lots subject to these restrictions.

(i) The following items may not be maintained in open storage: unregistered vehicles, boats, campers, trailers, machinery, supplies or materials.

(j) No owner shall be required to construct a garage but the unit owner who shall choose to construct a garage on his unit shall limit such construction to a one or two vehicle garage. Outside parking of registered vehicles shall not be limited in number, but such parking shall not be permitted along the common roadways.

(k) There shall be no obstructions of the Common Areas, except in the case of designated storage areas, if any. Nothing shall be stored in the Common Area without the prior consent of the Board of Directors.

(l) Nothing shall be done or kept in any unit or in the Common Area which will increase the rate of insurance in the Common Areas without the prior written consent of the Board of Directors. No owner shall permit anything to be done or kept in his unit or in the Common Areas which will result in the cancellation of insurance on any unit or any part of the Common Areas or which would be in violation of any law. No waste will be permitted in the Common Areas.

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(m) No noxious or offensive activities shall be carried on in any unit or in the Common Areas, nor shall anything be done herein which may become an annoyance or nuisance to the other unit owners.

(n) Nothing shall be altered or constructed or removed from the Common Area except upon the written consent of the Board of Directors.

(o) There shall be no violation of the rules of the use of the Common Areas or Limited Common Areas, as adopted by the Developer or the Board of Directors and furnished in writing to the owners, and the Developer or the Board of Directors are authorized to adopt such rules.

(p) Insofar as may be necessary, the Developer, its assigns or grantees and persons that it or they may select shall have the right of ingress and egress over, upon, across and through the Common Areas and the right to store materials thereon and to make such other use of the said Common Areas as may be reasonably necessary and incident to the construction, and development of the said Project including the right to transact any business on the property necessary to consummate sales of units, including, but not limited to, the right to maintain models, having signs identifying units, maintaining employees in the office, use of the Common Areas and facilities on the property, and to show units for sale. All furniture, fixtures and equipment in the model units, and all signs and items pertaining to sales shall not be considered Common Areas



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and shall remain the property of the Declarant. The Declarant shall be responsible for common charges for each declared but unsold unit.

(q) The land units shall not be rented. Completed units may be rented, provided the occupancy is only by the Lessee and his family and guests. The provisions of the By-Laws relating to rental of units are to be complied with.

(r) The land unit areas associated with each unit as shown on the Site Plan shall be used by the unit owner solely for uses customarily associated with single family residential uses, including mowing and yard maintenance, barbeque and lawn furniture. Any use other than such mowing, yard maintenance, barbeques and lawn furniture shall be subject to the approval of the Declarant or the Board of Directors of the Association and if such uses or any other permitted uses shall, in the judgment of the Declarant or the Board of Directors, become a nuisance or unreasonable disturbance, the Declarant or the Board of Directors shall have the right and authority to require that such uses cease or be abated. If in the judgment of the Declarant or the Board of Directors the said limited common yard area(s) are not being properly maintained, the Declarant or the Board of Directors shall have the right and authority to engage in such maintenance and assess the unit owner for the cost thereof.

VI. AGENT FOR SERVICE OF PROCESS

Until such time as the Developer transfers the right and responsibility to elect a Board of Directors to the owners as provided in the By-Laws, the name and address of the person

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in the State of New Hampshire, for the Service of Process in matters pertaining to the property is John J. Ryan, Attorney at Law, 459 Lafayette Road, Hampton, New Hampshire; thereafter, the person to receive service of process shall be any member of the Board of Directors or Manager residing in Rockingham County, State of New Hampshire. If no member of the Board of Directors or Manager resides in Rockingham County, the person to receive Service of Process shall be designated by formal amendment to this Declaration as herein provided.

VII. EASEMENTS ARE RESERVED TO THE PROJECT AS MAY BE REQUIRED FOR UTILITY SERVICES IN ORDER TO ADEQUATELY SERVE THE PROPERTY.

Provided, however, such easements through a unit or located on the land unit shall be shown on the Floor Plan of the unit.

VIII. CHANGES IN PRICE - ALTERATION OF UNIT PLANS

To meet the particular requirements of prospective purchasers and materials and for other reasons, the Developer reserves the right, so long as it is the owner of any unsold units, to change the price of any such units. No change in price of a unit, however, will vary the estimated annual common charges for the unit or its percentage of interest in the Common Areas and facilities or its membership in the Association.

The Developer also reserves the right to change the configuration of any unit, so long as it owns the unit so altered. Such change shall not increase the number of units. Any such change shall be reflected by an amendment to this

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Declaration which may be executed by the Developer alone; provided that such amendment and change shall occur within two (2) years from the date of this Declaration, or upon the conveyance of three-quarters (3/4) of the undivided interests in the Common Areas, whichever occurs first, and such change shall be shown upon an amended site plan recorded at the Rockingham County Registry of Deeds.

**IX. AMENDMENTS**

This Declaration and By-Laws of The Burnhaven Association, except as otherwise provided herein, may be amended by a vote in accordance with the By-Laws of seventy-five (75%) percent of the unit owners, and by an instrument in writing signed, acknowledged and recorded, and such amendment shall be effective upon recording in the office of the Registry of Deeds of Rockingham County, State of New Hampshire, subject to the following:

A. Notice - Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered

B. Pro Viso - Provided, however, that no amendment shall discriminate against any unit owner or against any unit or class or group of units unless the unit owners affected shall consent; and no amendment shall change any unit or the share of the Common Areas appurtenant to it, or increase an owner's share in the Common Areas, unless all the record owners of the units concerned, and all the record owners of mortgages thereon, shall join in the execution of the amendment; however,

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anyone dealing with the Association or attempting to establish title to a particular unit, in the absence of actual knowledge of discrimination on the part of the Association of unit owners, may conclusively rely upon the validity and legality of any amendment to this Declaration recorded in the Rockingham County Registry of Deeds if said amendment is signed, acknowledged and recorded. Neither shall the amendment of this Declaration make any change in the section entitled "Insurance" or in the section entitled "Reconstruction or Repair after Casualty and Voting Requirements in the Event of Damage or Destruction" unless all the owners and all the record owners of mortgages on units in the Project shall join in the execution of the amendment.

C. The requirements of this Article shall not be applicable to the Declarant with respect to the Expandable provisions of this Declaration.

X. COMMON AREAS, ALTERATIONS AND IMPROVEMENTS

There shall be no alteration nor further improvements of the Common Areas without prior approval in writing by the record owners of all of the units; provided, however, that any alteration or improvement of the Common Areas bearing the approval in writing of fifty (50%) percent or more of the unit owners, which does not interfere with the rights of any non-approving owners, may be done if the owners who do not approve are relieved from the cost thereof. Such costs shall be assessed to the consenting unit owners in the shares which their share in the Common Areas bear to each other.

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**XI. ASSOCIATION**

The operation of the Project shall be by an unincorporated association, or by an incorporated association, and the association shall, at any annual meeting, vote as to which type of organization they prefer.

The Association shall have all of the powers and duties as set forth in R.S.A. 356:b, except as limited by this Declaration and By-Laws, and all of the powers and duties reasonably necessary to operate the Project as set forth in this Declaration and By-Laws and as they may be amended from time to time.

**XII. NO REVOCATION OR PARTITION**

The Common Area shall remain undivided and no unit owner nor any other person shall bring any action for partition or division thereof, nor shall the Common Area be abandoned by act or omission, unless this Project is terminated pursuant to Section 34 of R.S.A. Chapter 356:B.

A. Consent of First Mortgages. Notwithstanding any other provision of this Declaration, the By-Laws or the rules, unless at least seventy-five (75%) percent of the mortgagees holding mortgages recorded at the Rockingham County Registry of Deeds constituting first liens on the units subject to such mortgages have given their prior written approval, the Unit Owners' Association and the Board of Directors shall not be entitled to:

- a) By act or omission seek to abandon or terminate this Project;

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- b) Change the pro rata interest or obligations of any unit (i) for the purposes of levying assessments or charges or allocating distributions of hazard proceeds or condemnation awards, or (ii) for determining the undivided percentage interests of each unit in the Common Area;
- c) Partition or subdivide any unit;
- d) 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 use of the Common Area shall not be deemed a transfer within the meaning of this clause); or
- e) Use hazard insurance proceeds for losses to the Property (whether to Units or to Common Area) for other than repair, replacement, or reconstruction of such improvements, except as provided by statute in case of substantial loss to the units and/or Common Area.

**XIII. PRIORITY OF FIRST MORTGAGEES**

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 units pursuant to their first mortgages in the case of the 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. Any first mortgagee who obtains title to a unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage, shall not be liable or responsible for such Unit's unpaid dues, charges or assessments which accrue prior to the acquisition of title to such Unit by the mortgagee. In addition, the holder, insurer or guarantor of the mortgage on any unit in the Project shall be entitled to timely notice of any condemnation or casualty

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loss that affects either a material portion of the Project, or the units securing the mortgage; any sixty (60) day delinquency in the payment of assessments or charges owed by the owners of any unit on which it holds the mortgage; a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association and any proposed action which requires the consent of a specific percentage of eligible mortgage holders. The said mortgagee shall request the above in writing.

XIV. INVALIDITY

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 the 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

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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.

XV. **WAIVER**

No provision contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same irrespective of the number of prior violations which may have occurred.

XVI. **EFFECTIVE DATE**

This Declaration shall take effect upon recording.

IN WITNESS WHEREOF, the Declarant has set its hand on this 17th day of May, 1992.

[Signature]  
Witness

[Signature]  
BURNHAVEN, INC.  
Susan J. Conway, Duly Authorized Officer

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

May 19, 1992

Personally appeared the above named Susan J. Conway, President of Burnhaven, Inc. and acknowledged the foregoing instrument as her free act and deed and that of the said Corporation.

Before me,

[Signature]  
Justice of the Peace



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**EXHIBIT A**

A certain tract or parcel of land with buildings or improvements thereon or to be constructed thereon, situated in the Town of Stratham, County of Rockingham, State of New Hampshire, and bounded and described as follows:

Beginning at a point, at a cement bound on the easterly side of Willow Brook Road, thence S. 65° 28' 07" E. for a distance of 159.58 feet to a point; thence N. 27° 06' 02" E. for a distance of 300 feet to a point; thence S. 37° 09' 00" E. for a distance of 19.01 feet to a point; thence S. 37° 15' 20" E. for a distance of 198.14 feet to a point; thence S. 34° 01' 57" E. for a distance of 56.79 feet to a point; thence S. 37° 15' 16" E. for a distance of 113.62 feet to a point; thence S. 36° 42' 31" E. for a distance of 139.39 feet to a point; thence S. 37° 13' 51" E. for a distance of 252.93 feet to a point; thence S. 53° 10' 54" W. for a distance of 95.59 feet to a point; thence S. 53° 10' 54" W. for a distance of 72.80 feet to a point; thence along a curve with a radius of 5988 feet and a length of 76.78 feet to a point; thence along a curve with a radius of 30.00 feet and a length of 46.97 feet to a point; thence N. 44° 22' 30" W. for a distance of 24.01 feet to a point; thence along a curve with a radius of 163.00 feet and a length of 26.83 feet to a point; thence S. 56° 27' 56" W. a distance of 37.11 feet to a point; thence N. 33° 32' 04" W. for a distance of 136.61 feet to a point; thence S. 69° 47' 00" W. for a distance of 66.79 feet to a point; thence S. 86° 51' 18" W. for a distance of 93.32 feet to a point; thence N. 67° 45' 54" W. for a distance of 124.00 feet to a point; thence N. 67° 45' 54" W. for a distance of 26.94 feet to a point; thence N. 65° 37' 08" W. for a distance of 73.61 feet to a point; thence N. 75° 58' 05" W. for a distance of 80.08 feet to a point; thence N. 78° 35' 01" W. for a distance of 5.45 feet to a point; thence N. 12° 23' 51" E. along the easterly side of Willow Brook Road for a distance of 191.04 feet to a point; thence N. 14° 54' 43" E. for a distance of 109.50 feet to the point of beginning.

Meaning and intending to describe a certain 6.34 acre parcel, shown on a plan entitled "Burnhaven - Plan showing Phase I and Expandable Land"

Also included in this conveyance are all rights of access and egress over any roadway which may be constructed within the above premises, to the subject premises, and all rights in and to any utilities which may be constructed with the above roadways.

Also included within the conveyance are all easements necessary to Phase I on the use and operation of the improvements to be constructed within Phase I, which easements

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are granted with respect to the Expandable Land as shown on the Site Plan. The said easements shall include all necessary access rights or easements and all utility easements, including water and sewer service, all of which may be located within the Expandable Land as described in Exhibit B, and which may be necessary to the said use of the improvements and facilities with Phase I.

Excepting and reserving from this conveyance are all rights and easements necessary to the use or operation of any improvements within the Expandable Land as defined in Exhibit B, including all rights of access over any roadways within Phase I, and the right and easement to use any utilities, including water and sewer utilities located within the Submitted Land and necessary to the use and operation of the improvements which may be located within the Expandable Land.

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48° W., 90.25 feet to a point; thence continuing S. 54° 53' 10" W., crossing a Public Service Co. of N.H. easement, 138.64 feet to a point; thence continuing S. 53° 46' 39" W., 196.12 feet to a point; thence continuing S. 52° 38' 46" W., 165.44 feet to a point at land now or formerly of John & Genevive Devoe (the last twelve courses being along a fence and/or remains of a stone wall and along land of said Susan J. Conway, Symmes Associates Partnership; thence continuing S. 58° 53' 43" W., along said fence and/or wall and land of said Devoes' 27.47 feet to a point; thence continuing S. 53° 40' 51" W. along said fence and/or wall and land of said Devoes, 346.82 feet to a point at an angle in a wall; thence turning and running N. 46° 12' 30" W. along said wall and along land of said Devoes, 147.94 feet to a point; thence continuing N. 38° 18' 27" W. along said wall and along land of said Devoe, 113.83 feet to a point at an angle in said wall at land now or formerly of Terry & Diana Koerner; thence turning and running N. 53° 55' 49" E., 99.93 feet to a point; thence continuing N. 53° 01' 37" E., 229.40 feet to a point; thence continuing N. 53° 38' 18" E., 227.66 feet to a point; thence continuing N. 53° 58' 03" E. crossing said easement of Public Service Co. of N.H., 231.88 feet to a point; thence continuing N. 53° 52' 14" E., 255.25 feet to a point; thence continuing N. 54° 06' 34" E., 146.36 feet to an angle in the wall; thence turning and running N. 36° 47' 31" W., 172.89 feet to a point; thence continuing N. 36° 19' 31" W., 235.11 feet to a point; thence continuing N. 37° 48' 53" W., 220.65 feet to an angle in said wall; thence turning and running S. 50° 40' 34" W., 222.65 feet to an angle in said wall at land now or formerly of Richard D. Scamman (the last 10 courses being along a stone wall and along land of said Koerners); thence turning and running N. 36° 41' 31" W. along said wall and land of said Scamman, 192.45 feet to a point; thence continuing N. 37° 18' 01" W. along said wall and land of said Scamman, 271.22 feet to a point at land now or formerly of Gary and Carol Rohr; thence continuing N. 37° 27' 04" W., along said wall and along land of said Rohrs, 150.55 feet to a point at land now or formerly of Aberdeen Realty Trust; thence continuing N. 35° 45' 00" W., along said wall and along land of said Aberdeen Realty Trust, 315.41 feet to a point; thence continuing N. 36° 11' 56" W. along said wall and along land of said Aberdeen Realty Trust, 240.24 feet to an angle in said wall on the Easterly side of said Willow Brook Road; thence turning and running N. 65° 55' 46" E. along said Willow Brook Road, a distance of 86.09 feet to a point; thence continuing N. 55° 48' 05" E., still along said Willow Brook Road, a distance of 34.34 feet to a point; thence turning and running S. 62° 56' 27" E., along the access easement shown on said plan, a distance of 155.35 feet to a point at an iron rod to be set; thence turning and running N. 47° 50' 10" E. along said access easement a distance of 90.00 feet to a point; thence continuing N. 47° 50' 10" E. along Lot 1 as shown on said plan a distance of 194.00 feet to a point; thence continuing N. 40° 31' 30" E.,

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still along said Lot 1, a distance of 103.00 feet to a point; thence turning and running N. 25° 09' 34" E., still along said Lot 1, a distance of 85.00 feet to a point; thence turning and running N. 67° 45' 54" W. along land of said grantors, 124.00 feet to a point at the beginning of a stone wall; thence continuing N. 67° 45' 54" W. along said wall and along land of said grantors, 26.94 feet to a point; thence continuing N. 65° 37' 08" W. along said wall and along land of said grantors, 73.61 feet to a point; thence continuing N. 75° 58' 05" W. along said wall and along land of said grantors 80.08 feet to a point; thence turning and running N. 78° 35' 01" W., still along said wall and along land of said grantors, a distance of 5.45 feet to a point at a fence on the easterly side of said Willow Brook Road; thence turning and running N. 12° 23' 51" E. along said fence and along said Willow Brook Road, 191.04 feet to a point; thence continuing N. 14° 54' 43" E. along said fence and along said Willow Brook Road 109.50 feet to the point of beginning.

TOGETHER with an "Access Easement" over a portion of Lot 1 as shown on a plan entitled "Perimeter Subdivision Plan prepared for Aberdeen Realty Trust, dated December 7, 1988" and recorded in the Rockingham County Registry of Deeds as Plan D-18848. The area over which the access is located is described as follows:

BEGINNING at a point on the Easterly side of Willow Brook Road at a drill hole set and running S. 46° 07' 45" E. a distance of 140.00 feet to the land herein conveyed; thence turning and running along the land herein conveyed S. 47° 50' 10" W. a distance of 90.00 feet to an iron rod to be set; thence turning and running along the land herein conveyed N. 62° 56' 27" W. a distance of 155.35 feet to an iron rod to be set on the Easterly side of Willow Brook Road; thence turning and running N. 55° 48' 05" E. along the easterly side of Willow Brook Road, 80.00 feet to a drill hole set; thence turning and running N. 42° 14' 47" E., still along said Willow Brook Road, a distance of 56.47 feet to the point of beginning.

The said "Access Easement includes the right to construct and maintain a roadway, in such location upon said parcel, and of such quality, as may be determined by the Town of Stratham or any agencies thereof, for the purpose of ingress and egress by the Trust, its heirs and assigns, and all others who may have reason to enter upon the land of the Trust hereafter, including the Grantors herein. The above access easement was conveyed by deeds recorded in the Rockingham County Registry of Deeds at Book 2773, Page 0325 and Book 2773, Page 0322 and is subject to the right of French to continue to drain water from the pond on Lot 1 across and onto the Access Easement area and the adjacent portion of the premises herein conveyed. The

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owner of the above described premises shall not impede the flow of water when constructing any roadway upon the Access Easement or otherwise.

The above rights and reservations shall run with the land described above.

This conveyance is also subject to an easement granted to Public Service Company recorded at the Rockingham County Registry of Deeds at Book 1570, Page 134, and to an easement granted to New Hampshire Electric Company recorded at the Rockingham County Registry of Deeds at Book 1235, Page 0423.

EXCEPTING AND RESERVING from the Expandable Land are the premises described as the Submitted Land under Exhibit A of this Declaration. As a result, the area of the Expandable Land is 46.74 acres.

Also included within the conveyance are all easements necessary to the use and operation of the improvements to be constructed within the Expandable Land, which easements are granted with respect to the Submitted Land. The said easements shall include all necessary access rights or easements and all utility easements, including water and sewer service, all of which may be located within the Submitted Land as described in Exhibit A, and which may be necessary to the said use of the improvements and facilities with Expandable Land.

Excepting and reserving from this conveyance are all rights and easements necessary to the use or operation of any improvements within the Submitted Land as defined in Exhibit A, including all rights of access over any roadways within the Expandable Land, and the right and easement to use any utilities, including water and sewer utilities located within the Expandable Land and necessary to the use and operation of the improvements which may be located within the Submitted Land.

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EXPANDABLE LAND PROVISIONS

1. The Declarant hereby reserves the right and option to expand the Project to not more than a total of sixty (60) units.
2. The consent of the unit owners will not be required for any such expansion.
3. The Declarant shall record any Amendment(s) to this Declaration expanding the Project, not later than seven (7) years after the date of the recording of this Declaration.
4. If any additional land is added to the Project there are no limitations as to which portions of the Expandable Land must be added.
5. Portions of the Expandable Land may be added at different times and there are no limitations as to the boundaries of the portions of the Expandable Land which may be added.
6. There are no assurances made that any improvements within the Expandable Land will be located in any given portion or area.
7. The maximum number of units that may be created within the Expandable Land is forty-eight (48) units. The maximum number of units per acre that may be created within the Expandable Land is 46.74 acres divided by forty-eight (48) units equals .97 units per acre.
8. The Expandable Land will be restricted entirely to residential uses.
9. Any structures to be constructed upon the Expandable Land shall be compatible with the structures located within the Submitted Land in terms of quality of construction, the principal materials used but not necessarily architectural style.
10. In addition to new buildings and units, certain roadways, sewer facilities, utilities and water mains and pumps may be constructed upon the Expandable Land.
11. The units which may be created within the Expandable Land may or may not be substantially identical to the units on the Submitted Land.
12. The Declarant makes no assurances with regard to the creation of limited common areas within the Expandable Land.

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**BY-LAWS OF  
BURNHAVEN PROJECT  
A CONDOMINIUM UNDER R.S.A. CHAPTER 356-B**

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BY-LAWS OF  
BURNHAVEN PROJECT  
A CONDOMINIUM UNDER R.S.A. 356-B

ARTICLE I

PLAN OF UNIT OWNERSHIP

1. Purpose. The administration of the Project and the property shall be governed by these By-Laws which are annexed to the Declaration of Burnhaven and are made a part thereof, and all present and future holders of any interest in the Project shall hold said interest subject to these By-Laws, as well as to the Declaration and the Rules promulgated hereunder.

2. Definitions. Terms not defined herein or in the Declaration shall have the meanings specified in Section 3 of R.S.A. Chapter 356:B.

3. By-Laws Applicability. The provisions of these By-Laws are applicable to the Property, and the use, occupancy, sale, lease, or other transfer thereof. All present and future Owners, tenants, future tenants, their guests, licensees, servants, agents, employees and any other person who shall use the Project. The acceptance of a deed of conveyance or the entering into a lease or the act of occupancy of a Unit or any other portion of the Project shall constitute an acknowledgement that such Owner, tenant or occupant has accepted and ratified these By-Laws, the provisions of the Declaration and the Rules and will comply with them.

4. Office. The office of the Project and of the Board of Directors shall be located at the Project or at such other place as may be designated from time to time by the Board of Directors. The address of the Project is Willow Brook Road, Stratham, New Hampshire 03885.

ARTICLE II

UNIT OWNERS' ASSOCIATION

1. Composition. All of the Unit Owners, acting as a group in accordance with R.S.A. Chapter 356:B, the Declaration and these By-Laws, shall constitute the "Unit Owners' Association" (sometimes hereinafter referred to as the "Association"), which shall have the responsibility of administering the Project, establishing the means and methods of collecting the assessments for Common Expenses, arranging for the management

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of the Project, and performing all of the acts that may be required to be performed by the Unit Owners' Association by R.S.A. Chapter 356:B. Except as to those matters which the Act specifically requires to be performed by the vote of the Unit Owners, the administration of the Project shall be performed by the Board of Directors (as more particularly set forth in Article III).

2. Voting. Each declared Unit shall be entitled to one vote in the Association. Since a Unit Owner may be more than one person, if only one of such persons is present at a meeting of the Association, that person shall be entitled to cast the vote appertaining to that Unit. But if more than one of such persons is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. As applied to a person which is not a natural person, the word "person" shall be deemed for the purposes of this Section to include, without limitation, any one natural person having authority to execute deeds on behalf of such person which is not a natural person and which is, either alone or in conjunction with another person or persons, a Unit Owner. Except where a greater number is required by R.S.A. Chapter 356:B, the declaration, or these By-Laws, a majority of the votes of unit Owners present, in good standing and entitled to vote is required to adopt decisions at any meeting of the Unit Owners' Association. If the Declarant owns or holds title to one or more wholly completed Units, the Declarant shall have the right at any meeting of the Unit Owners' Association to cast the votes to which such units are entitled.

3. Place of Meeting. Meetings of the Unit Owner's Association shall be held at the principal office of the Project or at such other suitable place as may be designated by the Board of Directors and stated in the notice of the meeting.

4. Annual Meeting. The first annual meeting of the Unit Owners' Association shall be held on a date to be determined by the Declarant, which date shall be within one (1) year in accordance with the provisions of Section 6 of this Article II. At such meeting the persons designated by the Declarant shall resign as members of the Board of Directors, and all of the Owners, including the Declarant if the Declarant owns any Unit or Units, shall elect a new Board of Directors. Thereafter, the annual meetings of the Association shall be held on the same date of each succeeding year, or on such other date within a thirty (30) day period prior to such date, as may be designated by the Board of Directors and reflected in the said Notice. At such annual meetings of the Board of Directors shall be elected by ballot of the Owners in accordance with the

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requirements of Article III. Provided, however, that until two (2) years after the recordation of the Declaration or until three-fourths (3/4) of the Units have been conveyed by the Declarant, whichever first occurs, the Declarant shall be entitled to elect a majority of the members of the Board of Directors which Directors shall serve for the shortest terms. The Association may transact such other business as may properly come before them at such meetings.

5. Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners' Association of so directed by resolution of the Board of Directors or upon a petition signed and presented to the Clerk by Owners having not less than thirty (30) percent of the votes of all Owners. The notice of any special meeting shall set forth the purpose thereof and business shall be transacted at a special meeting except as stated in the notice.

6. Notice of Meeting. It shall be the duty of the Clerk to mail, by United States mail, return receipt requested, a notice of each annual meeting or special meeting, at least twenty-one (21) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at the address of their respective Units and at such other address as each Owner may have designated by notice in writing to the Secretary; provided, however, that such notice may be hand delivered by the Secretary or Manager, if the Secretary or Manager obtains a receipt of acceptance of such notice from the Unit Owner.

7. Voting Requirements. An Owner shall be deemed to be in good standing and entitled to vote at any annual meeting or at any special meeting of the Unit Owners' Association if, and only if, he shall have fully paid all assessments made or levied and due against him or his Unit by the Board of Directors as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his Unit, at least three (3) days prior to the date fixed for such annual or special meeting.

8. Proxies. The vote appertaining to any Unit may be cast pursuant to a proxy executed by or on behalf of the Unit Owner or, where the Unit Owner is more than one person, by or on behalf of all such persons. The validity and revocation of proxies is governed by Section 39, IV, of R.S.A. Chapter 356:B.

9. Quorum. A quorum shall be deemed to be present throughout any meeting of the Unit Owners, until adjourned, if persons entitled to cast more than thirty-three and one-third (33-1/3%) of the total votes are present at the beginning of such meeting.

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10. Order of Business. The order of business at all meetings of the Unit Owners' Association may be as follows: (a) roll call; (b) recitation of proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of Board of Directors; (f) reports of committees; (g) election of directors, if applicable; (h) unfinished business; and (i) new business, any of which may be waived.

11. Conduct of Meeting. The President, or his designated alternative, shall preside over all meetings of the Unit Owners' Association and the Secretary shall keep the minutes of the meeting and shall record all transactions occurring and all resolutions adopted at the meeting. Roberts Rules of Order shall govern the conduct of all meetings of the Unit Owners' Association when not in conflict with the Declaration, these By-Laws or R.S.A. Chapter 356:B.

### ARTICLE III

#### BOARD OF DIRECTORS

1. Powers and Duties. The affairs and business of the Project shall be managed by a Board of Directors (sometimes hereinafter referred to as the "Board") which shall have all of the powers and duties necessary for the administration of the affairs of the Project and may do all such acts and things as are not by R.S.A. Chapter 356:B or by these By-Laws directed to be exercised and done by the Unit Owners' Association. The Board of Directors shall have the power from time to time to adopt any Rules deemed necessary for the enjoyment of Project, the Declaration or these By-Laws. The Board of Directors may delegate to one of its members the authority to act on behalf of the Board of Directors on all matters which might arise between meetings of the Board of Directors. In addition to the general duties imposed by these By-Laws, the Board of Directors shall have the power to, and be responsible for, the following:

(a) Preparation of an annual budget, in which there shall be established the assessment of each Owner for the Common expenses;

(b) Making assessments against Owners to defray the Common expenses of the Project, including such assessments as shall be necessary to purchase any unit pursuant to Article V of the Declaration, establishing the means and methods of collecting such assessments from the Owners, collecting said assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to carry out the administration of the Property. Unless otherwise determined by the Board of Directors, the annual assessments against each

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Owner for his proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month;

(c) Providing for the operation, care, upkeep, replacement and maintenance of all of the Common Area and services of the Project;

(d) Designating, hiring and dismissing the personnel necessary for the maintenance, operation, repair and replacement of the Common Area, and providing services for the Property, and, where appropriate, providing compensation of such personnel and for the purchase or use of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment, if purchased, shall be deemed the common property of the Owners;

(e) Making and amending Rules respecting the use of the Property and enforcing the provisions of the Declaration, these By-Laws and such rules, and bringing any proceedings which may be instituted on behalf of the Owners;

(f) Obtaining and maintaining insurance against casualties and liabilities, as provided in Article VI of these By-Laws, and paying the premiums therefor and making, or contracting for, the making of, repairs, additions, and improvements to, or alterations of, the Property and repairs to, and restoration of, the Property, in accordance with the other provisions of these By-Laws, after damage or destruction by fire or other casualty. The term property shall mean all portions of the Project under the jurisdiction or control of the Association.

(g) Maintaining books of account showing the receipts and expenditures of the Unit Owner's Association. The said books shall be available for examination by the Owners, their duty authorized agents or attorneys, during general business hours on business days; and

(h) In the event that the Town of Stratham shall assess the Project and the units as a single tax entity for real estate tax purposes, the association shall pay the said taxes and assess each unit owner a proportionate share of such taxes based upon the percentage interest in the common areas and facilities.

(i) In the event that a unit owner shall fail to maintain, repair or replace any exterior portion of the unit, as provided herein, the Board of Directors shall have the ability and authority to engage in such maintenance, repair or replacement and to assess the unit owner for all costs associated therewith.



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(j) To do such other things and acts not inconsistent with R.S.A. Chapter 356:B or with the Declaration which it may be authorized to do by a resolution of the Unit Owners' Association.

2. Managing Agent. The Board of Directors may employ, or contract with, a professional manager or management firm ("Manager") for a fee or compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize, including, but not limited to, the duties listed in Section 1 of this Article III. The Board of Directors may delegate to the Manager all of the powers granted to the Board of Directors by these By-Laws, provided that any of the powers granted to the Board of Directors by these By-Laws, provided that any actions by the Manager with respect to the powers set forth in Paragraph (b) of Section 1 of this Article III shall require the written consent of the Board of Directors. Any such contract shall not directly or indirectly bind the Owners' Association unless the contract includes a right of termination without cause, that the Owners' Association can exercise at any time after the transfer of control of the "Association".

3. Number of Directors and Initial Selection of Board. The Board of Directors shall be composed of three (3) persons. Until the election of the Board of Directors takes place at the first annual meeting of the Unit Owners' Association, as provided in Section 4 of Article II, the Board of Directors shall consist of such persons as shall have been designated by the Declarant. Thereafter, anything in these By-Laws to the contrary notwithstanding, until two (2) years after the date of recordation of this Declaration in the Rockingham County Registry of Deeds, or until three-fourths (3/4) of the Units have been conveyed by the Declarant, whichever first occurs, a majority of the members of the Board of Directors shall be selected and designated by the Declarant. The Declarant shall have the right in its sole discretion to replace such Directors as may be so selected and designated by it, and to select and designate their successors. The Declarant may relinquish its rights hereunder at any prior time. Directors shall consist only of Owners or spouses of Owners, or, where a Person which is an Owner is not a natural person, any natural person having authority to execute deeds on behalf of such Person.

4. Election and Term of Office. At the first annual meeting of the Unit Owners' Association, three (3) directors shall be elected. The term in office of one directors shall be for three (3) years, the term in office of one directors shall be for two (2) years, and the term in office of one director shall be for one (1) year. Subject to the provisions of Section 3 above, at the expiration of the initial term of office of each director, his successor shall be elected to serve a term of three (3) years and, in any event, each director shall hold office until his successor has been elected.

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5. Organization Meeting. The first meeting of the members of the Board of Directors following the annual meeting of the Unit Owners' Association shall be held within ten (10) days after the annual meeting at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present thereat.

6. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least two (2) such meetings shall be held during each twelve (12) month period after the annual meeting of the Unit Owners' Association. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least five (5) business days prior to the day named for such meeting, except that no notice shall be required for a regular meeting held immediately after, and at the same place as, the annual meeting of the Association.

7. Special Meetings. Special meetings of the Board of Directors may be called by the President on five (5) business days' notice to each Director. Such notice shall be given personally or by mail, telephone or telegraph, and such notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

8. Waiver of Notice. Before or within ten (10) days after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all of the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

9. Board of Directors's Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meetings originally called, may be transacted without further notice.

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10. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a Director by a vote of the Unit Owners' Association shall be filled by vote of the majority of the remaining Directors, at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy, even though the Directors present at such meeting may constitute less than a quorum of the Board; and each person so elected shall be a Director for the remainder of the term of the Director so replaced; provided, however, that the vacancy of any Director designated by the Declarant pursuant to a right of the Declarant to make such designation shall be filled by the Declarant.

11. Removal of Directors. A director may be removed with or without cause, and his successor elected, at any duly called regular or special meeting of the Unit Owners' Association at which a quorum is present, by an affirmative vote of a majority of the votes represented and voting. Any Director whose removal has been proposed by the Owners shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Notwithstanding anything in this Section to the contrary, no person selected and designated by the Declarant as a member of the Board of Directors may be removed without the consent of the Declarant and in such event the Declarant shall select and designate his successor.

12. Compensation. No Director shall receive any compensation from the Association for acting as such.

13. Conduct of Meetings. The President, or, in his absence, a president pro tem elected by the Board, shall preside over all meetings of the Board of Directors and the Secretary shall keep the minutes of the meetings of the Board of Directors recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings, which minutes shall be filed in the Record Book of the Condominium.

14. Report of Board of Directors. The Board of Directors shall present at each annual meeting, and when called for by vote of the Unit Owners' Association at any special meeting of the Association, a full and clear statement of the business and condition of the Condominium.

15. Fidelity Bonds. The Board of Directors may require that all officers, agents (including the Manager) and employees of the Unit Owners' Association handling or responsible for funds furnished adequate fidelity bonds. The premiums on such bonds shall constitute a Common Expense.

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16. Dispensing with Vote. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

17. Liability of the Board of Directors. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the Directors from and against all contractual liability to others arising out of contracts made by the Board of Directors on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Board of Directors shall have no personal liability (except as Owners) with respect to any contract made by them on behalf of the Owners. It is also intended that the liability of any Owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board of Directors shall be limited to such proportion of the total liability thereunder as his Unit's value bears to the total value of all Units. Every written agreement made by the Board of Directors or by the Manager on behalf of the Owners shall, if obtainable, provide that the members of the Board of Directors or the Manager, as the case may be, are acting only as agents for the Owners and shall have no personal liability thereunder (except as Owners), and that each Owners' liability thereunder shall be limited to such proportion of the total value of all Units. The Owners shall indemnify any person who was or is a party or is threatened to be made a party to any action, suit, or proceeding, whether or not based on contract, by reason of the fact that he is or was a Director, or officer, for expenses (including attorney's fees), judgments, fines and amounts paid in settlement incurred by him in connection with such action, suit or proceeding unless he acted in bad faith, was guilty of willful misconduct, or acted contrary to the provisions of the Declaration of these By-Laws.

#### ARTICLE IV

##### OFFICERS

1. Designation. The principal officers of the Association shall be a President, a Secretary and a Treasurer, all of whom shall be elected by the Board. The Board may appoint assistants or such other officers as in its judgment may be

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necessary. With the exception of the President, no officer need be a member of the Board. The offices of Treasurer and Secretary may be held by the same person.

2. Election of Officers. The officers of the Association shall be elected annually by the Board at the organization meeting of each new Board and shall hold office at the pleasure of the Board. Any vacancy in an office shall be filled by the Board at a regular meeting or special meeting called for such purpose.

3. Removal of Officers. The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the whole Board, and his successor may be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

4. President. The President shall be the chief executive officer; he, or his designated alternate, shall preside at meetings of the Unit Owners' Association and, if present, at meetings of the Board of Directors, and shall be an ex officio member of all committees; he shall have general and active management of the business of the Association and shall see that all orders and resolutions of the Board are carried into effect. He shall have all of the general powers and duties which are usually vested in or incident to the office of president of a stock corporation organized under the laws of the State of New Hampshire.

5. Secretary. The Secretary, or his designated alternate, shall attend all meetings of the Board of Directors and all meeting of the Unit Owners' Association, shall record the minutes of all proceedings in the Record Book of the Project and shall perform like duties for committees when required. The Secretary shall keep the Record Book current and in his custody. He shall give, or cause to be given, notice of all meetings of the Unit Owners' Association the Board and committees and shall perform such other duties as may be prescribed by the Board or President. The Secretary shall compile and keep current at the principal office of the Project, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days.

6. Treasurer. The Treasurer shall have the custody of all funds and securities that are not under the control of the Manager, and, with the assistance of the Manager, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all

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monies and other valuable personal property in such depositories as may be designated by the Board. He shall disburse funds as ordered by the Board, where possible taking proper vouchers for such disbursements, and shall render to the President and directors, at the regular meetings of the Board, or whenever they may require it, an account of all of his transactions as Treasurer and of the financial condition of the Project.

7. Agreements, Contracts, Deeds, Checks, etc. All agreements, contracts, deed, leases, checks and other instruments of the Project for expenditures or obligations may be executed by any officer of the Project or by such other person or persons as may be designated by the Board of Directors.

8. Compensation of Officers. No officer shall receive any compensation from the Association for acting as such.

#### ARTICLE V

#### OPERATION OF THE PROPERTY

##### 1. Determination of Common Expenses and Assessments Against Owners.

(a) Fiscal Year. The fiscal year of the Association shall consist of the twelve month period commencing on January 1st of each year and terminating on December 31st. The fiscal year herein established shall be subject to change by the Board of Directors.

(b) Preparation and Approval of Budget. Each year the Board of Directors shall adopt a budget for the Project containing an estimate of the total amount which it considers necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Area or Limited Common Areas and any parts of the units as to which it is the responsibility of the Board of Directors to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by R.S.A. Chapter 356:B, the Declaration these By-Laws or a resolution of the Unit Owners' Association, and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Owners of all related services. Such budget shall also include such reasonable reserves as the Board of Directors considers necessary to provide a general operating reserve, and reserves for contingencies and replacements. The Board of Directors

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shall make reasonable efforts to send to each Owner a copy of the budget, in a reasonably itemized form which sets forth the amount of the Common Expenses payable by each Owner, at least fifteen (15) days in advance of the fiscal year to which the budget applies. The said budget shall constitute the basis for determining each Owner's contribution for the Common Expenses of the Project.

(c) Assessment and Payment of the Common Expenses. The Board of Directors shall make monthly assessments to the Unit Owners for each Unit Owner's contribution to the Common Expenses of the Association. Assessments shall be made against each Owner in proportion to the number of votes in the Unit Owners' Association appertaining to his Unit, and shall be a lien against each Owner's Condominium Unit when perfected in accordance with R.S.A. Chapter 356:B. Within sixty (60) days after the end of each fiscal year, the Board of Directors shall supply to all Owners an itemized income and expense statement. Any amount accumulated in excess of the amount required for actual expense and budgeted reserves shall, in the discretion of the Board of Directors, either be returned to the Owners in accordance with each Owner's votes in the Unit Owners' Association to the next monthly installment due from Owners under the current fiscal year's budget, until exhausted, or be added to reserves. Any net shortage shall, if the Board of Directors deems it advisable, be added according to each Owner's votes in the Unit Owners' Association to the installments due in the succeeding period after the rendering of the accounting. In addition, to the above, the Declarant reserves the right to establish a working capital fund of at least equal to two (2) months estimated common charges. Any amounts paid into the fund shall not be considered as advance payments or regular assessments. Each Unit's share of the working capital fund shall be collected at the time of the sale of the Unit and shall be transferred to a segregated fund. Within sixty (60) days after the sale of the first Unit, the Declarant shall transfer to the said fund each unsold Unit's share of the working capital fund. The Declarant reserves the right to reimburse itself for those payments at the time of the sale of each unit after the sale of the first unit.

(d) Reserves. The Board of Directors shall build up and maintain an adequate operating reserve and reserve for replacement of the Common Areas, which shall be funded by regular monthly payments, as provided for in subsection (c). At the end of each fiscal year, all funds accumulated during such year for reserves for replacement of Common Area shall be placed in a separate bank account, segregated from the general operating funds, and used only for such purposes. If for any reason, including non-payment of any Owner's assessment, the reserves are inadequate, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Owners according to their respective votes in the Unit Owners'

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Association, and which may be payable in a lump sum or in installments as the Board of Directors may determine. The Board of Directors shall serve notice of any such further assessment on all Owners by a statement in writing, giving the amount and reasons therefor, and such further assessment shall, unless otherwise specified in the notice, become effective with the next monthly payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be obligated to pay the adjusted monthly amount, or if the additional assessment is not payable in installments, the amount of such assessments.

(e) Initial Assessment. When the first Board of Directors takes office, it shall determine the budget, as defined in this Section, for the period commencing upon the recordation of the Declaration at the Rockingham County Registry of Deeds and ending on the last day of the fiscal year in which their election occurs. Assessments shall be levied against the Owners during said period as provided in Paragraph (c) of this Section. The Board of Directors may establish an initial operating reserve through special assessment of each Owner upon purchase of his Unit from the Declarant.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare the annual budget for any fiscal year shall not constitute a waiver of release in any manner of an Owner's obligation to pay his allocable share of the Common Expenses as herein provided, whenever the same shall be determined, and in the absence of any annual budget or adjusted budget, each Owner shall continue to pay the monthly charge at the then existing monthly rate established for the previous fiscal period until a new annual or adjusted budget shall have been adopted.

2. Payment of Common Expenses. All Owners shall be obligated to pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article V. No Owner may exempt himself from liability for his contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit. No Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to a sale, transfer or other conveyance by him of such Unit. The purchaser of a Unit or successor, owner by virtue of such transfer or other conveyance shall be jointly and severally liable with the selling Owner for all unpaid assessments against the Unit Expenses up to the time of the conveyance, without prejudice to the purchaser's right to recover from the selling Owner the amounts paid by the purchaser therefore; provided, however, that any such selling Owner or purchaser shall be entitled to a recordable statement from the Board of Directors or the Manager setting forth the amount of unpaid assessments against the Unit conveyed by subject to a lien for,



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any unpaid assessments in excess of the amount therein set forth; failure to furnish or make available such a statement within seven (7) days from receipt of such request shall extinguish the lien for, any unpaid assessments. Payment of a fee of Ten (\$10.00) Dollars or the maximum allowable under R.S.A. Chapter 356:8, whichever is greater, shall be required as a prerequisite for issuance of such a statement. If a mortgagee of a first mortgage of record or purchaser of a Unit obtains title to the Unit as a result of foreclosure of a first mortgage, or through the enforcement of any other remedies provided for in the mortgage, or by virtue of a deed in lieu of foreclosure, such mortgagee or purchaser, its successors and assigns, shall not be subject to a lien for the payment of Common Expenses assessed prior to the acquisition of title to such Unit by such mortgagee or purchaser pursuant to the aforesaid remedies. Such unpaid share of Common Expenses assessed prior to the acquisition of title to such Unit by such mortgagee or purchaser pursuant to the aforesaid remedies shall be collectible from all Owners, including the purchaser or first mortgagee, in proportion to their respective votes in the Unit Owners' Association.

3. Collection of Assessments. The Board of Directors shall take prompt action to collect any assessments for Common Expenses due from any Owner which remain unpaid for more than sixty (60) days from the due date for payment thereof.

4. Maintenance and Repair.

(a) By the Board of Directors. Except as otherwise provided below, the Board of Directors shall be responsible for the maintenance, repair and replacement (unless necessitated by the negligence, misuse or neglect of an Owner, or of a person gaining access with said Owner's actual or implied consent, in which case such expense shall be charged to such Owner), of all of the Common Areas, the cost of which shall be charged to all Owners as a Common Expense including the cost of all snow plowing of roads and driveways.

(b) By the Owner. Each unit owner shall be responsible for the maintenance, repair or replacement of his unit and any improvements of his unit and any improvements made to that unit and any improvements or uses of the limited common year area described in the Declaration. The Board of Directors of the Association shall have the authority to determine whether the exterior of any unit is in need of maintenance, repair or replacement and if the Board so determines that particular items of maintenance, repair or replacements are necessary, it shall inform the unit owner, in writing. The unit owner shall be given a reasonable period of time to correct or fix the item(s) contained in the said notice, and the said notice shall contain the date(s) by which the said items are to be performed. If after the expiration of that

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date(s), the unit owner shall not have so corrected or fixed the said items listed in the notice, the Board of Directors shall have the authority and right to undertake to have those items done and the cost thereof shall be assessed against the unit owner and shall constitute a lien against the unit until paid; provided however, that the maintenance and up-keep of the landscaping around the buildings which may be located upon any land unit, shall be done either by the unit owner or the Association as shall be agreed upon by the unit owner and the Association by a contract to be entered into between the unit owner and the Association.

(c) Sewer Maintenance. Certain groups of units are serviced by particular septic systems. Each unit owner is responsible for a pro-rata or equal share of the cost of maintaining, repairing or replacing the septic system which services the group in which his unit is contained.

The Board of Directors of the Association is authorized to determine when and how the septic systems are to be maintained, repaired or replaced. If the Board of Directors shall decide that any of the said septic systems shall require any maintenance, repair or replacement, it shall proceed to have that work performed and the cost thereof shall be assessed equally, to the unit owners within the group that the said septic system services and the said assessment shall constitute a lien against the unit until paid. The Board shall also have the authority to have all electrical charges associated with the sewer pumps billed to the Association and then collect from the respective unit owners.

(d) Manner of Repair and Replacement. All repairs and replacements shall be substantially similar to the original construction and installation, and shall be of first class quality.

5. Additions, Alterations or Improvements by Board of Directors. Whenever in the judgment of the Board of Directors the Common Area shall require additions, alterations or improvements costing in excess of Five Thousand (\$5,000.00) Dollars during any period of twelve (12) consecutive months, and the making of such additions, alterations or improvements shall have been approved by a Majority of the Owners, the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Owners for the cost thereof as a Common Expense. Any additions, alterations or improvements costing Five Thousand (\$5,000.00) Dollars or less during any period of twelve (12) consecutive months may be made by the Board of Directors without approval of the Owners and the cost thereof shall constitute part of the Common Expenses. Notwithstanding the foregoing, if, in the opinion of not less than eighty (80%) percent of the members of the Board of

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Directors such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of a limited number of Owner or Owners requesting the same, such requesting Owners shall be assessed therefore in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportions as may be determined by the Board of Directors.

6. Right of Access. An Owner shall grant a right of access to his Unit to the Board of Directors and the Manager and to any other person authorized by the Board of Directors for the purpose of making inspections or for the purpose of correcting any condition originating in his Unit and threatening another Unit or Common Area, and for the purpose of performing installation, alterations, or repairs to the mechanical or electrical services or other Common Area in his Unit or elsewhere in the building, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Owner. In case of any emergency, such right of entry shall be immediate whether the Owner is present at the time or not.

7. Rules. Rules concerning the operation and use of the Common Area may be promulgated and amended by the Board of Directors, provided that such Rules are not contrary to or inconsistent with R.S.A. Chapter 356:B, the Declaration or these By-Laws. Copies of the Rules shall be furnished by the Board of Directors to each Owner prior to the time when the same shall become effective.

#### ARTICLE VI

#### INSURANCE

1. Insurance Required. Pursuant to Section 43 of R.S.A. Chapter 356:B, the Board of Directors shall obtain (i) a fire and casualty insurance policy covering common areas and facilities; (ii) a master liability policy covering the Association, the Board, the Manager and agents or employees of the foregoing with respect to the Condominium, and all Owners and other persons entitled to occupy any portion of the Condominium; and (iii) such other policies as specified hereinbelow, which insurance shall be governed by the following provisions to the extent obtainable or possible;

(a) Public liability insurance in such amounts as the Board may from time to time determine, but in no event shall the limits of liability be less than One Million (\$1,000,000.00) Dollars for bodily injury and property damage per occurrence, insuring the Association and all individuals referred to in Section 1 (ii) above, against my liability to

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anyone, and with cross liability coverage with respect to liability claims of anyone insured thereunder against any other insured thereunder. This insurance, however, shall not insure against individual liability for negligence occurring within a Unit or within the Limited Common Area to which a Unit has exclusive use.

(b) Workmen's compensation insurance as required by law.

(c) Such other insurance as the Board may determine.

2. General Insurance Provisions:

(a) The Board shall deal with the insurer or insurance agent in connection with the adjusting of all claims under insurance policies provided for under Paragraph 1 above and shall review with the insurer or insurance agent, at least annually, the coverage under said policies, said review to include an appraisal of improvement within the Condominium, and shall make any necessary changes in the policy provided for under Paragraph 1 (a) above (prior to the expiration date set forth in any agreed amount endorsement contained in said policy) in order to meet the coverage requirements of such Paragraph.

3. Individual Policies:

(a) Each owner must obtain and file with the Board of Directors fire and extended coverage in an amount equal to the full replacement value of any structures comprising his unit, and public liability pertaining to his unit. The Board of Directors shall have the authority to determine whether the said insurance is adequate in amount and form and it shall also have the authority to pay any delinquent premium and to assess the unit owner for the cost thereof and such assessment shall constitute a lien against the unit until paid. The owner shall name the Board of Directors as an additional insured under the policy and the Board of Directors shall be entitled to all notices. No occupancy of any residential structure shall be permitted unless the above recited insurance binders or policies shall be in effect and shall have been filed with the Board of Directors, and the then current premium shall have been paid.

During the course of the construction of any improvements or structures to a unit, the unit owner shall obtain and shall file with the Board of Directors, workmans compensation insurance and liability and casualty insurance.

(b) Each Owner shall obtain insurance for his own benefit and at his own expense insuring all personal property presently or hereafter in his Unit or Limited Common Area, any

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floor coverings, appliances and other personal property not covered in the above policy, and all improvements to his Unit.

ARTICLE VII

REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

1. In the event of damage to or destruction of all or part of any buildings constructed on any unit as a result of fire or other casualty, the owner and the Board of Directors shall arrange for and supervise the prompt repair and restoration of damage or destroyed portion of the buildings. The owner shall have the right to design and supervise the work relating to the interior of the buildings on his unit.

2. Procedure for Reconstruction and Repair.

(a) Immediately after any such fire or other casualty, the owner shall obtain reliable and detailed estimates of the cost of repairing and restoring the damage to a condition equal to that existing before such casualty, and submit them to the Board of Directors for its approval.

(b) If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair, or upon completion of reconstruction or repair, the funds for the payment thereof are insufficient, the owner shall provide the amounts needed to pay the difference.

(c) Any such reconstruction or repair shall be substantially in accordance with the original plans and specifications under which the damaged building was originally constructed.

3. Disbursements of Construction Funds.

(a) The net proceeds of insurance collected on account of a casualty and the funds provided by the owner shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair by the owner and the Board of Directors. The said funds shall be placed into an account which shall require the signature of the owner and the President of the Association.

(b) The construction fund shall be paid at the direction of the Board of Directors and the owner in appropriate progress payments, to such contractors, suppliers and personnel engaged in performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board of Directors.

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(c) It shall be presumed that the first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds; and if there is a balance in the construction fund after the payment of all of the cost of the reconstruction and repair for which the fund is established, such balance shall be distributed to the Owners.

(d) If the damage shall be any common area or limited common area facilities, the Board of Directors shall use the proceeds of the insurance covering those facilities to reconstruct or repair the damaged items and shall immediately cause such work to commence. Any amounts in excess of the insurance proceeds which are needed to pay for the said work shall be assessed to the unit owners.

#### ARTICLE VIII

##### SALES, LEASES, AND ALIENATION OF UNIT

1. No Severance of Ownership. No Owner shall execute any deed, lease, mortgage, or instrument conveying or mortgaging the title to his Unit without including therein the undivided interest of such Unit in the Common Area, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, lease, mortgage, or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. Except to the extent otherwise expressly provided by the Declaration, these By-Laws or R.S.A. Chapter 356:B, the undivided interest in the Common Area allocated to any Unit shall not be altered, and any purported transfer, encumbrance, or other disposition of that interest without the Unit to which it appertains shall be void.

2. Payment of Assessments. No Owner shall be permitted to convey, mortgage, sell, lease, give, or devise his Unit unless and until he (or his personal representative) shall have paid in full to the Board of Directors all unpaid Common Expenses, theretofore assessed by the Board of Directors, with respect to this Unit, and shall have satisfied all unpaid liens with respect to his Unit, except mortgages. The Board of Directors shall promptly furnish to any Owner (or his devisee or personal representative) requesting the same in writing pursuant to this Section, a recordable statement certifying whether or not such Owner is then obligated for any outstanding assessments previously levied against that Owner's Unit and the amount, if any, then outstanding. In the event that the Unit is subject to outstanding expenses previously levied against such Unit, the statement shall certify any waiver of, or failure or

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refusal to exercise, the right of the Unit Owners' Association to prevent the disposition of such Unit, in all cases where the Association allows such disposition. Failure or refusal to furnish, within seven (7) days of receipt of such request by the Board or Manager, such a statement shall make the above-mentioned prohibition inapplicable to any such disposition of the Unit. Any such statement shall be binding on the Association, the Board of Directors and every Owner. Payment of a fee not exceeding the maximum amount allowable under R.S.A. Chapter 356:B shall be required as a prerequisite to the issuance of such a statement.

3. Resale by Purchaser. In the event of any resale of a unit or any interest therein by any person other than the Declarant, the prospective Unit Owner shall have the right to obtain from the Unit Owners' Association, prior to the contract date of the disposition, the following:

(a) Appropriate statements pursuant to Section 2 of this Article VIII and Section 2 of Article V above.

(b) A statement of any capital expenditures and major maintenance expenditures anticipated by the Unit Owners' Association within the current or succeeding two fiscal years.

(c) A statement of the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the Board of Directors.

(d) A copy of the income statement and balance sheet of the Unit Owners' Association for the last fiscal year for which such statement is available.

(e) A statement of the status of any pending suits or judgments in which the Unit Owners' Association is a party defendant.

(f) A statement setting forth what insurance coverage is provided for all Unit Owners by the Unit Owners' Association and what additional insurance coverage would normally be secured by each individual Unit Owner.

(g) A statement that any improvements or alterations made to the Unit, or the limited common areas assigned thereto, by the prior Unit Owner are not known to be in violation of this Declaration and By-Laws.

The principal officer of the Unit Owners' Association, or such other officer or officers as the condominium instruments may specify, shall furnish the statements prescribed by this paragraph upon the written request of any prospective Unit Owner within ten (10) days of the receipt of such request.

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**ARTICLE IX  
AMENDMENT TO BY-LAWS**

1. **Amendments.** Except as otherwise provided in R.S.A. Chapter 356:B and herein, these By-Laws may be modified or amended either (i) by a vote of at least seventy-five (75%) percent of the Owners cast in person or by proxy at a meeting duly held in accordance with the provisions hereof, provided that Notice of the proposed amendment shall have been given to each Owner simultaneously with the notice of such meeting, or (ii) pursuant to a written instrument duly executed by at least seventy-five (75%) percent of the Owners; provided, however, that

(a) Section 4 of Article II, and Section 3 of Article III, insofar as they relate to the selection of members of the Board of Directors by the Declarant.

(b) Section 2 of Article II, insofar as it provides that the Declarant so long as it is the Owner of one or more Units, may vote the votes appurtenant thereto.

(c) This Section 1 of Article IX, may not be amended without the consent in writing of the Declarant, so long as the Declarant shall be an Owner. Furthermore, notwithstanding the foregoing, so long as the Declarant is the Owner of one or more Units, no amendment to the By-Laws or Rules may be adopted which could interfere with the construction, display, sale, lease, or other disposition of such Unit or Units.

2. **Recording.** A modification or amendment of these By-Laws shall become effective only when it has been duly evidenced in accordance with the provisions of Section 34 IV of R.S.A. Chapter 356:B.

3. **Conflicts.** No modification or amendment of these By-Laws may be adopted which shall be inconsistent with the provisions of R.S.A. Chapter 356:B or with the provisions of the Declaration. A modification or amendment once adopted and recorded as provided for herein shall then constitute part of the official By-Laws of the Project and all Owners shall be bound to abide by such modification or amendment.

4. **Approval of Mortgagees.** These By-Laws contain provisions concerning various rights, priorities, remedies and interests of the mortgagees of Units. Such provisions in these By-Laws are to be construed as covenants for the protection of the mortgagees on which they may rely in making loans secured by mortgages on the Units. Accordingly, all mortgagees shall be given thirty (30) days notice of all proposed amendments, and no amendment or modification of these By-Laws impairing or



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affecting the rights, priorities, remedies or interests of a mortgagee (including the mortgagee's use of a secondary mortgage market, i.e. the sale of mortgages to the Federal Home Loan Mortgage Corporation, etc.) shall be adopted without the prior written consent of such mortgagee. If there is more than one mortgagee holding mortgages on the Units, it shall be sufficient for this purpose to obtain the written consent of the mortgagee or mortgagees holding mortgages on seventy-five (75%) percent or more of the Units encumbered by mortgages.

#### ARTICLE X

#### MORTGAGES

1. Notice to Board. An Owner who mortgages his Unit shall notify the Board of the name and address of his mortgagee, and shall file a conformed copy of the mortgage with the Board. The Board shall maintain suitable records pertaining to such mortgages.

2. Notice of Unpaid Assessments for Common Expenses. The Board whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid assessments for Common Expenses due from, or any other default by, the Owner of the mortgaged Unit.

3. Notice of Default. The Board shall give written notice to an Owner of any default by the Owner in the performance of any obligations under the Act, Declaration or By-Laws, and, if such default is not cured within thirty (30) days, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board. No suit or other proceeding may be brought to foreclose\*the lien for any assessment levied pursuant to the Declaration or these By-Laws except after ten (10) days written notice to the holder of the first mortgage on the Unit which is the subject matter of such suit or proceeding.

4. Notice of Damage. The Board of Directors shall notify (i) the mortgagee of a Unit whenever damage to the Unit covered by the mortgage exceeds One Thousand (\$1,000.00) Dollars and the Board is made aware of such damage; and (ii) all mortgagees whenever damage to the Common Area exceeds Ten Thousand (\$10,000.00) Dollars.

5. Examination of Books. Each Owner and each mortgagee shall be permitted to examine the books of account of the Condominium at reasonable times, on business days, but, with respect to Owners, not more than once a month.

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ARTICLE XI

NOTICE

1. Manner of Notice. All notices, demands, bills, statements or other communications provided for or required under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by U.S. Mail, return receipt requested, first class, postage prepaid, (i) if to an Owner, at the address of his Unit and at such other address as the Owner may have designated by notice in writing to the Secretary, or (ii) if to the Unit Owners' Association, the Board of Directors or the Manager at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of statutes, of the Declaration or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of R.S.A. Chapter 356:B.

ARTICLE XII

COMPLIANCE AND DEFAULT

1. Relief. Each Owner shall be governed by, and shall comply with, all of the terms of the Declaration, these By-Laws, and the Rules, and any amendments of the same. A default by an Owner shall entitle the Unit Owners' Association acting through the Board of Directors or the Manager, to the following relief:

(a) Legal Proceedings. Failure to comply with any of the terms of the Declaration, these By-Laws, and the Rules shall be grounds for relief which may include without limiting the same, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these By-Laws, or any combination thereof, and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Unit Owners' Association, the Board of Directors, the Manager, or, if appropriate, by any aggrieved Owner.

(b) Additional Liability. Each Owner shall be liable for the expenses of all maintenance, repair or replacement rendered necessary by his acts, neglect or carelessness or the

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act, neglect or carelessness of any member of his family or his tenants, guests, employees, agents or invites, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any Waiver by an insurance company of its rights of subrogation.

(c) Costs and Attorney's Fees. In any proceeding arising out of any alleged default by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding, and such reasonable attorney's fees as may be determined by the Court.

(d) No Waiver of Rights. The failure of the Unit Owners' Association, the Board of Directors, or of an Owner to enforce any right, provision, covenant, or condition which may be granted by the Declaration, these By-Laws or the Rules shall not constitute a waiver of the right of the Association, the Board of Directors, or any Owner to enforce such right, provision, covenant, or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors, or any Owner pursuant to any term, provision, covenant or condition of the Declaration or the Rules shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by the Declaration, these By-Laws or the Rules, or at law or in equity.

(e) Interest. In the event of a default by any Owner against him which continues for a period in excess of thirty (30) days, such Owner shall be obligated to pay interest in the amounts due at the highest rate permitted by law, or at twelve (12%) percent whichever is less, per annum for the due date thereof. In addition, the Board of Directors shall have the authority to impose a late payment charge on such defaulting Owners in an amount not to exceed Fifteen (\$15.00) Dollars or six (\$.06) cents per dollar on any amount so overdue, whichever is greater.

(f) Abatement and Enjoinment of Violations by Owners. The violation of any rule or regulation adopted by the Board of Directors, or the breach of any By-Law contained herein, or the breach of any provision of the Declaration, shall give the Board of Directors or the Manager the right, in addition to any other rights set forth in these By-Laws:

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1. to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the Defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of provisions hereof, and the Board of Directors or Manager shall not thereby be deemed guilty in any manner of trespass;

2. to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; or

3. to suspend or limit the right of the Owner committing violation to use any part of the Common Area during the continuance of such violation.

**2. Lien for Assessments.**

(a) The total semi-annual assessments of each Owner for the Common Expenses or any special assessment levied pursuant to these By-Laws is hereby declared to be a lien levied against the Unit of such Owner as provided in R.S.A. Chapter 356:B, which lien shall, with respect to semi-annual assessments, be effective on January 1st and July 1st of each fiscal year of the Project and, as to special assessments, on the first day of the next month which begins more than seven (7) days after delivery to the Owner of Notice of such special assessments.

(b) In any case where an assessment against an Owner is payable in installments, upon a default by such Owner in the payment of any single installment, which continues for ten (10) days after written notice of such default has been sent to the Owner, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the then balance owing may be declared due and payable in full by the service of notice to such effect upon the defaulting Owner by the Board of Directors or Manager. The Association, in order to perfect such lien, shall file before the expiration of six (6) months from the time that the delinquent assessment (or installment, where such assessment is payable in installments) became due and payable, a memorandum in the Rockingham County Registry of Deeds in the form and manner prescribed in R.S.A. Chapter 356:B.

(c) The lien provided in Section 1 of this Article XII and assessments shall include interest, costs and attorney's fees as may be foreclosed in the manner provided by the laws of the State of New Hampshire for the foreclosure of power of sale mortgages or by suit brought in the name of the Board of Directors, acting on behalf of the Unit Owners' Association. During the pendency of such proceedings or suit, the Owner

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shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale.

(d) Suits to recover a money judgment for unpaid assessments shall be maintainable without foreclosure or waiving the lien securing the same, and foreclosure shall be available without bringing suit to recover a money judgment.

ARTICLE XIII

COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Compliance. These By-Laws are set forth in compliance with the requirements of R.S.A. Chapter 356:B.

2. Severability. These By-Laws are set forth to comply with the requirements of the State of New Hampshire. In case any of the By-Laws are in conflict with the provisions of any of its statutes, the provisions of the statutes will apply. If any provisions of these By-Laws or any section, sentence, clause, phrase, or word, or the application thereof in any circumstance is held invalid, the validity of the remainder of these By-Laws, shall not be affected thereby and to this end, the provisions hereof are declared to be severable.

3. Waiver. No restriction, condition, obligation or provision of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

4. Captions. The captions contained in these By-Laws are for convenience only and are not part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these By-Laws.

5. Gender, etc. Whenever in these By-Laws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, Declarant has caused these By-Laws to be executed this 27 day of MAY, 1992

BN2926 P2465

*Susan J. Conway*  
Witness

BURNHAVEN, INC.

By: *Susan J. Conway*  
Susan J. Conway, Duly  
Authorized Officer

STATE OF NEW HAMPSHIRE  
ROCKINGHAM, SS.

*May 19 2014*

Personally appeared the above named Susan J. Conway,  
President of Burnhaven, Inc. and acknowledged the foregoing  
instrument as her free act and deed and that of the said  
Corporation.

Before me, *[Signature]*  
Justice of the Peace

Burnhaven Condominium Association  
Amendment To The Declaration

This is the First Amendment of the Declaration of Burnhaven Condominium Association. The first page of the Declaration is recorded in the Rockingham County Registry of Deeds at Book 2898, Page 1776 and is dated \_\_\_\_\_.

We, the undersigned, being the Board of Directors and Officers of Burnhaven Condominium Association, pursuant to Paragraph IX of said Declaration, Article IX of the By-Laws and RSA 356-B:34 and having obtained the approval and agreement of the Unit Owners holding seventy-five percent (75%) or more of the percentage interests in said Condominium do hereby amend said Declaration as follows:

1. Add the following new Paragraph XI, Section A to the Declaration:

Paragraph XI. Section A Termination of Services. The Board of Directors is hereby authorized to utilize the provisions and remedies of RSA 356-B:46 IX and to act in conformity thereto, as may be amended from time to time.

Certification of Vote

Pursuant to Paragraph IX of the Declaration of Condominium and RSA 356-B:34, I, Amy Driscoll, the Secretary of the Burnhaven Condominium Association hereby certify that a meeting of the Association was held at the Stratham Town Hall, Stratham, New Hampshire on April 29, 1998. At this Meeting of the Association a quorum was obtained in that of the 100 percent available interest in said Condominium, 80 percent interest was represented either in person or by written proxy. This is more than thirty-three and one-third (33 1/3) of said interest pursuant to Article II, Section 9 of the By-Laws and a valid quorum was achieved. A motion was made and seconded to consider the aforementioned Amendment to the Declaration of Condominium, the issue was discussed and a lawful vote was taken whether to adopt said Amendment to the Declaration of the Condominium. The results of the voting for the aforementioned Amendment were 66.67 percent of the total percent interest of the Association voted in favor of adopting the Amendment and 33.3 percent of the total percent interest voted to oppose adopting the Amendment.

X As this was fifty percent (50%) or more of the total percent interest of the Condominium, the Motion passed.

Executed this 18 day of June, 1998.

  
John Driscoll, Witness

  
Amy Driscoll, Secretary

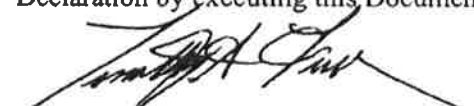
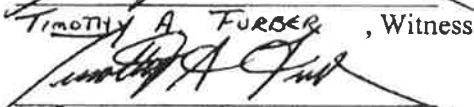
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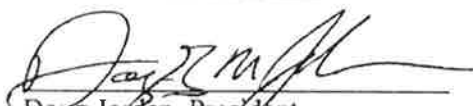
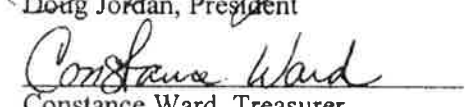
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ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

Execution of Amendment

Pursuant to Paragraph IX of the Declaration of Condominium and RSA 356-B:34 we, the President and Treasurer of the Burnhaven Condominium Association hereby certify and acknowledge that we have reviewed the aforementioned results of the vote that was taken on April 29, 1998; concur with the Certification of the Secretary and hereby adopt said Amendment to the Declaration by executing this Document this 18 day of June, 1998.

  
TIMOTHY A. FURBER, Witness  
  
TIMOTHY A. FURBER, Witness

  
Doug Jordan, President  
  
Constance Ward, Treasurer

- 2. Add the following new Paragraph XI, Section B to the Declaration:

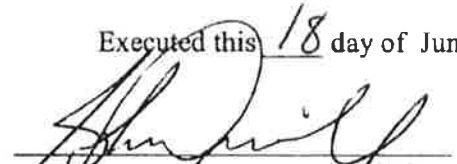
Paragraph XI, Section B Rent Collection Upon Delinquency In Payment Of Common Charges And Expenses. Effective May 1, 1998 the Board Of Directors is hereby authorized to utilize the provisions and remedies of RSA 356-B:46-a and to act in conformity thereto, as may be amended from time to time.

Certification of Vote

Pursuant to Paragraph IX of the Declaration of Condominium and RSA 356-B:34, I, Amy Driscoll, the Secretary of the Burnhaven Condominium Association hereby certify that a meeting of the Association was held at the Stratham Town Hall, Stratham, New Hampshire on April 29, 1998. At this Meeting of the Association a quorum was obtained in that of the 100 percent available interest in said Condominium, 80 percent interest was represented either in person or by written proxy. This is more than thirty-three and one-third (33 1/3) of said interest pursuant to Article II, Section 9 of the By-Laws and a valid quorum was achieved. A motion was made and seconded to consider the aforementioned Amendment to the Declaration of Condominium, the issue was discussed and a lawful vote was taken whether to adopt said Amendments to the Declaration of the Condominium. The results of the voting for the aforementioned Amendment were 65 percent of the total percent interest of the Association voted in favor of adopting the Amendment and 15 percent of the total percent interest voted to oppose adopting the Amendment.

- As this was fifty percent (50%) or more of the total percent interest of the Condominium, the Motion passed.

Executed this 18 day of June, 1998.

  
John Driscoll, Witness

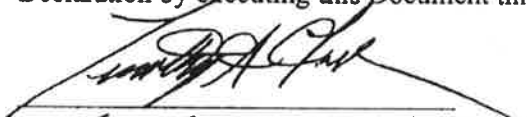
  
Amy Driscoll, Secretary




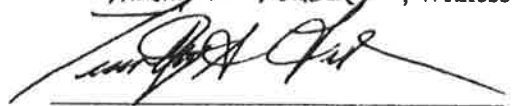
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Execution of Amendment

Pursuant to Paragraph IX of the Declaration of Condominium and RSA 356-B:34 we, the President and Treasurer of the Burnhaven Condominium Association hereby certify and acknowledge that we have reviewed the aforementioned results of the vote that was taken on April 29, 1998; concur with the Certification of the Secretary and hereby adopt said Amendment to the Declaration by executing this Document this 18 day of June, 1998.

  
TIMOTHY A. FURBER, Witness

  
Doug Jordan, President

  
TIMOTHY A. FURBER, Witness

  
Constance Ward, Treasurer

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Burnhaven Condominium Association  
Amendment To The By-Laws

This is the Second Amendment to the By-Laws of Burnhaven Condominium Association. The first page of the By-Laws are recorded in the Rockingham County Registry of Deeds at Book 2898, Page 1776 and is dated \_\_\_\_\_.

We, the undersigned, being the Board of Directors and Officers of Burnhaven Condominium Association, pursuant to Paragraph IX of said Declaration, Article IX of the By-Laws and RSA 356-B:34, and having obtained the approval and agreement of the Unit Owners holding seventy-five percent (75%) or more of the percentage interests in said Condominium do hereby amend said Declaration as follows:

1. Amend Article II, Section 6 of the By-Laws by deleting the existing Section 6 and replacing it with the following new Section 6:

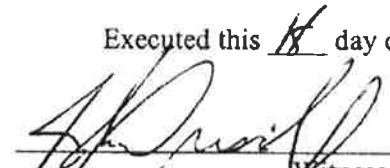
Section 6 Notice Of Meetings. The Unit Owners shall be provided with Notice of Association meetings pursuant to the provisions of RSA 356-B:37, as it may be amended from time to time.

Certification of Vote

Pursuant to Paragraph IX of the By-Laws and RSA 356-B:34, I, Amy Driscoll, the Secretary of the Burnhaven Condominium Association hereby certify that a meeting of the Association was held at the Stratham Town Hall, Stratham, New Hampshire on April 29, 1998. At this Meeting of the Association a quorum was obtained in that of the 100 percent available interest in said Condominium, 80 percent interest was represented either in person or by written proxy. This is more than thirty-three and one-third (33 1/3) of said interest pursuant to Article II, Section 9 of the By-Laws and a valid quorum was achieved. A motion was made and seconded to consider the aforementioned Amendment to the By-Laws of Condominium, the issue was discussed and a lawful vote was taken whether to adopt said Amendments to the By-Laws of the Condominium. The results of the voting for the aforementioned Amendment were 78.3 percent of the total percent interest of the Association voted in favor of adopting the Amendment and 1.7 percent of the total percent interest voted to oppose adopting the Amendment.

- As this was seventy-five percent (75%) or more of the total percent interest of the Condominium, the Motion passed.

Executed this 18 day of June, 1998.

  
John Driscoll, Witness

  
Amy Driscoll, Secretary

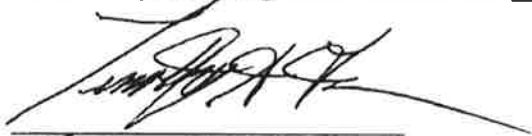
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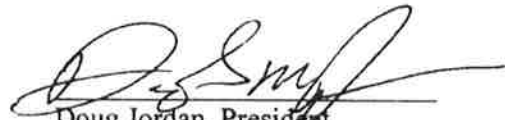
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ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

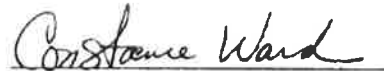
Execution of Amendment

Pursuant to Paragraph IX of the Declaration of Condominium and RSA 356-B:34 we, the President and Treasurer of the Burnhaven Condominium Association hereby certify and acknowledge that we have reviewed the aforementioned results of the vote that was taken on April 29, 1998; concur with the Certification of the Secretary and hereby adopt said Amendment to the By-Laws by executing this Document this 18 day of June, 1998.

  
TIMOTHY, A. FURBER Witness

  
Doug Jordan, President

  
TIMOTHY A FURBER, Witness

  
Constance Ward, Treasurer