

Haystack Homes, LLC

AMENDED AND RESTATED

DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND LIENS

BY

HAYSTACK CROSSING HOMEOWNERS ASSOCIATION, LLC

Dated as of the _____ day of _____, 2022.

DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND LIENS

THIS DECLARATION, is made by **HAYSTACK CROSSING HOMEOWNERS ASSOCIATION, LLC**, a Vermont limited liability company with its principal place of business in South Burlington, Vermont (hereinafter referred to as "Declarant").

RECITALS

1. Declarant owns a parcel of land off Rt 116, in Hinesburg, Vermont (the "Property"), which is more particularly described as follows:

Being the lands and premises conveyed to Haystack Crossing, LLC by Warranty Deed of Wayne R. Bissonette and Barbara B. Bissonette, Trustees of the Wayne R. Bissonette Revocable Trust u/t/a dated January 19, 2006, and of The Barbara B. Bissonette Revocable Trust u/t/a dated January, 2006, said Warranty Deed dated September 22, 2011 of record at Book 220, Page 425 of the Town of Hinesburg Land Records.

Reference is hereby made to the aforementioned instruments, the records thereof and the references therein contained, all in further aid of this description.

2. Declarant intends to develop the Property into seventy five (75) units with forty nine (49) Single Family homes twenty (20) attached single family residences, six (6) commercial/multifamily lots and associated Common Elements and Limited Common Elements as shown on the Subdivision Plat.

3. Declarant has established a homeowners association to operate the Common Elements and Limited Common Elements in the Development.

ESTABLISHMENT

Declarant hereby declares that the Property shall be subject to and be held, transferred, sold, conveyed, leased, occupied, and used subject to all of the terms and conditions of this Declaration, which shall run with the land and be binding on all parties, and their respective heirs, successors and assigns.

ARTICLE I Definitions

The following terms, when used in this Declaration, shall have the meanings set forth below:

1. "Assessments": The amounts assessed by the Association against the Members or Unit Owners from time to time as provided in the Bylaws.

2. "Association": HAYSTACK CROSSING HOMEOWNERS ASSOCIATION, LLC, a Vermont limited liability corporation, its successors and assigns.

3. "Bylaws": The Bylaws of the Association as amended from time to time.
4. "Common Elements": All portions of the property other than the Units.
5. "Common Expenses": All lawful expenditures made or incurred by or on behalf of the Association in administering its duties, including, but not by way of limitation, assessments for capital improvements and escrow accounts and reserves for maintenance, repair, replacement and other purposes approved by the Association.
6. "Declarant": HAYSTACK CROSSING HOMEOWNERS ASSOCIATION, LLC, its successors and assigns.
7. "Declaration": This Declaration as amended from time to time.
8. "Development": Haystack Crossing Development in Hinesburg, Vermont, as approved by the Town of Hinesburg Development Review Board and the State of Vermont, as such approvals may be amended and supplemented from time to time.
9. "First Mortgagee": Any commercial or savings bank, savings and loan association, trust company, mortgage company, insurance company, private mortgage insurance company, pension fund, person, corporation, or business entity, including a corporation or affiliated with the United States Government or any agency thereof, the Veterans Administration, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Federal Credit Union, Vermont Housing Finance Agency, and any other entities chartered under federal or state laws or agencies, which is the holder of any first mortgage lien, or the beneficiary under any first deed of trust encumbering a Unit. The term "Mortgage" shall be deemed to include both mortgages and deeds of trust.
10. "Land": So much of the property as has been made subject to the terms of this Declaration, together with all improvements thereon and appurtenances thereto.
11. "Limited Common Elements": A portion of the Common Elements allocated by the Declaration for the exclusive use of one (1) or more but fewer than all of the Units.
12. "Lot": A single family residential lot, upon which one (1) detached single family residence may be constructed or a "footprint" lot on which a single family residence or commercial/multi family structure may be constructed
13. "Member": The record owner(s) of a Lot.
14. "Required Number of First Mortgagees": The holders of notes which constitute at least sixty percent (60%) of the outstanding balances of all the notes secured by first mortgages on Units, whose prior written approval shall be required before undertaking certain actions by the Association, as more specifically set out in this Declaration and/or the Bylaws.

15. "Rules and Regulations": The provisions, covenants and limitations contained in this Declaration or adopted from time to time by the Board of Directors of the Association governing the use and occupancy of the Units and Common Elements and Limited Common Elements, and governing the behavior and obligations of the Unit Owners.

16. "Subdivision Plat" or "Plat": The final plat approved by the Development Review Board for the Town of Hinesburg and recorded at Map Slide _____ of the Town of Hinesburg Land Records, as amended from time to time with the approval of the Hinesburg Development Review Board.

17. "Unit": A Lot with a residence constructed thereon which is ready for occupancy.

18. "Unit Owner": The record owner(s) of fee simple title to a Unit.

ARTICLE II

Declarant's Reserved Special Declarant Rights

Section 2.1. Reservation of Special Declarant Rights by Declarant. Declarant reserves the following:

1. Such easements as Declarant deems necessary: to modify and/or enlarge existing utilities, roadways, walkways and other improvements; to construct and install additional utilities, roadways, walkways and other improvements on, above, under, or through the Land which the Declarant deems necessary or desirable for the benefit and use of existing Units or future Units subsequently made a part of the Development; and to complete the improvements depicted on the Subdivision Plat and to use the easements depicted on the Subdivision Plat for the purpose of making the improvements depicted on the Subdivision Plat.

2. The right to display signs, to use any Unit as a model and/or sales office, and the right to rent any Unit which Declarant owns and which has not been sold.

3. The right, prior to sale thereof, to change, alter or modify the number, location, configuration, materials, architectural and engineering design, or size of Units and/or other improvements comprising part of the Development; provided, however, that no such change, alteration or modification shall be permitted to the extent that it would cause or authorize the construction of incompatible Units or other improvements of inferior workmanship and quality, and no such alteration shall increase the number of Units, result in the creation of additional Common Elements or Limited Common Elements, or result in the addition or withdrawal of any portion of the Property.

Section 2.2. Notice to Unit Owners. A Unit Owner, by acceptance and recordation of any instrument conveying or transferring title to or any interest in a Unit, and a First Mortgagee, by holding a mortgage secured by a Unit, shall be deemed to have been given notice and to have consented to all the rights and privileges reserved by Declarant in this Article II, including specifically, but not by way of limitation, the right of Declarant to amend the Declaration.

ARTICLE III

The Association

Membership in the Association, and the rights and duties of Unit Owners and Members shall be as set forth in the Bylaws of the Association as in effect from time to time.

ARTICLE IV

Covenant for Operating, Maintenance, Repair and Replacement Assessments

Section 4.1. Creation of a Lien and Personal Obligation for Assessments. Each Unit Owner, by the acceptance and recordation of a deed or other instrument transferring title to or any interest in a Unit, whether or not it be so expressed in such deed or instrument, shall be deemed to covenant and agree to pay to the Association all Assessments assessed in accordance with this Declaration and the Bylaws. Assessments, together with interest, costs and reasonable attorney fees, shall be a lien upon the Unit against or with respect to which each such Assessment was made, allocated or apportioned in accordance with the Bylaws, subordinate only, as to a Lot, to the lien of a first mortgage thereon. Each Assessment, together with interest, costs and reasonable attorney fees, shall also be the obligation of the Member against whom the Assessment was made.

Section 4.2. No Exemption. No Unit Owner shall be exempt from liability for Assessments by attempted waiver of the use or enjoyment of any of the Common Elements, by abandonment of a Unit, or by any other reason.

Section 4.3. Liability for Liens. Prior to or at the time of any conveyance of a Unit, all Assessments with respect to that Unit shall be paid in full to the Association. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid Assessments against or on account of the Unit through the time of recording of the instrument transferring ownership of the Unit. Any purchaser or holder of a mortgage on a Unit shall be entitled to a statement setting forth the amount of the unpaid Assessments against the selling Unit Owner within five (5) days following a written request therefor directed to the Association. Each First Mortgagee who comes into possession of a Unit through foreclosure (or by deed or assignment in lieu of foreclosure), or any purchaser at a foreclosure sale, shall take ownership of the Unit free and clear of all unpaid Assessments or charges against said Unit which had become due or were delinquent prior to the acquisition of title to such Unit by such First Mortgagee or foreclosure sale purchaser.

Section 4.4. Penalty. Any Assessment not paid within ten (10) days of its due date shall bear interest from the due date at the rate of one percent (1%) per month, or at such other rate as may be fixed by the Board of Directors from time to time, or in either event, at such lesser rate as is the maximum rate permitted by applicable law.

Section 4.5. Enforcement. The Association reserves the right to terminate or restrict any Unit Owner's right to use the Common Elements and Limited Common Elements for violation of or non-compliance with the terms of this Declaration or the Bylaws.

Section 4.6. Use of Assessments. Assessments levied and collected by the Association shall be used: to promote the recreation, health, safety and welfare of the Unit Owners; to meet

all requirements for capital repairs, replacements and improvements; and to meet all other expenses and obligations incurred by the Association, including, but not by way of limitation, management fees, administrative expenses, corporate fees, taxes, insurance premiums and costs of monitoring and other demands imposed or required by existing permits or approvals, or by subsequent amendments thereto.

Section 4.7. Capital Assessments. The Board of Directors may from time to time impose or assess one (1) or more Assessments to fund the cost of any construction, repair or replacement of any capital improvement located in the Common Elements or Limited Common Elements, in accordance with the provisions of the Bylaws. Any proposed Assessment for a new capital improvement, rather than for the completion, repair or replacement of an existing capital improvement, shall require approval by the membership of the Association at a duly-warned meeting at which a quorum is present, by vote in favor by more than three-quarters (3/4) of the votes cast.

Section 4.8. Stormwater System Components. After initial installation by Declarant, the Association shall maintain and repair the stormwater system in compliance with the terms and conditions of Stormwater Discharge Permit No. 8008-INDS, notice of which is dated October 18, 2018 and recorded in Volume ___ at Page ___ of the Town of Hinesburg Land Records and requirements of the Town of Hinesburg Planning Commission Approval #DP: 17-01. The Board of Directors from time to time shall impose or assess such Assessments as may be required to maintain any stormwater system components.

ARTICLE V Water Supply System; Sewage Disposal

Section 5.1. Water. Each Lot shall be served by Town of Hinesburg Water Service.

Section 5.2. Wastewater. Each Lot shall be served by Town of Hinesburg Sewer Service.

Section 5.3. Access Right of Way. The Association shall maintain the access right of way until such time as it is accepted as a town road by the Town of Hinesburg.

ARTICLE VI Permit Compliance

The Association shall take such steps as may be reasonably necessary to ensure continuing compliance with applicable provisions of the State and Town permits and approvals issued in connection with the Development and relating to use and occupancy of the Units, the Land, the Common Elements and Limited Common Elements, as such permits and approvals are amended from time to time.

ARTICLE VII Covenants and Restrictions Applicable to Lots

Section 7.1. General Covenants. In order to insure the use of the Lots for attractive residential purposes only, to prevent nuisances, and to secure to each Unit Owner the full benefit of a planned development, Declarant does hereby declare the following protective covenants, conditions, and restrictions.

1. Residential Use. Each Lot is to be for permanent single-family purposes only. This covenant in no way restricts an Owner's right to rent a Unit as a single family residence except that all such rentals shall be evidenced by a written lease which must be for a minimum term of thirty (30) days. No building or structure intended for or adapted to business, commercial or industrial purposes, and no apartment house, lodging house, rooming house or other multiple family (three (3) units or more) dwelling shall be erected, placed, permitted or maintained on a Lot or any part thereof. This paragraph shall not prohibit customary home occupations, except that no wholesale or retail sale of any products of a home occupation shall be conducted on any Lot. No improvements or structures whatsoever, other than a private dwelling house, patio, walls and fences, swimming pool, customary outbuildings and garage may be erected, placed or maintained on any Lot. Each Lot shall have not more than one (1) outbuilding exclusive of the garage.

2. Size Restrictions. The minimum ground floor living area, exclusive of one (1) story porches and garages for a one (1) story dwelling, shall be one thousand (1,000) square feet. Two (2) story homes shall have a minimum ground floor living area of six hundred sixty-four (664) square feet.

3. Limitation On Habitation. No outbuilding, garage, shed, tent, trailer, mobile home or temporary building of any kind shall be erected, constructed, permitted or maintained prior to commencement of the construction of the residence, and no outbuilding, garage, shed, tent, trailer, mobile home, basement or temporary building shall be used for permanent or temporary residence purposes. This covenant shall not prohibit the use of a construction trailer on a Lot during construction of the residence.

4. Occupancy. No permitted residential structure erected upon any Lot shall be occupied during the course of construction, nor at any time prior to its being fully completed as herein required; nor shall any residence, when completed, be in any manner occupied unless in complete compliance with all covenants, conditions, reservations and restrictions herein set forth.

5. Grading and Drainage. The grading and/or drainage patterns of any Lot in the subdivision shall not be altered.

6. Garages. Garages shall be for the use only of the occupants of the residence to which they are appurtenant, and shall be attached to such residence.

7. Offstreet Parking. At the time a permanent dwelling is built on a lot, adequate off-street parking for at least two (2) cars shall be provided on the Lot. Only registered vehicles are allowed on the Lots.

8. Tanks, Etc. No elevated tanks of any kind shall be erected, placed or permitted on any part of any Lot. Any tanks for use in connection with any residence constructed on such

premises, including tanks for the storage of fuels, must be buried or screened sufficiently to conceal them from the view of neighboring Lots, roads or streets.

9. Garbage and Rubbish. All garbage and rubbish shall be kept in sanitary containers and there shall be no dumping on any part of a Lot and no incineration. Sanitary containers shall be stored in the garage of all Units.

10. Landscaping. After the initial lawns are planted and fertilized, no lawn fertilizers containing phosphorus shall be allowed unless a soil test is taken and demonstrates the need for added phosphorus.

11. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept provided they are not kept, bred or maintained for any commercial purposes, and do not become a nuisance, annoyance or danger to any Unit Owner.

12. Utility Lines. All electrical, telephone, cable television and other utility or transmission lines shall be placed underground.

13. Nuisances. No Lot shall be used in whole or in part for the storage of rubbish, trash or scrap of any character whatsoever; nor shall any substance, item or material be kept upon any Lot that will emit foul or noxious odors or cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding Units.

14. Signs. No billboards or advertising signs of any character shall be erected, placed, permitted or maintained on any Lot or on the residence or other structures located thereon, except that an owner of a Lot or his/her agent may erect or display one (1) sign of not more than six (6) square feet advertising the Lot for sale. All signs must comply with applicable State law and regulations and Town regulations.

15. Commercial Vehicles. No commercial vehicles or construction or like equipment of any kind shall be maintained on any Lot, other than in the course of construction, unless kept in a completely enclosed garage.

16. Clotheslines. Clotheslines shall be located so they will not be visible from the street serving the Lot, and shall be located to the rear of the residence.

17. Swimming Pools. Any swimming pool constructed on a Lot shall be completely enclosed by a minimum four foot (4') high self-closing and latching chain-link fence with locked gate. Swimming pools shall be located no closer to the front Lot line than the front wall of the residence on said Lot.

18. Trees. No trees shall be cut and no other ground disturbance shall be allowed within the delineated wetlands or associated buffer. Except for the building envelopes, driveways, access road and septic disposal areas, no clear cutting of trees shall be allowed. Outside these areas only dead, downed, fallen or snapped trees may be cut and removed.

19. Miscellaneous. N/A

20. Wetlands. No dwelling or other improvements may be built within the wetlands or associated buffer. All wetlands and wetland buffers shall be “no mow” areas and shall be demarcated with a combination of split rail fencing and/or landscape features.

Section 7.2. Enforcement. Should the Association employ counsel in order to enforce any of the foregoing covenants, conditions, reservations, restrictions or obligations, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the owner of such Lot or Lots found to be in violation by a court of competent jurisdiction. No delay or omission on the part of the Association in exercising any right, power or remedy herein provided for in the event of any breach of the covenants, conditions, restrictions and obligations herein contained shall be construed as a waiver thereof or acquiescence therein. No right of action shall accrue, nor shall any action be brought or maintained by any Unit Owner against Declarant for or on account of its failure to bring an action on account of any breach of these covenants and condition, nor for imposing covenants and restrictions which may be found or determined to be unenforceable at law.

ARTICLE VIII Architectural Control

Section 8.1. Except for improvements constructed by Declarant, no building, fence, wall or other structure shall be commenced, erected or maintained upon a Lot, nor shall any addition to or external change or alteration therein be made until the plans, elevations and specifications showing the nature, kind, shape, height, materials, floor plan, location and grading changes shall have been submitted to and approved in writing by the Hinesburg Zoning Administrator (if applicable).

ARTICLE IX Amendment to or Termination of the Declaration

Section 9.1. General. The terms and provisions of this Declaration shall run with the Land and be binding upon Declarant and all subsequent Unit Owners. Except as limited hereinafter, this Declaration may be amended by Declarant or, after the Members have acquired voting rights in accordance with the Bylaws, upon the affirmative vote of at least three-quarters (3/4) of the voting power of the Members of the Association. No amendment shall alter any duty or restriction existing under any applicable governmental permit or approval unless the authority issuing such permit or approval shall consent thereto in writing.

Section 9.2. Right Reserved in Declarant. Declarant, for so long as Declarant retains ownership of any portion of the Development, may unilaterally amend this Declaration in accordance with the provisions of Article II, and also may unilaterally amend this Declaration to satisfy and meet any requirement of the Federal National Mortgage Association, the Federal

Home Loan Mortgage Corporation, the Agency of Natural Resources, the Vermont Housing Finance Agency, or the Town of Hinesburg.

Section 9.3. First Mortgagee Approval Required as to Certain Amendments. With respect to certain proposed amendments to this Declaration which could have significant impact upon the rights and security of First Mortgagees, in addition to such an amendment receiving the approval of Unit Owners required herein, the amendment also shall require the approval in writing of the Required Number of First Mortgagees. The amendments which would be deemed to have a significant impact upon the rights and security of a First Mortgagee are as follows: (a) a change in voting rights of Unit Owners other than provided for in this Declaration; (b) a change in the manner Assessments are allocated or an alteration in the existing priority of first mortgage liens over Assessments; (c) alteration or elimination of the requirements for assessment of reserves for maintenance, repair, monitoring and replacement of Common Elements and the improvements located thereon; (d) sale, transfer, abandonment, partition, subdivision or alienation of the Common Elements, or alteration in the use of the Common Elements; (e) a change in responsibility for maintenance and repairs; (f) changes in boundaries of any Unit, Lot, or the Common Elements; (g) changes in any insurance or fidelity bonds; (h) changes in the terms required for leasing a Unit; (i) increasing the number of Units to more than six (6); (j) removal of Land from the Development; (k) imposition of restrictions on a Unit Owner's rights to sell, transfer or alienate a Unit; (l) restoration of the Development after casualty damage or partial condemnation in a manner other than restoring or repairing the Development to its condition existing prior to said casualty or condemnation; (m) any amendment or action that would effectively terminate this Declaration; (n) any decision by the Association to establish self-management when professional management had been previously required by a First Mortgagee; or (o) a change in any provision of this Declaration which expressly benefits First Mortgagees.

Section 9.4. Conditions to Termination. No termination of this Declaration will be effective unless adequate substitute arrangements have been made to maintain and operate the septic disposal systems, and to ensure compliance with the terms and provisions of all applicable permits and approvals issued by the State of Vermont District Environmental Commission and the Town of Hinesburg. Termination also shall require the written approval of the Required Number of First Mortgagees.

1. If any covenant, condition, restriction or obligation of this Declaration, or this Declaration itself, is determined to be illegal and/or unenforceable because of its perpetual nature, then such covenant, condition, restriction or obligation, or this Declaration itself, shall be deemed to run with and bind the Land for a term of forty (40) years from the date of execution of this Declaration, and shall thereafter be deemed to automatically be extended for successive periods of ten (10) years each unless terminated as provided in this Section 9.4.

2. Upon termination, the Common Elements shall be deemed to be owned by the Unit Owners as tenants in common, each to hold an undivided interest proportional to the share of Assessments for which such Unit Owner is responsible under the Bylaws, and in the event of a sale of any or all of the Common Elements the net proceeds shall be paid to each Unit Owner and such persons or entities as may have or claim any interest in such Unit Owner's interest in a Unit, in proportion to such Owner's proportionate undivided interest.

Section 9.5. Compliance. Each Unit Owner shall be governed by and shall comply with the terms of this Declaration, the Bylaws of the Association, and any resolution, Rules and Regulations or other restrictions promulgated by the Association. A Unit Owner shall be liable for any expense incurred for maintenance, repair or replacement rendered necessary by a Unit Owner's act, negligence or carelessness, or by the act of any member of a Unit Owner's family, guests, invitees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. In addition to any and all remedies provided by law, this Declaration or the Bylaws, the Association, acting through its Board of Directors, shall be entitled to the following relief:

1. The right to impose a reasonable fine for any violation of the Declaration or the Bylaws, which fine shall be a continuing lien against the Unit of the defaulting Unit Owner and shall be enforceable in the manner provided by the laws of the State of Vermont, this Declaration and the Bylaws.

2. The right to abate, enjoin or remedy the continuance of any violation of this Declaration by appropriate legal proceedings, either in law or in equity, including, without limitation, an action to recover any sums due for money damages, injunctive relief, or foreclosure of the lien for payment of Assessments, or any combination thereof. Said remedies shall be cumulative and shall not constitute an election of remedies.

ARTICLE X

Rights of First Mortgagees

Any First Mortgagee may send the Association a written request pursuant to this Section, identifying the First Mortgagee's name and address and the Unit against which it holds a first mortgage lien. Thereafter, the Association shall be obligated to send said First Mortgagee timely written notices as to any of the following: (a) any condemnation loss or casualty loss which materially affects the financial condition of the Development or any Unit; (b) any delinquency in the payment of Assessments or other charges by a Unit Owner of a Unit subject to a first mortgage, which delinquency remains uncured for a period of sixty (60) days; (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (d) any proposed amendment or termination which needs the approval of the Required Number of First Mortgagees.

ARTICLE XI

Miscellaneous

Section 11.1. Conflict. In the event of any conflict between the terms of this Declaration and the terms of the Bylaws, the provisions of this Declaration shall control.

Section 11.2. Severability. In the event any provision of this Declaration is deemed invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provision hereof.

Section 11.3. Waiver. No restriction, condition, obligation, or provision of this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce it.

Section 11.4. Captions. The captions in this Declaration are for purposes of reference only and shall not limit or otherwise affect the meaning thereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the ____ day of _____, 2022.

Declarant: **HAYSTACK CROSSING HOMEOWNERS ASSOCIATION, LLC**

By: _____
Duly Authorized Agent

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

At _____, in said County and State, this ____ day of _____, 2022, personally appeared _____ Duly Authorized Agent of **HAYSTACK CROSSING HOMEOWNERS ASSOCIATION, LLC**, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of **HAYSTACK CROSSING HOMEOWNERS ASSOCIATION, LLC**.

Before me, _____
Notary Public
My Commission Expires: 02/10/20__