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**DECLARATION OF RESTRICTIVE COVENANTS
AND COMMON SCHEME RESTRICTIONS
FOR ESSEX CROSSING AT MONTSERRAT, BEVERLY,
MASSACHUSETTS**

WHEREAS, DUC Residential LLC, hereinafter referred to as the **DEVELOPER**, owns certain land in Beverly, Essex County, Massachusetts, shown on a certain Definitive Plan entitled Definitive Plan entitled, "Open Space Residential Subdivision Essex Crossing, Beverly, Massachusetts", prepared by Hayes Engineering, Inc. recorded as Plan No. 73 in Plan Book 446 at Essex South Registry of Deeds (hereinafter the "Plan").

WHEREAS, DEVELOPER, desires to provide for the preservation of the values and the amenities of said subdivision and community; and, to this end, **DEVELOPER** desires to subject all lots as shown on the aforesaid plan to the Covenants and Restrictions hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof, enforceable by and such owner at law or in equity, subject to Paragraph 4 and Paragraph 9 below.

NOW, THEREFORE, the **DEVELOPER** declares for itself and its successors in record title, that the lots as shown on the Subdivision plan, above described are and shall be held, transferred, sold, conveyed, inherited and occupied subject to and with the benefit of the Covenants and Restrictions hereinafter set forth, which restriction shall run with the land, but shall expire thirty (30) years from the date hereof, unless otherwise extended by written notice recorded in the Essex South District Registry of Deeds, executed by any owner of such lot then holding title subject to the terms of paragraph 10 below.

All lots in the subject subdivision shall be conditioned and restricted as follows:

1. **APPROVAL OF ALL PLANS.** Whether or not provision therefore is specifically stated in any conveyance of any one or more of the aforesaid Lots by the **DEVELOPER**, the owner or occupant of each such Lot by acceptance of title hereto, or by taking possession thereof, covenants and agrees that no structure, including, but not necessarily limited to any residential structure, appurtenant building, fence or other permanent structural improvement, shall be constructed or maintained on any lot, and no alteration of the exterior of an existing structure or addition thereto shall be made, unless complete plans, specifications, and lot plans therefor, showing the exterior design, height, building material and color scheme thereof, the location of the structure on the lot, the location and size of the driveways, fencing, walls, and the grading plan shall have first been submitted to and approved in writing by the **DEVELOPER** or its nominee, and a copy of such plans, specifications and lot plans as finally approved are deposited with the **DEVELOPER** or its nominee.

The **DEVELOPER** shall have the sole and exclusive right to refuse to approve any plan, design specifications or building materials, which the **DEVELOPER** deems not suitable or desirable for the overall development of the subdivision.

The **DEVELOPER** or its nominee shall issue a written certificate, acknowledged for the purpose of recording, certifying that the building plans required by this restriction have been submitted to and have been approved by the **DEVELOPER** or its nominee as herein required. The issuance of such a certificate by the **DEVELOPER** or its nominee shall be conclusive evidence that such approval has been obtained.

2. **COMPLETION OF WORK.** The **DEVELOPER** shall have the right to insure that any building on any Lot in the above-referenced subdivision is completed in conformity with the plans, specifications, and information submitted to it and approved by it. All exterior work on the principal structure, together with any landscaping, grading, and driveway construction undertaken in connection with the development of the Lot shall be completed within one (1) year from the date of approval of the plans and specifications so approved. Upon completion of the work, the **DEVELOPER** or its nominee shall issue a Certificate of Completion acknowledged for the purposes of recording, certifying that the work has been completed in conformity with the plans and specifications approved by the **DEVELOPER**, and within the requisite one-year period. The issuance of said Certificate by the **DEVELOPER** shall be conclusive evidence that such work has been completed.

Any construction to be undertaken upon any lot protected hereunder shall commence within six (6) months of approval from the **DEVELOPER**. All construction so commenced shall be diligently pursued and shall be concluded with the aforesaid one (1) year period.

If no notice of suit is recorded in the Essex South District Registry of Deeds, indexed in the grantor index under the lot owner(s) name, within two (2) years after completion of any building, structure, or other permanent structural improvement, alteration, addition, or landscaping, then the work so completed shall be conclusively deemed to have complied with this restriction and restriction Number 1, notwithstanding the lack of any certificate signed by the **DEVELOPER** or its nominee appearing in the chain of title. For the purposes of this paragraph, the issuance of an occupancy permit by the City of Beverly shall be deemed to be evidence of the date of the completion of any building or structure herein contemplated for which such permit is required.

3. **MISCELLANEOUS RESTRICTIONS.**

- (A) No use shall be made of any Lot which shall be in conflict with the Ordinances of the City of Beverly, except as the same may be lawful by means of a variance or special permit granted by the Board of Appeals, Planning Board, or City Council.
- (B) Close lines and poles are prohibited. Outside television antennas, satellite dishes, radio aerials shall be located on or near each residence in such a way that they are neither visible from the street nor obtrusive in any way to neighbors, in addition to being minimally visible from the ways as shown on the plan as possible. Any solar panels must be in or on the rear of a building and NOT visible from the street.

- (C) No buildings, other than single, one-family dwelling and appurtenant out-buildings shall be erected, placed or maintained on any Lot. Appurtenant out-buildings may include a garage, a tool house, play house or similar structures, provided always that the plans and location for erection and installation of any building or out-building shall, prior to the commencement of construction be approved by the **DEVELOPER** as hereinafter provided.
- (D) No structures of a temporary character, trailer, tent, shack, garage, or barn shall be used on any Lot at any time as a residence either temporarily or permanently.
- (E) Utility service connections to any building(s) erected on any Lot, in and from the way shown on the Plan, shall be constructed and maintained underground.
- (F) No business, trade or profession or sanitarium shall be conducted from any building erected on any Lot, excepting however, that where permitted by applicable zoning law a lot owner may maintain an office in his residence thereon, provided he employes therein not more than one person, and provided further that notwithstanding the foregoing, so long as the **DEVELOPER** continue to own any lot in the subdivision, the **DEVELOPER** and its employees, agents and contractors may operate and maintain a real estate sales office on any lot or lots in the subdivision and may perform all acts necessary to construct the subdivision and the houses therein including, without limitation, storage of construction vehicles and materials and maintenance of an on-site office trailer or trailers.
- (G) No poultry house, rabbit hutch, or dog, cat or animal kennel, shall be erected or maintained on any Lot. No animals, livestock, poultry of any kind, or other barnyard animals be stabled, maintained, raised, bred, or kept thereon. This restriction shall not apply to household pets, including dogs and cats, which may be kept in a reasonable number, provided they are not kept, bred or maintained for any commercial purposes. All dogs must be restrained on the lot of the owner or on a dog leash and feces must be picked up on a daily basis.
- (H) All rubbish, trash and garbage shall be kept only in suitable sanitary containers to the rear of the dwellings or within them. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and not visible from any street.
- (I) No yard or open area on any Lot shall be used for the storage of trucks, machinery, supplies, materials or equipment of any business conducted by any Lot owner off the premises. This provision shall not apply to the **DEVELOPER** so long as any lots in the subdivision remain unsold. All boats and trailers shall be stored behind the homes so as to limit visibility of said boats and trailers from the street and adjacent houses. Any and all unregistered vehicles shall be stored within a garage.

- (J) No sign of any kind shall be displayed to the public view on any lot except (i) one sign of not more than 6" width and 25" length in size denoting the owner's name(s) and/or profession, or (ii) a sign stating that the lot and any house thereon is for sale or (iii) any sign required in connection with an Order of the Beverly Conservation Commission; provided, however, that all signs shall comply with the Ordinances of the City of Beverly in all respects. Notwithstanding the foregoing, so long as the Owner continues to own any lot in the subdivision, the Owner, its employees, agents and contractors may place, maintain and relocate any signs which they deem necessary in connection with the development and sale of lots in the subdivision.
- (K) Any structures at any time located upon any Lot shall be kept in good order and repair. All grass shall be kept neatly trimmed and hedges and other vegetation pruned.
- (L) No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Dogs, which bark on a continuous basis, shall be deemed to be obnoxious and offensive activity.
- (M) Mailboxes and there general location shall be approved by the Developer and the lot owner shall maintain the same in a good manner. The lot owner shall pay for the purchase and installation of the mailbox.
- (N) Notwithstanding any other restrictions in this document, fencing may only be installed between the front setback of the house and the rear lot line. Thus, there shall be no fencing between the actual front wall of the house that runs parallel to the street and the front lot line and/or the street line. Fencing may run from the front corner of a house to or toward the side lot line with the condition that it may only be 4 feet high and it may not be a chain link style fence.

4. **ENFORCEMENT OF COVENANTS.** As long as the **DEVELOPER** shall retain legal title to any land shown on the Subdivision Plan aforementioned, the **DEVELOPER** alone, in its sole discretion, shall have the power to enforce the covenants herein contained. After all of the lots shown on the Plan have been conveyed by the **DEVELOPER**, any lot owner may enforce these restrictions. Enforcement of these covenants may be exercised by legal proceedings to restrain violation(s) or recover damages. In no event shall any enforcement of these restrictions result in a reversion of title from an individual lot owner to the **DEVELOPER**.

5. **WAIVER OF BREACH.** The failure of the **DEVELOPER** to enforce any restriction, covenant, or agreement herein contained shall in no way be deemed a waiver of its right to do so thereafter for any subsequent or continuing breach.

6. **EASEMENTS.** The **DEVELOPER**, its agents, servants, employees, successors and assigns and City of Beverly shall have the right and easement at any time; before or after conveyance of said lots to enter upon the same for the purpose of constructing the streets and sidewalks required in the subdivision, together with the right and easement, if necessary, to grade such lots in accordance with the requirements of the City of Beverly and any of its boards, commissions, or authorities having jurisdiction over the construction of the subdivision. All of the foregoing may be accomplished without being guilty of trespass or in any way answerable for damages.

Easements, if any, for drainage or other utility purposes are reserved in perpetuity as shown on the recorded subdivision plan as the same may be amended from time to time. Within those easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change to direction of flow or drainage channels in the easements. Any easement area on a lot and all improvements in it shall be maintained continuously by the lot owner except for those improvements, if any, for which a public authority or utility company is responsible.

7. **INVALIDITY.** Invalidation of any one of these restrictions or covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and affect.

8. **RESERVED RIGHT TO GRANT EASEMENTS.**

The **DEVELOPER**, for itself and for its successors in record title, reserve the right to grant easements for utility purposes, cable television services, and similar services, in the ways which are shown on the aforementioned plans, so long as they are private ways and within the Open Space. Prior to the conveyance of any lot, but subsequent to the contracting for the sale of any such lot, the **DEVELOPER** may grant such easements as may be necessary on any lot for utilities, cable, storm water drainage, or similar services, provided such easements do not substantially affect the use of the lot for residential purposes.

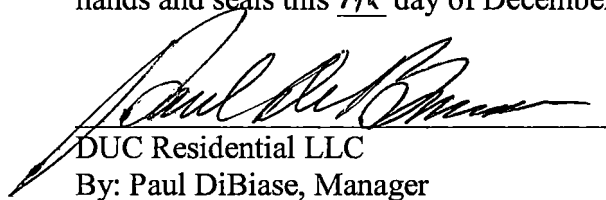
9. **RESERVED RIGHT TO AMEND.** The **DEVELOPER** hereby reserves the right, in its sole discretion, to amend this Declaration of Restrictive Covenants at any time prior to **DEVELOPER'S** conveyance of all of the lots in the subject subdivision; provided that no such amendment shall become effective until recorded with the Essex South District Registry of Deeds; and provided further, that no such amendment shall affect any lots within the subdivision conveyed by the **DEVELOPER** prior to the recordation of any such amendment.

10. **TERMINATION OR AMENDMENT OF COVENANTS BY AGREEMENT.**

Before the expiration of the terms of these restrictive covenants, said restrictions may be extended for successive periods of ten years unless an instrument signed by a majority of the owners of the lots as shown on the subdivision plan has been recorded, agreeing to change or terminate said covenants in whole or in part.

11. **CONVEYANCE BY THE WAY.** No conveyance of any lot will convey the fee in any of the ways shown on said plan, the **DEVELOPER** reserving to itself the fee title, subject to the rights of the lot owners to pass and repass and to use the ways together with all other s entitled thereto for all purposes for which streets and ways are used in the City of Beverly.
12. **WAIVER AND VARIANCE.** So long as **DEVELOPER** owns any lot in the subdivision, the **DEVELOPER** may in its sole unfettered discretion for any reason it deems appropriate waive any term or provision hereof or grant a variance from any term or any provision hereof. Thereafter, such authority to grant a waiver or variance shall be with the lot owners and may be exercised by owners of more than one half (1/2) of the lots then subject to these covenants. Any such waiver or grant of variance shall be in writing and shall be evidenced by a document recorded with the Essex South District Registry of Deeds.

IN WITNESS WHEREOF, the said **DUC Residential LLC**, have hereto affixed their hands and seals this 7th day of December 2015.

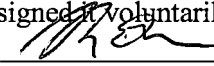

DUC Residential LLC
By: Paul DiBiase, Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS

December 7, 2015

On this 7th day of December, 2015, before me, the undersigned notary public, personally appeared Paul DiBiase, Manager as aforesaid proved to me through satisfactory evidence of identification, which was his Massachusetts Drivers license to be the person whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.


Notary Public: 3/17/17

My Commission Expires: 3:14 P.M. 6th, '17

