

**DRAFT SUBJECT TO APPROVAL BY THE CONSERVATION COMMISSION**

(SPACE ABOVE RESERVED FOR REGISTRY OF DEEDS)

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**MASTER DEED  
OF THE  
5 63RD STREET CONDOMINIUM**

Seacoast Homes, LLC (the “Declarant”), a Massachusetts Limited Liability Company with its principal office at 11 Lunt Street, Byfield, Essex County, Commonwealth of Massachusetts, being the sole owner of the land located at 5 63rd Street, Newburyport, Essex County, Commonwealth of Massachusetts (the “Land”), as described in Paragraph I, below, does hereby, by duly executing and recording this Master Deed, submit the Land, together with the Building and other improvements erected thereon and all easements, rights and appurtenances belonging thereto (the “Condominium”), to the provisions of Chapter 183A of the General Laws of Massachusetts (“Chapter 183A”), and does hereby state that it proposes to create, and does hereby create, with respect thereto, a condominium to be governed by and subject to the provisions of Chapter 183A.

I. Name of Condominium

The Condominium is to be known as the “**5 63RD STREET CONDOMINIUM.**” 5 63RD STREET CONDOMINIUM Trust (the “Trust”), through which the unit owners (the “Unit Owners”) will manage and regulate the Condominium, is being formed simultaneously herewith pursuant to Chapter 183A. The initial Trustee of the Trust is the Declarant. The Declaration of Trust (the “Declaration of Trust”) contains the by-laws of the Condominium (the “Bylaws”), enacted pursuant to said Chapter 183A. The mailing address of the Trust is 11 Lunt Street, Byfield, Massachusetts.

II. Description of Land

That certain parcel of land with the Building and other improvements thereon being known as and numbered 5 63rd Street, Newburyport, Essex County, Commonwealth of Massachusetts, conveyed to the Declarant by deed dated November 4, 2019 and filed with the Southern Essex Registry of Deeds (the “Registry of Deeds”) Book 38010 Page 220, as further described in Exhibit A hereto.

### III. Plans

Simultaneously with the recording hereof, there have been recorded with the Registry of Deeds both a site plan and floor plans of the Condominium and the Units therein. The former is entitled “5 63RD STREET CONDOMINIUM - Phase 1 Condominium Site Plan”, 5 63<sup>rd</sup> Street, Newburyport, prepared by Winter GEC, LLC, \_\_\_\_\_ 44 Merrimac Street, Newburyport, MA 01950 and dated \_\_\_\_\_; the latter are entitled “5 63RD STREET CONDOMINIUM Phase 1 Unit Plans 5 63<sup>rd</sup> Street, Newburyport ” prepared by Aileen Graf, Graf Architects, 2 Liberty Street, Newburyport MA 01950 and dated \_\_\_\_\_, 2020, stamped and signed by Aileen Graf (collectively, the “Plans”). The Plans show the layout, location, Unit numbers and dimensions of the Units, and bear the verified statement of a registered architect certifying that they fully and accurately depict the layout, location, Unit numbers and dimensions of the Units as built. The Building has no names, so none are referenced on the Plans.

### IV. Description of Building

There is one (1) building (the “Building”) located on the Land: the Building contains five (5) units, Unit A, Unit B, Unit C, Unit D and Unit E(the “Units”). The Building are constructed on steel pilings and are of wood framing and asphalt roofs. The Building are built on pilings and there are no basements.

### V. Description of Units

Each of the Units include two (2) bedrooms with two (2) full and one (1) half bathrooms. The designation of each Unit in the Condominium and a statement of its location, its approximate area, the number of rooms therein, the immediate Common Elements to which it has access and its proportionate interest in the Common Elements and facilities of the Condominium (the “Common Elements”) is included in Exhibit B hereto.

### VI. Unit Boundaries

The boundaries of each of the Units with respect to the floors, ceilings, walls, doors and windows thereof, are as follows:

- (a) Floors: The plane of the lower surface of the finish layer of the first floor.
- (b) Ceilings: The plane of the lower surface of the gypsum drywall ceiling.
- (c) Interior walls, between the Units: The plane of the interior surface of the wall studs or furring facing such Unit.
- (d) Exterior walls, doors and windows: As to walls, the plane of the interior surface of the wall studs or furring facing such Unit. As to doors, the exterior surface thereof. As to windows, the exterior surface of the glass and of the window frames.

Each Unit shall be defined so as to include all heating, water heating, plumbing, flues, meters and conduits, if any, and any other facility serving only said Unit, wherever located, whether within the Unit boundaries or in, on or about any part of the Common Elements.

VII. Unit Appurtenances

Appurtenant to each Unit are the following:

- (a) A beneficial interest in the Trust, in the same percentage as an individual Unit Owner's interest in the Common Elements, pursuant to Paragraph XI hereof. Membership is not assignable or severable from the ownership of such Unit.
- (b) The right and easement to use the Common Elements, as hereinafter defined, subject to and in accordance with the provision(s), condition(s), restriction(s) and limitation(s) as hereinbefore and hereinafter set forth and the provisions of the Declaration of Trust, the Bylaws and the rules and regulations promulgated thereunder (the "Rules and Regulations").
- (c) For each Unit's exclusive use, those Exclusive Use Areas, as hereinafter defined, designated as appurtenant to such Unit on the Plan. Said right and easement shall not be transferred, leased or otherwise disposed of separately from a Unit and any attempted transfer shall be void and of no force or effect. Said right and easement is not assignable or severable from the ownership of such Unit.
- (d) Each Unit shall have the exclusive use of the parking space(s) immediately under each unit and as shown on the Plans.

VIII. Restrictions on Use of Units

- (a) General Restrictions: The Units are intended to be used only for residential purposes, together with home occupation(s) and/or such other accessory use(s) as may be permitted by the Newburyport Zoning Ordinance, from time to time. No other use may be made of any Unit without the prior written consent of the Trustee(s) of the Trust. The Building(s) and the Common Elements may be used only for such ancillary use(s) as are required in connection with such purposes. Any Unit Owner found by a court of competent jurisdiction to be in violation of the provision(s) of this Master Deed, the Declaration of Trust, the Bylaws or the Rules and Regulations shall be liable for all costs and attorney's fees incurred by the Trustee(s) in enforcing the same.
- (b) Specific Restrictions:
  - 1. A Unit Owner shall be permitted to keep normal, household pet(s), provided that said pet(s) shall be the sole responsibility of such Unit Owner and shall not be permitted to cause a nuisance. Notwithstanding the foregoing, no Unit Owner shall be permitted to have or keep any of the following breeds of dogs or mix of breeds of dogs as follows: Akita, Alaskan Malamute, American Pit Bull Terrier, American Staffordshire Terrier, Bull Mastiff, Chow, Dalmatian, Doberman Pinscher, Giant Schnauzer, German Shepherd, Pit Bulls, Presa Canario, Rottweiler, Siberian Husky, Staffordshire Bull Terrier, Thai Ridgeback, Wolf-Dog Hybrid. Further no Unit Owner shall be permitted to keep or maintain any so called "unusual pets or livestock" such as snakes or ferrets. A Unit Owner keeping any permitted pet(s) shall be responsible for prompt removal of all pet waste and repair and restoration

of lawn, shrubbery, trees and other portions of the Common Elements damaged by routine use of the same by his or her pet(s).

2. Subject to section XVI below, nothing herein shall prevent any Unit Owner from renting his/her Unit, provided that any lease or rental agreement shall be in writing, shall be for a term of no less than seven (7) days and shall be specifically subject to this Master Deed, the provisions of the Declaration of Trust, the Bylaws and the Rules and Regulations. A copy of any such agreement shall promptly be furnished to the Trustee(s) of the Trust, who shall keep and maintain the same as part of the records of the Condominium and shall furnish copies of the same to the first mortgagees of record upon request.
3. No smoking shall be permitted at any time on or within each Unit's respective roof deck, or other Exclusive Use Area adjacent thereto notwithstanding that said Exclusive Use Areas are Exclusive Use Areas appurtenant to the Units and no smoking shall be permitted in any Common Area.

IX. Modification of Units

No Unit Owner shall make addition(s), change(s) or modification(s) of the exterior of his/her Unit or the Building(s) in which it is located or interior changes that affect, or in any way modify, the structural or supportive characteristics or integrity of the Building(s) without the approval of 100% of the Unit Owners, which approval shall not be unreasonably withheld or delayed; provided, however, such Unit Owner may modify the interior construction of his/her Unit in any manner not inconsistent herewith; and further provided that such Unit Owner may, at any time and from time to time, change the use and designation of any room or space within his/her Unit, subject always to the provisions of this Master Deed, the Declaration of Trust, the Bylaws and the Rules and Regulations. Any and all such work shall be done in a good and workmanlike manner pursuant to a building permit duly issued by the City of Newburyport, if the same is required, and pursuant to plans and specifications detailing the style, method and manner of the proposed change(s) or modification(s), which plans and specifications shall be submitted to and approved by the Trustee(s) of the Trust, which approval shall also not be unreasonably withheld or delayed.

X. Common Elements, including Exclusive Use Areas

The Common Elements consist of the entire Condominium, other than the Units, including, without limitation, the following:

- (a) All portions of the Condominium not included in the descriptions of the Units per Paragraph V hereof.
- (b) Areas for the exclusive use of a Unit Owner (the "Exclusive Use Areas"), located appurtenant to each of the Units as designated on the Plans. Areas identified as "Exclusive Use Area Unit A" on the Plans are the Exclusive Use Areas appurtenant to Unit A1; areas identified as "Exclusive Use Area Unit B" on the Plans are the Exclusive Use Areas appurtenant to Unit B and so on and so forth for Units, C, D, and E. The Exclusive Use Areas are included in the Common Elements but have been designated for

the exclusive use of the Owner(s) of the Unit to which each is appurtenant, subject to the limitations of Subparagraph (d), below, and the easement rights of the other Owner as conveyed in Paragraph XIII hereof. In all uses and at all times, the Unit Owner granted exclusive use, as aforesaid, must use the area in a manner consistent with the provisions of this Master Deed, the Declaration of Trust, the Bylaws and the Rules and Regulations. The Exclusive Use Areas shall be kept in good order by the Unit Owner with the exclusive use of the same, and will be subject to the terms hereof and those in the Declaration of Trust concerning consent of the Trustees and/or the Unit Owners, where required. All regular capital maintenance including the replacement of sand or gravel shall be the responsibility of the Association.

- (c) All conduits, ducts, pipes, wires, meters and other installations or facilities for the furnishing of utility services and/or waste removal, including without limitation water, sewerage, drainage, electricity, cable and telephone equipment attendant thereto, which serve all Units, regardless of whether they are located within any Unit. All such facilities serving all Units, wherever contained or located, shall be deemed to be part of the Common Elements to be shared by all Unit Owners. The Common Elements are subject to an easement for access by the Trustee(s) of the Trust for maintenance, repair and/or replacement, as needed.
- (d) Such additional Common Elements as may be defined in Chapter 183A.
- (e) This Condominium and the Property is subject to that certain Order of Conditions issued by the Newburyport Conservation Commission on September 5, 2019 and recorded in the Essex South Registry of Deeds Book 38010 Page177. In addition to any requirements therein the following shall apply to the use of the Property:
  - i. The open space on the site shall not be used for parking of additional vehicles, boats, recreational equipment, trailers, etc.
  - ii. No mowing of dune grass or other vegetation on site shall be allowed.
  - iii. No mulch or other soils shall be used for landscaping. Only beach grade sand may be used for planting areas.
  - iv. No fencing shall be installed or replaced on site without additional approval of the Conservation Commission.
  - v. The area below the skirting around the parking areas shall not be blocked in a manner that would inhibit the passage of wind-blown sand beneath the building.

This provision shall not be changed or amended by the Trustees or the Unit Owners.

#### XI. Determination of Percentages in Common Elements

The percentages of interest of the respective Units in the Common Elements have been determined upon the basis of the approximate relation that the fair market value of each Unit and its Exclusive Use Area on the date hereof bears to the aggregate fair market value of each of the Units and the Land on which they are located on said date.

XII. Encroachments

If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if any such encroachment shall hereafter occur as a result of (a) settling of the Building(s), (b) alteration or repair of the Common Elements, (c) repair or restoration of the Building(s) or any Unit after damage by fire or other casualty or (d) condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Building(s) stand.

XIII. Pipes, Wires, Flues, Ducts, Cables, Conduits and Public Utility Lines Serving the Unit(s)

Each Unit Owner shall have an easement in common with the others to use all underground pipes, wires, ducts, flues, cables, conduits and public utility lines located in, on, about or upon the Common Elements and serving his/her Unit.

XIV. Units Subject to Master Deed, Unit Deed, Declaration of Trust, and Rules and Regulations

All present and future Unit Owners, tenants, visitors, servants and occupants of the Units shall be subject to, and shall comply with, the provisions of this Master Deed, the applicable Unit Deed, the Declaration of Trust, the Bylaws and the Rules and Regulations, as they may be amended from time to time, and the items affecting the title to the Condominium as set forth above. The recording of a Unit Deed for and/or the entering into occupancy of any Unit shall constitute an agreement that (a) the provisions of this Master Deed, the applicable Unit Deed, the Declaration of Trust, the Bylaws, the Rules and Regulations and the Plans recorded simultaneously herewith, as the foregoing may be amended from time to time, and all items affecting title to the Condominium, are accepted and ratified by the Unit Owner, his/her tenants, visitors, servants and occupants and any person having at any time any interest or estate in the Unit, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in the Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof, and (b) a violation of the provisions of this Master Deed, the applicable Unit Deed, the Declaration of Trust, the Bylaws or the Rules and Regulations by any such person shall be deemed a substantial violation of the duties of the Unit Owner.

XV. Use of Unit(s) by the Declarant

The Declarant, its successors and assigns shall have the right to use any Unit owned or leased by it or any Common Element or portion thereof for a model, for office(s) for sales and/or construction, for storage or for any other lawful purpose. So long as the Declarant owns any Unit in the Condominium, it shall have the right to erect and maintain signs in and upon such Unit and/or the Common Elements, provided said signs comply with the Newburyport Zoning Ordinance and are maintained in a sightly condition in conformance therewith.

XVI. Sale, Rental and Mortgaging of Units

Nothing herein shall prevent any Unit Owner from renting his/her Unit, provided that any lease or rental agreement shall be in writing, shall be for a term of no less than four (4) months and shall be specifically subject to this Master Deed, the provisions of the Declaration of Trust, the Bylaws and the Rules and Regulations. A copy of any such agreement shall promptly be furnished to the Trustee(s) of the Trust, who shall keep and maintain the same as part of the records of the Condominium and shall furnish copies of the same to the first mortgagees of record upon request. Notwithstanding the foregoing, the Declarant, its successors and assigns shall have the right to let or lease any Unit which has not been sold by it, including any such Unit later acquired or later leased by it, upon such terms and for such periods as it shall determine in its sole discretion.

#### XVII. Amendment

This Master Deed may be amended by vote of a majority of Unit Owners, in person or by proxy at a meeting duly held in accordance with the provisions of the Declaration of Trust, or, in lieu of a meeting, any amendment may be approved in writing by a majority of Unit Owners. Any amendment must be duly recorded with the Registry of Deeds and the date on which any instrument is first signed by a Unit Owner shall be indicated thereon as the date thereof, and no such instrument shall be of any force or effect unless the same shall have been so recorded within six (6) months after such date. No instrument of amendment affecting any Unit in a manner which impairs the security of a mortgage of record thereon held by a bank or institutional lender or of a purchase-money mortgage shall be of any force or effect unless the same has been assented-to by such holder. No provision or instrument of amendment adopted by the Unit Owners and incorporated in this Master Deed providing for a right of first refusal by any of the Unit Owners in the event of the sale of one of the Units shall impair the rights of any institutional holder of a first mortgage on a Unit. No instrument of amendment which alters the rights of the Declarant shall be of any force or effect unless the same has been signed and acknowledged in proper form for recording by the Declarant, for so long as the Declarant owns any Unit in the Condominium. No instrument of amendment which alters this Master Deed in any manner which would render it contrary to or inconsistent with any requirements or provisions of Chapter 183A, as amended, shall be of any force or effect. Notwithstanding anything herein to the contrary, for so long as the Declarant owns any Unit in the Condominium, the Declarant reserves the right, at any time and from time to time, to unilaterally amend this Master Deed, the Declaration of Trust or the Bylaws, for the following purposes: to satisfy the requirements of any governmental or quasi-governmental body or agency including, but not limited to, the City of Newburyport, or any of its agencies; to satisfy the requirements of any insurance company or insurance underwriting office or organization, or the requirements of Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Massachusetts Housing Finance Agency, the secondary mortgage market or any lender, institutional or not; to induce any of the foregoing agencies or entities to make, purchase, sell, insure or guarantee first mortgages on a Unit; to correct typographical, mathematical, clerical or scrivener's errors, or to cure any ambiguity, inconsistency or formal defect or omission herein or in the Declaration of Trust or the Bylaws, or any exhibit hereto or thereto, or any supplement or amendment hereto or thereto; or to assist the Declarant in the sale, development and/or marketing of any Unit.

#### XVIII. Declarant's Reserved Rights to Amend Documents and Make Changes

A. The Declarant, its successors and assigns hereby expressly reserve the right and easement to construct, erect and install on the Land common use facilities to serve the Condominium, together

with any pipes, wires, ducts, cables, conduits and/or other lines, equipment and installations as shall be associated therewith. Upon substantial completion of such common use facilities, they shall become part of the Common Elements of the Condominium and the Declarant shall turn them over to the Trust for management, operation and maintenance. The Trust shall thereafter accept responsibility for said management, operation and maintenance. Nothing contained in this Paragraph XVII(B)(e) shall in any way obligate the Declarant to construct, erect or install any such facilities as part of the development of the Condominium.

B. In the event that, notwithstanding provisions of this Paragraph XVIII to the contrary, it is determined that the signature of a Unit Owner other than the Declarant is required on any amendment hereof adding to the Condominium or changing the common area or exclusive use area designations or otherwise amending the Condominium Trust or this Master Deed, the Declarant shall be empowered as attorney-in-fact for the owner of each Unit in the Condominium to execute and deliver said amendment by, on behalf of and in the name of each Unit Owner. For this purpose, by the acceptance of his or her deed, each Unit Owner constitutes and appoints the Declarant as his attorney-in-fact. This power of attorney is coupled with an interest, and hence shall be irrevocable and shall be binding upon each and every present and future Unit Owner in the Condominium.

C. Declarant's Further Reservation of Rights

The Declarant expressly reserves to itself and its successors and assigns the following rights and easements:

- (1) To construct, erect and install on or as a part of any unsold Unit or in or as a part of the Common Elements, in such locations as the Declarant shall in the exercise of its sole discretion determine to be appropriate or desirable: above; driveways, decks, fences, barriers, walkways, paths and enclosures; new or additional conduits, pipes, satellite dishes, wires, poles or other lines, equipment and installations for the furnishing of utilities, provided they do not interfere with the quiet enjoyment of Units previously sold; and any and all other building, structures, improvements and installations as the Declarant shall determine to be appropriate or desirable to the development of the Condominium.
- (2) To enter upon all or any portion of the Common Elements with workers, vehicles, machinery and equipment for the purposes of constructing, erecting, installing, operating, maintaining, repairing, modifying, rebuilding, replacing, relocating or removing structures and their appurtenances, utilities, roadways, driveways, walkways and all such other structures and improvements as the Declarant shall deem necessary or desirable to complete the development of the Condominium and its Common Elements should the Declarant elect to develop the same pursuant to the rights reserved to the Declarant herein; and to store at, in or upon the Land vehicles, machinery, equipment and materials used or to be used in connection with said development as shall be conveniently required for the same.
- (3) To sell and convey the Units without accounting to any party (other than the Declarant's mortgagee(s), if any) with respect thereto or with respect to the proceeds therefrom.



- (4) To amend this Master Deed, the Declaration of Trust or the Bylaws in accordance with Paragraph XVII, above. Every Unit Owner by the acceptance of his/her deed hereby consents for him- or herself, his/her heirs, administrators, executors, successors and assigns and for all other persons claiming by, through or under him or any other party whatsoever, to the Declarant's reserved rights and easements and rights hereunder. In the event that, notwithstanding provisions hereof to the contrary, it shall ever be determined that the signature of any Unit Owner is required on any amendment as aforesaid, the Declarant, its successors and assigns shall be empowered, as attorney-in-fact for the Unit Owner of each Unit in the Condominium, to execute and deliver any such amendment by, on behalf and in the name of each such Unit Owner and each Unit Owner hereby constitutes and appoints the Declarant as his attorney-in-fact for such purpose. Such power of attorney is coupled with an interest, and hence shall be irrevocable and shall be binding upon each and every present and future Unit Owner and all other persons claiming by, through or under him or her.
- (5) To amend, restate, reaffirm or otherwise take whatever steps may be required to complete the Condominium and construction of the Building or improvements upon the Land.

Notwithstanding anything to the contrary herein, the Declarant shall not be compelled to add any other structures or facilities whatsoever to the Condominium. The rights and easements described hereunder shall be deemed to run with the Land and shall burden the Land and shall obligate and inure to the benefit of the Unit Owners and occupants of the Land.

XVIX. Invalidity

The invalidity of any provision of this Master Deed shall not be deemed to impair or affect the validity of the remainder of this Master Deed, and, in such event, all of the other provisions of this Master Deed shall continue in full force and effect as if such invalid provision(s) had never been included herein.

XX. Waiver

No provision contained in this Master Deed shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.

XXI. Captions

The captions herein are inserted only as a matter of convenience and for reference, and in no way do they define, limit or describe the scope of this Master Deed or the intent of any provision hereof.

XXII. Conflicts

This Master Deed is set forth to comply with the requirements of Chapter 183A. In the event that any of the provisions stated above conflict with the provisions of Chapter 183A, the provisions of said Chapter 183A shall control.

WITNESS the execution hereof, under seal, this \_\_\_\_\_ day of May, 2020.

Seacoast Homes, LLC

By: \_\_\_\_\_  
Christopher Horan, Its Manager

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

May \_\_\_\_, 2020

Before me, the undersigned notary public, personally appeared Christopher proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed and sealed it voluntarily and for its stated purpose, not individually but as Manager of Seacoast Homes, LLC..

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## **EXHIBIT A**

### Property Description

The following parcels of land situated in Newburyport, in the County of Essex and Commonwealth of Massachusetts, bounded and described as follows:

## EXHIBIT B

### Unit Descriptions

<b>Unit Designation</b>	<b>Approximate Area</b>	<b>Number of Rooms <sup>†</sup></b>	<b>Immediate Common Element</b>	<b>Percentage Interest in Condominium</b>
A		K/LR/DR, 2-BR, 2 ½ Bath	Exclusive use deck and stairs leading to parking under unit and ground	21
B		K/LR/DR, 2-BR, 2 ½ Bath	Exclusive use deck and stairs leading to parking under unit and ground	19.5
C		K/LR/DR, 2-BR, 2 ½ Bath	Exclusive use deck and stairs leading to parking under unit and ground	19.5
D		K/LR/DR, 2-BR, 2 ½ Bath	Exclusive use deck and stairs leading to parking under unit and ground	20
E		K/LR/DR, 2-BR, 2 ½ Bath	Exclusive use deck and stairs leading to parking under unit and ground	20

<sup>†</sup> Key: K = kitchen; DR = dining room; LR = living room; F= foyer; BR = bedroom; D = den