

STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

LICENSE AGREEMENT
WITH COVENANTS

THIS LICENSE AGREEMENT WITH COVENANTS (this "Agreement") is made and entered into as of the 30TH day of NOVEMBER, 2012 (the "Effective Date"), by and between CDC-New Hampshire, LLC, a Delaware limited liability company ("CDC"), and the Town of Durham, New Hampshire (the "Town").

Recitals:

CDC is the owner of a parcel of real property located on the westerly side of Technology Drive in the Town of Durham, County of Strafford, and being more particularly described on Exhibit "A" attached hereto (the "Property"). CDC intends to construct and develop a multi-family housing project intended primarily for use by college students on the CDC Property (the "Project"). The Durham Cemetery is located on State Route 155A (the Old Concord Road) at the intersection of Technology Drive and shares a common boundary line with the CDC Property (the "Cemetery").

As a condition to approval of CDC's site plan for the Project (the "Site Plan"), the Town required the Durham Cemetery Committee to review and approve certain elements of the Site Plan, and as part of its approval the Durham Cemetery Committee required that (i) CDC place certain restrictive covenants on the CDC Property and (ii) CDC make certain improvements on the CDC Property and on the Cemetery.

Agreement:

NOW, THEREFORE, for and in consideration of good and valuable consideration and the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby covenant and agree as follows:

1. Construction of Fence and Landscape Buffer. CDC has constructed, at its sole cost and expense, a fence and landscape buffer between the CDC Property and the Cemetery (collectively, the "Buffer"). The Town approves the location, landscaping and final construction of the Buffer, including the fence and the removal of trees that was completed in connection with the creation of the Buffer. The fence constituting a portion of the Buffer is hereafter referred to as the "Fence."

2. Fence License. The entire Fence is located on the CDC Property adjacent to the Cemetery except for a 20 foot section of the Fence running parallel to Technology Drive is located on the Cemetery Property along the boundary of the Technology Drive Right of Way. The Town hereby grants CDC, and any subsequent owner or owners of the CDC Property, a license over the Cemetery for the purpose of maintaining, repairing and replacing the Fence and the Buffer (the "License"). The License is revocable by the Town upon thirty (30) days prior written notice; provided, however, that when and if the Town revokes the License, CDC will have no further obligation to maintain, repair or replace the portion of the Fence or the Buffer located on the Cemetery.

3. Maintenance of Buffer. CDC, and any subsequent owner or owners of the CDC Property, shall maintain, repair and/or replace, as applicable, the Buffer, including the Fence, in perpetuity, normal and reasonable wear and tear excepted; provided, however, that when and if the Town revokes the License, CDC will have no further obligation to maintain, repair or replace the portion of the Fence or the Buffer located on the Cemetery.

4. Damage to Cemetery. CDC shall, to the extent commercially reasonable, limit its activities upon the Cemetery to the cemetery driveways. If CDC materially damages any portion of the Cemetery or the improvements thereon, CDC shall repair such damage at CDC's sole cost and expense.

5. Covenants. The licenses and covenants granted in this Agreement run with the land, are intended to confer restrictions and benefits on and to the parties hereto, and may be modified and/or terminated only in accordance with this Agreement or otherwise upon the written agreement of the parties hereto or their respective successors and assigns, which agreement must be recorded in the filing office in which this Agreement is recorded. It is the intention of the parties hereto that the holders of all existing and future mortgages and other interests with respect to all or any portion of either the CDC Property or the Cemetery shall acquire and/or hold their respective mortgages and other interests subject and subordinate to the licenses and covenants granted herein, and that the foreclosure or other exercise of rights by any such holder shall not terminate or cancel the licenses and covenants or this Agreement in any respect.

6. Termination. If and when the Cemetery ceases to be used as a cemetery or burial ground, the rights and obligations of the parties under this Agreement shall terminate and be of no further force and effect. In such event, CDC, or the subsequent owner or owners of the CDC Property, may abandon in place the Fence and any other portions of the Buffer located on the Cemetery.

7. No Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the CDC Property to the general public, or for any public use or purpose, whatsoever.

8. Non-Waiver. The failure of either party hereto to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

9. Binding Effect. The terms of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns which become owners of either the CDC Property or the Cemetery.

10. Captions; Pronouns. The captions in this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement. Whenever the context hereof admits or requires, words in the singular may be regarded as in the plural and vice-versa, and personal pronouns may be read as masculine, feminine and neuter.

11. Severability. Invalidation of any of the provisions contained in this Agreement shall in no way affect any of the other provisions hereof or the application thereof to any other person or entity, and the remainder of this Agreement shall remain in full force and effect.

12. Applicable Law. It is expressly understood and agreed that this Agreement and all questions arising hereunder shall be construed according to the laws of the State of New Hampshire, without regard to its conflicts of law provisions.

13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

14. Entire Agreement. This Agreement supersedes all prior agreements between the parties with regard to the subject matter hereof, and there are no other understandings or agreements between them.

15. Notices. All notices or communications required or permitted under this Agreement shall be given in writing and served by (a) personal delivery, (b) overnight courier, or (c) deposit in the United States mail and sent by first class registered or certified mail, return receipt requested, postage prepaid:

If to the Town:

The Town of Durham, New Hampshire

Todd I. Selig

Attn: Administrator

Town of Durham

If to CDC:

CDC-New Hampshire, LLC

Attn: Rob Howland

431 Office Park Drive

Birmingham, Alabama 35223

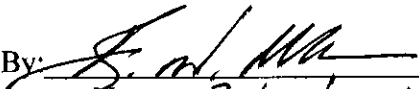
Notice shall be deemed given and effective the day personally delivered, the day after being sent by overnight courier, three (3) days after deposit in the U.S. mail as provided above, or when actually received, if earlier. Either party may change the address for notices or communications to be given to it by written notice to the other party given as provided in this Section.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective as of the day and year first written above.

CDC-NEW HAMPSHIRE, LLC, a Delaware limited liability company

By: Capstone Development Corp., an Alabama corporation, as its Manager

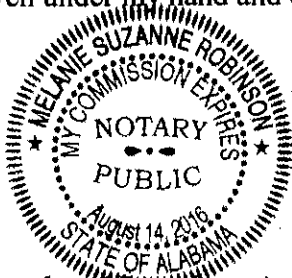
By: 
Name: BEN W. WALKER
As Its: Senior Vice President

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned Notary Public in and for said County in said State hereby certify that Ben W Walker whose name as Senior Vice President of Capstone Development Corp., an Alabama corporation, acting in its capacity as the Manager of CDC-New Hampshire, LLC, a Delaware limited liability company, is signed to the foregoing agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of said agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on behalf of said limited liability company on the day the same bears date.

Given under my hand and official seal this 29th day of November, 2012.

{SEAL}



Melanie Suzanne Robinson
NOTARY PUBLIC
My Commission Expires: August 14 2016

{Remainder of Page Intentionally Left Blank—Signatures Continue on Following Page}

THE TOWN OF DURHAM, NEW HAMPSHIRE

By: [Signature]
Name: _____
As Its: Todd I. Selig
Administrator
Town of Durham

ATTEST:

By: [Signature]
Name: BARBARA LANDGRAF
As Its: Deputy Town Clerk

STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

I, the undersigned notary public in and for said state and county, hereby certify that Todd I. Selig, whose name as Administrator of the Town of Durham, New Hampshire, is signed to the foregoing agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of this agreement, s/he, as such Administrator with full authority, executed the same voluntarily for and as the act of the Town of Durham, New Hampshire on the day the same bears date.

Given under my hand and official seal this 30 day of November, 2012

[Signature]
NOTARY PUBLIC
My Commission Expires: 6/3/2014



EXHIBIT "A"
DESCRIPTION OF CDC PROPERTY

WOODWARD PARCEL

A CERTAIN TRACT OR PARCEL OF LAND TOGETHER WITH THE BUILDINGS AND IMPROVEMENTS THEREON SITUATED ON THE NORTHERLY SIDE OF CONCORD TURNPIKE, SO-CALLED, BUT NOT ADJACENT THERETO, IN THE TOWN OF DURHAM, COUNTY OF STRAFFORD, STATE OF NEW HAMPSHIRE, AND BEING SHOWN AND DESIGNATED AS LOT A-2, CONTAINING 41.4 ACRES+/-, ON PLAN OF LAND ENTITLED "SUBDIVISION LOT-A, THE WOODWARD FARM, DURHAM, N.H.", DATED MAY 1984, PREPARED BY G.L. DAVIS & ASSOCIATES, RECORDED IN THE STRAFFORD COUNTY REGISTRY OF DEEDS AS PLAN #24A-35; AND TO WHICH PLAN REFERENCE MAY BE MADE FOR A MORE PARTICULAR METES AND BOUNDS LEGAL DESCRIPTION OF THE PREMISES.

SAID PREMISES BEING CONVEYED TOGETHER WITH ALL OF OUR RIGHT, TITLE AND INTEREST IN AND TO LOT A-3 (AS SHOWN ON SAID PLAN) AS MORE FULLY DESCRIBED IN A CERTAIN EASEMENT DEED GRANTED BY DATA GENERAL CORPORATION TO WILLIAM WOODWARD AND KARL WOODWARD DATED NOVEMBER 6, 1984, AND RECORDED IN THE STRAFFORD COUNTY REGISTRY OF DEEDS OF BOOK 1150, PAGE 614. SUCH PROPERTY MORE PARTICULARLY DESCRIBED AS SHOWN HEREON;

BEGINNING AT A CONCRETE BOUND ON THE WESTERLY SIDE OF TECHNOLOGY DRIVE AT LAND OF THE TOWN OF DURHAM IN THE STATE OF NEW HAMPSHIRE, IN THE COUNTY OF STRAFFORD, IN THE TOWN OF DURHAM;

THENCE ALONG LAND OF THE TOWN OF DURHAM N 54° 33' 24" W A DISTANCE OF 429.12' TO A POINT; THENCE S 27° 09' 16" W A DISTANCE OF 294.89' TO A 1/2" IRON ROD AT LAND OF ROSE REALTY LLC;
THENCE ALONG LAND OF ROSE REALTY LLC N 78° 04' 50" W A DISTANCE OF 214.87' TO A 44" WHITE PINE WITH WIRE; THENCE N 77° 24' 54" W A DISTANCE OF 281.93' TO A STUMP WITH WIRE;
THENCE N 76° 23' 11" W A DISTANCE OF 242.13' TO A STEEL STAKE FOUND AT LAND OF JOHN B. & CANDICE L. SHEA; THENCE N 76° 23' 11" W A DISTANCE OF 47' MORE OF LESS TO THE OYSTER RIVER;
THENCE ALONG SAID RIVER AND LAND OF SHEA IN A NORTHERLY DIRECTION TO A POINT;
THENCE FROM THE RIVER N 12° 32' 29" E A DISTANCE OF 55' MORE OF LESS TO A 24" AND 26" HEMLOCK TREE WITH BARBED WIRE; THENCE N 02° 56' 05" E A DISTANCE OF 187.52' TO A 10" HICKORY TREE WITH BARBED WIRE; THENCE N 07° 22' 36" E A DISTANCE OF 192.54' TO A POINT;
THENCE N 04° 04' 02" E A DISTANCE OF 320' MORE OR LESS THROUGH A 34" BEECH TREE WITH BARBED WIRE TO THE OYSTER RIVER AT LAND OF MARY ELLEN WILSON;
THENCE ALONG SAID RIVER AND LAND OF MARY ELLEN WILSON IN A NORTHERLY DIRECTION TO A POINT;

THENCE FROM THE RIVER N 17° 36' 23" E A DISTANCE OF 137' MORE OR LESS TO A POINT AT LAND OF PREFCO XXV LTD. PARTNERSHIP BEING S 70° 39' 22" E A DISTANCE OF 3.24' FROM A CONCRETE BOUND FOUND;
THENCE ALONG LAND OF PREFCO XXV LTD. PARTNERSHIP S 70° 39' 22" E A DISTANCE OF 1495.64' TO A CONCRETE BOUND AT THE WESTERLY SIDE OF TECHNOLOGY DRIVE;
THENCE ALONG TECHNOLOGY DRIVE S 33° 48' 16" W A DISTANCE OF 1355.50' TO A CONCRETE BOUND WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 1,786,000 SQ. FT. OR 41.0 ACRES.

SHEA PARCEL

A CERTAIN TRACT OR PARCEL OF LAND SITUATED IN THE TOWN OF LEE, COUNTY OF STRAFFORD, STATE OF NEW HAMPSHIRE, BEING A PORTION OF THE PREMISES CONVEYED TO JOHN B. SHEA AND CANDICE L. SHEA BY VIRTUE OF A DEED FROM JOHN C. WHICHER, JR., AND DARLENE A. WHICHER DATED JULY 7, 2004, AND RECORDED IN THE STRAFFORD COUNTY REGISTRY OF DEEDS AT BOOK 3045, PAGE 004.

SUCH PROPERTY MORE PARTICULARLY DESCRIBED AS SHOWN HEREON;

BEGINNING AT A 24" AND 26" HEMLOCK TREE WITH BARBED WIRE AT LAND OF WILLIAM SMITH WOODWARD REVOCABLE TRUST OF 2002 IN THE TOWN OF DURHAM IN THE STATE OF NEW HAMPSHIRE, IN THE COUNTY OF STRAFFORD, IN THE TOWN OF DURHAM; THENCE N 02° 56' 05" E A DISTANCE OF 187.52' TO A 10" HICKORY TREE WITH BARBED WIRE;
THENCE N 07° 22' 36" E A DISTANCE OF 192.54' TO A POINT;
THENCE N 04° 04' 02" E A DISTANCE OF 320' MORE OR LESS THROUGH A 34" BEECH TREE WITH BARBED WIRE TO THE OYSTER RIVER AT LAND OF MARY ELLEN WILSON;
THENCE ALONG SAID RIVER IN A SOUTHERLY DIRECTION TO A POINT;
THENCE FROM THE RIVER N 12° 32' 29" E A DISTANCE OF 55' MORE OF LESS TO A 24" AND 26" HEMLOCK TREE WITH BARBED WIRE; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 191,600 SQ. FT. OR 4.4 ACRES.