



2006 00000778

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**DECLARATION OF TRUST
OF
RUGGED SCOTT OWNERS ASSOCIATION TRUST**

This Instrument of Trust is made as of February 24, 2006, at Nantucket, Massachusetts, by JOSHUA POSNER, of Cambridge, Massachusetts, ARTHUR I. READE, JR., of Nantucket, Massachusetts, and STEVEN L. COHEN, of Nantucket, Massachusetts (with their successors in trust, hereinafter collectively called the "Trustees", which term and any provisions referring thereto shall be deemed to include their successors in trust hereunder and to mean the trustee or trustees for the time being hereunder, whenever the context so permits).

**ARTICLE ONE
Name of Trust**

The trust hereby created shall be known as **RUGGED SCOTT OWNERS ASSOCIATION TRUST** and, under that name, so far as legal, convenient, and practicable, shall all business carried on by the Trustees be conducted and shall all instruments in writing by the Trustees be executed.

**ARTICLE TWO
Definitions**

For purposes of this Instrument of Trust, the following words and phrases shall have the following meanings:

2.01. **"Affordable Units."** The single-family dwellings to be constructed upon Building Lots 4, 10, 14, 20, 24, 27, 29, 33, 37 and 39.

2.02. **"Assessments."** The assessments and charges provided for by the terms of the Declaration of Restrictions and Easements.

2.03. **"Board of Appeals."** The Nantucket Board of Appeals, as the Permit Granting Authority under the Comprehensive Permit.

2.04. **"Buffer Lot."** Each of Lots 43 through 49, inclusive, on the Plan.

2.05. **"Building Lot."** Each of Lots 1 through 10, inclusive, and each of Lots 12 through 41, inclusive, on the Plan.

2.06. **"Club Lots."** Lots 11 and 42 on the Plan.

2.07. **"Comprehensive Permit."** The Decision entered by the Board of Appeals in its File No. 051-03, as modified pursuant to the Agreement and Stipulation for Entry of Judgment" in Housing Appeals Committee Docket No. 04-13, and the Settlement Agreement dated November 21, 2005, attached thereto, recorded with the Nantucket Registry of Deeds herewith.

2.08. **"Covenant."** The Covenant between the Developer and the Nantucket Board of Appeals dated February 24, 2006, in File No. 051-03, recorded with the Nantucket Registry of Deeds herewith.

2.09. **"Declaration of Restrictions and Easements."** The provisions contained in a certain document entitled Declaration of Restrictions and Easements dated as of February 24, 2006, recorded with the Nantucket Registry of Deeds herewith.

2.10. **"Developer."** Rugged Scott LLC, the present Owner of the Land, or such other persons or entities as shall hold the rights of the Developer hereunder by express written and registered instrument of assignment executed by Rugged Scott LLC, or its successors as the Developer.

2.11. **"Land."** The land in Nantucket, Nantucket County, Massachusetts, consisting of each of the Building Lots, the Roadway Lot, the Club Lots, and the Buffer Lots.

2.12. **"Lot."** Each of the parcels designated by a number on the Plan.

2.13. **"Member."** The Owner of a Building Lot.

2.14. **"Owner."** The person or persons or other entity, considered collectively, who are, from time to time, the owners of any Lot, according to the records at such time at the Nantucket Registry of Deeds.

2.15. **"Plan."** The plan drawn by Cullinan Engineering, dated January 25, 2006, revised February 22, 2006, as endorsed by the Board of Appeals as approved under the Subdivision Control Law in File No. 051-03, recorded with the Nantucket Registry of Deeds as Plan 2006-19

2.16. "Restrictions." The restrictions imposed by the Declaration of Restrictions and Easements.

2.17. "Roadway Lot." Lot 50 on the Plan.

2.18. "Roadways." Roadway A and Roadway B, as shown upon the Plan, and designated thereon as Lot 50.

2.19. "Utility Lines." The pipes, wires, cables, or other means of transmission of electric, telephone, cable television, water, sewer, and such utility services as are now or may in the future be customarily installed to serve residential building lots in Nantucket, Massachusetts, which serve any of the Lots (but not any such means of transmission which lies within any Building Lot and serves only that Building Lot).

ARTICLE THREE
The Trust and Its Purpose

3.01. "Purposes." This trust has been formed for the purpose of acting as an Association of the Owners of Lots and, in connection therewith, to construct, install, maintain, and improve the Roadways and the drainage structures and Utility Lines located within the Roadways or within those easement areas as set forth in Article Four of the Declaration of Restrictions and Easements; to hold title to the Roadway Lot, the Club Lots and the Buffer Lots; to collect and enforce the Assessments; to maintain the health of trees that have been planted by the Developer within the Buffer Lots pursuant to Paragraph 2.7 of the Comprehensive Permit; to enforce the Restrictions; to perform the

obligations of the Permit Holder under that certain Conservation and Management Permit, No. 005-069.DFW, issued under the Massachusetts Endangered Species Act, M.G.L., c. 131A, by the Division of Fisheries and Wildlife of the Commonwealth of Massachusetts dated January 17, 2006; and generally to promote common enjoyment by Members of their respective Building Lots and the best interest of all Members with respect to the Land, as the same may from time to time be determined by the Members, acting in accordance with the provisions hereof.

3.02. Relationship of Parties. It is hereby expressly declared that a trust and not a partnership has been created hereby, and that the Members are *cestuis que trustent* and not partners or associates nor in any other relation whatever between themselves with respect to the trust property, and hold no relation to the Trustees other than that of *cestuis que trustent*, with only such rights as are conferred upon them as such *cestuis que trustent* hereunder.

ARTICLE FOUR
The Trustees

4.01. Election of Trustees. There shall at all times be a board of trustees (the "Board of Trustees" or the "Board") hereunder. Until each of the Lots has been sold and conveyed (to a person or entity other than a successor Developer) by the Developer or a successor Developer, the Board of Trustees shall consist of three or more natural persons who shall be designated

by the Developer; initially, the Trustees named herein, Joshua Posner, Arthur I. Reade, Jr., and Steven L. Cohen, and in the case of any vacancy as Trustee, such vacancy shall be filled by appointment by the Developers. Thereafter, the Board of Trustees shall be elected by majority vote of the Members, with each Lot having one vote, consisting of such number, not less than three (3) nor more than nine (9), as shall be determined from time to time by vote, at the annual meeting of the Members, of Members entitled to not less than fifty-one (51%) of the beneficial interest hereunder; the terms of office of the Trustees shall, except as hereinafter provided, be three (3) years, and such terms shall be staggered so that insofar as possible the terms of one-third (1/3) of the Trustees shall expire each year. Upon any increase or decrease in the number of Trustees, the terms of any then newly elected Trustee or Trustees shall be determined insofar as possible in such fashion as to accomplish the staggering of terms as set forth herein. If and whenever the number of such Trustees shall become less than three (3) or less than the number of Trustees then determined as aforesaid, a vacancy or vacancies in said office shall be deemed to exist. Each such vacancy shall be filled by instrument in writing setting forth (a) the election or appointment of a natural person to act as Trustee, (b) the acceptance of such election or appointment, signed and acknowledged by the person so elected or appointed, and (c) certification that the person, if

so elected, has been duly elected as a Trustee hereunder by majority vote at a meeting of the Members duly called and held, or, if so appointed, has been duly appointed by the Developer, which instrument is signed by a majority of the then remaining Trustees, or by the sole remaining Trustee if only one. Such appointment shall become effective upon the filing for record at Nantucket Registry District of such instrument, and such person shall then be and become such Trustee and shall be vested with the powers of the Trustees, jointly with the remaining or surviving Trustee or Trustees, without the necessity of any act of transfer or conveyance. If for any reason any vacancy in the office of Trustee shall continue for more than sixty (60) days and shall at the end of that time remain unfilled, a Trustee or Trustees to fill such vacancy or vacancies may be appointed by any court of competent jurisdiction upon the application of any Member or any Trustee and after notice to all Members and Trustees and to such other parties in interest, if any, to whom the court may direct that notice be given. The foregoing provisions of this section to the contrary notwithstanding, despite any vacancy in the office of Trustee, however caused and for whatever duration, the remaining or surviving Trustees, subject to the provisions of the immediately following section, shall continue to exercise and discharge all of the powers, discretion, and duties hereby conferred or imposed upon the Trustees.

4.02. Majority Vote. In any matters relating to the administration of the Trust hereunder and the exercise of the powers hereby conferred, the Trustees may act by a majority vote, at any duly called meeting at which a quorum is present as provided in Section 6.07, provided, however, that in no event shall a majority consist of less than two (2) Trustees hereunder, and, if and whenever the number of Trustees hereunder shall become less than two (2), the then remaining or surviving Trustee, if any, shall have no power or authority whatsoever to act with respect to administration of the Trust hereunder or to exercise any of the powers hereby conferred, except as provided in Section 4.01. The Trustees may also act without a meeting by instrument signed by a majority of their number.

4.03. Resignation or Removal. Any Trustee may resign at any time by instrument in writing, signed, and acknowledged in the manner required in Massachusetts for the acknowledgment of deeds, and such resignation shall take effect upon the recording with the Nantucket Registry of Deeds of such instrument. Until each of the Lots has been sold and conveyed (to a person or entity other than a successor Developer) by the Developers or a successor Developer, the Developers shall have the right to remove any Trustee by instrument in writing, signed and acknowledged in the manner required in Massachusetts for the acknowledgment of deeds, and such removal shall take effect upon

the recording with the Nantucket Registry of Deeds of such instrument.

4.04. Personal Liability. No Trustee hereinbefore named or elected as hereinbefore provided shall under any circumstances or in any event be held liable or accountable out of the Trustee's personal assets or be deprived of compensation by reason of any action taken, suffered, or omitted in good faith, or be so liable or accountable for more money or other property than the Trustee actually receives, or for allowing one or more of the other Trustees to have possession of the Trust funds or property, or be so liable, accountable, or deprived by reason or honest errors of judgment or mistakes of act or law or by reason of the existence of any personal or adverse interest or by reason of anything except the Trustee's own personal and willful malfeasance or defaults.

4.05. Dealing with Trustees. No Trustee shall be disqualified by holding office as Trustee from contracting or dealing with the Trustees or with one or more Owners (whether directly or indirectly because of such Trustee's interest individually or the Trustee's interest or any Owner's interest in any corporation, firm, trust, or other organization connected with such contracting or dealing or because of any other reason), as vendor, purchaser, or otherwise, nor shall any such dealing, contract, or arrangement entered into in respect of this Trust in which any Trustee shall be in any way interested be avoided, nor

shall any Trustee so dealing or contracting or being so interested be liable to account for any profit realized by any such dealing, contract, or arrangement by reason of such Trustee's holding office or of the fiduciary relation hereby established, provided the Trustee shall act in good faith and shall disclose the nature of the Trustee's interest before the dealing, contract, or arrangement is entered into.

4.06. Indemnity. The Trustees, and each of them, shall be entitled to indemnity both out of the Trust property and by the Members against any liability incurred by them, or any of them, in the execution hereof, including, without limiting the generality of the foregoing, liabilities in contract and in tort and liabilities for damages, penalties, and fines. Each Member shall be personally liable for all sums lawfully assessed for such Member's share of the common expenses of the Trust and for such Member's proportionate share of any claims involving the Trust property in excess thereof. Nothing in this Section shall be deemed, however, to limit in any respect the powers granted to the Trustees in this Trust.

ARTICLE FIVE
Beneficiaries and the
Beneficial Interest in the Trust

5.01. Beneficiaries. The *cestuis que trustent* or beneficiaries shall be the Members, as Owners, from time to time, of each of the Building Lots. The Members shall hold the beneficial interest in this Trust in the shares, appertaining to

their respective Building Lots, as set forth in Exhibit A hereto. However, in all actions upon which the Members shall vote, the Members shall have an equal vote, one vote appertaining to each Building Lot.

5.02. Multiple Owners. The beneficial interest of each Building Lot set forth above shall be held and exercised as a unit and shall not be divided among several Owners of any such Building Lot. To that end, whenever any of said Lots is owned of record by more than one (1) person, the several Owners of such Building Lot shall (a) determine and designate which one of such Owners shall be authorized and entitled to cast votes, execute instruments, and otherwise exercise the rights appertaining to such Building Lot hereunder, and (b) notify the Trustees of such designation by a notice in writing signed by all of the record Owners of such Building Lot. Any such designation shall take effect upon receipt by the Trustees and may be changed at any time and from time to time by notice as aforesaid. In the absence of any such notice of designation, the Board of Trustees may, by majority vote, designate any one such Owner for such purposes.

ARTICLE SIX
By-Laws

The provisions of this Article Six shall constitute the By-Laws of this Trust and the organization of Members established hereby, to wit:

6.01. **Powers of the Trustees.** The Trustees shall have the absolute control, management, and disposition of the Trust property as if they were the absolute owners thereof, free from the control of the Members and, without, by the following enumeration, limiting the generality of the foregoing or of any item in the enumeration, with full power and uncontrolled discretion, subject only to the limitations and conditions hereof, at any time and from time to time and without the necessity of applying to any court or to the Members for leave so to do.

6.02. **Inspection of Records.** Books, accounts, and records of the Trustees shall be open to inspection to any one or more of the Members at all reasonable times. The Trustees shall as soon as reasonably possible after the close of each fiscal year, or more often if convenient for them, submit to the Members a report of the operations of the Trustees for such year, which shall include a profit and loss statement, and analysis of surplus changes during the year, and a balance sheet as of the close of each year, all in such summary form and only in such detail as the Trustees shall deem proper. Any person who has

been furnished with such report and shall have failed to object thereto by notice in writing to the Trustees given by registered mail within a period of six (6) months of the date of the receipt by him shall be deemed to have assented thereto.

6.03. Common Expenses, Profits, and Funds. The Members shall be liable for common expenses and entitled to common profits of the Trust in proportion to their respective percentages of beneficial interest as set forth in Article Five hereof. The Trustees may at any time or times distribute common profits among the Members in such proportions. The Trustees may, to such extent as they deem advisable, set aside common funds as reserve or contingent funds and may use the funds so set aside for reduction of indebtedness or other lawful capital purpose or, subject to provisions hereof, for repair, rebuilding, or restoration of the Roadways and the Utility Lines, or for improvements thereto, and the funds so set aside shall not be deemed to be common profits available for distribution. All such common expenses shall be assessed and collected in accordance with the Declaration of Restrictions and Easements.

6.04. Insurance. The Trustees may obtain and maintain, to the extent available, master policies of insurance with respect to the common areas and facilities for the benefit and protection of Trustees and all of the Members for (a) comprehensive public liability; (b) workmen's compensation and employer's liability with respect to any manager, agent, or

employee of the Trust, but excluding any independent agent or manager; and (c) such other risks as the Trustees in their discretion deem it appropriate to insure. All such insurance may be in such amounts and forms as the Trustees shall, in their discretion, deem appropriate and shall, insofar as practicable, contain provisions as above set forth with respect to non-cancellation, waiver of subrogation, waiver of defense based on conduct of any insured, and non-contribution. The cost of all such insurance obtained and maintained by the Trustees, pursuant to the provisions of this Section, shall be a common expense.

6.05. Improvements to Roadways. If and whenever the Trustees shall propose to make any improvement to the Roadways or shall be requested in writing by Members holding fifty percent (50%) or more of the beneficial interest in this Trust to make any such improvement, the Trustees shall submit to all Members a form of agreement (which may be in several counterparts) specifying the improvement or improvements to be made and the estimated cost thereof and authorizing the Trustees to proceed to make the same. Upon (a) the receipt by the Trustees of such agreement signed by Members holding one hundred percent (100%) of the beneficial interest or (b) the expiration of ninety (90) days after such agreement was first submitted to the Members, whichever of said (a) and (b) shall first occur, the Trustees shall notify all Members of the aggregate percentage of beneficial interest held by Members who have signed such

agreement. If such percentage exceeds seventy-five percent (75%), the Trustees shall proceed to make the improvement or improvements specified in such agreement, with all costs to be borne as herein provided. If and whenever any Member shall propose to make an improvement to or affecting any Roadway at such Member's expense, and the Trustees determine, in their reasonable discretion, that such improvement would be consistent and compatible with the provisions and intent of this Trust and the Declaration of Easements, the Trustees may, but shall not be obliged to, authorize such improvement to be made at the sole expense of the Member proposing the same, without the consent or approval of other Members, subject to such contractual undertakings of the Member proposing such improvement as the Trustees, in their reasonable discretion, deem to be necessary or desirable in the circumstances.

6.06. Rules and Regulations. The Board of Trustees may at any time and from time to time adopt and amend and rescind administrative rules and regulations governing the details of the operation and use of the Roadways; provided, however, that such rules and regulations shall be consistent with the Declaration of Restrictions and Easements.

6.07. Meetings of Trustees. The Board of Trustees shall meet annually at a time and place designated by the Chairman of the Trustees, or at such other reasonable time and place as may be designated by a majority of the Trustees by written notice

given to all Trustees at least fourteen (14) days prior to the date so designated, and at such meeting shall elect the Chairman, Treasurer, and Secretary hereinafter provided for. Other meetings may be called by the Chairman and in any other manner as the Trustees may establish, provided, however, that written notice of each meeting stating the place, day, and hour thereof shall be given at least fourteen (14) days before such meeting to each member of the Board of Trustees. A majority of all of the Trustees then in office shall constitute a quorum at all meetings, and such meeting shall be conducted in accordance with such rules as the Board of Trustees may adopt.

6.08. Notices to Members. Every notice to any Member required under the provisions hereof, or which may be deemed by the Trustees necessary or desirable in connection with the execution of the Trust created hereby, or which may be ordered in any judicial proceeding, shall be deemed sufficient and binding if a written or printed copy of such notice shall be given by one or more of the Trustees to such Member by mailing it, postage prepaid and addressed to such Member at such Member's address as it appears upon the records of the Trustees, at least seven (7) days prior to the date fixed for the happening of the matter, thing, or event of which such notice is given.

6.09. Meetings of Members. There shall be an annual meeting of Members at such reasonable place and time as may be designated by the Board of Trustees by written notice given to

the Members at least fourteen (14) days prior to the date so designated. Special meetings of the Members may be called at any time by the Board of Trustees and shall be called by them upon written request of Members owning at least one-third of the Building Lots. Written notice of any such meeting, designating the place, day, and hour thereof, shall be given by the Board of Trustees to the Members at least fourteen (14) days prior to the date so designated. At the Annual Meeting of the Members, the Board of Trustees shall submit reports of the management and finances of the Trust. Whenever at any meeting the Board of Trustees proposes to submit to the Members any matter with respect to which approval of or action by the Members is necessary or appropriate, the notice of such meeting shall so state and reasonably specify such matter.

6.10. Checks, Notes, Drafts, Etc. Checks, notes, drafts, and other instruments for the payment of money drawn or endorsed in the name of the Trustees or of the Trust may be signed by any Trustee or by any person or person to whom such power may, at any time or from time to time, be delegated by not less than a majority of the Trustees.

6.11. Fiscal Year. The fiscal year of the Trust shall be the year ending with the last day of December or such other date as may, from time to time, be determined by the Trustees.

ARTICLE SEVEN
Rights and Obligations of Third
Parties Dealing with the Trustees

7.01. Acts of Trustees. No purchaser, mortgagee, lender, or other person dealing with the Trustees as they then appear of record at the Nantucket Registry of Deeds shall be bound to ascertain or inquire further as to the persons who are then Trustees hereunder or be affected with any notice, implied or actual, otherwise than by a certificate thereof, and such record or certificate shall be conclusive evidence of the personnel of the Trustees and of any changes therein. The receipts of the Trustees, or any one or more of them, for moneys or things paid or delivered to them, or him, shall be effectual discharges therefrom to the persons paying or delivering the same, and no person from whom the Trustees, or any one or more of them, shall receive any money, property, or other credit shall be required to see to the application thereof. No purchaser, mortgagee, lender, or other person dealing with the Trustees or with any real or personal property which then is or formerly was Trust property shall be bound to ascertain or inquire as to the existence or occurrence of any event or purpose in or for which a sale, mortgage, pledge, or charge is herein authorized or directed, or otherwise as to the purpose of regularity of any of the acts of the Trustees, or any one or more of them, purporting to be done in pursuance of any of the provisions of powers herein contained, or as to the regularity of the resignation or

appointment of any Trustee, and any instrument of appointment of a new Trustee or of an old Trustee purporting to be executed by the shareholders or other persons herein required to execute the same shall be conclusive evidence in favor of any such purchaser or other person dealing with the Trustees of the matters therein recited relating to such discharge, resignation, or appointment, or the occasion thereof.

7.02. **Transfer of Securities.** No corporation, company, trust, association, body politic, or other body having outstanding shares, bonds, or other securities shall be affected by notice that any of its shares or bonds or other securities are subject to this Trust or be bound to see to the execution thereof or to ascertain or inquire whether any transfer of any such shares, bonds, or other securities by the Trustees is authorized, notwithstanding such authority may be disputed by some other person.

7.03. **Recourse against Trustees.** No recourse shall be, at any time, had upon or under any note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant, or agreement, whether oral or written, made, insured, or executed by the Trustees or by any agent or employee of the Trustees, or by reason of anything done or omitted to be done by or on behalf of them, or any of them, against the Trustees individually, or against any such agent or employee or against any beneficiary or the holder of any security issued by the Trustees, either

directly or indirectly, by legal and equitable proceeding, or by virtue of any suit or otherwise, and all persons extending credit to, contracting with, or having any claim against the Trustees shall look only to the Trust property for payment under such contract or claim or for the payment of any debt, damage, judgment or decree, or of any money that may otherwise become due or payable to them from the Trustees, so that neither the Trustees nor the beneficiaries or holders of such other securities, present or future, shall be personally liable therefor.

7.04. Execution by Trustees. Every note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant, or agreement, whether oral or written, made, issued, or executed by the Trustees or by any agent or employee of the Trustees shall be deemed to have been entered into subject to the terms, conditions, provisions, and restrictions hereof, whether or not express reference shall have been made to this Instrument.

7.05. Recording. This Declaration of Trust and any amendments hereto and any certificate herein required to be recorded and any other certificate or paper signed by said Trustees, or any of them, which it may be deemed desirable to record, shall be recorded with the Nantucket Registry of Deeds, and such recording shall be deemed conclusive evidence of the contents and effectiveness thereof according to the tenor

thereof; and all persons dealing in any manner whatsoever with the Trustees, the Trust property, or any shareholder thereunder shall be held to have notice of any alteration or amendment of this Declaration of Trust, or change of Trustee or Trustees, when the same shall be so recorded with the Nantucket Registry of Deeds. Any certificate signed by the Trustees in office at the time, setting forth as facts any matters affecting the Trust, including statements as to who are shareholders, as to what action has been taken by the shareholders, and as to matters determining the authority of the Trustees to do any act, when duly acknowledged and recorded with the Nantucket Registry of Deeds shall be conclusive evidence as to the existence of such alleged facts in favor of all third persons, including the Trustees, acting in reliance thereon. Any certificate executed by any Trustee hereunder, setting forth the existence of any facts, the existence of which is necessary to authorize the execution of any instrument or the taking of any action by such Trustee or majority, as the case may be, shall, as to all persons acting in good faith in reliance thereon, be conclusive evidence of the truth of the statements made in such certificate and of the existence of the facts therein set forth.

ARTICLE EIGHT
Amendments and Termination

8.01. **Amendments.** The Developers (so long as an original or any successor Developer shall own any of the Lots), and thereafter the Trustees, acting by a vote of at least three-fourths of the Trustees then in office, may, at any time and from time to time, amend, alter, add to, or change this Declaration of Trust in any manner or to any extent, provided, however, that in either case the written approval of the Owners of at least eight of the Building Lots containing Affordable Units, and of at least twenty-three of the Building Lots not containing Affordable Units, has been obtained; the Trustees first, however, being duly indemnified to their reasonable satisfaction against outstanding obligations and liabilities; provided always, however, that no such amendment, alteration, addition, or change (a) according to the purport of which the percentage of the beneficial interest hereunder of any Members would be altered or in any manner or to any extent whatsoever modified or affected, so as to be different from the percentage of the individual interest of such Member in the beneficial interest in this Trust as herein provided (without the unanimous consent of all Members), or (b) which would render this Trust contrary to or inconsistent with the Declaration of Restrictions and Easements or any requirements or provisions of law, shall be valid or effective. Any amendment, alteration, addition, or change pursuant to the foregoing provisions of this

Section shall become effective upon recording with the Nantucket Registry of Deeds, of an instrument or amendment, alteration, addition, or change, as the case may be, signed, sealed, and acknowledged in the manner required in Massachusetts for the acknowledgment of deeds, by the Developers or by at least three-fourths of the Trustees then in office, as the case may be, setting forth in full the amendment, alteration, addition, or change. Such instrument, so executed, registered, and noted, shall be conclusive evidence of the existence of all facts and of compliance with all prerequisite to the validity of such amendment, alteration, addition, or change, whether in such instrument or not, upon all questions as to title or affecting the rights of third persons and for all other purposes.

8.02. Termination. The Trust hereby created shall terminate only upon the written agreement of all Members and the Board of Appeals.

8.03. Withdrawal. No Member shall have the right to withdraw any Building Lot from the operation of this Trust.

8.04. Liquidation. Upon the termination of this Trust, the Trustees may sell and convert into money the whole of the trust property, or any part or parts thereof, and, after paying or retiring all known liabilities and obligations of the Trustees and providing for indemnity against any other outstanding liabilities and obligations, shall divide the proceeds thereof among, and distribute in kind, at valuations made by them which


shall be conclusive, all other property then held by them in trust hereunder to, the Members according to their respective percentages of beneficial interest hereunder; and in making any sale under this provision, the Trustees shall have the power to sell or vary any contract of sale and to resell without being answerable for loss and, for such purpose, to do all things, including the execution and delivery of instruments, as may by their performance thereof be shown to be in their judgment necessary or desirable in connection therewith. The powers of sale and all other powers herein given to the Trustees shall continue as to all property at any time remaining in their hands or ownership, even though all times herein fixed for distribution of trust property may have passed.

ARTICLE NINE
Construction and Interpretation

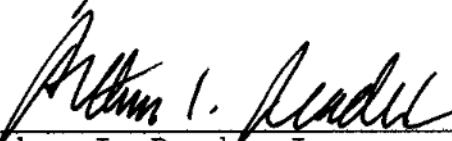
In the consideration hereof, whether or not so expressed, words used in the singular or in the plural respectively include both the plural and singular, words denoting males include females, and words denoting persons include individuals, firms, associations, companies (joint stock or otherwise), trusts, and corporations, unless a contrary intention is to be inferred from or required by the subject matter or context. The cover, title, headings of different parts hereof, the table of contents, and the marginal notes, if any, are inserted only for convenience of

reference and are not to be taken to be any part hereof or to control or affect the meaning, construction, interpretation, or effect hereof. All the trusts, powers, and provisions herein contained shall take effect and be construed according to the law of the Commonwealth of Massachusetts.

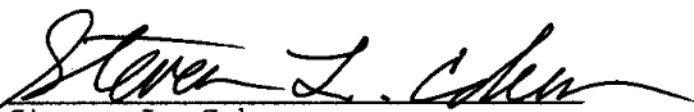
Executed and sealed as of the day and year first above written.



Joshua Fogner



Arthur I. Reade, Jr.



Steven L. Cohen

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

February 24, 2006

Then personally appeared the above-named Joshua Posner, and acknowledged the foregoing instrument to be his free act and deed, before me,

Solveig J. Lund
Notary Public

My commission expires:

SOLVEIG J. LUND
Notary Public

Commonwealth of Massachusetts
My Commission Expires
April 20, 2012

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

February 24, 2006

Then personally appeared the above-named Arthur I. Reade, Jr., and acknowledged the foregoing instrument to be his free act and deed, before me,

Solveig J. Lund
Notary Public

My commission expires:

SOLVEIG J. LUND
Notary Public
Commonwealth of Massachusetts
My Commission Expires
April 20, 2012

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

February 24, 2006

Then personally appeared the above-named Steven L. Cohen, and acknowledged the foregoing instrument to be his free act and deed, before me,

Solveig J. Lund
Notary Public

My commission expires:

SOLVEIG J. LUND
Notary Public
Commonwealth of Massachusetts
My Commission Expires
April 20, 2012

EXHIBIT APercentage of Beneficial Interest for Each Building Lot

Building Lot	Beneficial Interest %
1	3.46
2	2.99
3	3.19
4	0.61
5	2.99
6	3.19
7	3.19
8	3.19
9	2.71
10	0.67
12	2.99
13	3.46
14	0.61
15	2.99
16	3.19
17	3.19
18	2.71
19	3.46
20	0.61
21	2.71
22	3.19
23	3.46
24	0.61
25	3.19
26	2.71
27	0.67
28	3.19
29	0.67
30	3.19
31	2.99
32	3.46
33	0.61
34	3.19
35	3.46
36	2.71
37	0.61
38	3.19
39	0.61
40	3.19
41	2.99
TOTAL	100.00

NANTUCKET COUNTY Received & Entered
 Attest: Joanne L. Kellen, Register of Deeds