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Property-Street Address and/or Description

Noted on Cert 13401 WASHING POND HOMEOWNERS TRUST

Grantors

SIMMONS HARDWICK, BURNS MICHAEL R, WASHING POND HOMEOWNERS ASSN TRUST

Grantees

References-Book/Pg Description Recorded Year

Registered Land Certificate(s)-Cert# Book/Pg

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Homeowners Association Trust

Nantucket Registry District
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WASHING POND HOMEOWNERS ASSOCIATION TRUST
DECLARATION OF TRUST

TABLE OF CONTENTS

		Page
Article I - Name of Trust		1
Article II - The Trust and Its Purpose		1
Section 1.	Trust Purpose	1
Section 2.	Applicability to Property and Persons	1
Article III - The Trustees		1
Section 1.	Appointment	2
Section 2.	Majority Vote	3
Section 3.	Resignation and Removal	3
Section 4.	Bond	3
Section 5.	Liability	3
Section 6.	Self-Dealing	4
Section 7.	Indemnification	4
Article IV - Beneficiaries and the Beneficial Interest in the Trust		4
Section 1.	Beneficiaries	4
Section 2.	Beneficial Interest	4
Article V - By-Laws		5
Section 1.	Powers of the Trustees	5
Section 2.	Common Expenses, Profits and Funds	8
Section 3.	Insurance	9
Section 4.	Improvements	9
Section 5.	Rules, Regulations, Restrictions and Requirements	9
Section 6.	Meetings	9
Section 7.	Notices to Lot Owners	10
Section 8.	Inspection of Books; Reports to Lot Owners	10
Section 9.	Checks, Notes, Drafts and Other Instruments	11
Section 10.	Seal	11
Section 11.	Fiscal Year	11
Article VI - Rights and Obligations of Third Parties Dealing With the Trustees		11
Section 1.	Reliance on Acts of Trustees	11
Section 2.	No Recourse	12
Section 3.	All Instruments Subject to Trust	12
Section 4.	Trustee's Certificates	12
Article VII - Road Maintenance Fund		13
Section 1.	Purpose	13
Section 2.	Funding	13
Section 3.	Enforcement	13
Article VIII - Amendments and Termination		13
Section 1.	Amendment	13
Section 2.	Termination	14
Section 3.	Distribution Upon Termination	14
Article IX - Construction and Interpretation		14

DECLARATION OF TRUST

THIS DECLARATION OF TRUST made as of this 3rd day of January, 1993, by HARDWICK SIMMONS and MICHAEL R. BURNS, (hereinafter collectively called the Trustees, which term and any pronoun referring thereto shall be deemed to include their successors in trust hereunder and to mean the trustee or the trustees for the time being hereunder, wherever the context so permits), Witnesseth That:

ARTICLE I - Name of Trust

The trust hereby created shall be known as WASHING POND HOMEOWNERS ASSOCIATION TRUST, and under that name, so far as legal, convenient and practicable, shall all business carried on by the Trustees be conducted.

ARTICLE II - The Trust and Its Purpose

Section 1. Trust Purpose

All of the rights and powers in and with respect to the maintenance and the ways (hereinafter called the "Ways"), shown as such on that certain subdivision (hereinafter called the "Subdivision") of land in Nantucket, Nantucket County, Massachusetts, shown as Lots 7 through 34, inclusive on a plan entitled, "Subdivision Plan of Land in Nantucket, MA," dated March 17, 1988, drawn by Nantucket Surveyors, Inc., Surveyors, on file in the Land Registration Office in Boston as Plan No. 9070-D, a copy of which plan is filed with the Nantucket Registry District with Certificate of Title No. 13,401 and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder shall vest in the Trustees as joint tenants with the right of survivorship as trustees of this trust, in trust to exercise, manage, administer and dispose of the same and to receive the income thereof for the benefit of the owners of record from time to time of the Lots (hereinafter collectively called the Lot Owners), according to the schedule of beneficial interest set forth in Article IV, Section 1 hereof.

For purposes of this Declaration of Trust, there are eighteen "Lots" that will be owned by "Lot Owners", said Lots being Lots 7 through 18, inclusive, and Lots 29 through 34, inclusive. Lots 20 through 28 are part of the roadway easement as shown on Plan 9070-D, are not to be built upon and will be conveyed with their respective abutting Lots (i.e. lot 20 with Lot 9, lot 21 with Lot 10, lot 22 with Lot 11, lot 23 with Lot 12, lot 24 with Lot 13, lot 25 with Lot 14, lot 26 with Lot 15, lot 27 with Lot 17 and lot 28 with Lot 18).

Section 2. Applicability to Property and Persons

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

ARTICLE III - The Trustees

Section 1. Appointment

There shall at all times be a board of trustees (hereinafter called the Board of Trustees or the Board) hereunder consisting of three members, provided, however, that until twelve (12) Lots are conveyed, Hardwick Simmons and Michael R. Burns shall be the sole Trustees. Thereafter, the number of Trustees shall be three persons consisting of the original trustees and/or other persons designated by the said Hardwick Simmons and Michael R. Burns, (said original trustees and persons so designated being hereinafter collectively called the Original Trustees), and thereupon the terms of office of the Original Trustees shall be deemed vacant, but shall not expire until such vacancies have been filled in the manner hereinafter set forth. Thereafter, the terms of office of the Trustees shall, except as hereinafter provided, be three years, and such terms shall be staggered so that insofar as possible the terms of one-third of the trustees shall expire each year; provided, that in order to establish and maintain such staggering of terms, the terms of the Trustees first elected pursuant hereto shall be one year, two years, and three years, respectively, determined by lot, and thereafter upon any increase or decrease of the number of trustees, the terms of any then newly appointed Trustee or Trustees shall be one year, two years or three years, determined insofar as necessary by lot, so as to maintain such staggering of terms insofar as possible. If and whenever the number of such Trustees shall become less than three or less than the number of Trustees last specified by majority vote as aforesaid, a vacancy or vacancies in said office shall be deemed to exist. Each such vacany shall be filled by instrument in writing setting forth (a) the appointment of a natural person to act as Trustee, (b) the acceptance of such appointment, signed and acknowledged by the person so appointed, and (c) certification that the person so appointed has been duly elected a Trustee hereunder by majority vote at a meeting of the Lot Owners duly called and held, which instrument is signed by a majority of the then remaining Trustees, or by the sole remaining Trustee if only one, or by Lot Owners entitled to not less than twenty-five percent (25%) of the beneficial interest hereunder. Such appoinment shall become effective upon the recording with the Registry of Deeds in which this Declaration is recorded of such instrument, and such person shall then be and become such Trustee and shall be vested with the powers of the Trustees and title to the trust property, jointly with the remaining or surviving Trustees or Trustee, 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 appointd by any court of competent jurisdiction upon the application of any Lot Owner or any Trustee and notice to all Lot Owners and Trustees and to such other, if any, parties in interest 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, discretions and duties hereby conferred or imposed upon the Trustees.

Section 2. 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 paragraph A of Section 6 of Article V; 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 surviviing Trustees, if any, shall have no power or authority whatsoever to act with respect to the administration of the trust hereunder or to exercise any of the powers hereby conferred except as provided in Section 1 of Article III. The Trustees may also act without a meeting by instrument signed by a majority of their number.

Section 3. Resignation and 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 of such instrument with said Registry of Deeds. After reasonable notice and opportunity to be heard before the Board of Trustees, a Trustee (other than an Original Trustee) may be removed from offfice with or without cause (and an Original Trustee may be so removed with cause) by an instrument in writing signed by Lot Owners entitled to not less than a majority of the beneficial interest, such instrument to take effect upon the recording thereof with said Registry of Deeds.

Section 4. Bond

No Trustee named or appointed as hereinbefore provided, whether as original Trustee or as successor to or as substitute for another, shall be obliged to give any bond or surety or other security for the performance of any of his duties hereunder; provided, however, that the Lot Owners entitled to not less than a majority of the beneficial interest hereunder may at any time by instrument in writing signed by them and delivered to the Trustee or Trustees affected require that any one or more of the Trustees affected require that any one or more of the Trustees shall give bond in such amount and with such sureties as shall be specified in such instrument. All expenses incident to any such bond shall be charged as a common expense of the Association.

Section 5. Liability

No Trustee hereinbefore named or appointed as hereinbefore provided shall under any circumstances or in any event be held liable or accountable out of his 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 he actually receives, or for allowing one or more of the other Trustees to have possession of the trust books or property, or be so liable, accountable or deprived by reason of honest errors of judgment or mistakes of fact or law or by reason of the existence of any personal or adverse interest or by reason of anything except his own personal ans wilful malfeasance and defaults.

Section 6. Self-Dealing

No Trustee shall be disqualified from his office by contracting or dealing with the Trustees or with one or more of the Lot Owners (whether directly or indirectly because of his interest individually or the Trustees' interest or any Lot 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 his interest before the dealing, contract or arrangement is entered into.

Section 7. Indemnification

The Trustees and each of them shall be entitled to indemnity both out of the trust property and by the Lot Owners 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 Lot Owner shall be personally liable for all sums lawfully assessed for his share of the common expenses of the Subdivision and for his proportionate share of any claims involving the trust property in excess thereof, all as provided herein. Nothing in this paragraph contained shall be deemed, however, to limit in any respect the powers granted to the Trustees in the instrument.

ARTICLE IV - Beneficiaries and the Beneficial Interest in the Trust

Section 1. Beneficiaries

The cestuis que trustent or beneficiaries shall be the Lot Owners from time to time.

Section 2. Beneficial Interest

The beneficial interest of each Lot Owner shall be held and exercised as a unit and shall not be divided among several owners of any such Lot. To that end, whenever any of the Lots is owned of record by more than one person, the several owners of such 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 Lot hereunder, and (b) notify the Trustees of such designation by a notice in writing signed by all of the record owners of such 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 V - By-Laws

The provisions of this Article V shall constitute the By-Laws of this trust and the association of Lot Owners established hereby, to wit:

Section 1. Powers of the Trustees

The Trustees shall, subject to and in accordance with all applicable provisions hereof, have the absolute control, management and disposition of the Common Open Areas and Ways and the trust property as if they were the absolute owners thereof, free from the control of the Lot Owners 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 Lot Owners for leave so to do:

(i) To retain the trust property, or any part or parts thereof, in the same form or forms of investment in which received or acquired by them so far and so long as they shall think fit, without liability for any loss resulting therefrom;

(ii) To sell, assign, convey, transfer, exchange, and otherwise deal with or dispose of, the trust property, or any part or parts thereof, free and discharged of any all all trusts, at public or private sale, to any person or persons, for cash or on credit, and in such manner, on such terms and for such considerations and subject to such restrictions, stipulations, agreements and reservations as they shall deem proper, including the power to take back mortgages to secure the whole or any part of the purchase price of any of the trust property sold or transferred by them, and to execute and deliver any deed or other instrument in connection with the foregoing;

(iii) To purchase or otherwise acquire title to, and to rent, lease or hire from others for terms which may extend beyond the termination of this trust any property or rights to property, real or personal, and to own, manage, use and hold such property and such rights;

(iv) To borrow or in any other manner raise such sum or sums of money or other property as they shall deem advisable in any manner and on any terms, and to evidence the same by notes, bonds, securities or other evidence of indebtedness, which may mature at a time or times, even beyond the possible duration of this trust, and to execute and deliver any mortgage, pledge, or other instrument to secure any such borrowing;

(v) To enter into any arrangement for the use or occupation of the trust property, or any part or parts thereof, including, without thereby limiting the generality of the foregoing, leases, subleases, easements, license, or concessions, upon such terms and conditions and with such stipulations and agreements as they shall deem desirable, even if the same extend beyond the possible duration of this trust;

(vi) To invest the trust property, or any part or any parts thereof and from time to time and as often as they shall see fit to change investments, including power to invest in all types of securities and other property, of whatever nature and however denominated, all to such extent as to them shall seem proper, and without liability for loss, even though such property or such investments shall be of a character or in an amount not customarily considered proper for the investment of trust funds or which does or may not produce income;

(vii) To obtain and maintain such casualty and liability insurance on and with respect to the trust property as they shall deem necessary or proper for the furtherance of the purposes of this trust;

(viii) To incur such liabilities, obligations and expenses, and to pay from the principal or the income of the trust property in their hands all such sums, as they shall deem necessary or proper for the furtherance of the purposes of this trust;

(ix) To determine as to all sums of money and other things of value received by them, whether and to what extent the same shall be deemed to be and shall be accounted for as principal or as income, and as to all charges or expenses paid by them, whether and to what extent the same shall be charged against principal or against income, including, without hereby limiting the generality of the foregoing, power to apportion any receipt or expense between principal and income, and power to determine what portion, if any, of the actual income received upon any asset purchased or acquired at a premium or any wasting investment shall be added to principal to prevent a diminution thereof upon the maturity or exhaustion of such asset or investment;

(x) To vote in such manner as they shall think fit any or all shares in any corporation or trust which shall be comprised in the trust property, and for that purpose to give proxies, to any person or persons or to one or more of their number, to vote, waive any notice or otherwise act in respect of any such shares;

(xi) To guarantee performance of the obligations of others in any cases where they shall deem that it is to the advantage of this trust that they give such guaranty;

(xii) To maintain such offices and other places of business as they shall deem necessary or proper and to engage in business in Massachusetts or elsewhere;

(xiii) To provide and contract for maintenance, repair, cleaning and other services to Lot Owners;

(xiv) To enter and have such access onto the Lots as shall be reasonably necessary to the performance and exercise of the duties, obligations, rights and powers of the Trustees hereunder;

(xv) To employ, appoint and remove such agents, managers, officers, board of managers, brokers employees, servants, assistants and counsel (which counsel may be a firm of which one or more of the Trustees are members) as they shall deem proper, for the purchase, sale or management of the trust property, or any part or parts thereof, or for conducting the business of the trust and may define their respective duties and fix and pay their compensation and the Trustees shall not be answerable for the acts and defaults of any such person. The Trustees may delegate to any such agent, manager, officer, board, broker, employee, servant, assistant or counsel any or all of their powers (including discretionary powers, except that the power to join in amending, altering, adding to, terminating or changing this Declaration of Trust and the trust hereby created shall not be delegated) all for such times and purposes as they shall deem proper. Without hereby limiting the generality of the foregoing, the Trustees shall at least as often as annually designate from their number a Chairman, a Treasurer, a Secretary and such other offices of the Board of Trustees as they deem fit, and may from time to time designate one or more of their own number to be the Managing Trustee or Managing Trustees, for the management and administration of the trust property and the business of the trust, or any part or parts thereof;

(xvi) To enter into joint operating agreements or to make furthur trust arrangements with the Lot Owners of adjacent subdivision of land for the purpose of efficient administration and/or management of the Common Open Areas, the Ways and the facilities therein and of any of the other duties, obligations, rights and powers of the Trustees hereunder; and

(xvii) Generally, in all matters not herein otherwise specified, to control, manage and dispose of the trust property as if the Trustees were the absolute owners thereof and to do any and all acts, including the execution of any instruments, which by their performance thereof shall be shown to be in their judgment for the best interest of the Lot Owners; and the Trustees shall by the exercise and fulfillment of

the powers and provisions set forth in this Article V provide for the necessary work of maintenance, repair and replacement of the Common Open Areas, the Ways and the facilities therein and payments therefor.

Section 2. Common Expenses, Profits and Funds

A. The Lot Owners shall be liable for common expenses and entitled to common profits of the Common Open Areas, the Ways and the facilities therein and the trust property in proportion to their respective percentages of beneficial interest as set forth in Article IV hereof. The Trustees may at any time or times distribute commom profits among the Lot Owners 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 of the following Section 3, for repair, rebuilding or restoration of the Common Areas, the Ways, the facilities therein and the trust property or for improvements thereto, and the funds so set aside shall not be deemed to be common profits available for distribution.

B. At least thirty (30) days prior to the commencement of each fiscal year of this trust and within thirty (30) days after the execution hereof with respect to the portion of a fiscal year remaining, the Board of Trustees shall estimate the expenses for the Common Open Areas, the Ways, the facilities, therein and the trust property expected to be incurred during such fiscal year, together with a reasonable provision for contingencies and reserves, and after taking account any undistributed common profits from prior fiscal years, shall determine the assessment to be made for such fiscal year. The Trustees shall promptly render statements to the Lot Owners for their respective shares of such assessment, according to their percentages of interest in the common areas and facilities, and such statements shall, unless otherwise provided herein, be due and payable within thirty days after the same are rendered. In the event that the Board of Trustees shall determine during any fiscal year that the assessment so made is less than the common expenses actually incurred, or in the reasonable opinion of the Trustees likely to be incurred, the Board of Trustees shall make a supplemental assessment or assessments and render statements therefor in the manner aforesaid, and such statements shall be payable and take effect as aforesaid. The Board of Trustees may in its discretion provide for payments of statements in monthly or other installments. The amount of each such statement, together with interest thereon, if not paid when due, at a rate equal to the Pacific National Bank of Nantucket prime rate, plus two percent per annum shall constitute a lien on the Lot of the Lot Owner assessed. The Trustees shall enforce collection of all such assessments by all lawful means, and shall have the right to collect, and each Lot Owner who has not paid any such assessment as and when due shall be liable to pay to the Trustees, all costs and expenses incurred by the Trustees in enforcing such collection and in addition thereto such lawful fines and penalties as the Trustees may determine by rules and regulations promulgated pursuant hereto.

C. The Board of Trustees shall expend such common funds only for such common expenses and lawful purposes permitted hereby.

Section 3. Insurance

A. The Trustees shall obtain and maintain, to the extent available, policies of insurance with respect to the Open Common Areas, the Ways and the facilities therein, for the benefit and protection of the Trustees and all of the Lot Owners, for (a) comprehensive public liability, (b) workmen's compensation and employees 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 shall be in such amounts and forms as the Trustees shall, in their discretion, deem appropriate and shall, insofar as practicable, contain provisions with respect to non-cancellation, waiver of subrogation, waiver of defense based on conduct of any insured, and non-contribution.

B. The cost of all such insurance obtained and maintained by the Trustees pursuant to the provisions of this Section shall be a common expense of the Common Open Areas assessed to the Lot Owners.

Section 4. Improvements

If and whenever the Trustees shall propose to make any improvement to the Common Open Areas, the Ways and the facilities therein or any trust property, or shall be requested in writing by the Lot Owners holding twenty-five percent or more of the beneficial interest in this trust to make any such improvement, the Trustees shall submit to all Lot Owners a form of agreement (which may be in several counterparts) specifying the improvement or improvements proposed to be made and the estimated cost thereof, and authorizing the Trustees to proceed to make the same, upon the receipt by the Trustees of such agreement signed by Lot Owners holding seventy-five percent or more of the beneficial interest, the Trustees shall proceed to make the improvement or improvements specified in such agreement, with all costs thereof to be borne as a common expense to be assessed hereunder to the Lot Owners.

Section 5. Rules, Regulations, Restrictions and Requirements

The Board of Trustees may at any time and from time to time adopt, amend and rescind administrative rules and regulations governing the details of the operation and use of the Common Open Areas, the Ways and the facilities therein and the trust property.

Section 6. Meetings

A. The Board of Trustees shall meet annually on the date of the annual meeting of the Lot Owners and at such meeting shall elect the Chairman, Treasurer and Secretary hereinbefore provided for. Other meetings may be called by the Chairman and

in such other manner as the Trustees may establesh; provided, however, that written notice of each meeting stating the place, day and hour thereof shall be given at least four days before such meeting to each member of the Board of Trustees. One-half of the number of Trustees shall constitute a quorum at all meetings, and such meetings shall be conducted in accordance with such rules the Board of Trustees may adopt.

B. There shall be and annual meeting of the Lot Owners on the first Tuesday of June in each year at 7:30 P.M. at one of the residences constructed within the subdivision or at such other reasonable place and time (not more than forty days before or thirty days after said date) as may be designated by the Board of Trustees given to the Lot Owners at least fourteen days prior to the date so designated. Special meetings of the Lot Owners may be called at any time by the Board of Trustees and shall be called by them upon the written request of Lot Owners entitled to more than thirty-three percent of the beneficial interest hereunder. Written notice of any such meeting designating the place, day and hour thereof shall be given by the Board of Trustees to the Lot Owners at least fourteen days prior to the date so designated. At the annual meeting of the Lot Owners, the Board of Trustees shall submit reports of the management of the Common Open Areas, the Ways, the facilities therein and the trust property and finances of the Trust. Whenever at any meeting the Board of Trustees proposes to submit to the Lot Owners any matter with respect to which approval of or action by the Lot Owners is necessary or appropriate, the notice of such meeting shall so state and reasonable specify such matter.

Section 7. Notices to Lot Owners

Every notice to any Lot Owner required under the provisions hereof, or which may be deemed by the Trustees necessary or desirable in connection with the execution of 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 of such Lot Owner by mailing it, postage prepaid and addressed to such Lot Owner at his address as it appears upon the records of the Trustees, at least seven days prior to the date fixed for the happening of the matter, thing or event of which such notice is given.

Section 8. Inspection of Books; Reports to Lot Owners

Books, accounts and records of the Trustees shall be open to inspection to any one or more of the Trustees and Lot Owners at all reasonalbe times. The Trustees shall, as soon as reasonably possible after the close of each fiscal year, or more often if convenient to them, submit to the Lot Owners a report of the operations of the Trustees for such year which shall include financial statements 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.

Section 9. Checks, Notes, Drafts and Other Instruments

Checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the names of the Trustees or of the trust may be signed by any two Trustees, or by any person or persons to whom such power may at time or from time to time be delegated by not less than a majority of the Trustees.

Section 10. Seal

The seal of the Trustees shall be circular in form, bearing the inscription - Washing Pond Homeowners Association Trust but such seal may be altered by the Trustees at pleasure, and the Trustees may, at any time or from time to time, at their option adopt a common or wafer seal which shall be valid for all purposes.

Section 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 VI - Rights and Obligations of Third Parties Dealing with the Trustees

Section 1. Reliance on Acts of Trustees

No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear of record in said Registry of Deeds shall be bound to ascertain or inquire further as to the persons who are then Trustees hereunder or be affected by any notice, implied or actual, otherwise than by a certificate thereof duly recorded with said Registry of Deeds, and such record or certificate shall be conclusive evidence of the personnel of said 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 or 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 provisins 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 resignation of an old Trustee purporting to be executed by the Trustees, Lot Owners 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.

Section 2. No Recourse

No recourse shall at any time be had under or upon any 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, 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 either directly or indirectly, by legal or 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 decrees, or of any money that may otherwise become due or payable to them from the Trustees, so that neither the Trustees nor the beneficiaries present or future, shall be personally liable therefor.

Section 3. All Instruments Subject to Trust

Every note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether written or oral, 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 their instrument.

Section 4. Trustee's Certificates

This Declaration of Trust and any amendments hereto and any certificate or paper signed by said Trustees or any one of them which it may be deemed desirable to record shall be recorded with said Registry of Deeds and such record 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 beneficiary 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 recorded with said 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 the beneficiaries, as to what action has been taken by the beneficiaries, and as to matters determining the authority of the Trustees to do any act, when duly acknowledged and recorded with said 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, or by a majority of the Trustees 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 VII - Common Area Maintenance Fund

Section 1. Purpose

The Trustees shall create and maintain a road maintenance fund to pay for the maintenance and repair of Deacon's Way and Washing Pond Road, all catch basins, drainage structures and lighting servicing Deacon's Way and Washing Pond Road and all other common property of the Trust.

The Trustees shall cause the catch basins and drainage structures to be cleaned as often as needed to ensure proper drainage on Deacon's Way and Washing Pond Road.

Section 2. Funding

The fund shall be initially funded in the amount of $150.00 per lot. Thereafter the Trustees will determine the funds necessary to maintain the roadways, catch basins, lighting and the common property of the Trust. The funds will be deposited into the Trust account prior to the release of the last two lots on each Washing Pond Road and on Deacon's Way from the Planning Board Covenant.

Section 3. Enforcement

Declarant, by recording this instrument, hereby designates the Planning Board of the Town of Nantucket as third-party enforcing agent with full authority to maintain Deacons Way and Washing Pond Road and all catch basins, drainage structures and lighting as required hereby with full power to assess the beneficiaries of the Trust for their fair share of the expenses to so maintain in the event that the Trustees fail to perform said maintenance properly.

Prior to the said Planning Board performing the required maintenance, the Board will notify, in writing, the Trustees and/or the beneficiaries of the Board's determination that maintenance is required and give said Trustees and/or beneficiaries a reasonable time (not less than 30 days) to accomplish said maintenance.

ARTICLE VIII - Amendments and Termination

Section 1. Amendment

The Trustees, with the consent in writing of Lot Owners entitled to not less than seventy-five percent (75%) of the beneficial interest hereunder, 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; the Trustees first, however, being duly indemnified to their reasonable satisfaction against outstanding obligations and liabilities; provided always, however, that so much amentment, alteration, addition or change according to the purport of which the percentage of the beneficial interest hereunder of any Lot Owner would be altered. Nothing in this paragraph contained shall be construed as making obligatory upon the Trustees to amend, alter, add to or change the Declaration of Trust upon obtaining the necessary consent as hereinbefore provided.

Section 2. Termination

The Trust hereby created shall terminate twenty-one (21) years from the date hereof, but cannot be terminated without written consent of the Nantucket Planning Board.

Section 3. Distribution Upon Termination

Upon the termination of this trust, the Trustees may sell and convert into money the whole of the trust property, or any part of 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 Lot Owners 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 said purposes, to do all things, including the executionand 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 IX - Construction and Interpretation

In the construction 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), trust and corporations unless a contrary intention is to be inferred from or required by the subject matter or context. Any cover, title, headings of different parts hereof, table of contents or marginal notes, of any, are inserted only for the 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.

WITNESS our hands and seals as of the day and year first above written.

Hardwick Simmons, Trustee

Michael R. Burns, Trustee

STATE OF NEW YORK

New York, ss. January 13th, 1993

Then personally appeared the above-named HARDWICK SIMMONS, Trustee as aforesaid, and acknowledged the foregoing instrument to be his free act and deed, before me,

Lee Ann Etter
Notary Public

My commission expires:

LEE-ANN ETTER
Notary Public, State of New York
No. 31-4842709
Qualified in New York County
Certificate Filed in New York County
Commission Expires 2/28/94