

EXHIBIT C

**DECLARATION OF TRUST OF THE MARINE ESTATES TRUST AND
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS**

This Declaration of Trust and Declaration of Easements, Covenants and Restrictions (this “Declaration”) is made as of the ____ day of _____, 2016 by Dennis W. Burke and Martha C. Burke (the “Declarants”) with an address at 245 Highland Street, Milton, Massachusetts 02186.

Whereas, the Declarants are the owners of certain land in the Town of Milton, Norfolk County, Massachusetts, depicted as Lots 1, 2, 3, 4, 5, 6, 7 and 8, and land depicted as Open Land (Lot 9) on a Cluster Development Plan (the “Plan”), dated July ____, 2016, entitled “Proposed Cluster Development – Marine Estates”, prepared by DeCelle-Burke & Associates, Inc., and recorded in the Norfolk County Registry of Deeds as Plan No. ____ of 2016; and

Whereas, the Declarants are creating thereon a detached cluster development, including a roadway, open land, utility services, drainage facilities, and other related improvements in the Development, which consists of eight (8) buildable lots, identified as “Lot 1”, “Lot 2”, “Lot 3”, “Lot 4”, “Lot 5”, “Lot 6”, Lot “7” and Lot “8”, a newly created way identified as “Marine Road” and Open Land;

Whereas, the Declarants desire to develop the land depicted on the Plan (the “Property”) as an attractive and desirable cluster development (the “Development”), in a responsible manner, while preserving to the extent reasonably possible the ecological integrity and natural beauty of the Property and enhancing property values therein; and the Declarants desire to provide and insure the preservation of the values in the Development and, to that end, desires to subject the real property described to the covenants, restrictions, agreements, easements and the liens hereinafter set forth, each of which is and are to be for the benefit of the Declarants and their successors in interest, the successor owners and occupants of Lots 1, 2, 3, 4, 5, 6, 7 and 8, and the Town; and

Whereas, the Declarants wish to hereinafter establish a homeowners’ trust (the “Trust”) to be known as the “Marine Estates Homeowners Association” in order to properly maintain, repair, replace and administer various land and improvements in the Development as hereinafter described, including any other improvements, land and/or facilities which may be conveyed to the Trust or made subject to the Trust’s administration hereto; and

Whereas, the Declarants further wish to establish certain easement rights in furtherance of the foregoing development as more fully described below and as depicted on the Plan.

NOW, THEREFORE, in consideration of the foregoing, the Declarants hereby establish the Trust and subjects all of the Property, as shown on the said Plan, to the terms and provisions hereof, as follows:

I. DECLARATION OF TRUST

A. Name; Legal Form

1. The Trust hereby created shall be known as the “Marine Estates Homeowners Association Trust” (the “Trust”), and under that name, so far as legal, convenient and practical, shall all business carried out by the Trustees be conducted and all instruments in writing by the Trustees be executed.
2. Dennis W. Burke, Martha C. Burke and their successors and assigns, to the extent so designated by them, shall be the Declarants of the Trust, and henceforth shall have and be vested with all of the rights, powers, authority and privileges of the Declarants hereunder.
3. All of the rights and powers conferred upon and exercisable by the Trustees hereunder, and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder, shall vest in the Trustees as joint tenants with 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 beneficiaries of the Trust.
4. It is hereby expressly declared that a Trust and not a partnership has been created hereby, and that the beneficiaries hereof are not partners or associates or any other relation whatsoever between themselves with respect to the Trust property, and hold no relation to the Trustees other than as beneficiaries, with only such rights as are conferred upon them as such hereunder.

B. Purposes

1. The purposes of this Trust include, inter alia, (a) the maintenance, repair, replacement and administration of the Common Facilities, as that term is described hereinafter; (b) the preservation and maintenance of the Open Land, (c) the levy and collection of assessments from lot owners in order to carry out Trust purposes; and (d) the enforcement, under appropriate circumstances, of the terms and provisions of this Declaration. The Trustees hereunder may, if they deem appropriate or necessary, delegate certain of their powers and duties hereunder to third parties.
2. The “Common Facilities” to be maintained, repaired, replaced and administered by the Trust shall include, without limitation, the following: any and all drainage areas, structures, equipment and facilities and utility structures, equipment and facilities located or to be located in, under or upon any Easement Areas depicted on the Site Plan; and any other real or personal property, or any interest therein, conveyed, assigned or transferred to the Trustees in furtherance of the Trust purposes.

C. Trustees

1. The original Trustees hereunder shall be the Declarants. Until such time as Lots 1, 2, 3, 4, 5, 6, 7 and 8 in the Development have been conveyed and/or occupied by individual homeowners, or such earlier time as the Declarants' rights hereunder are surrendered in writing by the Declarants, the Trustee(s) hereunder shall be appointed (and, if appropriate, removed) solely by the Declarants, their successors and assigns. Thereafter, the Board of Trustees shall be comprised of up to three (3) members, to be elected on an annual basis by the owners of Lots 1, 2, 3, 4, 8, 6, 7 and 8 in the Development.

2. The persons so appointed or elected as Trustees shall be and become such Trustees and shall be vested with the powers of the Trustees and title to the Trust property, jointly and with remaining or surviving Trustees, without the necessity of any active transfer or conveyance. Any such appointment or election shall be evidenced by the recording of a certificate to that effect with the Norfolk County Registry of Deeds.

3. If, for any reason, any vacancy in the office of Trustee shall occur, a replacement Trustee may be appointed by the remaining Trustee(s), or by the Declarants (if the Declarants still hold the authority to appoint Trustees) as provided above. Despite any vacancy in the office of Trustee, the remaining or surviving Trustee or Trustees shall continue to exercise and discharge all of the powers, discretions and duties hereby conferred or imposed upon the Trustees.

4. The following provisions shall be applicable to Trustees hereunder:

(a) Any Trustee may resign at any time by instrument in writing, signed and acknowledged in the manner required in Massachusetts for the acknowledgement of deeds, and such resignation shall take effect upon the recording of such instrument with the said Registry of Deeds.

(b) No Trustee 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 or her duties hereunder, provided, however, that the Board 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 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 an expense of the Trust hereunder.

(c) No Trustee appointed or elected 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 by reason of the existence of any personal or adverse interest or by reason of anything except his own personal and willful malfeasance.

(d) The Trustees and each of them shall be entitled to indemnity both out of the Trust property and by the owner(s) of the lands subject to this Declaration, 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.

(e) In any matters relating to the administration of the Trust hereunder and the exercise of the powers hereby conferred, (i) each of the Trustees shall have one vote; and (ii) the Trustees may act by a majority vote at any duly called meeting at which a quorum is present as provided below. The Trustees may also act without a meeting by instrument signed by all of the Trustees.

D. Beneficial Interest and Beneficiaries

Subject in all cases to the Trustee-appointment provisions set forth above, the beneficial interests hereunder shall consist of one for each of the lots numbered 1, 2, 3, 4, 5, 6, 7 and 8 on the Plan which have been made subject to this Declaration.

E. Powers, Duties and Functions of Board of Trustees

The powers, functions and duties of the Board of Trustees shall include, but shall not be limited to, the following:

1. To maintain, operate, repair, improve, replace as necessary, insure and otherwise to deal with and manage the Common Facilities and the Open Land.
2. To take all actions with respect to governmental entities, or officials, boards, or agencies thereof, and with respect to utility companies, which may be necessary or appropriate in relation to any of the Common Facilities, including (a) the granting, modification or release of utility easements, and (b) the taking of all such action as may be necessary or appropriate to establish and maintain compliance with applicable orders, permits, laws and governmental regulations; and the powers and functions described in this paragraph 2 shall be exercised and performed exclusively by the Trustees hereunder.
3. In connection with the Trust property and with the foregoing, but only consistently with and in furtherance of the foregoing purposes hereof, (a) 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, (b) 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 and 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 instrument in connection with the foregoing, (c) 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, (d) 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 instrument to secure any such borrowing, (e) to enter into any arrangement for the use or occupation of the Trust property, or any part of parts thereof, including, without thereby limiting the generality of the foregoing, leases, subleases, easements, licenses, 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, (f) to invest and reinvest the Trust property, or any part or 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 whatsoever 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, (g) to obtain and maintain such casualty and liability insurance on and with respect to the Trust property as they shall deem necessary or proper, (h) 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 the Trust, (h) 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, 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 investment shall be added to principal to prevent a diminution thereof upon the maturity or exhaustion of such asset or investment, (i) 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, (j) 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, (k) to maintain such offices and other places of business as they shall deem necessary or proper to engage in business in Massachusetts, (l) to provide and contract for maintenance, repair, cleaning and other services to owners of lots, or relating to the Common Facilities, (m) to exercise reasonable architectural control over any and all buildings on land subject to this Declaration, as more fully described in Article II below, and (n) to employ, appoint and remove such agents, managers, officers, 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 of parts thereof, or for conducting the business of the Trust and may define their respective duties and fix and pay their compensations, and the Trustees shall not be answerable for the acts and defaults of any such person; and 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.

F. Assessments and Charges

1. Prior to November 1 of each year, the Trustees shall estimate the expenses expected to be incurred during such next calendar year, together with a reasonable provision for contingencies and reserves, and after taking into account any undistributed or unexpected funds from the prior year, for the performance and fulfillment of all of the duties, functions and activities of the Trustees which, as determined by said Trustees in their reasonable discretion, are for the general benefit of all of the owners and occupants.

2. Each such common budget shall be divided into the same number of shares as there are lots subject to this Trust, one for each such lot. Notwithstanding the foregoing, in the event that the Trustee(s) deem it prudent or necessary to expend funds for the purpose(s) which are of benefit to, or necessitated by one or more (but not all) of the lots, the Trustee(s) may assess such costs or expenses only to that or those lot(s).

3. Statements rendered by the Trustees hereunder to owners of lots pursuant to provisions of the foregoing shall be due and payable within thirty days after the same are rendered; provided that, if the Trustees so elect, the same may be paid in monthly or other installments specified by the Trustees. In the event that the Trustees shall determine during any fiscal year that the common budget so established is less than the expenses actually incurred (including reserves), or in the reasonable opinion of the Trustees likely to be incurred, the Trustees shall make a supplemental assessment or assessments and render statements therefore in the manner aforesaid, and such statements shall be payable and take effect as aforesaid. The amount of each such statement, if not paid when due, shall remain the ongoing obligation of the lot owner, shall constitute an ongoing lien on the lot until paid as provided below, and shall be subject to late charge of five percent (5%) of the overdue amount and bear interest at the rate of one percent (1%) per month until paid.

4. With respect to any special functions or activities performed for or on behalf of any particular lot(s), the Trustees shall, before undertaking or commencing the same, (a) make determinations, in the reasonable discretion of the Trustees, of (i) the estimated initial costs and, if applicable, the continuing costs, of such facilities, functions or activities, (ii) the particular lot(s) to whom or which such costs are to be assessed, and the proportions of such assessments among them if more than one, and (iii) the user charges, if any, which are to be established for the use or benefit from such facilities, functions or activities, (b) submit such determinations in writing in reasonable detail to the owners involved in the particular facility, function or activity, and (c) make such arrangements as the Trustees in their reasonable discretion deem appropriate for the payment and/or financing of all such costs and charges.

5. The Trustees shall have a lien against the lot(s) in question for all amounts assessed to the lot owner(s), or otherwise owed by the lot owner(s) to the Trustees hereunder, until paid in full. Such lien shall have priority over all other liens except for (a) real estate taxes and other

municipal liens, and (b) a first mortgage on the lot(s) in question which was recorded prior to the time when the assessment or charge was first levied. Such lien may be foreclosed by the Trustees in like manner as a condominium assessment lien under M.G.L. Chapters 183A and 254. Upon reasonable advanced written request, any owner or mortgagee of any lot may obtain a written statement from the Trustees, in recordable form, setting forth any amounts owed by the lot owner to the Trustees hereunder.

G. Rules, Regulations, Restrictions and Requirements

The 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 areas and facilities with respect to which the Trustees have jurisdiction hereunder.

H. Meetings; Notices

1. The Trustees (if more than one) shall meet at least annually, and at such meeting may 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 establish, provided, however, that written notice of each meeting stating the place, day and hour thereof shall be given at least seven (7) days before such meeting to each member of the Trustees. Trustees holding at least fifty percent (50%) of the voting power hereunder shall constitute a quorum at all meetings, and such meetings shall be conducted in accordance with such rules as the Trustees may adopt.

2. The lot owners shall meet at least annually. At each annual meeting a Board of Trustees comprised of three (3) members shall be elected, with each lot owner being entitled to one (1) vote for each lot owned. Special meetings may also be called by the Trustees when they deem prudent or necessary, and such special meeting(s) shall be so called by the Trustees upon the written request of owners of thirty-three percent (33%) or more of the lots. Attendance of owners (in person or by proxy) representing more than fifty percent (50%) of the lots shall constitute a quorum at any annual or special meeting of lot owners.

3. Every notice to any lot owner or Trustee 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 by mailing it, postage prepaid, and addressed to the lot owner or Trustee at the 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.

I. Miscellaneous Provisions

1. Books, accounts and records of the Trustees shall be open to inspection to any one or more of the Trustees or lot owners.

2. 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 Trustee, or by any person or persons to whom such power may at any time or from time to time be delegated by not less than a majority of the Trustees.

3. 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.

4. The titles and headings of different parts hereof 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 provisions herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts

J. Rights and Obligations of Third Parties with the Trustees

1. 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 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 said Trustees and of any changes therein.

2. 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 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, present or future, shall be personally liable therefore.

3. 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 this instrument.

4. This Declaration of Trust and any amendments hereto or any certificate or paper signed by said Trustees or any 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, any alteration or amendment of this Declaration of Trust, or change of Trust 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 Trustees or majority, as the case may be, shall, as to all person acting in good faith in reliance thereon, be conclusive evidence of the truth of the statements in such certificate and of the existence of the facts therein set forth.

II. DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

A. Easements

The Declarant hereby establishes, declares and grants the following easements, subject to the terms and provisions hereof:

1. To the Board of Trustees: the right and easement to enter upon, maintain, repair, replace and administer, as necessary, any of the Common Facilities, whether located upon land owned by the Trust or upon land owned by an individual lot owner; and the right and easement to enter upon any lot, upon reasonable advance notice to the lot owner, in order to inspect the same and/or carry out any act or function thereon as deemed necessary or prudent by the Trustees in furtherance of the purposes, terms and/or provisions of this Declaration.
2. To the Lot Owners: the mutual right and easement for reasonable surface water drainage, in accordance with the terms and provisions of this Declaration.
3. The easement rights granted above are granted upon the express conditions that the parties availing themselves of such easements shall (a) do so in strict conformity with all laws, codes, orders and regulations; and (b) fully and promptly restore any easement area in question upon the completion of any work thereon.

B. Covenants

Each lot owner, by acceptance and recording of a deed to any lot in the Development shall be deemed to have agreed to comply with the following covenants:

1. Each lot owner, as well as any party claiming through them, shall comply with any and all terms and provisions of this Declaration, including without limitation the covenant hereby established to promptly pay any and all assessments levied by the Trustees pursuant to the terms hereof.

2. Commencing upon initial occupancy of any home constructed on any lot in the Development, the individual homeowner shall carry out the following ongoing obligations:

(a) Roof gutters will be cleaned on an annual basis to remove leaves, litter and deposited airborne particulates.

(b) Driveways shall be swept at least every six (6) months to remove sediments and to ensure that such sediments are not introduced into the Development's storm water collection system. Washing and water-jetting of driveways shall not be allowed.

(c) A single-pedestal ornamental light fixture with a height of eight (8) to nine (9) feet shall be installed at locations shown on the Plan to provide street lighting. Light fixtures shall be consistent for all lots. Light bulbs shall be at least 100 watt, incandescent bulbs. Each homeowner shall be responsible for the maintenance of light fixtures that may be located on his/her property.

(d) In areas which are depicted on the Plan as "Open Land", no tree or shrub clearing or earth re-grading shall occur without the express written approval of the Board of Trustees or the third-party conservation entity to which title to the Open Land may be conveyed. There shall be no landscaping, including but not limited to mulching, mowing, raking or manicuring within the Open Land, nor shall there be any dumping, piling or composting of grass cuttings, leaves or other materials that do not originate from within the Open Land.

In the event that any lot owner does not comply with the foregoing covenants, and such failure or refusal is not cured within fifteen (15) days after notice of same, the Trustees may carry out the necessary measure or function, and the costs thereof shall be assessed to the non-compliant owner.

C. Restrictions

1. Lots that are subject to this Declaration shall be used for residential purposes; provided, however, that home office uses may be allowed in accordance with the applicable provisions of the Town of Milton's Zoning By-Law.

2. The Trustees hereunder shall have the reasonable power of architectural review and control over any and all buildings and improvements constructed or to be constructed on the lots subject to this Declaration (except to the extent that such construction is carried out by the Declarants hereunder). In furtherance hereof, no buildings, equipment or improvements or exterior additions or modifications thereto, shall be constructed or installed upon any such lot by anyone other than the Declarants until plans and specifications have been submitted to the Trustees and written approval for same has been issued by the Trustees. Any such approval may contain conditions which the Trustees may deem necessary or advisable, in their reasonable discretion. Upon request, once any such previously-approved improvement has been completed in accordance with such plans and specifications, the Trustees shall provide the lot owner with a Certificate, in recordable form, indicating such approval and compliance.

3. Only one single-family dwelling, together with accessory buildings, garages and/or barns, whether attached or detached, may be constructed on any lot in the Development. Notwithstanding the foregoing, if allowed under applicable provisions of the Town of Milton Zoning Bylaw, a so-called “in-law apartment” may be allowed within an attached portion of any dwelling.
4. Any exterior sign on any lot in the Development shall be no more than four (4) square feet, showing the name of the owner or occupant and the name or number of the lot. All signs shall be compatible with the environment, and under no circumstances shall projecting signs, neon or brightly-lit or self-lit signs be permitted on any lot.
5. No mobile home, trailer, recreational vehicle, boat or similar temporary or moveable vehicle or structure shall be used for residential purposes or placed on any lot; provided, however, that a trailer or shed may be placed on a lot during active periods of construction thereon, for a period not to exceed twenty-four (24) months; and provided further that mobile homes, trailers or similar recreational vehicles may be permitted to remain on a lot (but shall not be used for residential purposes) so long as such vehicles are kept in a closed garage or barn.
6. Except for excavation or grading work performed by the Declarants, no excavation shall be made on any lot except for the purposes of building thereon, and construction of all buildings and other structures on any lot shall be completed within two (2) years from the date of commencement of excavation or building operation. Completion shall include, without limitation, exterior finishing, landscaping and driveway improvements. Except for grading work performed by the Declarants, grading of the lots shall not be altered in such a way as to divert the natural flow of water onto adjoining lots, or to flood or damage the road or storm water drainage system.
7. No noxious, dangerous, unduly noisy or offensive use or activity shall be carried out on any lot, nor shall any unlawful activity be carried out thereon.
8. No underground fuel storage tanks shall be allowed on any lot. Above-ground fuel storage tanks shall be screened from view, either with vegetation or other attractive screen or barrier, so as not to be visible from Marine Road or from a neighboring lot within the Development. No trash, waste, refuse, tools or garden equipment shall be allowed to accumulate outdoors so as to give an unsightly appearance. No unregistered and/or inoperable motor vehicle of any type shall be maintained on any lot.
9. Notwithstanding the foregoing, in the event that strict conformity with the provisions of these restrictions would cause undue hardship or injustice to an individual homeowner, the Trustees shall have the authority to approve (or disapprove), in their sole discretion, a request by a homeowner for a variance from the terms hereof, provided that other lot owners are not materially and adversely affected thereby, and provided further that the granting of any such variance does not violate the terms of provisions of any law, ordinance, bylaw, permit or approval relating to the lot or the Development.

D. Miscellaneous Provisions

1. Maintenance of Drainage Facilities by the Trustees. The Trust, acting by and through the Trustees, shall maintain, repair, replace and administer any and all drainage facilities, structures and equipment located on or within any drain easement areas depicted on the Site Plan. Unless and until waived in writing by the Town of Milton Planning Board, the ongoing maintenance obligations of this Trust in this regard shall include the following:

(a) At least annually, the Trust shall engage a professional engineer to inspect all drainage system components, note any deficiencies, and provide a summary inspection report to the Trustees. The summary report shall include recommendations for maintenance and/or repairs. If necessary, the engineer shall perform a second site inspection in order to inspect any repairs that may have been made in accordance with the report. Such summary report shall be made available to the Planning Board upon its written request.

(b) Catch basins shall be cleaned annually by the Trust, either in the late spring or during summer. During periods of construction, the Declarants shall monitor sumps and remove sediment as necessary. All sediments removed from catch basin sumps will be disposed of in a manner consistent with Mass DEP Stormwater Management Policies.

(c) Underground detention basins shall be inspected by the Trust bi-annually in order to ensure that they are operating as intended and that all components are stable and in working order. Such inspections shall be carried out by a professional engineer engaged by the Trustees for this purpose, who will render a summary inspection report, including recommendations for sediment removal and other maintenance and repair. Such summary reports shall be made available to the Planning Board upon written request.

(d) Any refuse, trash, excessive leaf materials, branches, dead trees, grass clippings or other materials that may impair the performance of the infiltration area shall be promptly removed by the Trust and disposed of in a lawful manner.

2. Maintenance of Open Land and Stone Wall by the Trustees. The perimeter of the development, containing approximately 2.76 acres, is hereby designated as permanent Open Land. The Trustees, the Conservation Commission of the Town or a third-party conservation entity to which the Open Land may be conveyed, shall maintain the Open Land, including the stone wall along the Highland Street frontage of the Development, in accordance with the provisions of the of the Open Land Management Plan, a copy of which is attached hereto and made a part hereof as Exhibit A.

3. Reasonable Regulations; Fines. The Trustees are hereby authorized to promulgate reasonable rules and regulations in order to more fully carry out their functions and duties in accordance with this Declaration. In the event that the terms and provisions of this Declaration or any such reasonable rules and regulations are violated, the Trustees may levy fines or series of fines against offending lot owner(s), which fines shall be the personal obligation of the lot owner(s)

and shall constitute a lien against the lot until paid. Such lien shall be enforced by the Trustees in the same manner as a fine levied by a condominium association pursuant to M.G.L. Chapter 183A.

4. Enforcement. Enforcement of the terms and provisions of this Declaration and any further rules, regulations and/or restrictions promulgated pursuant hereto may be at law or in equity, against any person or party violating or attempting to violate same, either to restrain the violation or to recover fines and/or damages. Such enforcement actions may be prosecuted by the Trustees or by any other party owning a lot subject to this Declaration. The failure of a party to enforce any such easement, covenant or restriction herein contained or adopted pursuant hereto shall in no event be deemed a waiver of the right to do so in any instance thereafter. In the event of a successful action to enforce the terms and provisions hereof, or any rule, regulation or restriction adopted pursuant hereto, the party successfully seeking enforcement shall be entitled to recover his, her or its reasonable attorney's fees and costs.

5. Severability. The invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provision of this Declaration, which shall remain in full force and effect.

6. Amendment.

(a) The Declarants expressly reserve the right to record Special Amendments to this Declaration in order to correct typographical errors, mistakes or omissions which do not materially and adversely affect any rights or obligations established hereby. Upon the sale of all lots in the Development to third-party homeowners, this right to record Special Amendments shall be deemed transferred to the Trustees.

(b) In addition to such Special Amendments described above, this Declaration may also be amended by written instrument executed by the Trustees, provided that the Trustees have first obtained the written consent of seventy-five percent (75%) of the lots subject to this Declaration, which such Amendment shall be thereafter recorded in said Registry of Deeds; provided, however, that (i) as long as the Declarants own any lots in the Development, no proposed Amendment which adversely affects the rights of the Declarants shall be of any force or effect unless consented to in writing by the Declarants; (ii) no provision of this Declaration which requires the written consent or approval of the Planning Board under certain circumstances may be amended to delete or otherwise affect such provision while requiring such consent or approval, unless agreed to by the Planning Board; and (iii) no provision hereof which is intended to directly benefit any particular lot within the Development may be amended so as to delete or diminish that benefit without the express written consent of the owner of the lot in question.

7. Duration. The provisions hereof shall be deemed to bind any and all owners, mortgagees and occupants of the Property or any portion thereof, and to run with the land. The provisions of this Declaration shall remain in effect for one hundred (100) years from the date of recording, and shall thereafter be extended for one or more extension terms of twenty (20) years each by the recording at said Registry of Deeds of an instrument signed by the then-owners of seventy-five

percent (75%) or more of the lots affected by this Declaration, or as otherwise provided by law. Notwithstanding the foregoing, to the extent that this instrument contains restrictive covenants, restrictions or conditions (“restrictions”) subject to M.G.L. Chapter 184, Sections 23 and 26-30 inclusive (as such may be amended or replaced, the “restriction statute”), the enforceability of such restrictions may be extended, beyond the first thirty (30) years of the term, for further periods or not more than twenty (20) years at a time by the owners of record at the time of recording any such extension, of fifty percent (50%) or more of the restricted area in which the subject lot(s) is/are located. Any such extension shall be recorded within the time and shall contain such information and include such signatures, as is required by the restriction statute for such extension. The lots comprising the Property, as shown on the Site Plan, constitute the benefited land and the subject parcel(s) with respect to any and all such restrictions. Any and all restrictions contained in this Declaration are for the benefit of the owners of each lot shown on the Site Plan, and his/her successors in interests in and to such lots, and each such lot shall have the benefit of, and shall be subject to, such restrictions. The Association shall be entitled to enforce such restrictions against any one or more of the lots; each owner of a lot shall be entitled to enforce such restrictions against any other lot or lots, to the extent such restriction(s) apply to such other lot or lots.

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Executed as an instrument under seal this ____ day of _____, 2016.

Dennis W. Burke

Martha C. Burke

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this ____ day of _____, 2016, before me, the undersigned notary public, personally appeared Dennis W. Burke and Martha C. Burke, proved to me through satisfactory evidence of identification, which were driver's licenses, to be the persons whose name is signed on the preceding or attached document, and they acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

Exhibit A

Marine Estates Open Land Management Plan

I. Open Land Management Objective

The perimeter of the property at 245 Highland Street is marked by a fairly well-defined wooded area. This area is being dedicated as permanent Open Land, in order to:

- A. Preserve the wooded nature of the frontage of this lot so as to maintain the rural character of this section of Highland Street and for the Development;
- B. Provide a visual barrier to the developed area behind the buffer so as to minimize its visibility from Highland Street;
- C. Preserve and protect the stone wall that runs along the Highland Street frontage of the lot; and
- D. Minimize the impact of the Development on the neighborhood.

II. Open Land Management Plan

The Open Land shall be managed so as to maintain and perpetuate the area in a form so as to meet its originating objective. This plan recognizes the natural succession of species which is likely to take place and recognizes the limits which exist when managing small areas in their natural states.

- A. The buffer area shall be assessed by the Trust on an annual basis for the purpose of determining any prescriptive action including but not limited to those described below which may be necessary to maintain the objectives of the Open Land Management Plan.
- B. Poison Ivy, Virginia Creeper, and various species of grape and other vine type or invasive vegetation whose population, density or growth habit poses a threat to the growth and establishment of other more desirable natural understory and successional overstory growth shall be treated to kill it or control its threat.
- C. The stone wall along Highland Street shall be free and clear of vines and shrub growth:
 - a. Growth that obscures the view of the stone wall from Highland Street shall be cut back or otherwise removed or killed.
 - b. Any vine, shrub or tree species whose trunk and/or root systems that threatens the integrity of the stone wall structure shall be killed or removed.
 - i. Any tree species growing behind the stone wall and whose center is within 18" of the front face of the wall shall be cut before its diameter reached 2".
 - ii. Any tree species growing behind the stone wall and whose center is between 18" and 36" from the face of the stone wall, shall be cut when its diameter in inches equals or exceeds ¼ (one quarter) of the distance between its center and the face of the stone

- wall as measured in inches. (For example, if a tree is 24" from the face of the stone wall, once its diameter reaches 6" it must be removed.)
- iii. Any tree species growing behind the stone wall and whose center is greater than 36" from the face of the stone wall may remain standing and the stone wall shall be visually monitored for signs of potential damage. Efforts to mitigate damage to the stone wall may be taken.
 - iv. Any tree species growing in front of or at grade with the base of the stone wall and whose trunk is within 12" of the wall shall be removed.
 - v. Nothing in this section implies that existing trees which exceed these limits shall be removed, however, as best as possible, the stone wall shall be protected from damage by their trunk and root growth.
 - vi. Nothing in this section should be taken to supersede any state, local or federal shade tree act or other such regulation.
- D. Dead trees which pose a hazard to public safety or otherwise represent an unsafe condition may be removed.
 - E. Landscaping practices shall not be permitted within the Open Land, including but not limited to the following:
 - a. There shall be no mulching;
 - b. There shall be no planting of landscape variety materials;
 - c. There shall be no stonework or paving; and
 - d. There shall be no mowing, raking or manicuring.
 - F. Dumping, piling or composting of materials other than material which originates on the buffer shall not be permitted.
 - G. Planting and replanting of native New England tree and shrub species is permitted:
 - a. To replace dying or dead trees;
 - b. To anticipate future needs for larger species; and
 - c. To increase lower story density to meet buffer objectives.
 - H. Snow piling from plowing operations on Marine Road shall only be permitted within any buffer area which is within 10' of Marine Road.
 - I. Any damage due to aging, vegetative growth, vandalism, accident or other natural effect to the stone wall shall be repaired.
 - J. Planting of Rhodendron, laurel or other native evergreen species will be permitted:
 - a. To increase lower story density to meet buffer objectives;
 - b. To mitigate the impact of leafless months and enhance buffer objectives during these months;
 - c. To enhance the buffer area perspective from Highland Street; and
 - d. Such plantings shall be conducted in a manner not to adversely affect regeneration of upper story species.