

**DECLARATION OF TRUST ESTABLISHING
 CLARK ESTATES ASSOCIATION TRUST**

AGREEMENT and DECLARATION OF TRUST made this 7th day of March, 1997, by MICHAEL H. VOGEL, of Plymouth, Plymouth County, Massachusetts (hereinafter jointly with his successors in trust referred to as the "Trustees").

1. Name of Trust. The name of this Trust shall be the "Clark Estates Association Trust", and the business and mailing address of said Trust shall be 34 Main Street Extension, Plymouth, Massachusetts 02360.

2. Purpose of Trust. The purpose of this Trust is to provide for the preservation and maintenance for the common enjoyment and benefit of the Owners (as hereinafter defined) of the streets, drainage areas, open space areas, and any other property, real or personal, which may hereafter be conveyed to or acquired by the Trustees, or otherwise made subject to their administration for the benefit of the Owners (the "Trust property"), with respect to the subdivision known as "Clark Estates" on and off Clark Road in Plymouth, Plymouth County, Massachusetts, being more particularly described in Paragraph 3 below (the "Subdivision"). All of the Owners shall have the right to use said Trust property subject to:

- (a) the restrictions and obligations contained herein; and
- (b) the rules and regulations as adopted or to be adopted and amended from time to time by the Trustees.

In addition, this Trust is intended to satisfy the requirements for establishment of a homeowner's association, as set forth in the approval by the Plymouth Planning Board of the definitive subdivision plan for Clark Estates, which approval is dated May 14, 1996, and filed with the Plymouth Town Clerk on May 16, 1996, and as set forth in the Special Permit granted by the Planning Board by decision dated May 14, 1996, and filed with the Plymouth Town Clerk on May 16, 1996. The Trustees agree to accept title, now or in the future, to any streets, drainage areas, open space areas, or other parcels or property within the subdivision known as Clark Estates which Old Sandwich Trust, the current owner and developer of the project, its successors or assigns, in its sole discretion, may decide to convey to the Trustees, the Trustees hereby acknowledging, however, that Old Sandwich Trust, its successors and/or assigns, is under no obligation to so convey.

3. Beneficiaries. The beneficiaries of this Trust shall be the Owners. The term "Owners" shall mean and refer to the record holders from time to time of the legal title in fee to the property on and off Clark Road in Plymouth, Plymouth County, Massachusetts, being the residential lots shown as Lots 15-98 through 15-180, inclusive, on a plan entitled "Definitive Subdivision Plan of Land in Plymouth, Massachusetts 'Clark Estates' Prepared for Old Sandwich Trust, 34 Main Street Ext., Plymouth, Massachusetts 02360", dated March 28, 1996 (revised June 3, 1996), prepared by Consulting Engineers & Scientists, Inc., and recorded with the Plymouth County Registry of Deeds (the "Registry") as Plan No. 440 of 1996 in Plan Book 39, Page 78 (the "Subdivision"). The term Owners as used herein shall not be deemed to apply to

Mailed to: Pierreh Collins Trust
 34 Main Street Ext., Plymouth, MA 02360

the open space lots or any other non-residential parcels within the Subdivision. The holder of legal title in fee shall include the holder of the equity of redemption in the case of mortgaged land and one having a legal life or other estate in possession, but shall exclude a lessee, tenant, mortgagee and one having a legal estate in remainder or otherwise subsequent to a legal estate in possession and also the Trustees as owners of the Trust property. Two or more persons or entities holding record title to the same lot or lots shall be treated as a single Owner; exercise of their rights as such owners shall be by their unanimous action; and their obligations to pay any assessment shall be joint and several. If the same Owner shall hold record title to more than one lot, such Owner shall be treated as a separate Owner for each lot.

4. Powers and Duties of Trustees. For the purpose of carrying out the terms of this Trust, the Trustees shall have the powers and duties necessary for the administration of Trust property, including, without limitation, the following powers, which may be exercised by them without any action or consent by the Owners and which shall continue after the termination of the Trust for the purpose of disposing of the Trust property and until final disposition thereof:

- (a) to maintain, repair, improve, change or alter any property, real or personal, including building, repairing, tearing down and rebuilding structures or additions thereto;
- (b) to acquire by purchase, hire or otherwise, property convenient to the performance of their functions as Trustees;
- (c) to adopt reasonable rules and regulations governing the enjoyment by the Owners of the Trust property;
- (d) to convey permanent easements and lesser interests in, upon and over any ways for the installation, maintenance, repair and replacement of utilities and other services and rights incidental thereto;
- (e) to make contracts which the Trustees deem convenient to the performance of their duties as Trustees;
- (f) to open bank accounts in the name of the Trust or the Trustees with power in any one of the Trustees to draw on such accounts;
- (g) to procure insurance;
- (h) to pay, resist, compromise or submit to arbitration any claim or matter in dispute;
- (i) to determine and collect the common and special charges from the Owners and to pay such common and special charges; and
- (j) to exercise any other powers which may be necessary or desirable for carrying out the terms of this Trust or which the Trustees may have under any present or future statute or rule of law, and to execute and deliver all appropriate instruments in connection therewith.

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For the purpose of carrying out the terms of this Trust, the Trustees, with the consent of at least two-thirds (2/3rds) of the Owners, shall also have the following powers, which shall continue after the termination of this Trust for the purpose of disposing of the Trust property and until final disposition thereof:

- (a) to borrow money;
- (b) to sell, exchange, mortgage, pledge, lease, rent and otherwise dispose of any property, real or personal;
- (c) to convey or impose a conservation restriction upon, or otherwise dedicate such property with the benefit thereof running to a public body or other entity for conservation purposes; and
- (d) to convey to the Town of Plymouth or other public body the fee or any lesser interest in any way for the purpose of making it a public way.

5. Common and Special Charges. The Trustees shall from time to time, and at least annually, prepare a budget for the Trust to determine the amount of the common charges payable by the Owners to meet the common expenses of the Trust. The Trustees shall have the power to raise such amounts of money to meet any needs of the Trust by assessing on each occasion upon the lot (which term shall include land and improvement) of each Owner such Owner's proportionate share of the total amount to be raised. Such share shall be determined by dividing the total amount to be raised by the total number of residential lots within the Subdivision, currently being eighty-one (81), and such determination regarding the amount of the assessment shall be conclusive. Common expenses shall include, without limitation, the following:

- (a) all costs relating to the construction, operation, care, upkeep and maintenance of the Trust property;
- (b) all insurance premiums for the master policy for the Trust property, fidelity bonds for the Trustees and agents and employees, any insurance purchased to protect the Trustees and such other insurance as the Trustees may deem necessary and appropriate; and
- (c) the amount that the Trustees may deem necessary and appropriate for the working capital of the Trust, for an operating reserve for expenses, a reserve fund for replacements, and any charges for deficits from previous operating years.

In addition, the Trustees shall have the power to assess Owners for special charges in connection with extraordinary expenses related to their responsibilities hereunder.

The Trustees shall, upon reasonable request, render certificates suitable for recording, indicating that no payments are due to the Trust with respect to any common or special charges, which certificates (when signed by the sole Trustee or a majority of the Trustees) shall be conclusive as to the facts stated therein.

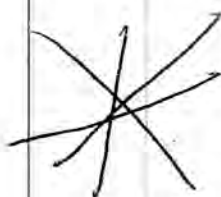
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6. Payment of Common and Special Charges. All Owners shall pay the common charges assessed by the Trustees in monthly installments on the first day of each month and every month, or at such other time or times as the Trustees shall determine. Special charges shall be paid within sixty (60) days after notice from the Trustees, or as the Trustees in their sole discretion may otherwise require.

7. Lien for Common Charges. Each assessment so made upon an Owner shall constitute and remain a charge and lien upon such Owner's lot from the date of the assessment until paid in full, and shall also constitute a personal debt of the Owner of such lot on the date of assessment to the Trustee. Such charge, lien or personal debt may be enforced or collected by the Trustees by any available process, including, without limitation, foreclosure of the charge or lien against the lot. [All costs and expenses incurred by the Trustees in enforcing or collecting any assessment, including reasonable attorneys' fees, shall be paid by the Owner responsible for the assessment and shall constitute a further lien or charge on said lot and a personal debt of said Owner.] Notwithstanding the above provisions, such charge and lien shall be junior to each bona-fide first mortgage to a recognized mortgage lending institution outstanding upon such lot on the date of the assessment, whether the mortgage be given before or after this Trust takes effect and its provisions become restrictions and servitudes upon such lot, but foreclosure of the mortgage shall not impair the power of the Trustees thereafter to make further assessments upon such lot nor otherwise impair such restrictions and servitudes thereon. [If any assessment is not paid when due, such assessment shall bear interest at the rate of twelve (12%) percent per year from the due date. The Trustees may, in addition to the other rights herein reserved, suspend the exercise of all rights given by this Trust to the Owner of the land so assessed until that sum shall have been paid in full, and, at their option, the Trustees may accelerate the payment of its reasonable estimate of common charges for the twelve (12) month period following the default, and such sum shall serve as security for the payment of future common and special charge obligations.]

8. Liability of Trustees. All persons extending credit to or contracting with or having any claim against the Trustees hereunder shall look only to the Trust property for any such contract or claim, so that neither the Trustees nor the Owners shall be personally liable therefor. No Trustee hereunder shall be liable to this Trust or to the Owners for the default of any other Trustee, or for leaving property in the hands of another Trustee, or for any error of judgment of law on his or her own part, but shall be liable only for the Trustee's own willful default. Any Trustee hereunder shall be reimbursed in full for any loss or expense incurred or suffered by such Trustee or estate as a result of his or her acting as Trustee hereunder, excluding only such loss or expense resulting from his or her own willful default.

9. Reliance by Third Parties. No person dealing with any Trustee shall be bound to inquire concerning the validity of any act purporting to be done by such Trustee or be bound to see to the application of any money paid or property transferred to the Trustee or upon his or her order. Any Trustee may at any time or times by written power of attorney delegate all or any of his or her powers and authorities, except the power to make assessments as provided in Paragraph 5, whether discretionary or otherwise, to any other Trustee in each case for a period of not more than six (6) months at a time, but any such delegation may be renewed by successive powers of attorney and may be revoked.



10. Financial Records. The Trustees shall at all times keep proper records and accounts of the affairs of the Trust, which shall be open to inspection by any Owner at all reasonable times.

11. Trustees in Number and Terms. After the occurrence of an Operating Event, as hereinafter defined, there shall always be at least one (1) but not more than three (3) Trustees hereunder, as designated by the Owners. Until Pierre M. Coll, as Trustee of Old Sandwich Trust, his successors and assigns (the "Developer") has conveyed all his right, title and interest in and to all of the lots within the Subdivision (the "Operating Event"), there shall be not less than one (1) nor more than three (3) Trustees, and such Trustees shall be designated, appointed, elected and/or removed by the Developer. Within one hundred and twenty (120) days after the occurrence of the Operating Event, the Trustees then in office shall tender their respective resignations, and their respective offices shall be deemed vacant so as to permit such vacancies to be filled in the manner herein provided. In the event that said resignations are not tendered pursuant to the preceding sentence, then said offices shall automatically be deemed vacant on the one hundred and twentieth (120th) day after the Operating Event, and such vacancies shall be filled in the manner hereinafter provided.

12. Election of Trustees. At the annual meeting of the Owners, or at a special meeting called for such purpose, the Owners shall designate the number of Trustees hereunder, and shall elect the Trustees for a term expiring at the time fixed for the annual meeting to be held in the third year after such election.

13. Vacancies and Removals. Any Trustee may at any time resign as Trustee by a written instrument signed by such Trustee, acknowledged and delivered to the remaining Trustee or Trustees (if any). Upon the death or resignation of any Trustee, a vacancy in the office of Trustee shall be deemed to exist, and a new Trustee shall be elected for the unexpired term by the remaining Trustee or Trustees by the Developer, if, after an Operating Event, by the Owners. Any successor Trustee shall qualify as a Trustee by written acceptance, signed and acknowledged by such Trustee. Pending any appointment of a successor Trustee, the remaining Trustee or Trustees shall have and may exercise all powers, authorities and discretions conferred by this Trust. Upon the election of a successor Trustee, the Trust property shall vest in successor Trustee and the continuing Trustees without further action.

14. Owner's Annual and Special Meetings. Any action or consent by the Owners shall be taken or given at the annual meeting or at any special meeting of the Owners. The annual meeting of the Owners shall be held on the first Tuesday in September of each and every year (or if that be a legal holiday on the next succeeding full business day) at the hour and place to be fixed by the Trustees. If no annual meeting has been held on the date fixed above, a special meeting in lieu thereof may be held. Special meetings of Owners may be called by the Trustees on their own motion, and shall be called by the Trustees upon written application to the Trustees of at least fifty (50%) percent of the Owners. A written notice of the place, date, and hour of all meetings of Owners shall be given by the Trustees at least fifteen (15) days before the meeting to each Owner. Notice need not be given to an Owner if a written waiver of notice, executed before or after the meeting by such Owner or his or her attorney thereunto authorized, is filed with the records of the meeting.

15. Quorum. A majority of the Owners shall constitute a quorum, but if a quorum is not present, a lesser number may adjourn the meeting from time to time and the meeting may be held as adjourned without further notice.

16. Voting. Each Owner shall be entitled to one vote for each lot owned in the Subdivision. Such vote may be cast in person or by proxy. Any instrument dated not more than six (6) months before the meeting purporting to grant authority to another to cast such vote, duly executed by the Owner and acknowledged before notary public, shall be deemed a proxy. A proxy shall be revocable at any time by written notice to the Trustees. When a quorum is present, any matter before the meeting shall be decided by a majority vote of the Owners, except where a larger vote is required by this Trust.

17. Termination or Amendment by Consent. This Trust may be terminated or amended at any time by an instrument in writing signed by the Trustees, assented to by two-thirds (2/3rds) of the Owners, PROVIDED, HOWEVER, that this Trust may be amended by the Developer at any time prior to the Operating Event.

18. Disposition of Trust Property. Upon termination of the Trust, the Trust property shall be conveyed to the Owners as tenants in common, subject to the terms and provisions of all matters of record which henceforth shall be enforceable by and against the Owners, joint and severally.

19. Notices. All notices to the Owners shall be in writing and shall be sent to the Owners or to such one of them as they may designate in writing from time to time, at the last address of such Owner as it appears in the records of the Trust. Changes in the Owners or their addresses shall be noted in the records of the Trust only upon written notice filed with the Trustees. Notice shall be deemed given as of the date of mailing.

20. Incumbency of Trustees. A certificate signed by any Trustee and acknowledged before a Notary Public shall be conclusive evidence in favor of any person, firm, corporation, trust or association acting in good faith in reliance thereon as to the truth of any matter or facts stated therein relating to:

- (a) the death, resignation, removal or appointment of a Trustee or to the delegation by a Trustee to another Trustee of his powers, authorities and discretions;
- (b) compliance by the Trustees and Owners with any requirement of this Trust;
- (c) the terms of this instrument and any amendment or termination of this Trust;
- (d) the fact of the validity of any action taken by the Trustees or Owners and to the authority of the Trustees or Owners to take such action; the number of Owners acting in favor of any matters; or
- (e) any other matter pertaining to the Trustees, Owners or the Trust property.

When recorded with the Registry, such certificate shall be conclusive evidence to all persons regardless of whether they have notice thereof or act in reliance thereon.

21. Recording. The termination and all amendments of this Trust, resignations and appointments of Trustees shall be filed with said Registry and any person shall be entitled to rely on the records of said Registry with respect to the termination of the Trust, the terms of the Trust, any amendment thereto, and the identity of the Trustees, the identity of the Owners, and to any other matter pertaining to the Trust, the Trustees, the Owners of the Trust property.

22. Governing Law. This Trust shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

WITNESS the execution hereof under seal on the day and year first above written.

Michael H. Vogel
Michael H. Vogel

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

March 7, 1997

Then personally appeared the above-named Michael H. Vogel and acknowledged the foregoing instrument to be his free act and deed, before me,

Mari Ellen Parks
Notary Public Mari Ellen Parks
My commission expires: Nov. 25, 1999

CONSENT AND ACKNOWLEDGMENT OF OWNER

The undersigned Pierre M. Coll, as Trustee of Old Sandwich Trust under a Declaration of Trust dated January 4, 1994, and recorded with the Plymouth County Registry of Deeds in Book 12656, Page 81, being the owner of all of the lots in the Clark Estates Subdivision, hereby acknowledges and consents to the above Declaration of Trust Establishing Clark Estates Association Trust.

EXECUTED as a sealed instrument this 7th day of March, 1997.

OLD SANDWICH TRUST

By: [Signature]
Pierre M. Coll, Trustee

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

March 7, 1997

Then personally appeared the above-named Pierre M. Coll, Trustee as aforesaid, and acknowledged the foregoing instrument to be his free act and deed, before me,

Mari Ellen Parks
Notary Public Mari Ellen Parks
My commission expires: 11-25-99

rob. coll clerked assoc. 1.4600.