

When Recorded, Mail to:

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Edgartown, Massachusetts

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
MEETING HOUSE PLACE**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR *MEETING HOUSE PLACE* (this “Declaration”), is made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by *MEETING HOUSE PLACE L.L.C.*, a Massachusetts limited liability company (Meeting House Place referred to below as “Declarant”).

**RECITALS:**

A. The parties identified herein as Declarant own certain real property (the “Property”) located in Edgartown, Massachusetts, which is more particularly described on Exhibit “A” attached hereto and incorporated herein by this reference.

B. Declarant intends to develop a residential subdivision on the Property. Declarant will develop and convey all of the Property within the Subdivision subject to a general plan of development and subject to certain covenants, conditions and restrictions, all as set forth in this Declaration, which are deemed to be covenants running with the land, mutually burdening and benefiting all of the Property and each of the Parcels.

**ARTICLE I**

**DECLARATION**

1.1 Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to and in strict accordance with all of the terms and conditions of this Declaration, including without limitation all of the covenants, conditions and restrictions set forth herein, all of which are created for the mutual benefit of the Owners of the Property and the Parcels. It is the intention of the Declarant in imposing the covenants, conditions and restrictions set forth in this Declaration to create a generally uniform pattern of development of the Property and to protect and enhance the property values and aesthetic values of the Property by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Owners of the Parcels. All of the terms and conditions of this Declaration, including without limitation all covenants, conditions and restrictions set forth herein, are intended to and shall in all cases run with the title of the land comprising the Property and shall be binding upon the Owners, their successors, assigns, heirs, lien holders, and any other person holding any interest in the Property and shall inure to the benefit of all other Property in the Subdivision. All of the terms and conditions of this Declaration, including without limitation the covenants, conditions and restrictions set forth herein, shall be binding upon Declarant as well as all of Declarant’s successors in interest, and may be enforced by Declarant, by the Association, or by any Owner.

Notwithstanding the foregoing, no provisions of this Declaration shall prevent Declarant from the completion of the Subdivision Improvements, or from using any Parcel owned by Declarant as a model home, temporary construction or sales office, nor limit Declarant's right to post signs or engage in other reasonable activities on the Property incidental to sales or construction which are in compliance with applicable Town ordinances.

## ARTICLE II

### DEFINITIONS

2.1 Unless the context clearly requires the application of a more general meaning, the following terms, whether capitalized or not, when used in this Declaration, shall have the following meanings:

"Architectural Review Committee" ("ARC") shall mean the committee created under Article V of this Declaration.

"Association" shall mean the MEETING HOUSE PLACE Homeowners Association, Inc., a Massachusetts non-profit corporation.

"Buildable Area" shall mean the area within the defined setbacks of a Parcel.

"Common Areas" (if any) shall mean those portions of the Subdivision designated on the Plan as Common Areas (if any), which shall be owned, improved and maintained by the Association for the equal and common benefit of and used by the Owners of all of the Parcels within the Subdivision.

"Declarant" shall mean and refer to the parties who execute this Declaration.

"Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for MEETING HOUSE PLACE, together with any subsequent amendments or additions, and any other matters or conditions shown on the official Plan of MEETING HOUSE PLACE, which are incorporated into this Declaration by reference.

"Dwelling" shall mean the primary single-family residence built or to be built on any Parcel.

"Excavation" shall mean any disturbance to the surface of the land, including the removal of native vegetation, and also including trenching which results in removal of soil or rock from a depth of more than 12 inches from the natural surface of the land, or any grading of the surface. Excavation shall include any activities for which an excavation or grading permit would be required under the ordinances and regulations as adopted by the Town.

"Family" shall mean one household of persons related to each other by blood, adoption or marriage, or one group of not more than five people not so related living together as a unit who maintain a common household.

“Fencible Area” shall mean only the Buildable Area for each Parcel within which area fencing may be constructed, provided that the Owner of such Parcel obtains the prior approval of the Architectural Review Committee for the construction of fencing within such Fencible Area. No fencing shall be constructed outside the Fencible Area on each Parcel.

“Fill” shall mean the depositing of earth, soil, rock or other materials to the surface of the land, whether imported from offsite or resulting from the regrading of excavated material from on-site, to raise the natural elevation of the surface.

“Floor Area” shall mean the inside perimeter of all above ground, conditioned and enclosed areas that are suitable for year-round use including all closets, stairways and storage areas.

“Design Guidelines” shall mean The Architectural Guidelines for MEETING HOUSE PLACE, which shall be prepared and modified from time to time by the Architectural Review Committee, as set forth in Article V of this Declaration.

“Improvements” shall mean all structures and appurtenances of every type and kind, including but not limited to dwellings, garages, storage buildings, walkways, retaining walls, utility lines, driveways, fencing, landscaping, pools, decks, stairs, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

“Open Space” shall mean the areas within the Subdivision other than the Parcels and roadway improvements as depicted and defined on the Plan Map.

“Owner” shall mean the person or persons having title to any Parcel or other parcel of Property as shown on the Plan of MEETING HOUSE PLACE. Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any contract for deed, but shall exclude any person or entity holding title for purposes of securing performance of an obligation.

“Parcel” shall mean any numbered building Parcel shown on the Plan of MEETING HOUSE PLACE.

“Permitted Improvements” shall mean any Improvements installed, constructed, maintained or allowed to stand on the Property in conformity with this Declaration.

“Person” shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the Commonwealth of Massachusetts.

“Plan” shall mean the Plan of the Subdivision known as MEETING HOUSE PLACE, as approved by the Town and recorded in the office of the Recorder of Edgartown, Massachusetts, and any amendments that may be made from time to time.

“Property” shall mean all of the land described on the Plan, including Parcels, Roadways, Trail Corridors, Open Space, and Common Areas (if any).

“Public View” shall mean that the object, Improvement, or activity on the Property is or would be in the line of sight originating from a point five feet above the surface of any public streets, including Roadways within the Subdivision.

“Roadway” shall mean those portions of the Property that have been or will be dedicated to the Town as a public roadway, or that will be used as private ways for the Owners of the Subdivision.

“Subdivision” shall mean the subdivision known as MEETING HOUSE PLACE, and all Parcels, Common Areas (if any) and other Property within the Subdivision as shown on the Plan, and as it may be amended from time to time.

“Town” shall mean Edgartown, Massachusetts and its appropriate departments, officials and boards.

“Trail Corridor” shall mean those areas designated by the Architectural Review Committee as the location of trails for hiking, bicycling, or non-motorized vehicles for non-public use except for the trail from Meshacket Road to Meeting House Way which may be used by the public.

“Trustees” shall mean the duly elected and acting board of trustees of the Association.

### **ARTICLE III**

#### **PURPOSE OF DECLARATION**

3.1 It is the purpose and intention of Declarant that the Property be developed and maintained as a 28-lot single-family home residential development. It is the purpose of this Declaration that the natural beauty, serenity, views and present surroundings of the Property shall be protected as much as possible in connection with the Improvements to be constructed on the Property and the uses permitted on the Property as set forth in this Declaration.

### **ARTICLE IV**

#### **ASSOCIATION**

4.1 Association Purposes. To enforce this Declaration, the Declarant has created a Massachusetts non-profit corporation called MEETING HOUSE PLACE Homeowners Association, Inc. The Association shall be comprised of the Owners of Parcels within the Subdivision and is established to perform the functions and exercise the rights and powers as set forth in this Declaration for the benefit of the Owners. Membership in the Association is deemed an appurtenance to each Parcel for the purpose of enforcing the provisions of this Declaration. Membership in the Association is transferable only in conjunction with the transfer of the title to each Parcel. The Association shall have and exercise, as necessary, the powers set forth in this Article IV.

4.2 Board of Trustees: A Board of Trustees shall be established to enact the duties of the Homeowners Association, Inc. The Board shall consist of three to five members and shall be appointed by the Declarant. The Declarant shall serve as the chairperson of the Board. Refer to Exhibits “C” and “D” for Article of Incorporation and By-Laws.

4.3 Enforcement Powers. The Association shall have the power to enforce this Declaration by actions at law or in equity brought in its own name and the power to retain

professional services needed for the enforcement of this Declaration and to incur expenses for that purpose. The Trustees of the Association shall have the authority to compromise claims and litigation on behalf of the Association resulting from the enforcement of this Declaration. The Trustees of the Association shall have the exclusive right to initiate enforcement actions in the name of the Association. However, any action or failure to act by the Association shall not limit the individual rights of Parcel Owners personally to enforce this Declaration in their own name. The Association may appear and represent the interests of the Subdivision at all public Meetings concerning zoning, variances, or other matters of general application and interest to the Owners. Owners may appear individually.

4.4 Maintenance Responsibilities. The responsibility to maintain and properly control the use of these parcels, when granted, vests in the Association, which has the power to perform maintenance services, construct Permitted Improvements, and in all other respects manage or supervise the management of those portions of the Property and other real property owned by the Association or with respect to which the Association has been granted an easement. The Association shall be responsible for maintenance and repair of all common areas including roadways, drainage areas, landscape, signage, lighting and private community trails.

4.5 Snow Removal. The Association shall be responsible for snow removal on the Roadways within the Subdivision that are available for use by all of the Owners of the Parcels. The Association shall have the power to make assessments against the Owners, including the Owners of unimproved Parcels, for purposes of providing such snow removal service.

4.6 Assessments. The Association shall have the power to levy assessments against each Parcel as necessary to carry out its functions. All assessments will be equal on all Parcels, whether vacant or improved. Assessments will be made annually to meet the anticipated and recurring expenses of the Association including, but not limited to, the costs to maintain, repair and replace, as necessary, the primary and secondary access roads used by the Owners of the Parcels to enter the Subdivision, the costs to construct, maintain, repair and replace, as necessary, improvements within the Common Areas (if any) of the Subdivision, the costs to operate, maintain, repair and replace, as necessary, the costs of landscape maintenance, water for irrigation, reimbursement of expenses incurred by the Trustees and the Architectural Review Committee in the performance of their obligations, and the enforcement of this Declaration. Notice of the assessment and the proposed amount of the annual assessment will be given in advance along with the notice of the annual Meeting of the Association, provided that the amount of the proposed assessment may be increased or decreased at the Meeting in which it is approved by the Owners. The Association may also levy special assessments to cover unanticipated expenses or shortfalls. No special assessment will be levied without approval of the Owners in a Meeting called for that purpose. Association fees are also defined as an assessment and will be billed monthly.

4.7 Assessments Constitute Lien, Mortgagee Protection. Any validly imposed assessment by the Association shall constitute a lien against the Parcels in the Subdivision and a personal debt of that parcel owner. The Association shall have the right to foreclose on that lien when any assessment remains unpaid for a period of more than 90 days from the date the assessment was levied. Additionally, the Association shall have the right to collect all unpaid balances including Association fees, expenses, collection costs, legal fees, interest costs and charges of enforcement from the owner of record of such parcel for all unpaid balances accrued

against said parcel. If the lien is not foreclosed upon, it may be renewed from year to year by recording a new notice of the lien for the amount of the unpaid assessment together with interest thereon at a rate determined from time to time by the Association. The lien of the Association against any Parcel shall have priority from the date that the first notice of lien on a specific Parcel is recorded in the office of the Recorder of Edgartown, Massachusetts. The lien of the Association shall be subordinate to any previously recorded liens or encumbrances filed against that Parcel, specifically including any purchase money mortgage or trust deed. Notwithstanding the lien rights of the Association, the obligation to pay assessments is a personal obligation of the Owner of each Parcel, and the Association may proceed to collect against the Owner or the prior Owner of any Parcel in the event of a sale. The lien of the Association may be enforced and foreclosed in accordance with the provisions of Massachusetts law applicable to the judicial foreclosure of a mortgage or in any other manner permitted by law. The Association shall be entitled to recover, in addition to the unpaid assessment and all interest accrued thereon, all costs and expenses, including without limitation attorneys' fees and court costs, incurred by the Association in pursuing actions to collect the unpaid assessments of the Association, regardless of the nature of the collection efforts undertaken by the Association. The Association may pursue an action against the Owner of a Parcel to obtain a money judgment for unpaid assessments, without foreclosing or waiving the lien securing the same. The Trustees of the Association may impose reasonable monetary penalties, including actual attorneys' fees and costs incurred by the Association in attempting to collect an unpaid assessment, and may temporarily suspend the Association membership rights of an Owner who is in default in the payment of any assessment.

4.8 Statement of Account. Any Owner may request the Association to provide a statement of such Owner's account to any lender or prospective buyer of that Parcel showing the assessments to be paid in full, or the amount of any past due assessments. The buyer or lender for whom such a statement was prepared will be entitled to rely on its accuracy, and will not be held liable for any amounts not shown on the statement.

4.9 Formative Documents. A copy of the Articles of Incorporation and the By-laws of the Association are attached to this Declaration as Exhibits "C" and "D" and are incorporated by reference as part of this Declaration. Any subsequent amendments to the Articles of Incorporation or the By-Laws of the Association shall be automatically incorporated by reference as a part of this Declaration, even though such amendments to the Articles of Incorporation or the By-Laws may not be recorded in the office of the Recorder of Edgartown, Massachusetts.

4.10 Association Responsible for Enforcing Maintenance Plan. The Association shall be responsible to enforce the provisions of a Maintenance Plan (as defined in Section 5.12 below) and any additions or alterations to the Maintenance Plan made by the Architectural Review Committee. The Association shall be financially responsible for the enforcement of such provisions.

## **ARTICLE V**

### **ARCHITECTURAL REVIEW COMMITTEE**

5.1 Introduction. It is the intention and purpose of this Declaration to impose architectural design standards of a type and nature that result in Dwellings and Permitted

Improvements which are compatible with the Island landscape. The placement, massing, dimensions, materials, and public aspects of the Permitted Improvements will be guided, but still allow for diversity in style and vitality in design. To accomplish this goal, the Declarant hereby establishes the Architectural Review Committee, which is empowered to oversee and enforce the Guidelines (as defined in Section 5.3(c)) established pursuant to this Declaration.

5.2 Architectural Review Committee Created. The Architectural Review Committee will consist of three to five members. The initial Architectural Review Committee will consist of three to five people appointed by the Declarant, who do not need to be Owners. The Declarant shall serve as Chairperson or have the sole authority to appoint a Chairperson. The Architectural Review Committee is established and operates independently from the Association. Replacement of the Declarant may occur when 95% of homeowner's vote to remove or the Declarant resigns.

5.3 Approval by Architectural Review Committee. No Improvements of any kind, including without limitation the construction or installation of any Dwelling, garage, pool building, parking area, driveway, walkway, or other hard surfaced area in excess of 100 square feet, swimming pools, outdoor hot tubs or spas, fences, walls, curbs, satellite dishes or antenna, solar panels, utility lines or any other permanent structure may be constructed, installed, maintained or allowed to stand in the Subdivision without the prior written approval of the Architectural Review Committee. The construction of all Improvements must occur within the Buildable Area for each Parcel or within the Common Area (if any) as shown on the Plan except that the construction and installation of roadways, utility lines, water wells, waterlines and utilities may with the prior written approval of the Architectural Review Committee, be located either within or outside the Buildable Area or the Common Areas (if any), provided that following such construction or installation, the disturbed areas are returned to as natural and undisturbed state as reasonably possible. No Excavation, grading, filling, draining, landscaping, or installation or removal of existing vegetation shall be made without the prior written approval of the Architectural Review Committee. Approval of the Architectural Review Committee will be sought in the following manner:

(a) *Plans submitted.* Three (3) complete set of plans for the construction of any Improvement as described in Section 5.3 must be signed by the applicant and submitted to the Architectural Review Committee for review. All plans submitted must include review by a third-party architect and Certified Energy Star Reviewer to ensure compliance with all requirements as set forth in this document prior to submission to the Town of Edgartown for a building permit application. The plans must be in sufficient detail to show the location on the Parcel of the Improvements, including without limitation the exterior walls of any Dwelling and all other structures to be built with it; detailed drawings of all elevations of all buildings showing locations of windows, doors, roof pitches, decks and other exterior elements; a list of exterior siding and roofing materials and/or a sample, including color samples; and a landscape plan showing the location of driveways, walkways, patios, decks and other hard surfaced or irrigated areas and the areas to be disturbed by construction and the means of restoring those areas. See the Architectural Design Guidelines for a complete list of requirements.

(b) *Review Fee.* The applicant will pay a review fee to the Architectural Review Committee of \$4,800 (or as changed from time to time by the ARC) or, in the case of Improvements which cost less than \$25,000 or which make no structural changes, the applicant

will pay a fee of \$500. The primary purpose of the fee is to cover the cost and expense of reviewing the plans and giving notice of Meetings.

(c) *Review.* The Architectural Review Committee shall exercise its best judgment in overseeing the construction of all Improvements on the lands within the Subdivision. The Architectural Review Committee shall prepare, and from time to time may modify and amend, a document entitled “The Architectural Design Guidelines for MEETING HOUSE PLACE” (the “Guidelines”) which Guidelines shall be available to any Owner and shall be intended to provide, in a general manner, such general guidelines as the Architectural Review Committee shall use in the review by the Architectural Review Committee of plans and specifications for any Improvements within the Subdivision. A copy of the initial form of the Guidelines is attached to this Declaration as Exhibit “E.” The Architectural Review Committee shall also have the right from time to time to adopt and to include within the Guidelines plans and provisions which shall be binding upon all of the Owners of the Parcels within the Subdivision designed to manage, control and enhance the natural resources located within the Subdivision and such other measures as the Architectural Review Committee determines from time to time to be in the best interests of the Owners of the Parcels, while attempting to protect and enhance the natural resources and aesthetic values of the Property for the mutual protection and benefit of the Owners of the Parcels. The Architectural Review Committee shall consider the materials to be used on the external features of all Improvements, including but not limited to exterior colors, harmony of external design with existing structures within the Subdivision, location with respect to topography and finished grade elevations and harmony of landscaping with the natural settings and surroundings. While in receipt of a complete submission of the plans, the Architectural Review Committee will review the plans and make an initial determination whether or not the plans comply with the Guidelines and the other conditions imposed by this Declaration. If the plans do not comply, the plans will be rejected. If the plans are in compliance, the Architectural Review Committee will approve the plans. The Architectural Review Committee may approve the plans subject to specific modifications or conditions. Owners may desire to submit preliminary plans to the Architectural Review Committee for informal and preliminary approval or disapproval. The Architectural Review Committee will review preliminary plans and the Architectural Review Committee will make its comments known to the Owner. However, no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission of plans as set forth in this Declaration. All preliminary sketches will be kept by the Architectural Review Committee. Upon final approval, the Architectural Review Committee and the Owner will each sign a copy of the approved plans, which shall be left with the Architectural Review Committee. Any construction that is not in strict compliance with the approved plans is prohibited. Notwithstanding any provisions in the Declaration or in the Guidelines, all construction of any nature upon any of the Parcels within the Subdivision shall be performed in compliance with the requirements of the building and zoning ordinances of those governmental entities having jurisdiction with respect to the Subdivision.

(d) *Written Record.* The Architectural Review Committee will maintain a written record of its actions, and maintain in its files a copy of all plans approved or rejected for a period of five years.



(e) *Failure to Act.* If the Architectural Review Committee has not approved or rejected any submission within 45 days after payment of the review fee and submission of complete plans, the submission shall be deemed to have been disapproved.

(f) *Permits and Approvals from Town of Edgartown, MA.* Notwithstanding any other provision of this Declaration to the contrary, prior to commencing the construction of any Improvements on any Parcel, the Owner of each Parcel must obtain from Town of Edgartown, MA all necessary permits and approvals required by Town of Edgartown, MA in connection with the construction of any such Improvements.

5.4 Variances. The Architectural Review Committee has the authority to deviate from the requirements contained in the Guidelines under extenuating circumstances, when compliance with the Guidelines would create an unreasonable hardship or burden for a Parcel Owner. No such variance may be granted without the written consent of the Architectural Review Committee. The Architectural Review Committee does not, however, have the authority to deviate beyond the requirements of the building code and zoning ordinances of all governmental entities having jurisdiction with respect to the Subdivision.

5.5 Extraordinary Costs. Whenever it deems appropriate, and with the consent of the Board of Trustees, the Architectural Review Committee shall engage the services of a building/construction specialist, landscape specialist or civil or structural engineer to assist in its review of any proposed Improvements. All costs of such review will be paid by the applicant, provided however that no engineer or other specialist will be hired without advance notice to the applicant of: (a) the intention to hire a review engineer or other specialist, (b) the aspects of the proposal that caused the Architectural Review Committee to believe that additional professional review was required and (c) the estimated cost of that review. If the applicant does not withdraw the proposal within five days after receipt of such notice, the applicant shall be deemed to have consented to the Architectural Review Committee retaining such additional professional assistance. Whenever the Architectural Review Committee retains outside professional services in its review, the reviewing engineer or other specialist is acting only in an advisory capacity, and the applicant, for himself and his successors and assigns, waives any and all claims against the Architectural Review Committee in the event that advice from, or conditions imposed by, the reviewing professional prove ineffective, unnecessary or inappropriate to the circumstances. The costs of such review will be billed directly to the applicant.

5.6 General Design Review. The Architectural Review Committee will use its best efforts to provide a consistent pattern of enforcement and consistent application of this Declaration and the Guidelines. The Guidelines shall, of necessity, be general in nature, and the Architectural Review Committee shall apply them in a manner that results in a high quality, attractive, and well-designed community.

5.7 Declarant, Association, Trustees and Architectural Review Committee Not Liable. The Declarant, the Association, the Trustees, and the Architectural Review Committee and its members shall not be liable to the applicant or to the Owners of any Parcels within the Subdivision for damages or any other remedy as the result of their actions, inactions, or approval or disapproval of any set of plans submitted to the Architectural Review Committee for review. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Declarant, the

Association, the Trustees, the Architectural Review Committee or its members as a result of the performance or failure to perform the duties created by this Declaration. Any person or persons acquiring title to any Property in the Subdivision shall be deemed to have agreed and covenanted that such Owner will not bring any action or suit to recover damages against the Declarant, the Association, the Trustees, and the Architectural Review Committee or its members, or the advisors, officers, employees or agents of any of the foregoing, as a result of the performance by the Architectural Review Committee of its duties and responsibilities under this Declaration. Each Owner has the right to enforce this Declaration against another Owner and may seek independent redress if such Owner believes the Architectural Review Committee has acted improperly.

5.8 Limitations on Review. The Architectural Review Committee's review is limited to those matters expressly described in this Declaration. The Architectural Review Committee shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of the Property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. The Architectural Review Committee shall not be responsible for reviewing, nor shall the approval by the Architectural Review Committee of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or compliance with any applicable building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of the Property. The structural integrity of any Improvements constructed within the Subdivision are not the responsibility of the Architectural Review Committee. Corrections or changes to plans as may be subsequently required to bring them into conformity with any applicable statutes, laws or ordinances must be reviewed and approved by the Architectural Review Committee prior to construction.

5.9 Approval to Proceed. The Architectural Review Committee shall promptly issue a certificate of approval to the applicant once the plans for any Permitted Improvements have been approved.

5.10 Completion Required Before Occupancy. No Dwelling within the Property shall be occupied until the Owner of any Dwelling shall have completed the Dwelling or in accordance with all plans approved by the Architectural Review Committee and until the Owner shall have obtained all necessary governmental approvals and a certificate of occupancy from the governmental authority having jurisdiction with respect to the construction of the Dwelling.

5.11 Enforcement of Guidelines. The Association shall exercise its enforcement powers as set forth in this Declaration in order to implement and enforce the Guidelines and such other plans and measures as may be adopted by the Architectural Review Committee for inclusion in the Guidelines from time to time.

5.12 Responsibilities of the Architectural Review Committee. The Architectural Review Committee shall have the responsibility of adopting and amending the procedures, additions, amendments, and policies of a Maintenance Plan. The Architectural Review Committee on a bi-annual basis shall examine the conditions of the natural resources on all of the Property within the Subdivision, which examination shall include, but not be limited to such issues as the condition of the Open Space. The Architectural Review Committee shall employ a qualified third party reviewer bi-annually to review the compliance to the Open Space.

## ARTICLE VI

### RESTRICTIONS ON ALL PROPERTY

The following restrictions on use apply to all Property within the Subdivision:

6.1 Governing Regulations. The lawfully enacted zoning regulations of the Town of Edgartown at the time of recordation and of any other governmental body having jurisdiction with respect to the Property, including without limitation any and all applicable then current building, fire, and health codes, are in full force and effect in the Subdivision, and no Parcel may be occupied in a manner that is in violation of any such statute, law, ordinance or regulation. If the provisions of this Declaration are more stringent than any applicable governmental statute, law, ordinance or regulation, it is the intent that the provisions of this Declaration shall control. This Declaration shall not authorize any uses, improvements, or activities that are prohibited by any local, state or federal statute, law, ordinance or regulation.

6.2 No Mining Uses. No mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including but not limited to oil, gas, minerals, gravel, sand, rock and earth, shall ever be permitted on the Property within the Subdivision. The foregoing limitation shall not preclude drilling and excavation in connection with the construction of roads, utility lines, water wells and other Permitted Improvements.

6.3 No Business or Commercial Uses. The Property within the Subdivision shall be used for residential purposes only. No portion of the Subdivision may be used for any commercial or business use, provided however that nothing in this provision is intended to prevent (a) the Declarant from using one or more Parcels for purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until the Parcels are sold and all homes are built, or (b) the use by any Owner of his Parcel for a home occupation. No home occupation will be permitted, however, which requires or encourages the Owner's clients, customers, patients or others to come to the Parcel to conduct business. No signs or other advertisements relating to any such home occupation shall be placed upon any of the Property within the Subdivision, nor shall any such sign or advertisement be visible from the outside of any of the Permitted Improvements constructed on the Property. No retail sales of any kind may be made in the Subdivision. All home occupations operated or conducted from any of the Parcels within the Subdivision shall comply with all applicable local, state or federal statutes, laws, ordinances and regulations, including without limitation all statutes, laws, ordinances and regulations pertaining to licensing and permitting for the operation of any such home occupation.

6.4 Restrictions on Signs. No signs will be permitted on any Parcel or within the Subdivision, except for traffic control and directional signs for Roadways or trails placed by the Town or the Association or temporary signs warning of some immediate danger and except for such other signs as may be approved by the Architectural Review Committee. Signs indicating a Parcel is for sale may be placed in accordance with the Guidelines. The Declarant may erect signs at the entrance to the Subdivision announcing the availability of Parcels and giving sales information. No permanent signs stating the address or the name of the Owner of any Parcel may be installed without the advance consent of the Architectural Review Committee.

6.5 Completion Required Before Occupancy. No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by the Town.

6.6 Dwelling to be Constructed First. No garage may be constructed on any Parcel prior to the construction of the Dwelling on such Parcel.

6.7 Animals. Ordinary household pets and other animals as may be approved in advance by the Architectural Review Committee, with respect to the type of animal and the number of any such animal, may be kept on any Parcel. Any animals other than dogs, cats or other typical household pets which an Owner proposes to keep on a Parcel must be approved in advance by the Architectural Review Committee. The Architectural Review Committee must approve all such Permitted Improvements before any animals will be kept on the Property. No boarding of animals for hire shall be allowed within the Subdivision. No breeding of animals for economic gain shall be allowed within the Subdivision. The Architectural Review Committee shall have the right to require the removal of any animal or animals which are deemed to create problems for other Parcel Owners. Owners are required to be in control over their respective animals and pets, including the use of leashes when using any of the trails in the Subdivision in order to protect inhabitants of the Subdivision and other animals kept within the Subdivision and to protect the wildlife in the area. No dangerous animals will be allowed in the Subdivision. The Owner of each Parcel within the Subdivision shall be responsible to assure that all animals of any nature, including without limitation all dogs, kept on or within such Parcel shall be prevented from leaving the boundaries of such Parcel and entering onto any other Parcel or into any other portion of the Subdivision, unless such animal is in the presence of and under the control of a responsible individual. The Owner of each Parcel shall ensure that all animals such as dogs will not create excessive noise including barking. The Owner of each Parcel shall make such Permitted Improvements as are necessary to assure that animals kept on such Owner's Parcel do not trespass on other Parcels. To the extent that any animals kept on a Parcel within the Subdivision cause injury to any other animals, to persons or to property, the Owner of the Parcel on which such animal is kept shall be liable for all damages caused by all animals kept on such Parcel, whether or not the animal is owned by the Owner of the Parcel, including without limitation damages resulting from injury to or death of persons or other animals and damage to property.

6.8 No Re-Subdivision. No Parcel may be re-subdivided.

6.9 Underground Utilities. All water, sewage disposal, electrical, propane/natural gas, telephone, cable/television, and any other utility lines in the Subdivision are to be underground, including utility lines within any Parcel which service Improvements entirely within that Parcel.

6.10 Storage Areas. All storage areas, and exterior mechanical equipment must be screened in a manner approved by the Architectural Review Committee so that they are not visible from the Public View.

6.11 Maintenance of Property. All Parcels, and the Improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Parcel or the Improvements on it to fall into disrepair.

6.12 No Hazardous Activity. No activity may be conducted on any Parcel that is, or would be considered by a reasonable person to be, unreasonably dangerous or hazardous, or which would cause the cancellation of conventional property casualty insurance. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms (other than under circumstances as are expressly permitted by the Architectural Review Committee) or fireworks.

6.13 No Unsightliness. No unsightliness is permitted on any Parcel. This requirement shall prohibit, without limitation, the open storage of any building materials (except during the construction of any Dwelling or Improvements); open storage or parking of farm or construction equipment, motor vehicles, boats, campers, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading); accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; lawn or garden furniture except during the season of use; hanging, drying or airing of clothing or household fabrics outside of a Dwelling; and the storage or accumulation of any other material, vehicle, or equipment on the Parcel in a manner that it is visible from the Public View.

6.14 'Dark Sky' Lighting. Any outdoor lighting shall be subject to approval by the Architectural Review Committee, and no outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Parcel on which it is installed. All exterior lighting shall be of low lumens, shrouded and shall be of warm amber color in nature. The Parcel owners will adhere to a "Dark Sky" lighting policy as defined in the Architectural Guidelines.

6.15 No Annoying Activities, Sounds or Odors. No speakers, or other noise making devices may be used or maintained on any Parcel which create noise that might reasonably be expected to be unreasonably or annoyingly loud, except for security or fire alarms used exclusively to protect any of the Property, Dwellings or other Permitted Improvements. Notwithstanding the above, homeowners may, with the approval of the Association, have occasional events including weddings, graduations, etc. on their Parcel. No noxious or offensive activity shall be carried out on any Parcel, including the creation of odors that detract from the reasonable enjoyment of nearby Parcels.

6.16 Water Delivery System. The Property is served by municipal water service. Each Parcel within the Subdivision shall receive potable water from the public water district provider.

6.17 Sewage Disposal Systems. The Property is served by municipal sewer service. Each Parcel within the Subdivision shall receive sewer services from the public sewer district provider.

6.18 Landscape/Irrigation Systems. All Parcels will be required to utilize weather station control landscape irrigation systems. All irrigation systems are required to be installed and maintained by a licensed professional landscape contractor. The cost to install any irrigation system on any Parcel shall be the sole responsibility of each Parcel Owner. All landscape material selection, installation and maintenance must comply with the recommendations as set forth in the MVC Policy for Site Design and Landscape.

6.19 Drainage. No Owner shall alter the flow of natural drainage from his Parcel, nor shall any Owner permit accelerated storm run-off to leave his Parcel without first using reasonable means to dissipate the flow energy.

6.20 Groundwater Protection. Nitrogen loading is a serious matter on the Island and strict adherence to policy regulations approved as part of the subdivision approval process shall be professionally applied under the direction and oversight of the Architectural Review Committee. The commercial application of pesticides, insecticides, fungicides, biocides, or other chemicals, except fertilizers, is prohibited and may be applied as strictly required in compliance with the Town, Martha's Vineyard Commission and Plan approvals as approved at recordation. All fertilization programs must be performed by a licensed professional landscape contractor and records of all maintenance must be submitted to the ARC on an annual basis to ensure compliance with this requirement.

6.21 No Transient Lodging Uses. The Parcels are to be used for residential housing purposes only and are permitted to be rented in whole for seasonal use. No Parcel shall be subjected to any form of time interval ownership, or ownership in a manner that rotates the use among multiple Owners in a manner that would permit the right of use to be sold separately from the fee simple title to the Parcel.

6.22 Hunting. Except as specifically provided in this Declaration or in the Guidelines, the hunting, trapping, and harassment of wildlife is expressly prohibited within the Subdivision. Additionally, the discharging of firearms is expressly prohibited within the boundaries of the Subdivision. All violators will be prosecuted to the maximum extent of the law.

6.23 Open Space and Habitat Protection. One of the primary objectives of this Declaration is to protect endangered species and wildlife which presently inhabits portions of the Property. Open Space has been established as part of the subdivision to protect endangered species identified as part of the Massachusetts Endangered Species Act. The Association and the Architectural Review Committee shall also seek to preserve and protect the habitats of the other wildlife which inhabit the Property, all of which are deemed to be a significant asset of the Property, the Association and the Architectural Review Committee including the removal of invasive species of plants. All Open Space and setback areas on the individual lots will be 'no cut' areas other than maintenance as required by NHESP for habitat enhancement for endangered species and any common paths installed by the applicant.

6.24 Restriction on Vehicles. All vehicles operated within the Subdivision shall be properly licensed, inspected and maintained so as not to create a dangerous situation, become a nuisance, nor emit unreasonable smoke, oil or noise. All vehicles shall be operated only on such roads as may be designated from time to time by the Architectural Review Committee for the operation of such vehicles, and no vehicle shall be operated in any manner which could cause damage or harm to the natural environment and landscape of the Property or any of the wildlife on the Property. The Architectural Review Committee shall have the power to restrict the use of any vehicle in any manner which creates any nuisance or any offensive or objectionable noise or in any manner which poses a threat to the natural environment and landscape of the Property or to any of the wildlife on the Property. In no event shall motor driven bikes or other vehicles be operated at any location within the Subdivision unless the noise emitted by such vehicle is muffled

to comply with the noise standards established from time to time by the Architectural Review Committee. Mufflers on all vehicles operated within the Subdivision must conform to the noise standards established from time to time by the Architectural Review Committee. All drivers of vehicles must be legally licensed.

6.25 Road and Trail Usage. The Architectural Review Committee shall establish from time to time private trails within the Subdivision restricted to Homeowner use only, which may include trails for hiking and non-motorized vehicles. No motorized vehicles shall be operated on any trails set aside for private use by Homeowners exclusively for hiking, and non-motorized vehicles. The Architectural Review Committee may, from time to time, also establish additional rules and standards with respect to the use of the private trails, such as: (i) appropriate times of use; (ii) appropriate seasons of use; (iii) appropriate hours of travel; (iv) rules of use etiquette; (v) restricting use to designated areas and/or trails, including the closing of other areas and trails; (vi) restrictions on use by guests of Owners; and (vii) rules for maintenance and clean-up of the trails.

Additionally, the Association or any homeowner will not block or restrict the walking path, known as Swimming Path Place, running from Meshacket Road to Meeting House Way on the easterly side of the property path for pedestrian, equestrian or non-motorized bicycle use by the public. This is a public trail for public use. All other trails are private.

## **ARTICLE VII**

### **RESTRICTIONS ON PARCELS**

7.1 Dwelling within the Single-Family Lots. With respect to each Parcel within the Subdivision, the Recorded Plan sets forth the perimeter boundaries of an area within such Parcel which is identified as the Buildable Area. Prior to the commencement of the construction of any Improvements on a Parcel, the Owner of the Parcel must obtain the written approval of the Architectural Review Committee for the location of the Dwelling for such Parcel, which Dwelling must be located within the Buildable Area. With the exception of driveways for ingress and egress, wells, underground water lines and underground utility lines, no Improvements shall be constructed on any Parcel outside of the Buildable Area on such Parcel. In order for the Owner of the Parcel to obtain the approval of the Architectural Review Committee for the selection of the Dwelling location for such Parcel, the Owner shall deliver to the Architectural Review Committee a topographical survey which identifies the location of the Dwelling for such Parcel and which identifies the location of the proposed Dwelling for such Parcel. The survey shall set forth a metes and bounds description of the perimeter boundaries of such proposed Dwelling. Upon receipt of such survey and such written request from the Owner of a Parcel for approval of the Dwelling location, the Architectural Review Committee shall review such proposal and shall respond to the Owner within thirty days of such submission. Provided that the Dwelling is located within the Buildable Area shown on the Recorded Plan for such Parcel, if the Architectural Review Committee has not responded to the proposed location of the Dwelling for such Parcel within thirty days after submission of such proposal, the proposal shall be deemed to have been rejected. At such time as the Architectural Review Committee has approved the location of the Dwelling for a Parcel, the Owner of such Parcel shall be obligated, at such Owner's expense, to cause the perimeter boundary of the Dwelling to be staked and marked in a manner approved by the Architectural Review Committee. The Architectural Review Committee shall maintain a record

of all Areas of Disturbance which have been approved with respect to each Parcel within the Subdivision.

7.2 Number and Location of Dwellings: No Dwelling or other Improvements shall be placed, erected, altered, or permitted to remain on any Parcel other than one (1) primary single family Dwelling together with related nonresidential Improvements which have been approved by the Architectural Review Committee. At the time of construction of the primary single-family Dwelling on any Parcel, said Parcel must also be improved with a garage with at least a two (2) car capacity. If a garage is detached, a 400 square foot “detached bedroom” in conformance with the Town of Edgartown Zoning Bylaws is allowed. Whenever possible, the garage doors will not face towards the main access road or the main view corridor from another Owner’s homesites. One (1) single-family dwelling may be constructed on each Parcel, provided that the size and location and all aspects of such single-family dwelling are approved by the Architectural Review Committee and, provided further, that the applicable zoning and building ordinances of any governmental entity having authority with respect to the Property permits the construction of a single-family dwelling.

7.3 Floor Area: The primary single-family Dwelling which may be constructed on a Parcel in the Subdivision shall have a maximum Floor Area of 3,800 square footage defined as the inside perimeter of all above ground, conditioned and enclosed areas that are suitable for year-round use including all closets, stairways and storage areas. All homes shall be allowed up to five (5) bedrooms.

7.4 Primary Single-Family Dwelling to be Constructed First: No garage or other structure shall be constructed on any Parcel until after commencement of construction of the primary single-family Dwelling on the same Parcel. All construction and alteration work shall be prosecuted diligently, and each Dwelling which is commenced on any Parcel shall be entirely completed within fifteen (15) months after commencement of construction. A three (3) month grace period after the initial fifteen (15) month period has expired may be granted by the Architectural Review Committee upon the showing of just cause for such grace period.

7.5 Placement of Improvements: With the exception of driveways for ingress and egress, wells, underground water lines and underground utility lines, the placement of each Dwelling and all other Improvements on a Parcel shall be in a location within the Buildable Area for such Parcel. In addition, the placement of every Dwelling and all other Improvements on the Parcel within the Buildable Area must be approved by the Architectural Review Committee, and such placement shall respect existing land forms and generally follow contours and fit into the existing land mass rather than ignoring and dominating these forms. The location of all Improvements, including the Dwelling, on any Parcel within the Subdivision shall be in compliance with the setback requirements set forth in this Declaration and on the Recorded Plan and in compliance with the building code and zoning ordinances of all governmental entities having jurisdiction with respect to the Subdivision. In approving the placement of each Dwelling and all other Improvements in the Subdivision, the Architectural Review Committee shall endeavor to provide for maximum privacy, view corridors and maximum benefit to the individual Parcel and the surrounding Parcels and to maintain the overall beauty of the area.



7.6 Height Limitations: No portion of a Dwelling within the Subdivision shall exceed a height greater than the height limitations imposed by the Town. The maximum ridgeline height shall not exceed thirty-two (32) feet above the natural grade. This measurement applies to all elevations of the Dwelling, the intent being that buildings will conform with and reflect the natural contour of the land.

7.7 Towers, Satellite Receivers and Antennas: No towers, exposed or outside radio, television or other electronic antennae, with the exception of satellite receiving dishes, shall be allowed or permitted to remain on any Parcel. Satellite receivers, in excess of eighteen (18) inches in diameter, are not permitted. It is recommended that lightning rods be installed on all Dwellings.

7.8 Used or Temporary Structures: No used or previously erected or temporary house, structure, house trailer, mobile home, camper, or nonpermanent outbuilding shall be placed, erected, or allowed to remain on any Parcel except during construction periods, and no Dwelling shall be occupied in any manner prior to its completion and approval in accordance with Article V hereof.

7.9 Fences: Fencing shall be allowed with the approval of the Architectural Review Committee, but all fencing within the Subdivision must be located within the Buildable Area, and shall be constructed in accordance with the following requirements:

(a) All fencing within the Subdivision shall have a continuity of appearance in keeping with the setting and surroundings of the Property.

(b) All fencing, screens or walls shall be of a type, design, material and height as may be approved by the Architectural Review Committee.

(c) The fencing shall not exceed 42 inches in height, or as required by code.

(d) All pool and hot tub areas are to be fenced per Commonwealth and Town requirements.

(e) All fencing shall be wildlife compatible.

(f) Customized entrances through such fencing into the Parcel must be approved by the Architectural Review Committee.

(f) No barbed wire shall be utilized on any fencing.

7.10 Location of Improvements and Driveway Length: A parcel plan showing the desired location of the proposed Dwelling and all other Improvements within each Parcel and the driveway and any additional excavation shall be submitted to the Architectural Review Committee for approval before any construction shall commence. Dwelling locations will not be allowed on the trails located within each Parcel. All driveways shall be of permeable material including crushed grey gravel or crushed grey shell. The maximum width of a driveway shall be twelve feet.

7.11 Driveway Access: All individual driveway access locations on each Parcel within the Subdivision shall be designed to function well with the site location and layout of the Dwelling

on the Parcel. Care shall be taken in establishing the location of driveways to allow for the least amount of site and vegetation disturbance. The minimum and maximum width of any driveway shall comply with the standards and specifications specified by the Town at the time a building permit is issued by the Town for the driveway improvements on each Parcel. Where possible, driveways shall parallel the slope to lessen site impact. The approaching driveway shall align itself with the intersecting road at approximately ninety (90) degrees for twenty-five (25) feet. A maximum of four percent (4%) grade will be designed along the center line of this portion of the drive. Cross slope will be three percent (3%). The sides of the private drive will blend into the appropriate grade. Cut and fill areas shall be contoured to two (2) feet horizontal in one (1) foot vertical slopes. A retaining wall may be required by the Architectural Review Committee for cuts in excess of four (4) feet. Driveway access for all Parcels within the Subdivision may not be from any street or road other than interior roads within the Subdivision. No access is allowed to or from individual single-family lots to Division Road. Parcel Owners shall not grant or improve additional rights-of-way and/or easements across their Parcels in addition to those rights-of-way and easements that are already of record at the date of the Plan recordation, except for easements granted to the Declarant or to the Association.

There will not be any direct access of off Division Road to the individual lots. All access will be from the interior subdivision roads.

7.12 Building, Masses, Form and Roof Lines: In all cases, building masses, forms and roof lines shall conform to and with the existing contours. At no point shall the maximum height of any Improvement on any of the Parcels exceed an elevation of two (2) stories of living space above the existing land contour at said point. Basements shall be allowed contingent upon the height of the water table.

7.13 Architectural Requirements: Notwithstanding the content of the Guidelines, the following shall be considered to be minimum architectural requirements:

- (a) Every Dwelling and other Improvement must be custom built to compliment the area with a preference of Island style architecture.
- (b) No stucco, vinyl or metal style homes will be allowed.
- (c) No dome, A-frame or modified A-frame Dwellings shall be allowed.
- (d) No prefabricated Dwellings or trailers shall be allowed.
- (e) All buildings, structures and improvements on any Parcel shall meet or exceed Energy Star Version 3.1 (Rev. 09) certification and Massachusetts Stretch Energy Code requirements. (see Exhibit 'F'). All documentation required to satisfy certification will be submitted to the Town of Edgartown Building Department with the building permit application and prior to occupying any structure on any Parcel.
- (f) Installation of one Smart Flower brand solar array and a second Smart Flower or equivalent to a single Smart Flower solar panels to generate power towards the annual consumption of the home as approved by the

Architectural Review Committee will be required for each single-family dwelling located at Meeting House Place (see Exhibit 'F'). The purchase and installation of the Smart Flower(s) and/or solar panels will be the responsibility of the home owner. The location of the Smart Flower(s) and/or solar panels will occur within the Buildable Area and the specific location must be approved by the Architectural Review Committee so as to be hidden from the neighbors and common area view as much as possible.

## **ARTICLE VIII**

### **OWNERS' MAINTENANCE OBLIGATIONS**

8.1 Duty to Maintain. It is the obligation of the Owner of each Parcel to maintain properly the Parcel and the Improvements to the Parcel in a good state of repair and an attractive, safe, and healthy condition at all times in order to preserve and enhance the enjoyment of the Subdivision.

8.2 Repair by Association. In the event that an Owner permits his Parcel or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary, or an unsightly condition in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demanding that the Owner correct the condition within 30 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Parcel and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to pay promptly the reasonable costs of any work performed under this provision. Unpaid amounts will accrue interest at the lawful judgment rate under applicable Commonwealth law.

8.3 Alterations of Exterior Appearance. The Owners will maintain their Parcels and Improvements in substantially the same condition and appearance as that approved by the Architectural Review Committee. No subsequent exterior alterations, improvements or remodeling, whether structural or cosmetic, will be made without the advance written consent of the Architectural Review Committee.

8.4 Repair Following Damage. In the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Architectural Review Committee, provided however that alterations or deviations from the originally approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before reconstruction begins. Such temporary measures may be taken without the consent or approval of the Architectural Review Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Parcel for more than 90 days without repairs commencing, and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

## ARTICLE IX

### CONSTRUCTION COVENANTS

9.1 Introduction. In order to minimize the disturbance of the Property within the Subdivision during any construction activities, and to minimize the inconvenience to adjoining Owners, the following construction regulations shall be enforced. These regulations shall be made a part of the construction contract between the Owner and the builder of each Dwelling or other Improvements on a Parcel. The Owner shall be bound by these regulations, and violations committed by the builder or its employees, subcontractors or others shall be deemed a violation by the Owner for which the Owner shall be liable.

9.2 Pre-Construction Conference. Prior to the commencement of construction, the Owner and builder will meet with the Architectural Review Committee to review these regulations and coordinate the construction activities within the Subdivision. At the conference, or prior to the Architectural Review Committee granting its approval, the Owner or builder must supply a construction site plan showing the location of the Buildable Area, material storage areas, the portable toilet, any construction office or trailer, and the trash dumpster. This plan must be approved by the Architectural Review Committee prior to the commencement of construction.

9.3 Marking Buildable Area/Limits of Disturbance. Prior to the commencement of construction, the Owner shall survey and mark the Buildable Area and limits of disturbance area(s) of the Parcel designated by the Architectural Review Committee as part of the plan approval process, which in all cases must be entirely within the property boundary for such Parcel. The limits of disturbance area boundary will be marked with surveyor's tape and roped-off or fenced to prevent any intrusion by construction activity into surrounding Open Space abutting the Parcel.

9.4 Conservation of Landscape Materials. To the extent reasonably possible, native plant material removed from a Parcel during the construction process should be preserved for replanting on the Parcel. Topsoil, rock outcroppings, boulders, springs and seeps should be preserved.

9.5 Occupational Safety and Health Act Compliance. The builder shall comply with the standards and regulations of the United States Department of Labor under the Occupational Safety and Health Act.

9.6 Portable Office or Trailer. Any builder who desires to bring a portable office or trailer onto a Parcel shall first apply for and receive written approval from the Architectural Review Committee. The Architectural Review Committee will work closely with the builder and Owner to determine the best possible location for the portable office. The portable office will be located in a location approved by the Architectural Review Committee and within the limits of disturbance area. The temporary office may not be installed prior to the commencement of construction, and must be removed upon the first to occur of (i) the issuance of a certificate of occupancy, (ii) the termination, expiration, or cancellation of the applicable building permit, or (iii) the suspension of construction activities for a period of 60 days.

9.7 Construction Debris Removal. The builder must comply with Town ordinances and the requirements of the Architectural Review Committee requiring the placement and maintenance of a trash container or dumpster on the Parcel. The builder shall collect trash at the end of each work day and deposit construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind. Such container shall be regularly serviced. No trash may be burned, buried, or otherwise disposed of on the Property. No concrete trucks may be cleaned out on the Parcel, the Property or anywhere within the Subdivision. Recycling of construction material is strongly encouraged.

9.8 Construction Area Appearance. The Parcel must be maintained in a reasonably organized and neat condition at all times during the construction of a Dwelling or other Improvements. Once the Dwelling is enclosed, materials shall be stored inside the Dwelling and out of sight, whenever practical and possible.

9.9 Sanitary Facilities. The builder is responsible for the installation and maintenance of an approved portable toilet facility during construction. The portable toilet must be located on the Parcel at a location approved by the Architectural Review Committee and must be removed from the site at such time as the permanent plumbing system is operational.

9.10 Construction Parking and Vehicles. Construction crews must park their vehicles on the Parcel on which they are working and shall not use or park on any other Parcel or any other Property within the Subdivision. All vehicles must be parked to allow the free flow of traffic within the Subdivision.

9.11 Blasting. In the event that it is necessary to blast in conjunction with the construction of any Dwelling or Improvement, the Owner must notify the Architectural Review Committee in advance. In addition, the builder must comply with all ordinances and regulations of the Town and all other governmental authorities having jurisdiction over the Subdivision applicable to blasting. Advance notice to the Architectural Review Committee shall be sufficient to allow reasonable review of the governmental permits by the Architectural Review Committee. No blasting, impact digging, or pile driving causing seismic vibrations may be undertaken without the prior written consent of the Architectural Review Committee.

9.12 Construction Sign. During periods of actual construction on the Dwelling, the Owner or builder must install a temporary sign identifying the Parcel and the builder. The sign must conform to the signage requirements of the Architectural Design Guidelines. The sign must be removed upon sitework completion, abandonment of construction or issuance of Certificate of Occupancy, whichever occurs first.

9.13 Hours of Work. Daily working hours on the site shall be limited to the period beginning one-half hour after sunrise and ending one-half hour before sunset, unless otherwise restricted by Town ordinances. The builder is responsible for controlling noise emanating from the site. Construction activities from July 1<sup>st</sup>-August 30<sup>th</sup> shall be limited in nature.

9.14 Soil Conservation, Dust. At all times when the surface of the Parcel is disturbed by construction activity and revegetation has not been completed, the builder shall practice

reasonable dust, sedimentation and erosion control measures as described in the USDA Soil Conservation Service Guidelines.

9.15 Removal of Mud. The builder is responsible for cleaning up and removing mud from the construction site that is deposited on the Roadways of the Subdivision.

9.16 Construction Access. Construction access to the Dwelling is limited to the driveway and utility corridors designated on the approved site plan for the Dwelling. The natural areas of the Subdivision shall not be used for ingress or egress, temporary utility lines, delivery of material, or otherwise disturbed during construction.

9.17 Duration of Construction. No construction shall be undertaken without a building permit and all other necessary permits from the Town and any other governmental entity having jurisdiction over construction on the site. No materials, tools, temporary offices or portable toilets, excavation or construction equipment or similar materials or equipment may be delivered to the site prior to the issuance of the permit(s). It is the obligation of the Owner to proceed with construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the Dwelling shall be substantially complete within a period of one year from commencement. All landscaping and soil stabilization work must be completed as soon as possible after completion of the exterior of the Dwelling, but in no event later than the summer following completion of the exterior of the Dwelling.

9.18 Repair of Damage. Each Owner is responsible for the prompt repair of any damage to the Property caused by or incidental to such Owner's construction. The Association, if necessary, shall initiate legal action against any Owner for the repair of damage that occurs from construction activity pertaining to that Owner's Parcel. In order to secure the duty of each Owner to repair all damage from construction activity pertaining to that Owner's Parcel, each Parcel Owner shall deposit with the Architectural Review Committee a cash sum in the amount of \$5,000, which shall be due and payable prior to the commencement of any construction activities on such Owner's Parcel and in no even later than the date that the Town issues a building permit with respect to the construction activity to be performed on such Parcel. At the conclusion of the construction activity and upon the written verification by the Architectural Review Committee that all damages resulting from such construction activity on or pertaining to such Owner's Parcel have been repaired and paid for in full, all unused portions of such deposit shall be returned to the Owner of the Parcel in question. Without limiting the generality of the foregoing, such deposit may be utilized by the Architectural Review Committee in order to repair or correct any damage to the Parcel, including damage which occurs outside the Buildable Area, as a result of such construction activities and damages to common areas or roadways.

## **ARTICLE X**

### **GENERAL PROVISIONS**

10.1 The covenants, conditions, and restrictions contained in this Declaration may be enforced as follows:

10.2 Violation Constitutes Nuisance. The violation of the provisions of this Declaration is deemed to be a nuisance, and the Owner of the Property on which the violation occurs is responsible for the removal or abatement of the nuisance.

10.3 Remedies.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Parcel), by any other Owner, or by the Association in its own name. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment all of the reasonable costs of enforcement, including attorneys' fees and costs of litigation.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state, or local laws and ordinances pertaining to health, safety, abatement of nuisances or other matters. The remedies available under this Declaration are to be construed as being in addition to all other remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(d) The delay or failure by anyone to take enforcement action with respect to any violation of this Declaration shall not be construed as a waiver of the covenants contained in this Declaration with respect to such violation or with respect to any other violations.

10.4 Severability. Each of the covenants, conditions, restrictions and provisions contained in this Declaration shall be independent of the others, and in the event that any covenant, condition, restriction or provision of this Declaration is found to be invalid, unenforceable or illegal by a court of competent jurisdiction, the remaining covenants, conditions, restrictions and provisions of this Declaration shall remain in full force and effect.

10.5 Limited Liability. Neither the Declarant, the Trustees, or the Architectural Review Committee or its individual members, nor any Owner shall have personal liability to any other Owner for actions or inactions taken pursuant to the terms of this Declaration, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority under this Declaration and without malice.

10.6 Term of Declaration, Renewal. To the extent that any provision contained in this Declaration is deemed to constitute a restriction subject to the limiting provisions of M.G.L. Chapter 184, Sections 26 through 30, then such restrictions shall be binding upon the parties hereto for a term of two hundred (200) years beginning on the date of the recording of this Declaration and shall remain in full force and effect in accordance with the provisions of M.G.L. Chapter 184, Section 27, as it may be amended from time to time, or as provided in similar successor provisions, including those provisions permitting the extension of the period of enforceability of said restrictions by the recording of an extension executed by eighty percent (80.00%) of the Owners of the parcels at the Dukes County Registry of Deeds in accordance with the provisions of said law before the expiration of the first thirty (30) years from the date of recording hereof, and before

the expiration of each succeeding twenty (20) year period thereafter or for such other maximum further periods of time as may be allowed by any amendments of said law or by any successor provisions.

10.7 Amendment, Mortgagee Not Bound. At any time while this Declaration is in effect and any Parcels are not sold and any homes have not completed construction, Declarant shall exercise sole judgment with regards to amendments. Upon sale of all Parcels and completed construction of all homes, amendments may be proposed by an eighty (80%) majority of Homeowners for approval by the Declarant until such time as the Declarant cedes all ownership in the Property. At such time, the Association will define the process for approval of amendment. No amendment will be binding upon the holder of any mortgage or trust deed on any Parcel which mortgage or trust deed is of record at the time of the amendment, unless the mortgage or trust deed holder joins in the amendment. This Declaration may not be repealed by amendment. No amendment shall have the effect of increasing the number of Parcels or Dwellings within the Subdivision beyond that approved by the Town and this Declaration, or making less restrictive the provisions of this Declaration regulating the uses of the Property within the Subdivision.

10.8 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Parcel in the Subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provisions of this Declaration against such Owner's Parcel, whether or not there is any reference to this Declaration in the instrument by which such Owner acquires an interest in any Parcel.

10.9 Notices. All notices under this Declaration are deemed effective 72 hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage pre-paid and be sent to the last known address of the party to receive notice. Notices delivered by hand are effective upon delivery.

10.10 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Subdivision. Section headings are inserted for convenience only and shall not be considered in the interpretation of the provisions. The singular shall include the plural, and the plural shall include the singular. Any reference to gender is intended to include masculine, feminine and neuter as well.

10.11 Enforcement of Declaration. The Association shall enforce all covenants, conditions, restrictions and management policies set forth in this Declaration. Upon the failure of the Association to enforce this Declaration, the Homeowner may cause suit to be brought against the Association for the purpose of requiring the Association to enforce this Declaration and to recover the costs of said suit.

10.12 Conveyance of Common Areas. The Declarant may convey to the Association those portions of the Subdivision designated on the Plan as Common Areas, which Common Areas shall be owned, improved and maintained by the Association for the equal and common benefit of and use by the Owners of all of the Parcels within the Subdivision.



10.13 Reservation of Trail Easements. For the private use, mutual benefit and convenience of all of the Owners, certain Parcels are burdened by an easement for the purpose of establishing pedestrian trail easements within the Subdivision. Notwithstanding the foregoing, no such trail easements shall be located within any Building Area within a Parcel. By accepting the conveyance of any Parcel within the Subdivision, the Owner of such Parcel shall be deemed to have granted the right to all other Owners of Parcels within the Subdivision and their guests and invitees to enter upon such easement areas within the Parcel for purposes of utilizing the trails established within the Subdivision. The Recorded Plan will identify all Parcels burdened with Trail Easements.

10.14 Reservation of Utility Easements. Declarant expressly reserves for Declarant and Declarant's agents and employees easements of access, ingress and egress over the Parcels for the purpose of maintaining, repairing and installing water, sewer and other utility lines, drainage structures and other improvements which are to be constructed and installed by Declarant as provided in this Declaration or in connection with the Improvements required by the Town to be installed and instructed by the Declarant, in accordance with the provisions of this Declaration.

10.15 Sales Transfer Fee. Upon any sale subsequent to the original sale to a third party from the Declarant (including Declarant successors, assigns and affiliates) a fee equal to one-percent (1.00%) of the sale price shall be paid to the Dukes County Regional Housing Authority or a similar agency as determined by the Martha's Vineyard Commission. The Buyer and Seller shall each pay one-half of the fee.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date first above written by MEETING HOUSE PLACE LLC, a Massachusetts limited liability company

By: MEETING HOUSE PLACE LLC, L.L.C., a Massachusetts limited liability company

Its: Manager

By: \_\_\_\_\_

\_\_\_\_\_  
Title: Manager

COMMONWEALTH OF MASSACHUSETTS  
TOWN OF EDGARTOWN

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019 by \_\_\_\_\_ in his capacity as a Manager of Meeting House Place LLC, a Massachusetts limited liability company, which executed this instrument in its capacity as the Manager of Meeting House Place LLC, a Massachusetts limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC

Residing at: \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**EXHIBIT "A"**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR MEETING HOUSE PLACE**

**Legal Description of the Property**

**EXHIBIT "B"**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR MEETING HOUSE PLACE**

**The Recorded Plan**

**EXHIBIT "C"**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR MEETING HOUSE PLACE**

**ARTICLES OF INCORPORATION OF**  
**MEETING HOUSE PLACE Homeowners Association, Inc.**

**EXHIBIT “D”  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR MEETING HOUSE PLACE**

**By-laws of MEETING HOUSE PLACE Homeowners Association, Inc.**

**EXHIBIT “E”  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR MEETING HOUSE PLACE**

**Architectural Design Guidelines for MEETING HOUSE PLACE**

**EXHIBIT “F”  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR MEETING HOUSE PLACE**

**Energy Star Version 3.1**

General

1. Completion of the National Rater Design Review Checklist.
2. Completion of the National Rater Field Checklist.
3. Completion of the National HVAC Design Report.
4. Completion of National HVAC Commissioning Checklist.
5. Completion of National Water Management System Builder Requirements
6. Raters and field inspectors are required to complete Energy Star training.
7. Builders are required to sign and Energy Start Partnership Agreement.
8. HVAC contractors are required to be credentialed EPA recognized quality, installation, training and oversight organization,

Partial requirements of items 1-5 listed above include the following:

Insulation

- |                            |             |
|----------------------------|-------------|
| 1. Fenestration U-Factor   | 0.27        |
| 2. Skylight U-Factor       | 0.55        |
| 3. Ceiling R-Value         | R49         |
| 4. Wood Frame Wall R-Value | R20 or 13+5 |
| 5. Mass Wall R-Value       | R13/17      |
| 6. Floor R-Value           | R30         |
| 7. Basement Wall R-Value   | R15/19      |
| 8. Slab R-Value and Depth  | R10, 2ft.   |

Air Infiltration/Envelope Tightness

1. Air sealing is required at all penetrations and locations in the building envelope where air infiltration may occur including light fixtures, vent fans, electrical boxes, plumbing penetrations, chases, blocking and sheathing, knee walls, attic access, etc.
2. A blower door test is required to ensure envelope tightness and must achieve a rating of 3ACH50.

HVAC Systems

1. AC units to be achieve 13 SEER or better
2. Gas boilers to achieve 90AFUE Energy Star rating (eg)
3. A programmable thermostat is required for each furnace/boiler in the system.
4. Duct tightness testing is required by a DET Verifier and achieve a maximum of 4% total leakage.



5. Ducts must be insulated as follows:
  - a. R8 in attic
  - b. R6 in other unconditioned space
  - c. Not required inside building envelope
6. Whole house ventilation system is required.

#### Plumbing Systems

1. R3 pipe insulation provided on all hot water supply lines.
2. 50-Gal Gas Water Heater to achieve .59 EF (eg)

#### Electrical Systems

1. Energy Star light bulbs modeled in 90% of ANSI/ResNet/ICC Standard 301 qualifying light fixture locations.

#### Appliances

1. Energy Star, refrigerators, dishwashers and ceiling fans modeled.

### RENEWABLE ENERGY

1. Solar energy production will be a requirement for each single-family house at Meeting House Place.
2. Installation of one Smart Flower per lot plus equivalent output amount on roof mounted solar will be required or approved equal alternate as approved by the homeowner's association. Two Smart Flowers can be used or one Smart Flower minimum plus appropriate placed additional, properly oriented and HOA approved roof mounted panels with equivalent output to one Smart Flower. All locations of solar panels must be pre-approved by the Homeowners Association Architectural committee prior to construction of the home and must be shown on the plans at the time of Homeowners Association plan review.
3. Each Smart Flower and other solar installations will be connected to the grid for net metering.
4. The above requirements should provide approximately 10,000 KWH/yr which should result in a net zero power consumption for each home in the subdivision. Energy use from the power grid would be net zero.