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LYONS FARMS

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Haverhill, Massachusetts

DECLARATION OF RESTRICTIONS AND EASEMENTS
AND FORMATION OF ASSOCIATION

This Declaration is made as of this 17th day of June, 2002 by James H. Lyons, Trustee of the Dennysville-Lyons Realty Trust U/D/T dated June 4, 1998 and recorded with the Essex South District Registry of Deeds in Book 14872 Page 8 with a usual place of business at 261 Hyatt Ave., Haverhill, MA, (the "Developer") and is intended to be recorded in the Essex Registry of Deeds for Haverhill, Massachusetts.

WITNESSETH THAT:

WHEREAS, Developer is the owner of the real property (the "Property") in Haverhill described in Article I and desires to create thereon a subdivision community to be known as "Lyons Farms" with a common drainage system;

WHEREAS, Developer, in order to provide for the preservation of said common drainage system, desires to subject the Property to certain restrictions and assessments for the benefit, protection, safety, and convenience of each owner (the "Owner(s)") of a lot (the "Lot(s)") located within the Property;

WHEREAS, Developer intends to create by this instrument an association of the Owners, which would have the authority to administer all restrictions and collect and disburse any assessments;

NOW, THEREFORE, Developer hereby declares that each Lot shall be held, sold, transferred, and occupied subject to the terms of this Declaration and that an Association shall be created and have authority as hereinafter described.

ARTICLE I

Property Subject to the Declaration

Section 1. The Property subject to this Declaration is shown as Lots 1 through 33 and Parcel A on a plan entitled Definitive Subdivision Plan "Lyons Farms" Located in Haverhill, Mass., dated January 8, 2001, revised April 19, 2001, Applicant & Record Owner Dennysville-Lyons realty Trust, 261 Hyatt Avenue, Haverhill, MA 01830, recorded with the Essex South District Registry of Deeds in Plan Book 357 Plan 50 and such other property as may be made subject to this Declaration by an instrument recorded with the said Deeds. The Property is located off Hyatt Avenue and Chadwick Road, in Haverhill, MA.

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ARTICLE II
Property Restrictions and Easements

Section 1. Drainage Easements. Each Lot and the Association shall have the benefit of and be subject to the easements for the drainage of water from the subdivision roadway and from any other Lot located on the Property which said easements are shown on the above referenced Plan to which reference is made for a more particular description of said easements.

Section 2. Drainage Structure. The drainage easements and structures (detention ponds, pipes, swales, weirs, etc.) as shown on said Plan shall be used for the benefit of each Lot by the installation, maintenance, improvement and repair of the common drainage facilities. Drainage from all lots and the roadway shall be as shown on said Plan and, where applicable, shall be directed to, collected and detained in the detention ponds, and, where also applicable, gradually discharged as shown on said Plan.

Section 3. Drainage. No owner of any lot shall alter or disturb the design and function of the drainage system, including but not limited to the detention ponds, as shown on said plan.

Section 4. Easement to Association. The Association created hereunder shall have an easement to access the drainage easement areas as shown on said plan and to maintainance, repair, replacement and/or rebuilding of the drainage easements and structures created by this Declaration and as shown on said Plan.

Section 5. Association. This Declaration and Formation of an Association shall be binding upon all the land shown on the subdivision plan, the owners of the land, and the heirs, successors and assigns of the owners and of Dennysville-Lyons Realty Trust. Owners of each and every Lot in the subdivision shall by virtue of taking title to the land shall become a member of the Association. Upon purchase of a Lot, each owner shall pay into a working capital and maintenance endowment funds the sum of \$300.00 per lot for the purposes stated in this Declaration and for use in accordance with the Association Bylaws.

Section 6. Maintenance and Costs. The maintenance, repair, replacement or rebuilding of the drainage structures located on the Property shall forever be performed by the Association and the cost thereof shall be a common expense of the Association. Said Maintenance shall not become the responsibility of the City of Haverhill. As set forth above, the Association shall have an easement to maintain, repair, replace and/or rebuild the drainage easements and structures created by this Declaration and as shown on said Plan and to access the drainage easement areas as shown on said plan for that these purposes.

Section 7. Performance. The Association shall have the obligation and authority to engage engineers and contractors who are duly licensed to maintain, inspect and repair the drainage system to ensure the drainage system is functioning safely and properly and in compliance with the rules and regulations of the Haverhill Planning Board, the Haverhill Board of Health, the Haverhill Conservation Commission, the Haverhill Department of Public Works and any and all other regulatory agencies having jurisdiction over the operation of the system.

Section 8. Enforcement. The Association shall enforce each easement created by this Declaration and the costs, including legal fees, shall be a Special Assessment allocated as provided in Article III.

Section 9. Term. This Declaration of easement shall insofar as is permitted by law be perpetual and to that end shall be extended by the Association at such time and in such manner as is allowed, if necessary.

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ARTICLE III

LYONS FARMS ASSOCIATION

BY-LAWS

Section 1. Organization. Developer hereby creates an unincorporated association to be known as the Lyons Farms Association (the "Association") for the purpose of performing and enforcing the terms of this Declaration and for the purpose of managing and maintaining the common drainage facilities and easements hereinbefore described. The succeeding provisions of this Declaration shall constitute the by-laws of the Association.

Section 2. Members. The Owners of all Lots shown on said Plan shall be Members of the Association (members") only for as long as they are Owners. There shall be one vote for each Lot owned by a Member. If any Lot is owned by more than one person, all such persons shall be Members of the Association, however, said Members shall only be entitled to cast one vote. If multiple Owners of any Lot are unable to agree on any vote, no vote shall be deemed cast by the Owners of that Lot. In the event that there is more than one Owner of a Lot, their obligations shall be joint and several. If a Member owns more than one Lot, such Owner shall be treated as a separate Member for each such Lot.

Section 3. Board of Managers. The Association shall be governed by a Board of Managers (the "Board") which shall consist of three (3) Members, provided that, as long as the Developer owns 60 percent of the Lots, or until the completion of the all the roads shown on said plan and the full release of the Developer from any and all performance bonds by the City of Haverhill Planning Board, whichever occurs sooner, the Board of Managers shall consist of solely of the Developer. Board members shall be elected by a majority vote at the Annual Meeting. The term of a member of the Board shall commence upon the filing by the Board of a certificate with said Deeds stating the name and address of the member or members of said Board.

Board members shall serve for two (2) year terms, but may be removed for any reason by a vote of two-thirds of the Members of the Association. At the time of such removal, the Association shall elect a new Board member to serve for the remainder of the unexpired term. In the event of such removal or upon the death or resignation of a Board member, the remaining Board member shall file a certificate with said Deeds which confirms the removal, death, or resignation and names any new member or members of the Board.

Section 4. Officers. The Board shall elect from their number at each annual meeting of the Board or at any special meeting of the Board, a President, a Treasurer and a Clerk, each of whom shall serve in such capacity until their respective successors are elected.

The President shall be the chief executive officer of the Association and shall preside at all meetings of the Board and the Association and shall have all the general powers and duties which are incidental to the office of president of a corporation organized under Massachusetts General Laws, Chapter 156B, as amended from time to time.

The Treasurer shall take the place of the President and perform his duties whenever the President shall be absent or unable to act and shall have all the general powers and duties which are incidental to the office of treasurer of a corporation organized under said Laws.

The Clerk shall keep the minutes of all meetings of the Board and the Association and shall have all the general powers and duties which are incidental to the office of Clerk of a corporation organized under said Laws.

The initial President, Treasurer and Clerk of the Association shall be the Developer.

Section 5. Annual Meeting. The annual meeting of the Association shall be held on the third Monday of October of each year. Special meetings of the Association and the meetings of the Board shall be held at any time provided that notice of such meetings is given in writing and mailed to the members of the Association or to the Board, as the case may be, not less than 10 days prior to said meeting, provided, however that notice may be waived in writing by all persons entitled to vote at any such meeting. All notices of meetings shall contain a brief description of the matters to be considered thereat, unless amendments to this Declaration, the By-Laws of the Association or the Rules and Regulations of the Association are to be considered, in which event said amendments shall be set forth in their entirety in said notice. All annual meetings and special meetings of the Association shall be held within the City of Haverhill at any convenient place acceptable to the Board.

Section 6. Voting. The presence in person or by proxy of the Owners of a majority of Lots owned by the Members shall constitute a quorum for all meetings. Any action at such meetings shall be adopted by a vote of a majority of eligible votes. Any action to be taken by the Association may be taken without a meeting if at least a majority of Members entitled to vote on the matter consent to the action by a written instrument filed with the records of the Association.

Section 7. Amendments. These By-Laws and any Rules and Regulations adopted by the Association and this Declaration may be amended by no less than two-thirds of the Members eligible to vote under this Declaration. A written instrument setting forth the terms of any such Amendment shall be signed by a majority of the Members entitled to vote or by a majority of the Board of Managers who shall certify that said Amendment was approved by a vote of no less than two-thirds of the Members eligible to vote under this Declaration, which said written instrument shall be recorded with said Deeds. Notwithstanding the foregoing, the provisions of this Declaration at Article IV shall not be amended without the approval of the owner of said PARCEL A.

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Section 8. Powers and Duties of the Association. The Association shall have all the general powers and duties which are incidental to a corporation organized under Massachusetts General Laws, Chapter 156B, as amended from time to time. The Association through its Board of Managers shall also have the following duties to be performed for the benefit of the Members of the Association:

(a) To maintain, operate, and regulate all of the common drainage facilities and easements described in this Declaration and as shown on said Plan and all improvements of whatever kind and for whatever purpose.

(b) To enforce the terms and conditions contained in this Declaration.

(c) To assess each Member for his proportionate share of the common and special expenses.

Section 9. Common Profits and Common Expenses. The Members shall be liable for the common expenses and entitled to the common profits of the Association in an amount equal to the proportionate share of such common expenses and common profit allocated to the Lot owned by such Members.

The Board of Managers determination regarding the amount of the assessment shall be conclusive.

Common Expenses shall include, without limitation, the following:

(a) all costs relating to the operation, repair and maintenance of the common drainage facilities, including, without imitation, common charges with respect to the detention ponds and the common facilities assessed by the Board.

(b) all insurance premiums, if any, for the Association, fidelity bonds for the Board and its agents -and employees, and such other insurance as the Board may deem necessary and appropriate;

(c) the amount that the Board shall deem necessary and appropriate for the working capital of the Association, an operating reserve, a reserve fund for replacements, and any charges for deficits from previous operating years; in addition, the foregoing and in accordance with the requirements of the Rules and Regulations Governing the Subdivision of Land in Haverhill. The Board shall establish a fund to be drawn upon from time to time by the Association to perform needed maintenance to or reconstruction of the drainage system. Said fund shall consist of two parts: (I) the Three Hundred (\$300.00) Dollars per lot to be placed in this fund upon taking title to each lot by each owner contributing in advance this Three Hundred (\$300.00) dollars as set forth in Article IV and (II) annual deposits which shall consist of interest generated by the fund and annual assessments made to Association members, the amount of such annual assessments to be established by the Board of Managers. Said fund shall be drawn upon by the Association for the purposes of maintaining, repairing, replacing and/or rebuilding the drainage detention ponds and structures and the erection of a fence around said detention ponds if required by the City of Haverhill acting through its Planning Board; and Members shall contribute in advance on the first day of every month, or at such other time as the Board shall determine, and

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(d) all expenses relating to the Board's enforcement and administration of this Declaration.

In addition, the Board shall have the power to assess Members a proportionate share of the total amount required to perform special services or establish user fees or penalties which affect some but not all Members ("Special Assessment"). With respect to payment and collection of such a Special Assessment, the provisions of this Section 9 and Sections 10 and 11 of Article IV shall be deemed to also apply.

The Board shall, prior to January of each calendar year, determine the common expenses expected to be incurred during the calendar year together with reasonable provisions for contingencies and reserves and shall promptly render statements to the Members for their proportionate share. Amounts due shall be paid within thirty (30) days after the statements are tendered and interest on unpaid assessments shall accrue at eighteen per cent (18 %) per annum. In the event that the Board shall determine that any assessment so made is less than the common expenses actually incurred or in the reasonable opinion of the Board likely to be incurred, the Board shall make a supplemental assessment or assessments and render a statement therefor in the manner aforesaid, and such statements shall be payable and take effect as aforesaid.

Section 10. Statement and Status of Common Expenses. The Board shall upon a reasonable request issue certificates suitable for recording, indicating that no payments are due to the Association with respect to any common expense, and that the rights to use the Association property have not been suspended. Said any single member of the Board of Managers may execute certificates, and shall be conclusive as to the facts stated therein.

Section 11. Lien for Common and Special Expenses. Each assessment pursuant to this Declaration, made upon a Member shall constitute and remain a charge and lien upon such Member's Lot and the buildings thereon from the date of the assessment until paid in full, and shall also constitute a personal debt to the Association of the Member who is the Owner of such Lot on the date of the assessment. Such charge, lien or personal debt may be enforced or collected by the Board by any available process including without limitation, foreclosure of the charge or lien against the Lot. All costs and expenses incurred by the Board in enforcing or collecting any assessment, including interest, costs, reasonable attorneys' fees, shall be paid by the Member responsible for the assessment and shall constitute a further lien or charge on said Lot and a personal debt of said Member. Notwithstanding the above provisions, such charge and lien shall be junior to each bona fide first mortgage to a recognized mortgage lending institution or to the Developer outstanding upon such Lot on the date of the assessment, whether the mortgage be given before or after this Declaration takes effect and its provisions become restrictions and servitudes upon such land, but foreclosure of the mortgage shall not impair the power of the Board thereafter to make further assessments upon such land nor otherwise impair such restrictions and servitudes thereon.

Section 12. Rules and Regulations. The Association is authorized and directed and may adopt from time to time rules and regulations for the administration of said common drainage facilities in accordance with and to effect the terms and provisions of this Declaration as the same may be amended from time to time. Any rules and regulations adopted by the Association and any amendments thereto shall be given to the members at least ten (10) days prior to their effective

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date and all Members, their lessees, employees, agents and guests upon the Property shall at all times comply with said rules and regulations.

Section 13. Enforcement of Declaration. The Members, Owners, and the Association shall be entitled, jointly and severally, to maintain equitable or legal proceedings to enjoin, abate or obtain appropriate relief in respect of any and all breaches of the terms, covenants and conditions of this Declaration and to enforce the terms, covenants and conditions of this Declaration. The provisions of this Declaration may be enforced by any proceeding in law or equity that is appropriate against any person violating or attempting to violate the same, either to restrain violation or to recover damages and against his property to enforce any lien created by this Declaration. Failure to enforce any provision of this Declaration on one or more occasions shall not be deemed a waiver of the right to do so thereafter in any event.

Section 14. Liability of the Board of Managers. All persons extending credit to or contracting with or having any claim against the Association hereunder shall look only to the property owned by the Association for any such contract or claim, so that neither the Board nor the owners shall be personally liable therefor. No member of the Board hereunder shall be liable to the Association or to the owners for the default of any other member of the Board or for leaving property in the hands of another member of the Board, or for any error of judgment or law on his own part, but shall be liable only for his own willful default. Any member of the Board hereunder shall be reimbursed in full for any loss or expense incurred or suffered by him or his estate as a result of his acting on the Board hereunder, excluding only such loss or expense resulting from his own willful default.

Section 15. Reliance by Third Parties. No person dealing with the Board as shown by a certificate recorded with said Deeds shall be bound to inquire concerning the validity of any act purporting to be done by them or be bound to see to the application of any money paid or property transferred to him or upon his order. -

Section 16. Financial Records. The Board shall at all times keep proper records and accounts of the affairs of the Association which shall be open to inspection by any Member at all reasonable times. At least once a year the Board shall tender a written report and financial statement. The approval by a majority of the Members of any report or financial statement by the Board or a failure by said Members to approve or disapprove within thirty (30) days following notice to the Members of the availability of said report or financial statement, shall be, as to all matters stated in said report, a complete discharge of the Board and final and binding upon all Owners except for matters which are willfully misrepresented.

Notwithstanding anything else in this Declaration to the contrary, as long as the Developer owns 60 percent of the Lots, or until the completion of the all the roads shown on said plan and the full release of the Developer from any and all performance bonds by the City of Haverhill Planning Board, whichever occurs sooner, written reports and financial statements shall not be required from the Board and there shall not be any annual meetings of the Members.

Section 17. Notices. Any notice required by the provisions of this Declaration to be sent to an Owner of any Lot subject to this Declaration shall be deemed to have been properly sent, when mailed by first class mail, postpaid, to the last known address of the person who appears as the Owner of such Lot on the records of the Association at the time of such mailing.

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Section 18. Interpretation. This Declaration is specifically intended to assure the fair and harmonious operation and care of the Property for the benefit of each and all the owners of the lots subject to this Declaration. Therefore, this Declaration is to be liberally construed to effectuate its purpose of creating a harmonious development for the benefit of the Owners and Members of the Association.

Section 19. Invalidity. If any provision of this Declaration or a portion of such provision or the application thereof to any person or circumstances is held invalid, the remainder of this Declaration, or the remainder of any such provision, or the application thereof, to any other persons or circumstances should not be affected thereby.

Section 20. Governing Law. The laws of the Commonwealth of Massachusetts shall govern this Declaration. The provisions of this Declaration shall be binding upon all the parties having or acquiring any right, title or interest in any of the Lots shown on said Plan or any part thereof and shall be for the benefit of each Lot and the Owners thereof and his heirs, successors and assigns. The Owner or Owners of any Lot, including Developer, shall be fully discharged and relieved of liability under this Declaration, upon ceasing to own an interest in any lot or any part hereof and upon paying all sums and performing all obligations hereunder, in respect to such lot, to the time that this ownership interest in any such lot or part thereof is terminated. Each owner of a lot by accepting delivery of a deed to such lot subject to this Declaration agrees and covenants that the terms and conditions of this Declaration are reasonable and agrees to be bound thereby and that its terms are essential to the Plan and form of the subdivision of the Property and the use of his Lot.

Section 21. Special Amendments. Notwithstanding any other provisions in this Declaration to the contrary, the Developer, for himself and his assigns ("Successor"), reserves and shall have the right and power to record a special amendment ("Special Amendment.") to this Declaration at any time and from time to time which amends this Declaration:

- (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration, or any other governmental agency or any other public, quasi-public, or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities,
- (ii) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering lots shown on the Plan,
- (iii) to bring this Declaration into compliance with governmental laws, rules or regulations, or
- (iv) to correct clerical or typographical errors in this Declaration or any exhibit hereto to any supplement or amendment hereto.

In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Developer and his Successor to vote in favor, make, or consent to a Special Amendment on behalf of each Lot owner and members of the Board of Managers as proxy or

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