

CONSERVATION RESTRICTION

John J. Nolan and Ernest A. Gralia, III, Trustees of Elm Mill Realty Trust, under Declaration of Trust dated December 28, 1992 and recorded with the Essex North District Registry of Deeds at Book 3675, Page 247, having a usual place of business at 853 Turnpike Street, North Andover, Essex County, Massachusetts, for consideration paid, grants to the TOWN OF NORTH ANDOVER, a Massachusetts municipal corporation situated in Essex County, having a usual place of business at 120 Main Street, North Andover, Massachusetts, with QUITCLAIM COVENANTS,

A Conservation Restriction, pursuant to the provisions of Massachusetts General Laws, Chapter 184, Sections 26 through 33, as hereinafter specified,

for the benefit of the upland portions of a certain parcel of land (the "Benefitted Land") situated in North Andover, Essex County, Massachusetts described in Instrument #6474 recorded in Essex North District Registry of Deeds on March 11, 1993 (the Property), on Osgood Pond and related waterways, as more fully shown on that certain plan entitled "Site Plan of the 'Sutton Pond Condominium'"; prepared for Elm Mill Realty Trust; prepared by Christiansen & Sergi; scale: 1"=50'; dated Sept. 1, 1993; recorded herewith in the Essex North District Registry of Deeds; and to that end the Grantor, for itself and its successors and assigns, hereby specifies, provides, covenants with the Grantee, and grants as follows:

1. The Conservation Restriction hereby granted and the right to enforce the same shall be managed and controlled by the Conservation Commission of the Town of North Andover pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 8C, and shall be perpetual.

2. The rights hereby granted constitute the right to enforce the restrictions, and the Grantor hereby covenants, for itself and its successors and assigns as aforesaid, to stand seized and hold title to said Premises subject to the restrictions, that, except as hereinafter specifically provided in the following Paragraph 3 hereof, said Premises shall be retained predominantly in their natural scenic and open condition in natural vegetational cover, in order to protect the natural resources of the Town of North Andover, and to that end,

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except as so provided in said Paragraph 3 hereof, the Rules and Regulations governing the use of waters under the control of the Conservation Commission of the Town of North Andover, as from time to time duly established by said Commission, shall be applicable to said Premises as if the same were owned by said Commission.

3. The Grantor shall have, and hereby reserves unto itself and its successors and assigns, the rights and easements (a) to develop and construct the Sutton Pond Condominium on the portions of the Benefitted Land which are not hereby so restricted, pursuant to and in accordance with applicable law and permits issued and to be issued therefor, (b) for purposes of such development and construction, temporarily to use and have access to any portion of the Premises as are necessary thereto, (c) for purposes of such development and construction and for providing drainage for public ways adjacent to said Premises and to the extent necessary therefor, (i) to install, construct, maintain, repair, replace and use subsurface utilities, subsurface drainage facilities and subsurface sewage facilities (including certain above-ground structures and improvements), culverts and other drainage structures, and emergency access ways and fire lanes within said Premises, and (ii) to excavate, alter grades, backfill, and cut and remove trees and other vegetation in connection with the activities set forth in clause (i) above; provided, however, that any activity specified in clauses (i) and (ii) shall be allowed only if the North Andover Conservation Commission shall have determined in each case that such activity will be accomplished without causing substantial long-term degradation of the natural, scenic and open conditions of the Premises or the natural vegetation thereon, (d) to use any part or all of said restricted portions of said Premises for gardening, forestry, agricultural or non-commercial social or recreational purposes, such as may be permissible in Residential Districts under the terms of the North Andover Zoning By-Laws as amended, and to do all acts or things necessary or appropriate thereto, provided such uses, acts, or things do not, in the reasonable judgment of the Conservation Commission, cause substantial long-term degradation of exceptionally valuable features of the Premises, including woodlands, wetlands, productive farmlands, areas of scenic beauty, and sites or structures of historic importance, (e) to maintain, improve and regulate watercourses and ponds on said Premises for conservation or scenic purposes, and (f) for the benefit of all unit owners and residents of said Sutton Pond Condominium, to use and to maintain in suitable condition for such use, such trails or paths over any such portions of said Premises as now exist or are hereafter laid out thereon by the Grantor or its successors or assigns, as are necessary or

appropriate for passage on foot or by bicycle where such paths are suitable therefor, provided, however, that with respect to all such activities as are specified in the foregoing clauses (a) through (c) of this Paragraph 3, (i) all such activities shall be subject to the prior written approval and the control of the North Andover Conservation Commission; (ii) all such activities which pursuant to provisions of the North Andover Zoning By-Laws or any other applicable laws or regulations of the Town of North Andover or the Commonwealth of Massachusetts, require approval and/or a permit of any board, agency or official of the Town or the Commonwealth shall be subject to the granting of such prior approval and/or permit, and such activities shall be carried out strictly in accordance with the terms of said approval or permit and all applicable laws and regulations, and (iii) insofar as any such activities are subject to provisions, procedures or controls set forth in the Master Deed of the Sutton Pond Condominium dated of even date and recorded with the Essex North District Registry of Deeds or the Declaration of Trust of the Sutton Pond Condominium Trust, dated of even date, recorded with said Deeds herewith, such activities shall be conducted only pursuant to and in accordance with such provisions, procedures or controls.

4. By hereby establishing such Conservation Restriction the Grantor does not hereby grant either to said Town or to the public any right to enter said portions of said Premises or the Benefitted Land except that the Grantor hereby grants to said Town a permanent easement of access across the Benefitted Land and the Premises, by its Conservation Commission, for the purpose of inspecting the Premises and enforcing the foregoing restrictions and remedying any violation thereof, which right hereby granted shall be in addition to any other remedies available to said Town for the enforcement of the foregoing restrictions.

5. Said Premises hereby restricted shall be and constitute Open Space or Private Open Space provided by the Grantor to and for the benefit of the Town of North Andover for all purposes permitted pursuant to the North Andover Zoning By-Laws.


The Conservation Restriction is given as a voluntary donation by the Grantor to the Town of North Andover, and no

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Massachusetts deed excise stamps are affixed hereto, none being required by law.

WITNESS our hands and seals this 16 day of September, 1993.

ELM MILL REALTY TRUST


John J. Nolan, Trustee


Ernest A. Gralia, III, Trustee

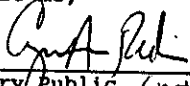
COMMONWEALTH OF MASSACHUSETTS

Hampden

, ss.

September 16, 1993

Then personally appeared the above-named John J. Nolan and Ernest A. Gralia, III, the Trustees of Elm Mill Realty Trust, and acknowledged the foregoing instrument to be their free act and deed in their capacity as aforesaid and the free act and deed of Elm Mill Realty Trust, before me,


Notary Public Cynthia Ann Redin
My commission expires: 3/16/95