

03-16

PINE GROVE VILLAGE AFFORDABILITY TRUST

This 27th day of Nov, 2017, Lexington Housing Authority, located

in Lexington, Massachusetts, TRUSTEE (individually, a "Trustee" and, together with its successors and all others serving hereunder as trustee, collectively referred to herein as "Trustees"), declares that it will hold any property, real or personal, which may hereafter be acquired by the Trustees or which may be transferred to the Trustees by any person or trust, IN TRUST, for the following purposes and with the following powers:

ARTICLE 1

PROVISIONS FOR THE BENEFICIARIES

1.1. Purpose of this Trust. This trust is being established for the purpose of holding certain funds from the Town of Lexington ("Funds") for the benefit of the tenant shareholders (the "Shareholders") of Pine Grove Village Cooperative Corporation, a Massachusetts cooperative corporation (the "Cooperative"), which are related to the conversion of the ownership structure of the property (the "Property") known as the Pine Grove Village located at 1-16 Judges Road in Lexington Massachusetts from a cooperative to a condominium (the "Condominium"). The Property consists of sixteen (16) units of housing (the "Units" and each, a "Unit"), which the Shareholders presently occupy. As of the date hereof, there are two classes of Shareholders of the Cooperative: (i) Shareholders occupying units designated for low income individuals (collectively referred to as "Low Income Shareholders" and individually referred to as a "Low Income Shareholder") and (ii) Shareholders occupying units designated for moderate income individuals (collectively referred to as "Moderate Income Shareholders" and individually referred to as a "Moderate Income Shareholder"). Each of the Low Income Shareholders has elected to receive their respective share redemption value at the time they redeem their shares of

Gilmartin Magence LLP
376 Baylston St
Boston, ma 02116

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Page: 1 of 15 12/04/2017 02:31 PM



25 the Cooperative. With respect to the Moderate Income Shareholders, this trust is being created
26 to facilitate the grant by the Moderate Income Shareholders to the Town of Lexington (the
27 “Town”) of a more restrictive affordability covenant on the sale price of their Units after the
28 redemption of their shares of the Cooperative. The Trustees shall have no responsibility to
29 monitor or enforce any covenant of the master deed, bylaws or other agreements relating to the
30 Condominium.

31 1.2. Receipt of Trust Property. Upon receipt of property to be held hereunder, the
32 Trustees shall hold and administer the property for the benefit of the Moderate Income
33 Shareholders as follows:

34 1.2.1. Moderate Income Shareholders. Each Moderate Income Shareholder and the Unit
35 that such Moderate Income Shareholder presently occupies is identified on Schedule A attached
36 hereto. Upon the establishment of the Condominium, each Moderate Income Shareholder shall
37 redeem his/her interest in the Cooperative, terminate his/her lease with the Cooperative and
38 purchase the Unit which such Moderate Income Shareholder presently occupies. If a Moderate
39 Income Shareholder notifies the Trustees sixty (60) days prior to a sale of his or her Moderate
40 Income Unit (a “Timely Sale Notice”), the Moderate Income Shareholder or his or her estate if a
41 Moderate Income Shareholder is deceased, shall be entitled to receive the amount specified on
42 Schedule B attached hereto which is applicable to the year such Moderate Income Shareholder
43 sells his or her Unit (the “Benefit Amount”). If a Moderate Income Shareholder does not notify
44 the Trustees at least sixty (60) days prior to a sale of his or her Unit, such Moderate Income
45 Shareholder, or his or her estate if a Moderate Income Shareholder is deceased, shall be entitled
46 to receive within thirty (30) days after the date of the sale of such Unit and delivery of the deed
47 of such Unit to the purchaser thereof, the amount specified on Schedule B attached hereto which

48 is applicable to the year such Moderate Income Shareholder sells his or her Unit. If the
49 Moderate Income Shareholder delivers a Timely Sale Notice, then the Trustee shall direct the
50 Administrator, as defined in Section 2.1.6, below, to deliver a check payable to the Moderate
51 Income Shareholder in the Benefit Amount to the Town to be held by the Town in escrow with
52 other Town transfer documents in connection with the sale of the unit which check shall be
53 delivered to the closing on the unit sale in escrow pending the delivery and recording of the deed
54 to the Unit. If the closing does not occur within ninety (90) days of such delivery, the Town
55 shall return the check to the Administrator. After a distribution is made to a Moderate Income
56 Shareholder, or to his or her estate, as the case may be pursuant to the provisions of this Section
57 1.2.1, said Moderate Income Shareholder, or his or her estate, as the case may be, shall
58 immediately cease to be a beneficiary of this trust and shall have no further claims against the
59 Trustee.

60 1.3. Net Earnings. The Administrator engaged by the Trustee pursuant to Section
61 2.1.6 shall prepare a report for the Trustees not later than March 1 setting out the amount of Net
62 Earnings as well as a projection of the anticipated administration expenses and such other
63 operating costs of this trust for the current calendar year. The Trustees may, in their sole
64 discretion, allocate to the share of each Moderate Income Shareholder, a pro rata share of the Net
65 Earnings of the trust for that year. Such allocation shall be determined no later than May 1.
66 For purposes of this Section 1.3, "Net Earnings" shall mean interest and dividends earned on the
67 property held and distributed under the provisions of this Article 1, less taxes, administration
68 expenses and such other operating costs of this trust as the Trustees deem necessary and
69 advisable in their sole discretion. Upon the termination of each Moderate Income Shareholder's
70 interest under the provisions of Section 1.2.1, each shall be allocated his or her percentage of the

71 Net Earnings as may be so allocated, in the Trustees' sole discretion, under the provisions of this
72 Section 1.3.

73 1.4. Termination Date. This trust shall terminate on the date that the last Moderate
74 Income Shareholder, or his or her heirs, administrators, personal representatives or executors, has
75 sold his or her Unit and the amount specified in accordance with the provisions of Section 1.2.1
76 has been distributed to said Moderate Income Shareholder, or to his or her estate, as the case may
77 be. At termination of this trust, the property then remaining in this trust shall be distributed to
78 the replacement reserve of the Condominium.

79 1.5. Rule Against Perpetuities. This trust shall in all events terminate twenty-one (21)
80 years from the death of the survivor of the Moderate Income Shareholders. Upon such
81 termination, the Trustees shall distribute all the property then remaining in such trust, free of all
82 trusts, to any Moderate Income Shareholder, or to his or her estate, as the case may be, who is
83 remaining as a beneficiary hereunder in such amounts and proportions as provided in Section
84 1.2.1, as if said Moderate Income Shareholder sold his or her unit as of the termination date.

85 ARTICLE 2

86 TRUSTEES' POWERS

87 2.1. Powers Exercisable by the Trustees. In addition to and not in limitation of their
88 common law and statutory powers, the Trustees shall have and may exercise the following
89 powers:

90 2.1.1. To retain for whatever period they deem advisable any property and to invest and
91 reinvest in any property, both real and personal, regardless of whether any particular investment
92 would be proper for trustees and regardless of the extent of the diversification of the assets in the
93 trust under which such property is held. The Trustees shall be exempt from any liability by

94 reason of any loss occurring from any investment made or retained by them or any failure of
95 such investments to achieve a certain rate of return. The Trustees shall, in all events, invest the
96 trust property in (i) bonds, notes or other evidence of indebtedness issued by the United States of
97 America; (ii) Money market funds registered under the Federal Investment Company Act of
98 1940, whose shares are registered under the Federal Securities Act of 1933, which invest solely
99 in Federal Securities, if rated by S&P, having a rating of AAAM-G; and (iii) certificates of
100 deposit, savings accounts, deposit accounts or money market deposits which are fully insured by
101 FDIC.

102 2.1.2. To sell and to grant options to purchase all or any part of the trust property, both
103 real and personal, at any time at public or private sale, for such consideration, whether or not for
104 the highest possible consideration, and upon such terms, including credit, as they deem
105 advisable, and to execute, acknowledge and deliver deeds or other instruments in connection
106 therewith.

107 2.1.3. To hold any securities or other property, both real and personal, in their own
108 names, in the name of such nominee as they shall select, or in the form of "street certificates",
109 without in any of such cases disclosing the fact that such property is held in a fiduciary capacity,
110 and to indemnify any such nominee against any loss resulting from holding such property as
111 nominee.

112 2.1.4. To keep any trust property at any place within or without the United States or
113 with a depository or custodian at any such place.

114 2.1.5. To manage and invest any separate shares as a single fund consisting of undivided
115 interests.

116 2.1.6. To employ others in connection with the administration of the trust including

117 legal counsel, investment advisors, brokers, accountants and agents, notwithstanding the fact that
118 the Trustees may receive a direct or indirect financial benefit as a result of such employment or
119 may be affiliated with any one or more of them, and to pay reasonable compensation in addition
120 to the Trustees' compensation. Pursuant to the provisions of this Section 2.1.6, from time to time
121 the Trustees may employ, and intend to employ, Nixon Peabody LLP, with an office in Boston,
122 Massachusetts (the "Administrator"), to assist with the administration of the trust, including
123 providing legal counsel, custody services, accounting services and trust administration services.

124 2.1.7. To make any distribution or separation into shares in whole or in part in kind, at
125 values determined by them with or without regard to tax basis, and to allocate different kinds and
126 disproportionate amounts of property and undivided interests in property among the shares.

127 2.1.8. To pay, compromise, settle or otherwise adjust any claims, including taxes,
128 asserted in favor of or against either the trust property or the Trustees.

129 2.1.9. To determine, (a) whether any money or property coming into their possession
130 shall be deemed principal or income and whether to apportion the same between principal and
131 income, (b) the manner in which expenses incidental to the administration of the trust shall be
132 borne or apportioned between principal and income, (c) whether any discounts shall be
133 accumulated and (d) what portion, if any, of interest received on bonds purchased at a premium
134 and dividends received on wasting investments shall be added to principal in order to prevent the
135 diminution of principal, and whether to establish reserves from income or principal for such
136 expenditures and for depreciation, depletion, amortization and obsolescence in order to prevent
137 the diminution of principal.

138 2.1.10. To make any distribution or separation into shares in whole or in part in kind, and
139 to allocate different kinds and disproportionate amounts of property and undivided interests in

140 property among the shares.

141 ARTICLE 3

142 NOTICE AND ACCOUNTING BY THE TRUSTEES

143 3.1. Duty to Inform and Report. Except for the specific accounting provisions set
144 forth in Section 3.2 below, and except as may otherwise be required by law, the Trustees shall
145 have no obligation to comply with the provisions of Section 813 of the Massachusetts Uniform
146 Trust Code.

147 3.2. Accounting. No later than July 31st of each year the Administrator shall render an
148 annual account of the trust for the preceding calendar year to the Trustees for their review and,
149 not later than thirty (30) days after receipt of the annual account from the Administrator, the
150 Trustees shall review such accounting and shall forward the annual accounting to the Town and,
151 while each is a beneficiary hereof, to each Moderate Income Shareholder or, if a Moderate
152 Income Shareholder is not then legally competent or is not then living and a guardian,
153 conservator, executor, or any other fiduciary has been legally appointed for such Moderate
154 Income Shareholder, to such fiduciary at the address provided to the Trustees. The assent to
155 such account by a majority of the persons to whom the account has been rendered shall be a
156 complete discharge of the Trustees as to all matters included in such account or reflected thereby.
157 The failure of any person to whom such account has been rendered to object to such account by
158 written instrument filed with the Trustees within ninety (90) days after the rendering of such
159 account shall be deemed to be an assent thereto. Any notice to a Shareholder shall be deemed
160 given when delivered by hand or when mailed by certified or registered mail, postage prepaid,
161 return receipt requested, or by reputable overnight courier (such as Federal Express) at the
162 address of such Shareholder's Unit or to such other place as such Shareholder may from time to

163 time designate by written notice to the Trustees.

164 3.3. Delivery of Notices to the Town. Annual accounting to the Town shall be

165 delivered as follows:

166 Town of Lexington
167 Planning Department
168 1625 Massachusetts Avenue
169 Lexington, MA 02420
170 Attn: Elizabeth Rust
171 Regional Housing Services Office
172 Liz@rhsousing.org
173

174 ARTICLE 4

175 PROVISIONS RELATING TO TRUSTEESHIP

176 4.1. Compensation, Liability and Indemnification. The Trustees shall be entitled to
177 reasonable compensation. The beneficiaries of the trust shall indemnify and hold harmless the
178 Trustees from and against any and all liability arising hereunder except to the extent resulting
179 from the intentional misconduct by the Trustees.

180 4.2. Resignation. Any Trustee may resign by notifying any other Trustee or, if there is
181 no other Trustee, those persons entitled to an accounting under Article 3 by written instrument
182 signed and acknowledged by the resigning Trustee.

183 4.3. Appointments. Successor or additional Trustees may be appointed by the Board
184 of Directors of the Citizens' Housing and Planning Authority, a non-profit organization located
185 in Boston, Massachusetts, or any legal successor thereto. Any appointment of a Trustee
186 hereunder shall be by a written and acknowledged instrument and shall not take effect until the
187 appointee shall endorse his or her acceptance thereon. At any time when two or more Trustees
188 are serving hereunder, they shall act by unanimous consent of the Trustees authorized to act.

189 4.4. Domestic Trust. There shall always be at least one Trustee who is a U.S. Person

190 as that term is defined in section 7701(a)(30) of the Internal Revenue Code (“U.S. Person”). The
191 U.S. Person Trustee shall have the authority to make all substantial decisions (as that term is
192 defined in Treasury Regulation §301.7701-7(d)(1)(ii)) related to the administration of this trust.
193 If there are two or more Trustees then serving, at least a majority of the Trustees shall be U.S.
194 Persons, and the U.S. Person Trustees shall have the authority to make all substantial decisions
195 related to the administration of this trust.

196 4.5. Incapacity of Trustee. A Trustee shall be incapacitated if he or she is mentally or
197 physically incapable of performing his or her duties. The determination of a Trustee’s incapacity
198 shall be made by a majority of the partners of the Affordable Housing Group in the Boston
199 office of the law firm of Nixon Peabody LLP, or such firm as may then be the successor to its
200 law practice. If a Trustee shall be deemed incapacitated, he or she shall be deemed to have
201 resigned, and such resignation shall take effect without the need for any action by such Trustee.
202 If such incapacity results in there being no Trustee capable of performing his or her duties, a
203 Trustee shall forthwith be appointed pursuant to the provisions of Section 4.3. A determination
204 hereunder, when supported by the certificate of an Independent Physician, shall be final and
205 binding on all persons interested or relying thereon.

206 4.6. Delegation of Duties. The Trustees may from time to time authorize any one or
207 more of them to execute instruments including, without limitation, checks, notes and drafts, on
208 behalf of the Trustees hereunder. Any individual Trustee may delegate from time to time all his
209 powers and duties to the other Trustees only if after such delegation there shall continue to be at
210 least one Trustee capable of performing his duties. Any such delegation shall be by a written and
211 acknowledged instrument delivered to the other Trustees and shall not exceed a period of six (6)
212 months.

213 4.7. Trustees' Certificate. A written instrument signed by any Trustee as to the
214 identity of the Trustees or as to any other facts or matters relating to the trust or its management
215 shall be conclusive as to all facts stated in such instrument in favor of any person relying thereon,
216 and no one dealing with any Trustee shall be held to see to the application of any money or
217 property transferred to or upon the order of such Trustee.

218 4.8. Exculpation. Any decision made by the Trustees involving a discretionary power
219 under this trust, any computation made for the purpose of distributing the trust property shall be
220 final and binding on all persons interested.

221 ARTICLE 5

222 TRUST IS IRREVOCABLE

223 This trust is irrevocable and it may not be amended or revoked.

224 ARTICLE 6

225 RECORDING OF DOCUMENTS

226 6.1. Recording of Trust. If at any time the Trustees hold title to real estate or any
227 interest therein, other than through a nominee, this instrument shall be recorded, if possible, in
228 the registry of deeds for the county or district where such real estate is situated, unless the law or
229 standards of title affecting real estate allow proof of title through the recording of Trustees'
230 certificates, affidavits or in some other manner.

231 6.2. Recording of Changes. As long as the Trustees hold title to real estate, any
232 instrument evidencing any resignation, removal, appointment, acceptance or amendment shall be
233 recorded, if possible, in the registry of deeds for the county or district where such real estate is
234 situated, unless no such recording is required or the law or standards of title affecting real estate
235 allow the recording of any such change through Trustees' certificates, affidavits or in some other

236 manner. Any such change shall take effect when the instrument evidencing such change, or such
237 other document as the case may be, is so recorded. If such recording is not possible or required,
238 the change shall take effect upon compliance with the applicable provisions of Article 4.

239 ARTICLE 7

240 GOVERNING LAW, DEFINITIONS AND TITLES

241 7.1. Governing Law. This trust shall at all times be governed and construed in
242 accordance with the laws of the Commonwealth of Massachusetts. The Trustees may administer
243 any trust established hereunder in accordance with the laws of the Commonwealth of
244 Massachusetts or such other place as the Trustees shall from time to time determine.

245 7.2. Determination of Incompetency. The determination of whether an individual is
246 incompetent shall be made by an Independent Physician. An individual shall be deemed
247 incompetent if he or she is: (a) incapacitated mentally or physically to the point which prevents
248 his or her regular and timely transaction of business affairs or (b) currently under legal
249 guardianship or conservatorship. A determination hereunder, when supported by the certificate
250 of an Independent Physician, shall be final and binding on all persons interested or relying
251 thereon.

252 7.3. Independent Physician. For purposes of each trust hereunder, the term
253 "Independent Physician" shall mean a physician who is not eligible, whose spouse is not eligible
254 and who is not legally obligated to support a person who is eligible to receive income or
255 principal from this trust.

256 7.4. Internal Revenue Code. All references to the Internal Revenue Code shall mean
257 the Internal Revenue Code of 1986 or any successor Code as the same may from time to time be
258 amended.

259 7.5. Miscellaneous Definitions. Whenever the context permits, the term “Trustees”
260 shall include the Trustee or Trustees then serving hereunder, the term “executor” shall include
261 “administrator” and “personal representative,” the use of a particular gender shall include any
262 other gender, and references to the singular or the plural shall be interchangeable.

263 7.6. Titles. The titles of all Articles hereunder are inserted for reference only and do
264 not affect the interpretation of this trust.

265 7.7. Effective Date. This agreement shall take effect when signed by the Trustees.

266 ARTICLE 8

267 NAME OF TRUST

268 This trust may be referred to as the “Pine Grove Village Affordability Trust.”

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270
271 [SIGNATURE PAGE FOLLOWS]
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IN WITNESS WHEREOF, Caileen B. Foley, duly authorized to act on behalf of Lexington Housing Authority, the Trustee, has hereunto set his/her hand and seal, the day and year first above written, executing two identical copies of this instrument, each of which shall constitute an original.

LEXINGTON HOUSING AUTHORITY

Caileen B. Foley
Trustee

By: Caileen B. Foley

Its:Executive Director

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 27 day of November, 2017, before me, the undersigned notary public, personally appeared Caileen B. Foley, duly authorized to act on behalf of Lexington Housing Authority, Trustee, proved to me through satisfactory evidence of identification, which was MA Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Katharine M. Kilroy
Notary Public
My commission expires: 8/24/18

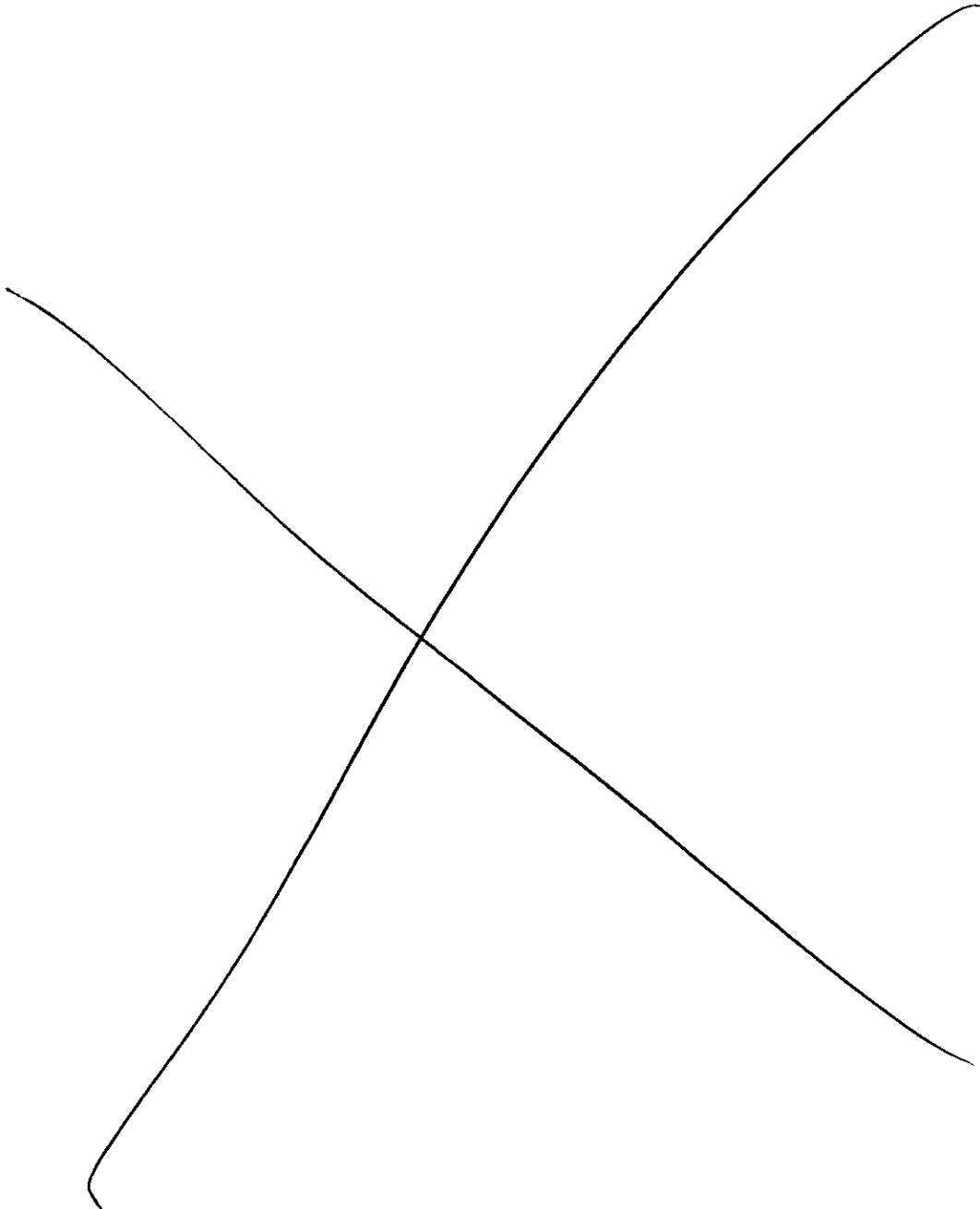
SCHEDULE A

MODERATE INCOME SHAREHOLDERS

Moderate Income Shareholder

Name Social Security Number or Tax ID Number
and Contact Information

Unit Number



SCHEDULE B

AMOUNTS DUE TO MODERATE INCOME SHAREHOLDERS UPON SALE OF UNIT

