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PRESERVATION RESTRICTION AGREEMENT

between

THE TOWN OF WESTON  
acting by and through the Weston Historical Commission

and

George P. and Nancy B. Bates

Concerning

NATHANIEL JENNISON HOUSE  
266 Glen Road  
Weston, MA

*return to:*

*George P. Bates*

*PO Box 190*

*Centon, MA 02021-0190*

## PRESERVATION RESTRICTION AGREEMENT

between

THE TOWN OF WESTON  
acting by and through the Weston Historical Commission

and

George P. and Nancy B. Bates

THIS PRESERVATION RESTRICTION is made this 30<sup>th</sup> day of April, 2009 by and between George P. and Nancy B. Bates ("Grantor") and THE TOWN OF WESTON, a municipality of the Commonwealth of Massachusetts acting by and through the Weston Historical Commission ("Grantee").

### WITNESSETH:

WHEREAS, Grantor is owner in fee simple of a certain parcel of real estate property located at 266 Glen Road in the town of Weston, Middlesex County, Massachusetts (hereinafter referred to as "The Property"), upon which is located a building known as the Nathaniel Jennison House (hereinafter referred to as "The Building"), and described as Parcel 1 on a deed dated October 20, 1997, recorded with the South Middlesex Registry of Deeds, Book 27791, Page 274 (more particularly described in Exhibit A attached hereto and incorporated herein), also shown as lot 12 consisting of 0.369 acres on a plan recorded with South Middlesex Registry of Deeds in Plan Book 362, Plan 30 (more particularly described in Exhibit B attached hereto and incorporated herein).

The earliest house within the Glen Road Historic District is the Nathaniel Jennison House at 266 Glen Road (1732/1924, Map #17, MHC #306). This handsome clapboard Colonial is among the oldest in Weston. The 2½ story, 5 x 2 bay side-gable structure was moved in 1924 from its original site across the street. The pedimented center entrance vestibule and one-story sunroom on the east side and were probably added at that time. These additions make the 18<sup>th</sup> century house look much like its 20<sup>th</sup>-century neighbors, which are very similar in scale and proportion. The Jennison house has 6/9 windows and a large central chimney in front of the ridge. Early photographs show the chimney located on the ridgeline, but the house was later enlarged by extending the roof beyond the chimney. Photographs of the Jennison House before it was moved show a succession of progressively larger wings extending east from the main block. After the main block was detached and moved, the remaining wing was moved back and to the east and remodeled into the two-story, 2 x 2 bay clapboard house at 259 Glen Road (ca. 1908/1924, Map #13, MHC #492), which has an asymmetrical fenestration pattern.

## Exterior Features

### General Description

The building centerpiece consists of a 2 story, center-entrance, 5 bay, 4/4 room main block under a gabled attic, with basic proportions and details reflecting 18<sup>th</sup> century (1732) origins. This core is the most historically important element of the building, as certified by a brass plaque affixed to the front façade confirming its Colonial heritage. The main block is flanked on all sides by later, mostly Colonial Revival additions. The front façade faces Glen Road to the North, with the main block ridge running East-West. The lot slopes down from Glen Road, affording a fully exposed "walkout" basement on the rear, or south, side. The additions are all single story at the ground floor level, consisting of an entry vestibule and small uncovered porch to the North, a sun porch to the East, a covered secondary entry porch to the West, and a projecting bay to the South of the main block. Addition roof configurations consist of front-facing gable over the main entry vestibule, hip over the sun porch, and sheds over the secondary entry porch and the rear projecting bay. A red, water-struck, brick masonry center chimney projects above the main block forward of the ridge. Roofing material is dark gray asphalt shingles.

Construction is wood frame, with painted clapboard cladding above the basement level generally, but extending down to the basement level at the West entry porch. The main block and sun porch basement walls are mortared fieldstone. Basement level walls below the South projecting bay are unpainted, stucco-clad masonry. Cornerboards, casings, water tables, fascias, frieze boards, and other trim are all square-stock, painted wood, with nominal 4" exposure typical. Cornerboards define all building corners, and all windows and doors are cased above the basement level, and in wood construction generally. Rake trim consists of unprojected fascias, flush with clapboard face, with no frieze, terminating at "ear blocks" to receive gutter ends rather than eave returns. Window sash above the basement are typically double-hung wood. All basement windows are wood, 3-light cellar sash. Gutters are absent except at either end of the South wall projecting bay, at the Eastern end of the main block on the South wall, and along the West wall entry porch fascia. The entry porch gutter is black-painted wood, the rest white-painted wood, all with painted metal downspouts. Paint colors consist of yellow clapboards, white trim and sash, black doors and frames, and dark gray porch decks.

Site features include an asphalt driveway, East of the house, leading to garage bays at the basement level of the South wall, and a granite millstone used as a landscape feature in the front lawn West of the house. Landscaping includes foundation plantings extending across the South wall, plantings associated with a retaining wall to the West, free-standing trees, and lawn.

### North (Front) Elevation

The focus of the elevation is the clearly evident center-entrance, 5 bay, symmetrical main block, with 6/9 windows ranked on either side of, and above, a 6-panel wood door centered under the entry vestibule gable and flanked by 8-light sidelights in 2 ranks of 4 over paneled wainscots. The small porch in front of the vestibule is bordered by an open railing of nominal 2x2 pickets and cap, with painted wood deck and steps. Two ganged, 6/6 windows are centered in the sun porch wall, which is essentially in plane with the main block elevation. The entry porch is set well back from the main block face, with a 9-light, 2-panel wood door in the North wall. Both entry openings have wood screen doors. Trim consists of casings, cornerboards, and a 2 piece watertable extending across the main block face and around the sun porch. Friezes extend around all the additions, but there is no frieze in the main block under the eave soffit. A Colonial Revival, wall-attached, lantern-style light fixture is centered in the gable above the main entry door.

### East (Left Side) Elevation

A 6/6 gable end, attic window is offset slightly to the north of the ridge. Two asymmetrical upper floor windows are 6/9 to the north and 9/6 to the South. The sun porch extends across the face of the main block ground floor. Sun porch windows consist of 3 gangs of two 6/6 sash, symmetrically placed. A mortared fieldstone retaining wall of the same vintage as the basement walls extends from the sun porch East to the driveway.

### South (Rear) Elevation

The chief features of the façade are the projected bay, roughly centered on the main block, 2 garage doors at the basement level at the East end of the house, and a free-standing, shed-roofed tool shed at the West end. The façade is 3 stories high, with a "walkout" basement at the lowest level. The projected bay at the ground floor level extends over a corresponding basement level projection, with a recess or cut-out, at the Eastern end. Upper floor windows consist of three 6/9 sash, asymmetrically arranged. First floor windows consist of one 6/6 window located East of the projected bay in the main block wall; two ganged 6/6 windows centered in the sun porch wall; and a hip-roofed bay window configuration consisting of 1/1 sash flanking a single-light "picture" sash roughly centered in the projected bay wall. Flanking the bay window are two 6/6 sash, asymmetrical in size and placement. At the basement level, 2 pairs of swinging, Colonial Revival, wood garage doors are located at the East end of the wall, partly under the projected bay recess and partly under a small shed roof projecting from the base of the sun porch. Each garage door consists of 8-light windows in 2 rows of 4 lights, with 4 vertical panels below. Hardware includes strap hinges, thumb-latches, and pulls. An unpainted, stuccoed mullion separates the garage openings. A 9-light, 2-panel, cased wood entry door is located at the East end of the projected bay basement wall, and another 4-panel cased wood entry door is located at the entry porch basement level. Both entry doors have wood screens. There are friezes on the main block, sun porch and projected bay either side of the bay window. None of the elements have water tables.

## **West (Right Side) Elevation**

Main block rake trim and attic window configurations are identical to the East (Left Side) wall. Upper floor windows consist of three 6/9 sash, asymmetrically placed, in the main block. One ground floor, 6/9 sash is aligned in the main block wall directly under the Northerly upper floor window, with a cellar sash directly below both. Two other cellar sash are located at the basement level of the entry porch and projected bay West walls. The entry porch extends from the South wall about 2/3 across the main block face at the ground level, and consists of a covered wood arrival deck and an enclosed vestibule. Wood steps lead to the deck, which is defined by a handrail on the West consisting of 2 horizontal wood rails over a solid wood panel. A 6/6 window is centered in the vestibule wall. A large aluminum kitchen exhaust fan projects from the roof over the vestibule. A mortared fieldstone retaining wall extends West from the porch steps to the property line, and wood frame construction with clapboard siding extends down to the basement level South of the retaining wall. The water table is limited to the exposed portion of the main block. The tool shed located just South of the entry porch is clad in clapboards, with trim limited to cornerboards. The main electrical service is located at the Northwest corner of the main block. Two pad-mounted condensers and a generator are located South of the retaining wall, screened thereby from the street.

The well preserved house maintains much of its original interior paneling, wide board floors, captain's winding staircase and other early features. The original features include doors and hardware, chimney surrounds, door casings, plastered board partitions, split lath plastering, portions of the hand hewn roof and basement framing construction, hand hewn beaded corner post casings, and high baseboard with molded cap. The original kitchen fireplace which is now located in the dining room, has a particularly well preserved, wide board surround with a wrought iron crane.

WHEREAS, Grantee is a municipality and is interested in the preservation of buildings, of local, state and national significance in the Town of Weston and is authorized to accept and hold preservation restrictions under the Massachusetts General Laws, Chapter 184, Sections 31, 32, and 33 (the "Act");

WHEREAS, The Building is an historically and architecturally significant building, listed on the National Register of Historic Places on September 6, 2006 as a contributing resource to the Glen Road Historic District, and qualifies for the protections of a Preservation Restriction under the Act;

WHEREAS, Grantee has designated the Weston Historical Commission to administer, manage, and enforce this preservation agreement;

WHEREAS, the Weston Historical Commission, designee, is a governmental body whose purposes include the preservation and protection of sites, buildings, and objects of historical significance;

**WHEREAS, Grantor and Grantee recognize the architectural and historic values and significance of The Building, and have the common purpose of preserving the aforesaid conservation and preservation values and significance of The Building;**

**WHEREAS, the Baseline Documentation includes the following Exhibits, Incorporated herein and attached hereto:**

- 1. Exhibit C: Photographs (Additional digital and hard copies of the Baseline photographs are on file with Grantor and Grantee)**
- 2. Exhibit D: Floor Plans**

**WHEREAS, the grant of a Preservation Restriction Agreement by Grantor to Grantee on The Building will assist in the preservation and maintenance of The Building and its architectural and historic features for the benefit of the people of the Town of Weston, the County of Middlesex, the Commonwealth of Massachusetts, and the United States of America;**

**WHEREAS, to that end, Grantor desires to grant to Grantee, and Grantee desires to accept a Preservation Restriction Agreement in gross and in perpetuity on The Building pursuant to the Act;**

**NOW, THEREFORE, in consideration of Ten dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor does hereby irrevocably grant and convey unto the Grantee a Preservation Restriction Agreement in gross and in perpetuity over The Building described in Exhibits A and B.**

#### **PURPOSE**

**1. Purpose:** It is the purpose of this Preservation Restriction Agreement to assure that the features and characteristics that embody the architectural and historic significance of The Building will be forever retained and maintained substantially in their current condition for conservation and preservation purposes and to prevent any use or change in The Building that will significantly impair or interfere with The Building's conservation or preservation values.

#### **GRANTOR'S COVENANTS**

**2.1 Grantor's Covenants: Covenant to Maintain;** Grantor agrees at all times to maintain the interior and exterior of The Building and shall comply with all federal, state and local laws, codes and by-laws applicable to The Building. Grantor's obligation to maintain shall require replacement, repair, reconstruction and where necessary replacement in kind by Grantor whenever necessary to preserve The Building in a good, sound and attractive condition and state of repair. Subject to the casualty provisions of paragraphs 6 and 7, this obligation to maintain shall require replacement, rebuilding, repair and reconstruction of The Building whenever necessary in accordance with The Secretary of Interior's Standards for The Treatment of Historical Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (36 CFR 67), as these may be amended from time to time (hereinafter the "Secretary's Standards").

## **2.2 Grantor's Covenants: Prohibited Activities.**

The following acts or uses are expressly forbidden on, over, or under The Property, except as otherwise conditioned in this paragraph:

- (a) The Building shall not be moved, demolished, removed or razed except as described in paragraphs 6 and 7;
- (b) no barrier shall be constructed, erected or allowed to grow on The Property which would impair the visibility from the street of The Property or The Building without the prior approval of the Grantee;
- (c) no other buildings or structures, including camping accommodations, mobile homes or cell towers, shall be erected or placed on The Property hereafter except for temporary structures required for maintenance or rehabilitation of The Building, such as construction trailers;
- (d) the dumping of ashes, trash rubbish, or any other unsightly or offensive materials is prohibited on The Property.

## **GRANTOR'S CONDITIONAL RIGHTS**

**3.1 Conditional Rights Requiring Approval By Grantee.** Without prior express written consent of the Grantee, which approval may be withheld or conditioned at the sole discretion of the Grantee, Grantor shall not undertake any of the following actions:

### **Exterior**

(a) With regard to the East, North and West elevations, make any change, addition or alteration to the materials and/or appearance of these elevations, including, but not limited to siding, window location, size and sash configuration, trim, front door and hardware, stone foundation walls, brick chimney, and roof material and configuration, cornices, moldings, decorative elements and all other elements, whether decorative or structural which support any of the foregoing.

(b) With regard to the South elevation make any additions, that extend to either the East of the plane of the East exterior elevation or to the West of the plane of the West exterior elevation of the symmetrical main block of The Building; or that extend higher than the roofline of the symmetrical main block of The Building. There shall be no construction, alterations or repair on the South side of The Building that alter or adversely affect the appearance, materials, workmanship or structural stability of the exterior features of the North, East and West elevations of The Building including, but not limited to, the roof material, windows, doors, clapboards, foundations and any other decorative elements and all other elements whether decorative or structural which support any of the foregoing.

### **Interior**

(c) With regard to the basement, make any changes to floor framing members including the sub-flooring planks in the original part of The Building, and the brickwork at the base of the chimney.

(d) With regard to the attic, make any changes to the staircase, floor boards and hand-hewn roof framing members in the original part of The Building.

(e) With regard to the first and second floor front halls, make any changes to the complete captain's winding staircase, doors and hardware, door casings, baseboards and plasterwork. This shall not preclude the installation of a stair lift mounted on top of the stair treads in a manner approved in writing by Grantee.

(f) With regard to the living room, dining room, northeast bedroom and northwest bedroom, make any changes to the baseboards, chimney surrounds, fireplaces and hearth masonry, wainscoting including the chair railings, doors and hardware, corner post casings, wide board sub-flooring, plaster on the staircase and fireplace walls.

**3.2 Review of Grantor's Requests for Approval.** Grantor shall submit to Grantee for Grantee's approval of those conditional rights set out in paragraph 3.1 two copies of information (including plans, specifications, and designs where appropriate) identifying the proposed activity with reasonable specificity. In connection therewith, Grantor shall also submit to Grantee a timetable for the proposed activity sufficient to permit Grantee to monitor such activity. Within 45 (forty-five) days of Grantee's receipt of any plan or written request for approval hereunder, Grantee shall certify in writing that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted, in which case Grantee shall provide Grantor with written suggestions for modification or a written explanation for Grantee's disapproval. Any failure by Grantee to act within 45 (forty-five) days of receipt of Grantor's submission or resubmission of plans or requests shall be deemed to constitute approval by Grantee of the plan or request as submitted and to permit Grantor to undertake the proposed activity in accordance with the plan or request submitted.

**3.3 Conditional Rights Requiring the Approval of the Massachusetts Historical Commission.** The conduct of archaeological activities on the Property, including without limitation, survey, excavation and artifact retrieval may occur only following the submission of an archaeological field investigation prepared by the Grantor and approved in writing by the State Archaeologist of the Massachusetts Historical Commission. (M.G.L. Chapter 9, Section 27C, 950 CMR 70.00).

**4. Standards for Review.** Grantee shall apply Secretary's Standards whenever (a) exercising any authority created by the Preservation Restriction Agreement to inspect The Property or the interior of The Building; (b) reviewing any construction, alteration, repair or maintenance; (c) reviewing casualty damage or (d) reconstructing or approving reconstruction of The Building following casualty damage.

#### **GRANTORS' RESERVED RIGHTS**

**5. Grantors' Rights Not Requiring Further Approval by Grantee.** Subject to the provision of paragraphs 2.1 and 3, the following rights, uses, and activities of or by Grantor on, over, or under The Property are permitted by this Preservation Restriction Agreement and by Grantee without further approval by Grantee:



(a) the right to engage in all those acts and uses that:

- (i) are permitted by governmental statute or regulation;
- (ii) do not substantially impair the conservation and preservation values of the property; and
- (iii) are not inconsistent with the Purpose of this Preservation Restriction Agreement;

(b) the right to add extensions or additions to the South elevation of The Building provided that such extensions or additions are not prohibited or conditioned by paragraphs 2.2 or 3.1, and provided that should any such extensions or additions and related alteration, demolition, renovation, razing, removal or reconstruction include materials of The Building directly attached to the North, East or West elevations of The Building, Grantee has previously determined in writing, following receipt of Grantor's written request as provided for in paragraphs 3.2, that said activity will not alter or damage the North, East or West elevations in a manner inconsistent with the Purposes of this Agreement.

(c) pursuant to the provisions of paragraph 2.1, the right to maintain and repair The Building strictly according to the Secretary's Standards. As used in this subparagraph the right to maintain and repair shall mean the use by Grantor of in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of The Building. The right to maintain and repair as used in this subparagraph shall not include the right to make changes in appearance, materials, and workmanship from that existing prior to the maintenance and repair without the prior approval of Grantee in accordance with the provisions of paragraph 3.

#### CASUALTY DAMAGE OR DESTRUCTION; INSURANCE

6. Casualty Damage or Destruction. In the event that The Building or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has been completed. No repairs or reconstruction of any type other than temporary emergency work to prevent further damage to The Building and to protect public safety, shall be undertaken by Grantor without Grantee's prior written approval of the work. Within thirty (30) days of the date of damage or destruction, if required by Grantee, Grantor at Grantor's expense shall submit to the Grantee a written report prepared by a qualified restoration architect and an engineer who are acceptable to the Grantor and Grantee, which report shall include the following:

(a) an assessment of the nature and extent of the damage;

(b) a determination of the feasibility of the restoration of The Building and/or reconstruction of damaged or destroyed portions of The Building; and

(c) a report of such restoration and/or reconstruction work necessary to return The Building to the condition existing at the date thereof.

**7. Review After Casualty Damage or Destruction.** If, after reviewing the report provided in paragraph 6 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 8, Grantor and Grantee agree that the Purpose of the Preservation Restriction Agreement will be served by such restoration/reconstruction, Grantor and Grantee shall establish a schedule under which Grantor shall complete the restoration/reconstruction of The Building in accordance with plans and specifications consented to by the parties to at least the total of the casualty insurance proceeds available to the Grantor.

If, after reviewing the report and assessing the availability of the insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 8, Grantor and Grantee agree that restoration/reconstruction of the Property is impractical or impossible, or agree that the Purpose of the Preservation Restriction Agreement would not be served by such restoration/reconstruction, Grantor may with prior written consent of Grantee, alter, demolish, remove or raze The Building and/or construct new improvements on the Property. In such event, Grantor and Grantee may agree to extinguish this Preservation Restriction Agreement in accordance with the laws of the Commonwealth of Massachusetts and paragraph 21.1 hereof.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 8, Grantor and Grantee are unable to Agree that the Purpose of the Preservation Restriction Agreement will or will not be served by such restoration/reconstruction, the matter may be referred by either party to binding arbitration and settled in accordance with the arbitration provision set forth in Section 14 below.

**8. Insurance.** Grantor shall keep The Building insured by an insurance company rated "A1" or better by Best's for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage. Property damage insurance shall include change in condition and building ordinance coverage, in form and amount sufficient to replace fully any damage to The Property and The Building without cost or expense to Grantor or contribution on coinsurance from Grantor. Such insurance shall include Grantee's interest and name Grantee as an additional insured. Grantor shall deliver to Grantee, within ten (10) business days of Grantee's written request therefore, certificates of such insurance coverage. Provided, however, that whenever The Property is encumbered with a mortgage or deed of trust nothing contained in this paragraph shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

## **INDEMNIFICATION; TAXES**

**9. Indemnification.** Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend at its own cost and expense, Grantee, its agents, directors and employees, or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses and expenditures (including reasonable attorneys' fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person on or about The Property; physical damage to The Property; the presence or release in, on, or about The Property, at any time, of any substance now or hereafter defined, listed or otherwise classified pursuant to any law, ordinance or regulation as a hazardous, toxic, polluting or contaminating substance; or other injury or damage occurring on or about The Property, unless such injury or damage is caused by Grantee or agent, trustee, employee or contractor of Grantee. In the event that Grantor is required to indemnify Grantee pursuant to the terms of this paragraph, the amount of such indemnity until discharged shall constitute a lien on The Property with the same effect and priority as a mechanic's lien, provided, however, that nothing contained herein shall jeopardize the priority of any recorded first priority mortgage given in connection with a promissory note secured by The Property.

**10. Taxes.** Grantor shall pay when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien on The Property unless Grantor timely objects to the amount or validity of the assessment or charge and diligently prosecute an appeal thereof, in which case the obligation to pay such charges shall be suspended for the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action. Grantee is hereby authorized, but in no event required or expected, to make or advance upon three (3) days prior written notice to Grantor in the place of Grantor, any payment relating to taxes, assessment, water rates, sewer rentals and other governmental or municipality charge, fine imposition or lien asserted against The Property and may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or assessment or into the validity of such tax, assessment, sale or forfeiture. Such payment if made by the Grantee shall constitute a lien on The Property with the same effect and priority as a mechanic's lien. Provided, however, that nothing contained herein shall jeopardize the priority of any recorded first priority mortgage given in connection with a promissory note secured by The Property.

## **ADMINISTRATION AND ENFORCEMENT**

**11. Written Notice.** Any notice Grantor or Grantee may desire or be required to give to the other party shall be in writing and shall be mailed postage prepaid by overnight courier, facsimile transmission, registered or certified mail with return receipt requested or hand delivered; if to Grantor, at 266 Glen Road, Weston, MA 02493, and if to Grantee, at Weston Town Offices, P. O. Box 378, Weston, MA 02493, ATTN: Weston Historical Commission.

Each party may change its address set forth herein by a notice to such effect to the other party given pursuant hereto.

**12. Evidence of Compliance.** Upon request by Grantor, Grantee shall promptly furnish Grantor with certification that, to the best of Grantee's knowledge, Grantor is in compliance with the obligations of Grantor contained herein, or that otherwise evidences the status of this Preservation Restriction Agreement to the extent of the Grantee's knowledge thereof.

**13. Inspection.** With the consent of Grantor, representatives of Grantee shall be permitted at all reasonable times to inspect The Property, including the interior of The Building. Grantor covenants not to unreasonably withhold consent in determining dates and times for such inspections.

**14. Grantee's Remedies.** Grantee may, following reasonable written notice to Grantor, institute suit(s) to enjoin any violation of the terms of this Preservation Restriction Agreement by *ex parte*, temporary, preliminary and or permanent injunction, including prohibitory and/or mandatory injunctive relief and to require the restoration of the Property and The Building to the condition and appearance required under this Preservation Restriction Agreement. Grantee shall also have available all legal and other equitable remedies to enforce Grantor's obligation hereunder. In the event of any violation of any of the provisions of this Agreement, Grantee may notify the Grantor of such violation (a "Violation Notice"), together with recommendations as to how the violation may be cured (if such violation is curable). Such notice shall inform the Grantor as to the time period in which such violation must be cured (if such violation is curable), which time period shall be a reasonable one, in no event longer than thirty (30) days. In the event the Grantor contests either the existence of the violation or the length of time in which to cure it, Grantor shall notify Grantee not later than thirty (30) days after the receipt of the Violation Notice (Grantor's Objection) and if the parties cannot agree within ten (10) days thereafter, either party shall have the right any time after expiration of such ten day period to submit the matter to arbitration within thirty days after receipt of Grantor's Objection by sending notice to the other party to name an arbiter. The other party shall have thirty days after receipt of such notice naming an arbiter to name a second arbiter. A third arbiter shall be selected by the other two arbiters within thirty days after naming the second arbiter. The three arbiters shall conclude the arbitration within one hundred twenty five days after the date the third arbiter is named. Findings of facts and decisions by a majority of the arbiters shall control. Each party shall bear the costs of the arbiter it names and both parties shall share equally the cost of the third arbiter. All Arbiters shall be persons having substantial education and experience regarding the preservation of historically significant structures or artifacts.

In the event Grantor is found to have violated any of Grantor's obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with Grantee's enforcement of the term of this Preservation Restriction Agreement, including all reasonable court costs, and attorney's, architectural, engineering and expert witness fees,

together with interest thereon at an interest rate two percent points (2%) higher than the prime lending rate.

Exercise by Grantee of one remedy hereunder shall not have the effect of waiving or limiting the use of any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

The rights hereby granted shall include the right to enforce this Restriction by appropriate legal proceedings and to obtain Injunctive and other equitable relief against any violations, including without limitation, relief requiring restoration of The Building to its condition prior to the time of the injury complained of (it being agreed that the Grantee may have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee.

**15. Notice from Government Authorities.** Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Property received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

**16. Notice of Proposed Sale.** Grantor shall promptly notify Grantee in writing of any proposed sale of The Property and provide the opportunity for the Grantee to explain the terms of the Preservation Restriction Agreement to potential new owners prior to sale closing.

**17. Liens.** Any lien on The Property created pursuant to any paragraph of this Preservation Restriction Agreement may be confirmed by judgment and foreclosed by Grantee in the same manner as a mechanic's lien. Provided, however, that no lien created pursuant to this Preservation Restriction Agreement shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by The Property.

#### **BINDING EFFECT; ASSIGNMENT**

**18. Runs with the Land.** Except as provided in paragraphs 8 and 21.1, the obligations imposed by this Preservation Restriction Agreement shall be in effect in perpetuity and shall be deemed as a binding servitude with The Property. This Preservation Restriction Agreement shall extend to and be binding upon Grantor and Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantor or Grantee, and the words "Grantor" and "Grantee" when used herein shall include all such persons. Any right, title or interest herein granted to Grantee shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all successors and assigns.

Anything contained herein to the contrary notwithstanding, an owner of The Property shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in The Property by reason of bona fide transfer. The restrictions, stipulations and covenants contained in this Preservation Restriction Agreement shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in The Property or any part hereof, including by way of example but not limitation, a lease of all or a portion of The Property.

19. Assignment. Grantee may, at its discretion without prior notice to Grantor, convey, assign or transfer this Preservation Restriction Agreement to a unit of federal, state or local government or to a similar local, state or national organization that is a "qualified organization" under the Act, as amended, whose purposes, inter alia, are to promote preservation or conservation of historical, cultural or architectural resources, provided that any such conveyance, assignment or transfer requires that the Purpose for which the Preservation Restriction Agreement was granted will continue to be carried out.

20. Recording and Effective Date. Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this Instrument in the land records of Middlesex South District Registry of Deeds. Grantor and Grantee intend that the restrictions arising under this Preservation Restriction Agreement take effect on the day and year this instrument is executed by Grantor and Grantee.

#### EXTINGUISHMENT

21.1. Extinguishment. Grantor and Grantee hereby recognize that an unexpected change in conditions affecting The Property may make impossible the continued ownership or use of The Property for the Purpose of this Preservation Restriction Agreement and necessitate extinguishment of the Preservation Restriction Agreement. Such a change in conditions may include, but is not limited to, partial or total destruction of The Building resulting from casualty. Such an extinguishment must be the result of a judicial proceeding, as well as public hearings and approval by the Grantee, or the then holder of the Preservation Restriction Agreement, if it has been assigned pursuant to Section 19 hereof, and the Massachusetts Historical Commission if this Agreement has been approved by the Massachusetts Historical Commission.

21.2. Condemnation. If all or any part of The Property is taken under the power of eminent domain by public, corporate or other authority, otherwise acquired by such authority through a purchase in lieu of taking, Grantor may commence appropriate proceedings at the time of such taking to recover the full value of The Property that is subject to the taking and all incidental and direct damages from the taking.

#### INTERPRETATION

22. Interpretation. The following provisions shall govern the effectiveness, interpretation and duration of the Preservation Restriction Agreement:

(a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of The Property shall not apply in the construction or interpretation of the Preservation Restriction Agreement, and this instrument shall be interpreted broadly to effect its Purpose and the transfer of rights and the restrictions on use herein contained.

(b) This instrument is executed in two counterparts, one of which is to be retained by the Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart retained by the Grantee shall in all cases govern. Except as provided in the preceding sentence, each counterpart shall constitute the agreement of the parties.

(c) This instrument is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of the Preservation Restriction Agreement according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this instrument whether this instrument is enforceable by reason of statute, common law or private agreement either in existence now or at any time subsequent hereto.

(d) Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any such ordinance or regulation and the terms hereof Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable government entity to accommodate the purpose of both the Preservation Restriction Agreement and such ordinance or regulation.

#### AMENDMENT

23. Amendment. If circumstances arise under which an amendment to or modification of this Preservation Restriction Agreement would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Preservation Restriction Agreement, provided that no amendment shall be made that will adversely affect the qualifications of this Preservation Restriction Agreement or the status of Grantee under the Act, or any applicable laws, including any other laws of the Commonwealth of Massachusetts. Any such amendment shall be consistent with the protection of the conservation and preservation values of The Property and the Purpose of the Preservation Restriction Agreement; shall not affect its perpetual duration; shall not permit additional residential development on The Property other than the residential development permitted by this Preservation Restriction Agreement on its effective date; shall not permit any private inurement to any person of entity; and shall not adversely impact the overall architectural, historic, natural habitat, and open space values protected by this Preservation Restriction Agreement. Any such amendment shall comply with the provisions of the Act and shall be recorded in the land records of Middlesex South District Registry of Deeds. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment to consult or negotiate regarding any amendment.

TO HAVE AND TO HOLD, this Preservation Restriction Agreement, unto the said Grantee and its successors and permitted assigns forever.

IN WITNESS WHEREOF, Grantor has set his/her hand under seal on the day and year set forth below.

GRANTOR:

George P. Bates  
George P. Bates

Nancy B. Bates  
Nancy B. Bates

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 13 day of March, 2009, before me, the undersigned Notary Public, personally appeared George P. Bates and Nancy B. Bates, who proved to me through satisfactory evidence of identification, which were Personally Known to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

[Signature]  
(Official Signature and Seal of Notary)  
My term expires:



MARTHALYNNE LINNEHAN  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
March 17, 2011



ACCEPTANCE OF PRESERVATION RESTRICTION

Acceptance of this Preservation Restriction Agreement by the Town of Weston, acting by and through its Historical Commission pursuant to the authority granted to said Commission under G.L. c. 40, § 8D, is acknowledged this 24 day of March, 2009.

TOWN OF WESTON  
Historical Commission

By Gloria Cole  
Gloria Cole

By Marisa Morra  
Marisa Morra

By Alicia Primer  
Alicia Primer

By Alfred L. Aydelott  
Alfred L. Aydelott

By Phyllis Halpern  
Phyllis Halpern

By Stephen R. Oppenheimer  
Stephen R. Oppenheimer

By Steven Wagner  
Steven Wagner

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 24 day of March, 2009, before me, the undersigned Notary Public, personally appeared Gloria Cole, member of the Weston Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification which were MA Drivers license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose on behalf of the Town of Weston.



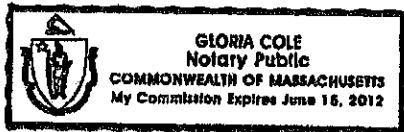
MARTHA-LYNNE LINNEHAN  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
March 17, 2011

[Signature]  
(Official Signature and Seal of Notary)  
My commission expires: March 17, 2011

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 15<sup>th</sup> day of March, 2009, before me, the undersigned Notary Public, personally appeared Marisa Morra, member of the Weston Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification which were a Mass. driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose on behalf of the Town of Weston.



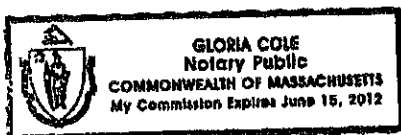
GLORIA COLE  
Notary Public  
COMMONWEALTH OF MASSACHUSETTS  
My Commission Expires June 16, 2012

[Signature]  
(Official Signature and Seal of Notary)  
My commission expires: 6-15-2012

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 15<sup>th</sup> day of March, 2009, before me, the undersigned Notary Public, personally appeared Alicia Primer, member of the Weston Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification which were a Mass. driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose on behalf of the Town of Weston.

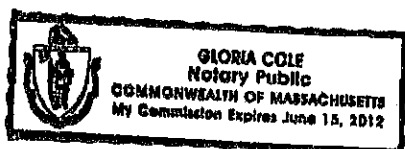


Gloria Cole  
(Official Signature and Seal of Notary)  
My commission expires: 6-15-2012

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 24<sup>th</sup> day of March, 2009, before me, the undersigned Notary Public, personally appeared Alfred L. Aydelott, member of the Weston Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification which were a Mass. driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the Town of Weston.

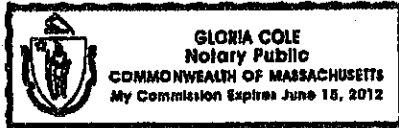


Gloria Cole  
(Official Signature and Seal of Notary)  
My commission expires: 6-15-2012

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 15<sup>th</sup> day of March, 2009, before me, the undersigned Notary Public, personally appeared Phyllis Halpern, member of the Weston Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification which were a Mass driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose on behalf of the Town of Weston.

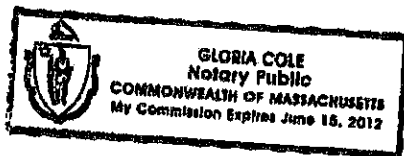


Gloria Cole  
(Official Signature and Seal of Notary)  
My commission expires: 6-15-2012

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 24<sup>th</sup> day of March, 2009, before me, the undersigned Notary Public, personally appeared Stephen R. Oppenheimer, member of the Weston Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification which were a Mass. driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the Town of Weston.

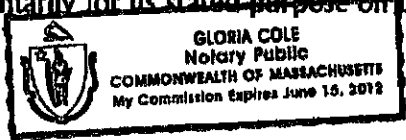


Stephen R. Oppenheimer  
(Official Signature and Seal of Notary)  
My commission expires: 6-15-2012

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 15<sup>th</sup> day of March, 2009, before me, the undersigned Notary Public, personally appeared Steven Wagner, member of the Weston Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification which were a Mass. driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the Town of Weston.



Gloria Cole  
(Official Signature and Seal of Notary)  
My commission expires:

Approved:  
TOWN OF WESTON,  
Board of Selectmen

By: Steven L. Charlip  
Steven L. Charlip

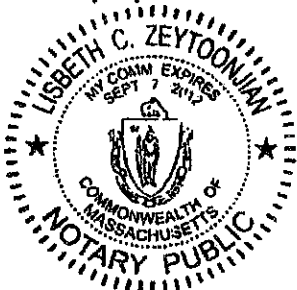
By: Douglas P. Gillespie  
Douglas P. Gillespie

By: Michael H. Harrity  
Michael H. Harrity

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 7<sup>th</sup> day of April, 2009, before me, the undersigned Notary Public, personally appeared Steven L. Charlip, Douglas P. Gillespie and Michael H. Harrity, who proved to me through satisfactory evidence of identification which were personally known, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose on behalf of the Town of Weston.



Lisbeth C. Zeytoonjian  
(Official Signature and Seal of Notary)  
My commission expires: September 7, 2012

APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION  
COMMONWEALTH OF MASSACHUSETTS

The undersigned Executive Director and Clerk of the Massachusetts Historical Commission hereby certifies that the foregoing Preservation Restriction to the Town of Weston, acting by and through the Weston Historical Commission (Grantee), has been approved by the Massachusetts Historical Commission in the public interest pursuant to M.G.L. Chapter 184 Section 32.

By: Brona Simon  
Brona Simon  
Executive Director and Clerk  
Massachusetts Historical Commission

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 30<sup>th</sup> day of April, 2009, before me, the undersigned Notary Public, personally appeared Brona Simon, Executive Director and Clerk of the Massachusetts Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification which were personally known, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/~~she~~ they signed it voluntarily for its stated purpose on behalf of the Town of Weston.

Nancy Maida  
(Official Signature and Seal of Notary)  
My commission expires: January 19, 2012