

6-12-15 UPDATED ATTACHMENT "C"

Grantor: Aquacultural Research Corp.

**Grantees: Commissioners of the County of Barnstable, Town of
Dennis, Town of Yarmouth, and Dennis Conservation Trust**

Property Address: 99 Chapin Beach Road, Dennis MA

Grantor's title: Book 9014 Page 199 in Barnstable County Registry of Deeds

CONSERVATION RESTRICTION

Aquacultural Research Corp., a Massachusetts corporation, with a principal office at 99 Chapin Beach Road in Dennis MA and a mailing address of P.O. Box 2028, Dennis, Massachusetts 02638, its successors and assigns holding any interest in the Premises as hereinafter defined ("Grantor"), for and in consideration of Two Million Nine Hundred and Twenty-Five Thousand and 00/100 Dollars (\$2,925,000.00), the receipt of which is hereby acknowledged, grants to **Mary Pat Flynn, Chair, Sheila R. Lyons, and Leo Cakounes, being the duly elected Commissioners of the County of Barnstable, acting for and on behalf of the County of Barnstable**, by authority of the Barnstable County Home Rule Charter of 1988, with a principal office at 3195 Main Street, Superior Courthouse, Barnstable Massachusetts 02630 (hereinafter "County"), and to the **Town of Dennis**, a Massachusetts municipal corporation, with an address of 485 Main Street, South Dennis, Massachusetts, 02660, **acting by and through its Conservation Commission**, by authority of M.G.L. c.40 s.8C (hereinafter "Town of Dennis"), and to the **Town of Yarmouth**, a Massachusetts municipal corporation, with a principal place of business at 1146 Route 28, Main Street, So. Yarmouth, Massachusetts 02664, **acting by and through its Board of Selectmen acting as the Board of Park Commissioners**, by authority of M.G.L. c.45, s.2, (hereinafter "Town of Yarmouth"), and to the **Dennis Conservation Trust**, under Agreement and Declaration of Trust dated February 27, 1988, recorded with the Barnstable County Registry of Deeds in Book 6212 Page 96, as amended, with a mailing address of P.O. Box 67, East Dennis, Massachusetts 02641 (hereinafter "DCT"), (County, Town of Dennis, Town of Yarmouth and DCT hereinafter collectively "Grantees," which expression includes their permitted successors and legal assigns, to be held by Grantees as tenants in common in accordance with their percentage of contribution, being 8.58% County, 72.61% Town of Dennis, 6.84% Town of Yarmouth, and 11.97% DCT, with quitclaim covenants, IN PERPETUITY and exclusively for conservation purposes and passive recreation purposes, the following described **CONSERVATION RESTRICTION**, on the entirety of three parcels of unregistered land, totaling approximately 39.7 acres, located in the Town of Dennis, County of Barnstable, Commonwealth of Massachusetts, said land being described in Exhibit A and shown on Exhibit A-1 both of which are attached hereto, said land hereinafter referred to as the "Premises." The Grantor and

Grantees, their successors and assigns, are bound by and subject to the terms and conditions of this Conservation Restriction.

By making this grant, Grantor grants to Grantees all non-aquacultural rights in the use of the Premises, except as otherwise described herein. Grantor retains the fee interest in the Premises and all aquacultural rights in the Aquaculture Area of the Premises as that area is defined herein below, except as otherwise limited by the terms of this Conservation Restriction.

Purposes: This Conservation Restriction is defined in and authorized by M.G.L. c. 184, ss. 31-33, and otherwise by law. Its purposes include to perpetually protect and preserve natural resources in, and to retain, the Restricted Areas of the Premises, as those areas are defined herein below, substantially in their natural, scenic and open condition; to protect the value of the abutting conservation areas; to allow public access on the Restricted Areas of the Premises for passive recreational use and enjoyment of the open space and natural resources; to allow scientific research and educational activities; and to prevent any use of the Restricted Areas of the Premises that will materially impair or interfere with the conservation values thereof. In addition, this Conservation Restriction is intended to regulate and control activities and/or uses which may be detrimental to the actual or potential aquacultural viability of the Aquaculture Area of the Premises or which may be wasteful of the natural resources of the Premises. The conservation and permanent protection of the Premises will yield a significant public benefit because the following conservation values will be protected:

1. The Premises is comprised of salt marsh, coastal dune, tidal flats, and tidal pools;
2. The Premises is part of a barrier beach system extending from Cape Cod Bay to Chase Garden Creek;
3. The Premises has frontage on Chase Garden Creek, a tidal creek;
4. The Premises is within a Massachusetts Natural Heritage and Endangered Species Program (MNHESP) Priority Habitat for Rare Species;
5. The Premises is within BioMap2 Core Habitat and Critical Natural Landscape Areas;
6. The Premises is within a Cape Cod Commission Significant Natural Resource Area;
7. The Premises contains habitats identified in the Comprehensive Wildlife Conservation Strategy as being in the greatest need of conservation;
8. The Premises is within the Old Kings Highway Regional Historic District;
9. The Premises is within the Statewide Land Conservation Plan;
10. The Premises enhances the conservation values of adjacent conservation land;
11. This Conservation Restriction will help protect water quality; and,
12. This Conservation Restriction retains, promotes and expands continued aquacultural production of regional significance.

WHEREAS, the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs awarded a grant to the Town of Dennis to reimburse the Town of Dennis up to \$100,000 in FY15 and up to \$1,500,000 in FY16 for the actual approved purchase price and approved project costs associated with the acquisition in fee of 30 ± acres or of a statutory conservation restriction or restrictions under M.G.L. c. 184, ss. 31-33 on 39.6± acres (Assessors Map 271, Lot 1) located in the Town of Dennis, known as the Aquaculture Research Corp. property, for aquaculture, conservation and public passive recreation purposes, this grant being

*Chapin Beach ARC CONSERVATION RESTRICTION
Dennis, MA*

awarded under Chapter 165 of the Acts of 2014, Line Item 2000-1709, and Chapter 286 of the Acts of 2014, Line Item 2000-7058; and,

WHEREAS, the County Commissioners voted on February 18, 2015, to include an appropriation of monies in the County's FY 16 capital budget towards the purchase of this Conservation Restriction, and the County Assembly of Delegates voted on April 15, 2015, to approve the capital budget; and,

WHEREAS, the Town of Yarmouth, at a duly called Annual Town Meeting held on May 2, 2015, acting on Article 24 of the Warrant, voted to purchase from the Aquacultural Research Corp. a perpetual Conservation Restriction over the Premises, to be held by the Board of Selectmen of the Town of Yarmouth, acting as the Board of Park Commissioners, and further authorized the Board of Selectmen to purchase the Conservation Restriction utilizing funds collected through the so-called "*Community Preservation Funds*" pursuant to Section 298 of Chapter 149 of the Acts of 2004, an attested copy of which vote is attached hereto as Exhibit B; and

WHEREAS, the Town of Dennis, at a duly called Annual Town Meeting held on May 5, 2015, acting on Article 12 of the Warrant, voted to purchase from the Aquacultural Research Corp. a perpetual Conservation Restriction over the Premises, to be held by the Conservation Commission of the Town of Dennis, and further authorized the Board of Selectmen to purchase the Conservation Restriction utilizing funds collected through the so-called "*Community Preservation Funds*" pursuant to Section 298 of Chapter 149 of the Acts of 2004, an attested copy of which vote is attached hereto as Exhibit C; and

WHEREAS, the Grantees have represented the Grantees County, Town of Dennis and Town of Yarmouth are governmental entities qualified to hold conservation restrictions in perpetuity; and, Grantee DCT is a publicly-supported, tax-exempt non-profit organization whose primary purpose is to preserve and conserve natural areas for aesthetic, scientific and educational purposes; and is qualified to hold conservation restrictions in perpetuity, and has received a letter from the Internal Revenue Service, dated April 14, 2009, a copy of which is on file at the offices of the Grantee DCT, to the effect that said Grantee is not a private foundation within the meaning of Section 509(a) of the Code; and,

WHEREAS, the Grantor intends, as owner of the Premises, to convey to the Grantees the right to preserve and protect the above-mentioned conservation values of the Premises in perpetuity; and,

WHEREAS, the Grantees agree by accepting this grant to honor the intentions of the Grantor stated herein and to preserve and protect in perpetuity the above-mentioned Conservation Values of the Premises for the benefit of this generation and the generations to come.

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, the Grantor and the Grantees voluntarily agree that the CONSERVATION RESTRICTION described herein is an appropriate means to achieve the purposes stated herein.

DEFINITIONS:

PREMISES: The Premises subject to this Conservation Restriction is comprised of three parcels: Parcel C, Parcel D, and Parcel E, all as shown on Exhibit A-1.

RESTRICTED AREAS: shall mean the portions of the Premises shown as Parcel D and Parcel E on Exhibit A-1, and described as the portions of the Premises north and south of Parcel C.

AQUACULTURE AREA: shall mean that portion of the Premises shown as Parcel C on Exhibit A-1.

COMMERCIAL AQUACULTURAL USE: shall mean one or more of the following - the production, storage, harvesting, sales, research, and public education related to organic marine resources.

The terms of this Conservation Restriction are as follows:

A. Prohibited Uses. Except as to reserved rights set forth in Section B. below, the Grantor will not perform or permit the following acts or uses in, on, over or under the Premises:

1. Construction or placing or allowing to remain any temporary or permanent building, structure, facility or improvement on, over or under the Premises, including but not limited to any dwelling unit or habitable living space, tennis court, landing strip or helipad, swimming pool, active recreational facility, outdoor decorative spotlighting, parking area, billboard, fence, shed or storage box, gazebo, dock, bulkhead, revetment, utilities, fuel storage tank, wells, asphalt or concrete pavement, antenna, satellite receiving dish, tower, windmill, wind turbine, wind generator, sewage or septage disposal system, or other temporary or permanent structure or facility, or improvements of any kind on, under or above the Premises;
2. Construction of any roads or driveways, or the clearing of vegetation, or the addition, removal or movement of soil for such purpose;
3. Mining, excavating, or removing soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit;
4. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, boats, trailers, rubbish, debris, junk, wood chips, tree cuttings, waste or other substance or material whatsoever;
5. Creation of a cultivated (i.e., seeded, fertilized, and maintained) lawn or formal or cultivated gardens; application or use of fertilizers, fungicides, herbicides or pesticides in any quantity;

Chapin Beach ARC CONSERVATION RESTRICTION
Dennis, MA

6. Any commercial recreation or industrial use; any animal husbandry or horse paddocking or stables, paddocks, grazing areas or other enclosures, and the storage or dumping of manure or other animal wastes;
7. Cutting, removing or otherwise destroying grasses or other vegetation;
8. Activities detrimental to drainage, water or soil conservation, erosion control or the quality of surface or ground water; any removal of soil off-site;
9. The use, parking or storage of motorized trail bikes, all-terrain vehicles, snowmobiles, or any motorized vehicle except as necessary for emergency police and fire vehicles in pursuit of official duties or handicapped accessibility;
10. Commercial hunting, commercial fishing, or commercial trapping;
11. Camping or fires;
12. Except as permitted in Section B.15 below, conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted);
13. Any other use of the Premises or activity thereon which is inconsistent with the purposes or conservation values of this Conservation Restriction or which would materially impair other significant conservation values unless necessary in an emergency for the protection of the conservation values that are the subject of this Conservation Restriction; and,
14. All residential and other development rights in the Premises are terminated and extinguished by this Conservation Restriction except as permitted under Section B herein. The Premises may not be used for the purpose of calculating the amount of Grantor's or any other land available for additional subdivision or calculating the building requirements on this or any other land owned by the Grantor or any other person.

B. Reserved Rights. Notwithstanding the provisions of Section A above, the following uses and activities are permitted on the Premises, but only if such uses and activities do not materially impair the conservation values or purposes of this Conservation Restriction, subject to any limitations noted below:

1. The right to install temporary and permanent boundary monuments delineating the Premises and the Aquaculture Area; and the right to erect and maintain a reasonable number of small signs and kiosks for purposes such as naming the identity of Grantor and Grantees as well as any prohibited uses of the Premises;
2. With Grantees' prior approval, not to be unreasonably withheld, with respect to the Restricted Areas (no such approval being required for the Aquaculture Area), the right to erect and maintain open-faced fences, such as wooden split rail, for property

boundary delineation, so long as the dimensions and design of said fences do not impede free wildlife passage;

3. Layout and construction of new unpaved trails and a boardwalk; erection, use, maintenance and repair of permanent or temporary sitting benches, and installation of stone barriers by Grantor to prevent trespassing by motorized vehicles, as reasonably required or necessary to undertake the permitted activities herein described or to carry out the purposes of this Restriction, so long as such new construction (1) is not detrimental to water quality, soil conservation, wildlife conservation or otherwise not harmful to the natural resources of the Premises; and (2) is approved by Grantees as to location, design and materials, to ensure that the construction as proposed would not impair the conservation interests to be protected by this Conservation Restriction;
4. The use, maintenance, repair, improvement, or relocation of existing septic or other underground sanitary system, and other utility lines and systems on the Premises, except for windmills, wind turbines or wind generators, provided such lines and/or systems are solely for the benefit of aquaculturally related buildings, structures or other improvements in the Aquaculture Area; provided, further, any relocation of such lines and/or systems within the Restricted Area shall be allowed only if a qualified engineer or local regulatory authority determines that such relocation cannot be sited within the Aquaculture Area owing to soil or hydrogeological conditions, or State or local regulations, and so certifies said opinion in writing to the Grantor, which shall provide a copy of said opinion to Grantees;
5. In accordance with best silvicultural management practices, the right to control and remove invasive plant species in a manner designed to affect the targeted species and to avoid damage to the non-target species and water quality, including the right to control poison ivy and other potentially hurtful plant life and other species that threaten indigenous or protected species anywhere within the Premises, and including the right to use herbicides, so long as surrounding vegetation and water quality is not materially disturbed; provided however, that Grantor shall not use any herbicides on the Premises without Grantee's prior written consent;
6. The right to cut live timber as necessary to control or prevent an identified disease, infestation or other hazard to the health of the trees, for storm clean-up, for safety reasons to prevent injury to persons or damage to property, and in the Aquaculture Area, in furtherance of aquaculturally related activities;
7. The right, in conjunction with Sections B. 5 and 6, to store timber or vegetative debris originating on the Premises;
8. The right to use, maintain, repair and relocate the existing bituminous and concrete driveway for vehicles, and to widen said driveway to no more than sixteen (16') feet in width, provided (a) any portion of the existing driveway to be abandoned for such use shall be re-vegetated with native species and allowed to revert to such native habitat, and (b) Grantor obtains the prior written permission of Grantees, not to be unreasonably withheld, for any widening or relocation;

9. The right to use vehicles on the existing vehicle tracks, in their current location, as shown on Exhibit A-2, to access Lagoons #3 and #4, as shown on the sketch;
10. The right to conduct educational, research and archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but such archaeological activities shall be conducted only (a) after written notification to and approval by Grantees, and (b) in accordance with an archaeological field investigation plan prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historic Commission ("MHC") State Archaeologist as required by Massachusetts General Laws. A copy of the results of any scientific investigation on the Premises is to be provided to the Grantees. Plans for restoration of the site of any archaeological activity shall be submitted to the Grantees in advance of restoration, and such restoration shall be conducted only in accordance with a plan approved by the Grantees;
11. Activities detrimental to archeological and historic resources, including but not limited to earth moving and the alteration of historic stone walls/cellar holes/features, shall not be deemed to be detrimental to archeological and historic resources if a description of the proposed activity and its location is submitted in writing with a plan of land (or assessors map) and a USGS map with the Premises outlined thereon, to MHC and MHC issues a letter stating that the proposed activity is not within a resource area or is determined to not have an adverse effect on said resources. Grantor and Grantees shall make every reasonable effort to prohibit any person from conducting archaeological field investigation on the Premises, including metal detecting, digging, or artifact collecting, without approval of the MHC State Archaeologist (or appropriate successor official), and shall promptly report any such prohibited activity to the MHC State Archaeologist (or appropriate successor official). Grantor and Grantees shall include the prohibition against digging, artifact collecting, or metal detecting in any list of rules for visitors to the Premises;
12. Aquaculture Area: The Aquaculture Area, as defined in Exhibit A and shown in Exhibit A-1, attached hereto and to be recorded herewith, encompasses approximately 10.58 acres according to the survey and is only a portion of the Premises. In addition to any other rights described in this Section B, Grantor has the right to preserve aquacultural lands and encourage sound aquacultural practices in the Aquacultural Area, and to maintain the Aquacultural Area in active commercial aquacultural use, and may perform or permit the following acts or uses within said Aquaculture Area, except as limited herein below:
 - a. Grantor has the right to use the area within the Aquaculture Area for commercial aquacultural purposes as permitted under applicable land use regulations, including but not limited to shellfish hatchery, wholesale sales, scientific and marine research and education, laboratory purposes and meeting space; and including the right to construct parking for such uses; and including the right to construct, maintain, renovate, rebuild, repair, reconstruct, or replace temporary or permanent non-residential, non-habitable buildings, structures and other

improvements, but only if used specifically for such purposes, within said Aquaculture Area, provided, however, at no one time shall the total combined square feet of the footprint of all such buildings and structures, which existing or under construction, exceed the total square feet of the footprint area of buildings and structures existing at the time of the recording of this Conservation Restriction, which is approximately 20,759 square feet, nor shall the height of any building or structure, including but not limited to poles and/or stilts, exceed thirty-five (35') feet as measured from existing ground level, and further provided that any construction work, including temporary placement of excavated fill, must be conducted without intrusion beyond the Aquaculture Area.

- b. In the event of a new, renovated, rebuilt, reconstructed or replacement building, structure or other improvement being constructed under the provisions of this Section B.12, Grantor agrees to submit to the Grantees sufficient plans and other materials necessary for the Grantees to make an informed judgment as to the footprint area and height limitations within the parameters given in this Section B. 12. A copy of such plans and related permit applications shall be provided to the Grantees for their review, and approval as to footprint area and height only, prior to the issuance of permits for the intended work. The Grantees' written approval of the footprint area and height on such plans and applications, if conforming to the terms and conditions of this Conservation Restriction, shall not be unreasonably withheld or delayed.
 - c. Grantor has the right to maintain the lagoons shown on Exhibit A-1, but in no event shall the footprint of said lagoons be expanded.
 - d. Grantor has the right to construct, use, maintain, repair and replace one (1) dock.
13. The right to pursue wildlife enhancement practices including, but not limited to, erecting, maintaining, repairing and replacing poles and platforms for the purpose of encouraging osprey nesting;
 14. The right to install native vegetation plantings on the Premises for the purpose of soil stabilization or habitat restoration in accordance with local and state regulations and approvals, and in consultation with a biologist or with MNHESP;
 15. The right to convey (a) the Premises in its entirety, (b) the Aquaculture Area (i.e., Parcel C) as a separate lot, and (c) the Restricted Areas as two (2) separate lots (i.e., Parcel D and Parcel E). In addition, the right to convey a part or portion of the Aquaculture Area or of Parcel D or Parcel E of the Restricted Areas alone, or division or subdivision of the Premises only as follows: a conveyance, division or subdivision, with the prior written consent of Grantees, undertaken in connection with a transaction involving a conveyance of a part or portion of the Restricted Area,, only to a governmental entity or to a publicly supported charitable organization described in Section 501(c)(3) and in Section 170(b)(1)(A)(vi), 509(a)(1), 509(a)(2) or 509(a)(3) of the Internal Revenue Code or the successor provisions thereto, and subject to the terms and conditions of this Conservation Restriction. Any portion of the Premises so divided and conveyed may

not be further divided, may not be improved with any buildings, except as specifically permitted herein, and remains subject to the terms and conditions of this Conservation Restriction in all respects;

16. Any work undertaken in conjunction with the reserved rights mentioned above in this Section B. shall seek to minimize disturbance within the Restricted Areas. Upon completion of any site work within the Restricted Areas performed in conjunction with this Section B., any disturbed areas shall be restored substantially to match the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work; and,
17. Acts and uses not prohibited by this Conservation Restriction, and not otherwise permitted herein, are permissible so long as they do not materially impair the purposes or conservation values of this Conservation Restriction.

The exercise of any right or obligation reserved by the Grantor under this Section B shall be in compliance with all permitting requirements, the then-current Zoning By-Laws of the Town of Dennis, and all other applicable federal, state and local law. The inclusion of any reserved right in this Section B requiring a permit from a public agency does not imply that the Grantees or the Commonwealth take any position on whether such permit should be issued.

C. Affirmative Covenant. The Grantor agrees for themselves, and their successors in title, that the Aquaculture Area portion of the Premises shall be actively used for purposes of Commercial Aquacultural Use, as such use is defined hereinabove, and said Aquaculture Area shall not have been abandoned. For the purposes hereof, the term "abandoned" shall mean the Aquaculture Area has not been actively used for a period exceeding five (5) consecutive years. Failure to actively maintain the Premises for Commercial Aquacultural Use, as defined hereinabove, including failure to make diligent, continuous good faith efforts to pursue such uses should the facilities be damaged or destroyed by forces outside the Grantor's control, shall be a violation of this Conservation Restriction. In the event the Aquaculture Area of the Premises are abandoned and upon written notice by Grantees, Grantor agrees, for themselves and their successors in title, to convey and shall convey title to the Aquaculture Area of the Premises to the Town of Dennis, subject to Section N below. In the event Grantor as a corporation has been lawfully dissolved or is unable to be located or, after two (2) written notices, refuses to provide a deed conveying title, Town of Dennis may file suit to obtain court judgment vesting title in the Town of Dennis. The Town of Dennis, once it becomes the record fee owner of the Aquaculture Area, may, but specifically is not obligated to, continue to use the Aquaculture Area as described in Section B.12 hereinabove, or demolish and remove the buildings and structures in the Aquaculture Area after which event the provisions of Sections B.4, B.6 and B.12 hereinabove relating to the Aquaculture Area shall no longer be in force or applicable and the Aquaculture Area henceforth shall be considered a Restricted Area, provided, however, in no event shall Grantees County, Town of Yarmouth or DCT be obligated to pay for or contribute to the costs of any such demolition or removal.

D. Notice and Approval. Whenever notice to or approval by the Grantees is required under the provisions herein, the Grantor shall notify Grantee DCT, which is hereby designated as the agent for the Grantees for notification purposes of this Section D, in writing, by a method requiring

receipt, not less than ninety (90) days prior to the date the Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantees to make an informed judgment as to its consistency with the purposes and performance standards of this Conservation Restriction. Where the Grantees' approval is required, the Grantees shall grant or withhold their approval in writing, by majority vote of Grantees (each Grantee having one vote), within ninety days (90) days of receipt of the Grantor's written request therefore, said notification including said vote to be delivered by Grantee DCT. Failure of Grantees to deliver a written response to Grantor in accordance with the prescribed timeframe shall be deemed to constitute written approval by Grantees of any request submitted for approval that is not contrary to the express restrictions hereof and that will not materially impair the purposes of this Conservation Restriction, provided that Grantor's request sets forth in substance the provisions of this section relating to deemed approval after the passage of time and the requested activity is not prohibited herein.

E.1. Extinguishment. If circumstances arise in the future such as to render the purpose of this Conservation Restriction impossible to accomplish, this Conservation Restriction can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then the Grantees, on a subsequent sale, exchange or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Section E.2. below, subject, however, to any applicable law that expressly provides for a different disposition of the proceeds or to the terms of any gift, grant, or funding requirements, and further, the proportionate value as recited in Section E.2 below shall be divided among the Grantees in amounts at least equal to their respective percentage of contribution for their interests in the Premises. The Grantees shall use their share of the proceeds in a manner consistent with the conservation purposes set forth herein.

E.2. Proceeds. The Grantor and the Grantees agree that conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantees, with a fair market value that is equal to the proportionate value that this Conservation Restriction, determined at the time of the grant, bears to the value of the entire property as unencumbered at that time. For the purposes of this Section, the ratio of the value of this Conservation Restriction to that value of the Premises unencumbered by this Conservation Restriction shall remain constant. To establish this proportionate value, Grantor shall provide Grantees with a complete copy of qualified appraisal performed for Grantor (at the time of the grant of this Conservation Restriction).

The purchase of this Conservation Restriction by Grantees was funded, in part, with state grant funds and with Community Preservation Act (CPA) funds. Any proceeds from the disposal of the Conservation Restriction under this Section E shall first be used to satisfy the obligations of the state grant and the CPA for Grantee Town of Yarmouth and Grantee Town of Dennis and then the remaining proceeds from disposal of the Conservation Restriction under this Section E shall be distributed to each Grantee in an amount equal to its percentage of contribution for its interest in the Premises. The proceeds for the Town of Dennis and the Town of Yarmouth shall be deposited into the respective Grantee's open space account of the Community Preservation Fund for

purchase of interests in land for conservation purposes in accordance with the Community Preservation Act (Section 298 of Chapter 149 of the Acts of 2004), after the terms of any gift, grant, or funding requirements are complied with. Should Grantee Town of Yarmouth's and/or Grantee Town of Dennis' Community Preservation Fund no longer exist for any reason, the respective funds shall be applied to the acquisition of additional interests in land for conservation or passive recreation purposes.

E.3. Grantor/Grantees Cooperation Regarding Public Action. Whenever all or part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantees shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantees under this Section shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and the Grantees in shares equal to such proportionate value, as noted in Section E.2, above, subject to the terms of any gift, grant or funding requirements. The Grantees shall use their share of the proceeds in a manner consistent with the purposes of this grant.

F. Access. The Conservation Restriction hereby conveyed does not grant to the Grantees, to the public generally, or to any other person any right to enter upon the Premises except as follows:

1. Subject to any reasonable rules and regulations mutually agreed to by Grantor and Grantees, Grantees have the right to enter upon and to permit the public to enter upon and use the Restricted Areas of the Premises and existing and future ways and trails thereon for passive recreational activities such as hiking, bird watching, snowshoeing, cross-country skiing, nature study, and other like recreational and educational activities, including access by motorized wheelchairs or other disabled assistance devices, so long as such activities are carried out in a manner which does not impair the purposes or conservation values of this Conservation Restriction. It is the intention of the parties hereto that public access to the Aquaculture Area is not permitted while it is being used for Commercial Aquaculture Use.
2. Grantees and their representatives are granted the right to enter the Premises:
 - a) after reasonable notification, at reasonable times and in a reasonable manner for the purpose of inspecting the same to determine compliance with the provisions of this Conservation Restriction; and
 - b) after thirty (30) days prior written notice, to take any and all actions with respect to the Premises as may be necessary or appropriate, with or without order of court, to remedy, abate or enforce any violation hereof unless the Grantor has prior to the expiration of said thirty (30) days given written notice to the Grantees reasonably addressing all alleged violations and setting forth a reasonable plan to remedy any such alleged violation and has made reasonable efforts to cease the activity or to begin remediation; and,

Notwithstanding any public use of the Restricted Areas of the Premises as permitted herein, neither the Grantor nor the Grantees assume any obligation to maintain the Restricted Areas of the Premises for public passive recreational use. Grantor and Grantees claim all the rights and immunities against liability for injury to the public to the fullest extent of the law.

G. Legal Remedies of the Grantees. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the Premises to its condition at the time of this grant (it being agreed that the Grantees shall 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 Grantees. Prior to instituting litigation to enforce any violations of this Conservation Restriction, however, the Grantees shall first notify the Grantor and request the Grantor to remedy the violation; if the violation is not remedied within sixty (60) days, then the parties shall make a good faith effort to mediate the dispute before litigation is commenced, provided the Grantor has ceased the violating activity upon notice and is making good faith efforts to remedy the violation.

In the event of a dispute over the boundaries of the Premises, the non-prevailing party shall be responsible for the costs of the survey and the placement of permanent boundary markers delineating the bounds of the Premises.

The Grantor covenants and agrees to reimburse the Grantees for all reasonable costs and expenses (including without limitation reasonable attorney's fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy or abate any violation thereof.

The Grantor, its successors and assigns shall each be liable under this Section for only such violations of this Conservation Restriction as may exist during its respective periods of ownership of the Premises, and any new owner may be held responsible for any violations existing during his or her ownership. By their acceptance, the Grantees do not undertake any liability or obligation relating to the condition of the Premises, including with respect to compliance with hazardous materials or other environmental laws and regulations, or for acts not caused by the Grantees or their agents.

Enforcement of the terms of this Conservation Restriction shall be at the discretion of the Grantees, and any election by the Grantees as to the manner and timing of their right to enforce this Conservation Restriction or otherwise exercise their rights hereunder shall not be deemed or construed to be a waiver of such rights. DCT shall have the primary responsibility for monitoring and enforcing the terms of this Conservation Restriction, provided, however, the County and/or the Town of Yarmouth and/or the Town of Dennis may participate in this responsibility at any time, whether in a particular instance or for a period of time.

H. Acts Beyond Grantor's Control. Nothing contained in this Conservation Restriction shall be construed to entitle the Grantees to bring any action against the Grantor, for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including, but not limited to, fire, flood, storm, natural erosion, or from any prudent action taken by the Grantor, under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. Grantor and Grantees agree that in the event of damage to the Premises, from acts beyond Grantor's control, that if Grantor and Grantees mutually agree that it is desirable that the Premises, be restored, Grantor and Grantees will cooperate in attempting to restore the Premises, if feasible. Notwithstanding the foregoing, nothing herein shall preclude

Grantor's and Grantees' rights to pursue any third party for damages to the Premises from vandalism, trespass, or any other violation of the terms of this Conservation Restriction. Grantor hereby grants Grantees the right to pursue such damages, and hereby agrees to cooperate with Grantees in any such action.

I. Duration and Assignability. The burdens of this Conservation Restriction shall run with the Premises in PERPETUITY and shall be enforceable against the Grantor, its successors and assigns holding any interest in the Premises. The Grantees are authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; and the Grantor on behalf of its successors and assigns, appoints the Grantees as its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instrument upon request.

The benefits of this Conservation Restriction shall run to the Grantees, shall be in gross and shall not be assignable by the Grantees, except in the following instances from time to time:

1. as a condition of any assignment, the Grantees require that the purpose of this Conservation Restriction continue to be carried out,
2. the assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under M.G.L. c.184, s. 32 as a donee eligible to receive this Conservation Restriction directly; and,
3. the Grantees comply with the provisions required by Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

J. Subsequent Transfers. The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other recordable legal instrument by which Grantor conveys any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to the Grantees of the transfer of any interest at least twenty (20) days prior to the date of such transfer. Failure of the Grantor to do any of the above shall not impair the validity of this Conservation Restriction or limit its enforceability in any way.

K. Termination of Rights and Obligations. Notwithstanding anything to the contrary contained herein, the rights and obligations under this Conservation Restriction of any party holding an interest in the Premises terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to the transfer, and liability for the transfer itself if the transfer is a violation of this Conservation Restriction, shall survive the transfer.

L. Estoppel Certificates. Upon request by the Grantor, the Grantees shall, upon thirty (30) days notice, execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction, and which otherwise evidences the status of this Conservation Restriction as may be requested by the Grantor.

M. Amendment. If circumstances arise under which an amendment to or modification of this CR would be appropriate, Grantor and the Grantees may by mutual consent amend this Conservation Restriction in writing provided the Conservation Restriction as thus amended complies with the applicable requirements of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, M.G.L. c. 184, ss. 31-33, or any successors thereto, and provided that any such amendment, together with any approvals necessary to its effectiveness, including that of the Massachusetts Secretary of Energy and Environmental Affairs, shall be recorded with the Barnstable County Registry of Deeds. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not adversely affect or diminish the conservation values of the Premises and shall not affect its perpetual duration.

In addition, the Grantees shall not consider any amendment to this Conservation Restriction, unless there will be a benefit to conservation values of the Premises or additional benefits to its immediate vicinity. The requesting party shall pay all costs involved in the amendment process.

N. Non-Merger: The parties intend that the doctrine of merger shall not apply to this conveyance, and that no transfer of Grantor's or Grantees' interest in the Premises and no acquisition of any additional interest in the Premises by Grantor or Grantees or any of the Grantees shall cause this Conservation Restriction to merge with the fee or have the effect of causing any of the terms hereof to be rendered unenforceable by reason of the so-called doctrine of merger. No deed shall be effective until this Conservation Restriction has been assigned to a non-fee owner or other action taken to avoid a merger and preserve the terms and enforceability of this Conservation Restriction by a non-fee owner. It is the intent of the parties that the Premises will be subject to the terms of this Conservation Restriction in perpetuity.

O. Miscellaneous Provisions

1. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.
2. Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of its purposes. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.
3. Severability. If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.
4. Entire Agreement. This obligation sets forth the entire agreement of the parties with respect to the Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.
5. Joint Obligation. The obligations imposed by this Conservation Restriction upon the parties that together comprise "Grantor" shall be joint and several.

*Chapin Beach ARC CONSERVATION RESTRICTION
Dennis, MA*

6. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

P. Effective Date. Grantor and Grantees intend that the restrictions arising hereunder take effect on the day and year this Conservation Restriction is recorded in the official records of the Barnstable County Registry of Deeds, after all signatures required by Section 32, Chapter 184 of the General Laws of Massachusetts have been affixed hereto. This document shall be recorded in a timely manner upon execution by all parties.

No documentary stamps are required pursuant to M.G.L. c. 64D, s.1, as municipalities are parties to this Conservation Restriction.

Attached hereto and incorporated herein are the following:

Signatures:

Grantor – Aquacultural Research Corp.
Grantee – Commissioners of County of Barnstable
Grantee – Dennis Conservation Trust
Grantee – Town of Yarmouth Board of Selectmen
Grantee – Town of Dennis Conservation Commission
Town of Dennis Board of Selectmen – approval and acceptance
Secretary, MA Executive Office of Energy and Environmental Affairs - approval

Exhibits:

- A. Legal Description of the Premises
- A-1 Reduced Copy of the Plan of the Premises
- A-2 Inset Sketch of the Premises Showing Vehicle Track Easements
- B. Town of Yarmouth Town Meeting Vote
- C. Town of Dennis Town Meeting Vote
- D. County of Barnstable Vote

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Grantor:

AQUACULTURAL RESEARCH CORP.

Richard A. Kraus, President

Gail A. Hart, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ___ day of _____, 2015, personally appeared the above-named Richard A. Kraus, President, Aquacultural Research Corp., the corporation named in the foregoing instrument, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the document, and acknowledged he is duly authorized to act on behalf of said corporation, that the seal affixed to said instrument is the corporate seal of said corporation and further acknowledged the foregoing instrument to be the free act and deed of said corporation, before me.

Notary Public:
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ___ day of _____, 2015, personally appeared the above-named Gail A. Hart, Treasurer, Aquacultural Research Corp., the corporation named in the foregoing instrument, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the document, and acknowledged she is duly authorized to act on behalf of said corporation, that the seal affixed to said instrument is the corporate seal of said corporation and further acknowledged the foregoing instrument to be the free act and deed of said corporation, before me.

Notary Public:
My commission expires:

ACCEPTANCE OF GRANT BY
COMMISSIONERS OF THE COUNTY OF BARNSTABLE

At a public meeting duly held on _____ 2015, the Commissioners of the County of Barnstable voted to accept the foregoing Conservation Restriction from Aquacultural Research Corp.

Grantee:
COUNTY COMMISSIONERS OF THE COUNTY OF BARNSTABLE

By: _____
Mary Pat Flynn, Chair

By: _____
Leo Cakounes

By: _____
Sheila R. Lyons

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ____ day of _____, 2015 personally appeared the above-named Mary Pat Flynn, Leo Cakounes, and Sheila R. Lyons, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the persons whose names are signed on the document and acknowledged they are the duly elected Commissioners of the County of Barnstable and that as such they were duly authorized to execute the said instrument, and acknowledged the foregoing instrument to be their free act and deed, before me.

Notary Public:
My commission expires:

Chapin Beach ARC CONSERVATION RESTRICTION
Dennis, MA

ACCEPTANCE OF GRANT BY
DENNIS CONSERVATION TRUST

The above Conservation Restriction from Aquacultural Research Corp. is accepted this ___ day of _____, 2015.

Dennis Conservation Trust:

Trustee/President

James Wick, Treasurer/Trustee

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On this ___ day of _____, 2015, personally appeared the above-named _____, President and Trustee of the Dennis Conservation Trust, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document, and acknowledged he is duly authorized to act on behalf of said Trust, and further acknowledged to me that he signed it voluntarily for its stated purpose on behalf of said Trust.

Notary Public
My commission expires

ACCEPTANCE AND APPROVAL OF TOWN OF YARMOUTH SELECTMEN

At a public meeting duly held on _____, 2015, the Selectmen of the Town of Yarmouth, Massachusetts, acting as the Board of Park Commissioners by authority of MGL c.45 s.2, voted to accept pursuant to the vote on Article ____ at the May 2, 2015 Annual Town Meeting, and to approve pursuant to M.G.L. Chapter 184, Section 32, the grant of this Conservation Restriction from Aquacultural Research Corp.

TOWN OF YARMOUTH
BOARD OF SELECTMEN

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On this ____ day of _____, 2015, personally appeared the above-named _____, Chairman of the Town of Yarmouth Board of Selectmen, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged the foregoing instrument to be his/her free act and deed on behalf of said Town of Yarmouth Board of Selectmen, before me.

Notary Public
My commission expires:

ACCEPTANCE OF GRANT

At a public meeting held on _____, 2015, the Conservation Commission of the Town of Dennis, Massachusetts voted to accept, by authority of M.G.L. c. 40 Section 8C, the foregoing Conservation Restriction from Aquacultural Research Corp.

_____	_____
_____	_____
_____	_____
_____	_____

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 2015 personally appeared the above-named _____, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, and who being by me duly sworn did say that he is the chair of the Conservation Commission and acknowledged the foregoing instrument to be his free act and deed on behalf of the Town of Dennis Conservation Commission, before me.

Notary Public
My commission expires:

APPROVAL OF TOWN OF DENNIS SELECTMEN

At a public meeting duly held on _____, 2015, the Selectmen of the Town of Dennis, Massachusetts voted to approve the acceptance of the grant of this Conservation Restriction to the Dennis Conservation Commission, pursuant to M.G.L. c. 40, s. 8C, and also voted to approve, pursuant to M.G.L. c. 184, s. 32, the foregoing Conservation Restriction from Aquacultural Research Corp., and also voted to accept title to the Premises under the provisions of Section C herein.

TOWN OF DENNIS
BOARD OF SELECTMEN

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ____ day of _____, 2015, personally appeared the above-named _____, Chairman of the Town of Dennis Board of Selectmen, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged the foregoing instrument to be his/her free act and deed on behalf of said Town of Dennis Board of Selectmen, before me.

Notary Public
My commission expires:

Chapin Beach ARC CONSERVATION RESTRICTION
Dennis, MA

APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from Aquacultural Research Corp. to the Commissioners of the County of Barnstable, Town of Yarmouth, and Dennis Conservation Trust has been approved in the public interest pursuant to M.G.L. c. 184, s. 32. Said approval is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

Date: _____, 2015.

Matthew A. Beaton, Secretary
Executive Office of Energy and
Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this _____ day of _____, 2015, personally appeared the above-named Matthew A. Beaton, Secretary, Executive Office of Energy and Environmental Affairs, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that he signed it voluntarily as Secretary of Energy and Environmental Affairs for the Commonwealth of Massachusetts, for its stated purpose.

Notary Public
My commission expires:

Chapin Beach ARC CONSERVATION RESTRICTION
Dennis, MA

CONSERVATION RESTRICTION
On Land owned by
Aquacultural Research Corp.
In Dennis, Massachusetts

EXHIBIT A
Description of the Premises

The Premises subject to this Conservation Restriction is located in the Town of Dennis, Barnstable County, Massachusetts, contains approximately 39.7 acres, and is bounded and described as follows:

The Premises subject to this Conservation Restriction is further identified as **Parcel C, Parcel D and Parcel E** on a plan of land entitled "Re-Division Plan of Land in Dennis, Massachusetts, as prepared for the Town of Dennis and Aquacultural Research Corp., Scale 1" = 100', Date: April 27, 2015, Soule Land Surveying, 103 Vesper Pond Drive, Brewster MA" recorded herewith at the Barnstable County Registry of Deeds in Plan Book ____ Page ____ ("the Plan"), a reduced copy of which Plan is attached hereto as Exhibit A-1, to be recorded herewith.

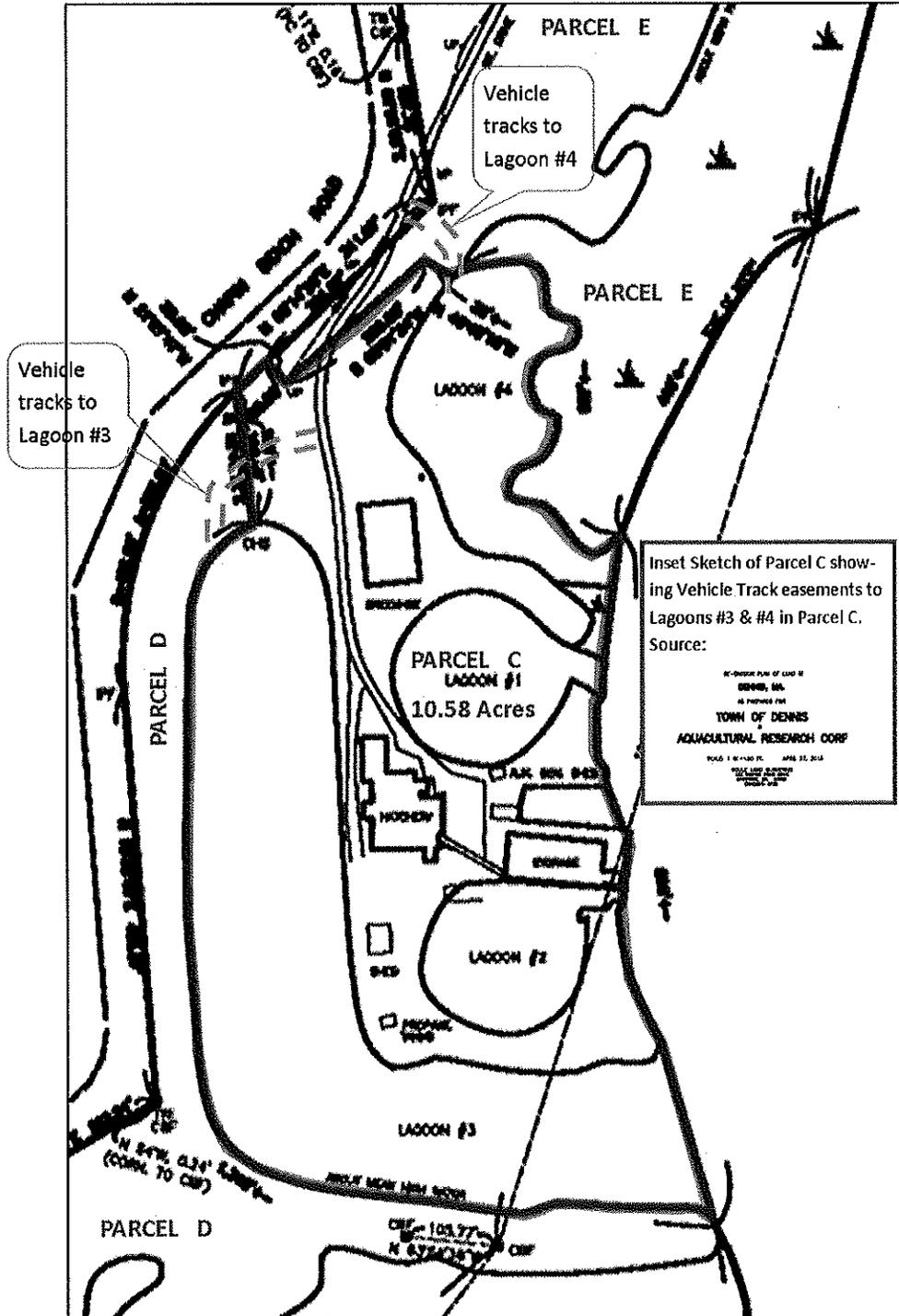
Within the portion of the Premises defined as Aquaculture Area (shown as Parcel C on the Plan), certain reserved rights are permitted under this Conservation Restriction which are not otherwise permitted on the remainder of the Premises.

Street Address: 99 Chapin Beach Road, Dennis MA.

Town of Dennis Assessors Map 271, Parcel 1

For Grantor's title, see deed recorded in Book 9014 Page 199 in the Barnstable County Registry of Deeds.

EXHIBIT A-2
Showing Inset Plan of Premises Showing Vehicle Track Easements



Chapin Beach ARC CONSERVATION RESTRICTION
Dennis, MA.

EXHIBIT B

Attested Copy of Yarmouth Annual Town Meeting Vote

(to be inserted)

Chapin Beach ARC CONSERVATION RESTRICTION
Dennis, MA

EXHIBIT C

Attested Copy of Dennis Annual Town Meeting Vote

(to be inserted)

Chapin Beach ARC CONSERVATION RESTRICTION
Dennis, MA

EXHIBIT D

Attested Copy of County of Barnstable Assembly of Delegates Vote

(to be inserted)