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RECEIVED AND RECORDED  
NORFOLK COUNTY  
REGISTRY OF DEEDS  
DEDHAM, MA

CERTIFY

*William P. O'Donnell*  
WILLIAM P. O'DONNELL, REGISTER

## **COPLEY HERITAGE TOWNHOMES DECLARATION OF TRUST**

THIS DECLARATION OF TRUST is made on the date set forth below, by Springdale Gardens, LLC, having a mailing address of 5 Springdale Avenue, Canton, Norfolk County, Massachusetts (hereinafter, the "Declarant").

### **ARTICLE I Name of Trust**

The Trust hereby created shall be known as the **COPLEY HERITAGE TOWNHOMES TRUST** (the "Trust"), and under that name, so far as legal, convenient and practicable, all activities shall be carried on by the Trustee(s), which term shall be deemed to include its successors hereunder, and all documents shall be executed by the Trustee(s).

### **ARTICLE II The Trust and Its Purpose**

**Section 2.1. Unit Owners' Organization.** All of the rights and powers in and with respect to the common areas and facilities (the "Common Areas," "Common Areas and Facilities" or "Common Elements") of **COPLEY HERITAGE TOWNHOMES**, a condominium located in the Town of Canton, Norfolk County, Massachusetts (the "Condominium") established by a Master Deed (the "Master Deed") of even date herewith and recorded herewith in the Norfolk County Registry of Deeds (the "Registry of Deeds"), which are, under the provisions of Massachusetts General Laws, Chapter 183A, as amended ("Chapter 183A"), conferred upon or exercisable by the organization of Unit Owners of the Condominium and all property, real and personal tangible and intangible, conveyed to or held by the Trustee(s) (the "Trust Property") hereunder shall vest in the Trustee(s) as it or they may from time to time be, in trust, to exercise, manage, administer and dispose of the same and to receive the income thereof (a) for the benefit of the owners of record from time to time (the "Unit Owners") of the units (the "Units") of the Condominium according to the allocation of undivided interest in the Common Areas and Facilities (the "Beneficial Interest") set forth in the Master Deed of the Condominium, and (b) in accordance with the provision of Chapter 183A. This Trust is the organization of Unit Owners established pursuant to the provisions of Section 10 of Chapter 183A for the purposes therein and herein set forth.

**Section 2.2. Entity Created.** It is hereby expressly declared that a trust and not a partnership has been created, and that the Unit Owners are owners of the Beneficial Interest and not partners or associates nor in any other relation whatsoever between themselves and with respect to the

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Common Elements and/or Trust Property other than as Unit Owners of the Condominium. Each of the Unit Owners holds no relation to the Trustee other than as owners of the Beneficial Interest, with only such rights as are conferred upon them as owners of the Beneficial Interest under the provisions of Chapter 183A.

## ARTICLE III

The Trustee(s)

Section 3.1. Number of Trustees. Until the "Transition Date" described in Section 3.4 below, the Trustee or Trustees shall be appointed by the Declarant and its successors and assigns as described in said Section 3.4. After the Transition Date, there shall be a Board of Trustees (the "Board" or the "Trustees") consisting of at least three (3) but not more than five (5) persons or entities who shall be appointed as hereinafter provided. Such persons shall be Unit Owners or spouses of Unit Owners, fiduciary of a Unit Owner, such as heirs, successors, power of attorney, personal representative, etc. or officers, managers or employees, if the Unit Owner is an entity.

Section 3.2. Terms of Trustees. The term of each Trustee shall be until such time as a Unit is sold to a subsequent owner, until resignation by a Trustee or until such time as a majority of the Unit owners request for the removal of a Trustee. There shall be no limit to the length of time a Trustee serves; rather said Trustee shall serve at the pleasure of the Unit Owners.

Section 3.3. Vacancies, Election, Appointment and Acceptance of Trustees. After the Transition Date, if and when the number of Trustees shall become less than two (2) due to death, disability, removal or resignation, a vacancy shall be deemed to exist, whereupon a special meeting of the Unit Owners shall be duly convened within sixty (60) days of the creation of such vacancy to elect a successor Trustee. At such meeting Trustee(s) shall be elected by the vote of a majority of the Unit Owners present in person or by proxy. There shall be no cumulative voting. In such event as the Unit Owners should fail to elect a successor Trustee within said sixty (60) day period, then the Trustees then remaining may appoint a successor Trustee to fill such vacancy. In the event that the Trustees fail to so appoint a successor Trustee within sixty (60) days from the date they are entitled to appoint a successor to fill the vacancy, or if there is no remaining Trustee, then such vacancy, or vacancies, shall upon the petition there for of any Unit Owner, with notice to all other Unit Owners, be filled by the appointment, or appointments, of a court of competent jurisdiction. The election or appointment of Trustees shall become effective upon such election or appointment. An instrument certifying such election or appointment shall be filed with the Registry of Deeds, acknowledged and subscribed to by a majority of the then Trustees, (1) referencing this Declaration of Trust; (2) reciting the existence; (3) the election or appointment of the successor Trustee; and (4) containing an acceptance of such election or appointment by the successor Trustee. Except as provided in Article VII hereof, the failure or delay in filing said instrument shall not affect the validity of such Trustee's election.

Section 3.4. Trustee during Initial Period of Condominium; Transition Provisions. Notwithstanding the foregoing, during the period from the establishment of the Condominium (as evidenced by the recording of the Master Deed and this Declaration of Trust) until thirty (30) days after the conveyance by the Declarant, its successors or assigns, of all of the Units which are

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included in the Condominium to third-party purchasers or three (3) years from the conveyance of the first Unit, whichever should occur first, there shall be one (1) Trustee appointed by the Declarant, its successors or assigns. The original Trustee appointed by the Declarant is W. SCOTT LENHART. The Declarant, at its option, may expand the initial Board of Trustees from one member to two or more members, all of which shall be designated by the Declarant, its successors or assigns. Upon any vacancy existing in such Trustee or Trustees, its or their successor(s) shall be appointed solely by the Declarant, its successors or assigns. The Declarant may, at its sole option, choose to accelerate the Transition Date to a date which is earlier than that determined as set forth above.

Section 3.5. Power to Act When Vacancy Exists. Notwithstanding anything contained herein to the contrary, despite any vacancy in the office of Trustee, however caused and for whatever duration, the then remaining or surviving Trustees, shall continue to exercise and discharge all of the powers, discretions and duties hereby conferred or imposed upon the Trustees.

Section 3.6. Trustee Action. In any matter relating to the administration of the Condominium and the exercise of the powers herein conferred, the Trustee(s) may act by majority vote of their number at any duly called meeting at which a quorum is present as hereinafter provided.

Section 3.7. Trustee Meetings; Quorum. Until the Transition Date, regular Trustee meetings shall not be necessary but may be called by any Trustee upon seven (7) days' written notice to any and all other Trustee(s). After the Transition Date, the Trustees shall meet annually on the date of the Annual Meeting and at such meeting may elect from their number a Chair, Treasurer and a Clerk. The Trustees shall thereafter meet at such regular interval, time and place as determined, and specially upon the request of any two Trustees; provided, however, that written notice of each such special meeting setting the place, day, hour and purpose thereof shall be given at least two (2) days before such meeting to each Trustee, unless such notice is waived by all Trustees. A majority of the number of Trustees then in office shall constitute a quorum at all meetings, and such meetings shall be conducted in accordance with such rules as the Trustees may adopt. The Trustees may also act without a meeting by instrument or instruments executed by all of their number.

Section 3.8. Minutes. Accurate minutes of all Trustee meetings shall be taken by a person designated by the Trustees and shall be maintained by the Trustees as part of the records of the Trust.

Section 3.9. Annual Meeting. There shall be an annual meeting of Unit Owners on the third Wednesday of October at 7:00 P.M. at the Condominium or at such other reasonable place and time as may be designated by the Trustees (the "Annual Meeting"). If that day is a legal holiday, the meeting shall be held on the next succeeding day. The Trustees shall give written notice thereof to the Unit Owners at least seven (7) days prior to said date, which notice shall include an agenda and a full description of all matters to be voted upon, if any. At the Annual Meeting the Trustees shall submit reports of the management and finances of the Condominium, conduct elections as are necessary, and conduct such other business as is proper.

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Section 3.10. Special Meetings. Special meetings (including a meeting in lieu of a passed annual meeting) of the Trustees may be called at any time by the Trustees and shall be called by them upon the written request of Unit Owners/Trustees holding at least fifty one percent (51%) of the Beneficial Interest ("Special Meeting"). A request for such a Special Meeting shall be accompanied by a delineation of the items the requestors wish to have considered at said meeting, including the text of any proposed amendment to the Condominium's documents. Written notice of any Special Meeting designating the place, day and hour thereof, together with a full description of the matter(s) to be considered and/or voted upon, shall be given by the Trustees at least seven (7) days prior to the date so designated.

Section 3.11. Officers. After the Transition Date, there shall be from among the Trustees, in addition to such other officers as they may elect from their number, the following officers who shall have the following listed duties:

- A. Chair. The Chair shall be the chief executive officer of the Trust. He or she shall preside at all meetings of the Unit Owners and of the Trustees. If the Chair is unable to act at any time, the remaining Trustees shall appoint some other of their number to act in the place of the Chair on an interim basis.
- B. Treasurer. The Treasurer shall have the responsibility for overseeing Trust's funds and securities and shall be responsible for maintaining full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data. He or she shall be responsible for the deposit of all monies and other valuable effects in the name of the Trust in such depositories as may from time to time be designated by the Trustees.
- C. Clerk. The Clerk shall maintain the minutes of all meetings of the Unit Owners and of the Trustees; he or she shall have charge of such books and papers of the Trust; and he or she shall, in general, perform all duties incident to the office of clerk or secretary of a business corporation organized under Massachusetts law.

Section 3.12. Resignation; Removal. Any Trustee may resign at any time by an instrument in writing, signed and acknowledged in the manner required in Massachusetts for the acknowledgement of deeds and delivered to the remaining Trustees. Such resignation shall take effect upon the recording of such instrument with the Registry of Deeds, unless specified to be effective at some other time in said instrument. The remaining Trustees shall forthwith cause said instrument to be duly recorded with the said Registry of Deeds. Upon a failure thereof, or the absence of other Trustees, the resigning Trustee may so record said instrument and shall notify the Unit Owners thereof. Any Trustee, who ceases to be a Unit Owner by virtue of sale or foreclosure of their Unit, so that they are no longer a Unit Owner, shall be deemed removed without the necessity of recording a resignation in the Registry of Deeds. Any Trustee appointed by the Declarant may be removed by the Declarant. After the Transition Date, any Trustee may, with or without cause, be removed by a vote of seventy-five percent (75%) of the Unit Owners at a special meeting duly called therefore and after being afforded the opportunity to be heard. The vacancy so resulting shall be filled in the manner provided in Section 3.3 hereof. Any removal shall become effective upon the recording of a certificate thereof with the Registry of Deeds executed by one or

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more of the then remaining Trustees in office or, upon a failure thereof, by the Declarant (if prior to the Transition Date). In no case may the original Trustee or successor Trustees appointed by the Declarant, its successors or assigns, be removed except by the Declarant, its successors or assigns.

Section 3.13. Bond or Surety. No Trustee elected or appointed as hereinbefore provided, whether as original Trustee or as successor to or as substitute for another, shall be obliged to give any bond or surety or other security for the performance of any of his duties hereunder; provided, however, that the Unit Owners by a vote of seventy-five percent (75%) may at any time require that any one or more of the Trustees, except a Declarant or Court-appointed Trustee, shall give bond in such amount and with such sureties as shall be specified in such vote. All expenses incident to any such bond shall be charged as a Common Expense of the Condominium. The foregoing shall not affect any fidelity coverage hereinafter required under the insurance provisions of this Trust.

Section 3.14. Compensation of Trustees, Officers and Committee Members. No Trustee, Officer or Committee Member shall receive remuneration (which term shall not be deemed to include reimbursement for expenses incurred by such person in connection with his duties, which reimbursement shall be permitted and charged as a Common Expense) for his services unless so provided for by a vote of seventy-five percent (75%) of the Unit Owners and any remuneration so provided shall be from time to time fixed by said Unit Owners, and shall be a Common Expense of the Condominium. With the approval of a majority of the Trustees, any Trustee, Officer, or Committee Member may receive reasonable remuneration for extraordinary or unusual services, professional or otherwise, rendered by him to the Trust, all as shall be from time to time fixed and determined by said Trustees, and such remuneration shall be a Common Expense of the Condominium. No compensation to Trustees may be voted by the Trustees or the Unit Owners with respect to the period while the Declarant, its successors or assigns, has the right to designate Trustees as provided in Section 3.4.

Section 3.15. No Personal Liability. No Trustee, Officer, or Committee Member shall under any circumstances or in any event be held liable or accountable out of his personal assets or be deprived of compensation, if any, by reason of any action taken, suffered or omitted in good faith, or for allowing one or more of the other Trustees, Officers, or Committee Members to have possession of the Trust books or property, or be so liable, accountable or deprived by reason of honest errors of judgment or mistakes of fact or law or by reason of anything except if he is adjudicated by a Court of competent jurisdiction to have acted with his own personal and willful malfeasance and defaults, and/or such other conduct as would exempt him from indemnification as provided in Section 3.17 hereof.

Section 3.16. Trustees, Officers And Unit Owners May Deal With The Condominium. No Trustee nor Unit Owner, shall be disqualified by his office, or status, from contracting or dealing, directly or indirectly, with the Trustees or with one or more Unit Owners as vendor, purchaser or otherwise because of his, the Trustee's, Officer's, or any Unit Owner's interest in any corporation, firm, trust, partnership or other organization connected with such contracting or dealing, nor shall any such dealing, contract or arrangement entered into in respect of this Trust in which any Trustee, Officer,

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or Unit Owner, shall in any way be interested be avoided nor shall any Trustee, Officer, or Unit Owner, so dealing or contracting or being so interested be liable to account for any profit realized by any such dealing, contact or arrangement by reason of such Trustee's or Officer's holding office or of the fiduciary relation hereby established, or by reason of such Unit Owner's status, provided the Trustee, Officer or Unit Owner shall act in good faith and shall disclose the nature of his interest before the dealing, contract or arrangement is entered into.

Section 3.17. Indemnification. The Trust shall, to the extent legally permissible, defend and indemnify each of its Trustees, Officers and Committee Members against all liabilities and expenses, including amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and counsel fees, reasonably incurred by him in connection with the defense or disposition of any action, suit or other proceeding, whether civil or criminal, in which he may be involved or with which he may be threatened, while in office, or thereafter, by reason of his being or having been such a Trustee, Officer or Committee Member, except with respect to any matter as to which he shall have been adjudicated in any proceeding to have acted in bad faith or with willful misconduct or reckless disregard of his duties or not to have acted in good faith in the reasonable belief that his action was in the best interests of the Condominium. The right of indemnification hereby provided shall not be exclusive of or affect any other rights to which any Trustee, Officer or Committee Member may be entitled herein or by contract or otherwise under applicable law. As used in this Section, the terms "Trustee", "Officer" and "Committee Member" includes his respective heirs, executors and administrators. Nothing in this Section shall, however, be deemed to limit in any respect the powers granted to the Trustees and Officers in this instrument.

## ARTICLE IV

Beneficiaries and the Beneficial Interest in the Trust

Section 4.1. Beneficiaries and the Beneficial Interest. The beneficiaries of the Trust shall be the Unit Owners of the Condominium as they may be from time to time. The Beneficial Interest in the Trust hereunder shall be divided among the Unit Owners in the same percentages as the Undivided Interest in the Common Areas and Facilities as specified in the Master Deed (sometimes hereinbefore and hereinafter referred to as the "Beneficial Interest").

Section 4.2. Beneficial Interest Held by One Person. The Beneficial Interest appertaining to each Unit shall not be divided among several Owners of any Unit. To that end, whenever any of the Units is owned of record by more than one person, the several owners of such Unit shall (a) determine and designate which one of such Owners shall be authorized and entitled to cast votes, execute instruments and otherwise exercise the rights appertaining to such Unit hereunder, and (b) notify the Trustees of such designation by a notice in writing signed and acknowledged by all of the Owners of such Unit. Any such designation shall take effect upon receipt thereof by the Trustees and may be changed at any time and from time to time by notice as aforesaid. In the absence of any such notice of designation, the Trustees may designate any one such Owner for these purposes. For Units to which title is held by a fiduciary, the fiduciary shall be the designated individual. For Units to which title is held by a corporation, a duly authorized employee of such corporation shall be the designee.

The provisions of this Article V shall constitute the By-Laws (the "By-Laws") of this Trust and the organization of Unit Owners established hereby and shall be applicable to the Property of the Condominium, the Trust Property and to the use and occupancy thereof. The term "Property" as used herein shall include the Land, Building(s) and all other improvements thereon including the Units and Common Areas and Facilities, owned in fee simple absolute, or otherwise, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of said Chapter 183A. The term "Trust Property" shall refer to all property to which title is held by the Trust. The provisions of these By-Laws shall automatically become applicable to real property which may be added to the Condominium upon the recording of an amendment to the Master Deed submitting such additional real property to the provisions of Chapter 183A.

All present and future owners, mortgagees and occupants of Units and their employees, and any other persons who may use the facilities of the Condominium and/or the Property and/or the Trust Property in any manner, are subject to these By-Laws, this Declaration of Trust, the Master Deed, the Rules and Regulations promulgated hereunder, and all covenants, agreements, restrictions, conditions, easements and declarations of record (the "Title Conditions"). The acceptance of a deed or conveyance or the act of occupancy of a Unit shall constitute an agreement that these By-Laws, this Declaration of Trust, the provisions of the Master Deed and the Rules and Regulations, as they may be amended from time to time, and the Title Conditions are accepted, ratified and will be complied with.

**Section 5.1. Powers and Duties of Trustee(s).** The Trustee(s) shall, subject to all provisions of applicable laws, the Master Deed and this Declaration, including these By-Laws, have the absolute control and management and disposition of the Property (excluding the Units) and the absolute control, management and disposition of Trust Property as if they were the absolute owners thereof and shall have all of the powers necessary for the administration of the affairs of the Condominium and may do all such acts and things in connection therewith. A majority of the Trustee(s) may elect to grant a power of attorney to a fiduciary to act on their behalf. The powers and duties of the Trustee(s) shall include, but shall not be limited to, the following, all of which shall be exercised subject to the provisions hereof:

- A. Operating, caring for, keeping up, leasing, managing and maintaining the Common Areas and Facilities of the Condominium or any part thereof.
- B. Owning, conveying, encumbering, leasing and otherwise dealing with Units conveyed to or purchased by them for the Condominium Trust as a result of enforcement of the lien for Common Expenses, action under Chapter 183A, Section 17 and 18, or otherwise.
- C. Conducting litigation on behalf of the Unit Owners and being subject to suit as to any course of action involving the Common Areas and Facilities or arising out of

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the enforcement of these By-Laws, any and all Rules and Regulations promulgated hereunder, or restrictions in the Master Deed or Unit Deeds.

- D. Determining and budgeting of the Common Expenses required for the affairs of the Condominium and this Trust, including, without limitation, the operation and maintenance of the Property.
- E. Collecting the Common Charges (which for the purposes of these By-Laws shall mean such portion of the Common Expenses as are payable by the respective Unit Owners) from Unit Owners.
- F. Employing and dismissing personnel necessary for the maintenance and operation of the Common Areas and Facilities.
- G. Opening and utilizing bank accounts on behalf of the Trust and designating the signatories required there for.
- H. Obtaining of insurance.
- I. Making repairs, additions and improvements to or alterations of the Property and repairs to and restoration of the Property.
- J. Incurring obligations and paying, compromising or adjusting all obligations incurred and rights acquired in the administration of the Trust.
- K. Adopting and amending rules and regulations covering the details of the operation and use of the Common Areas and Facilities, the administration of the Condominium as contemplated by the Master Deed and this Trust, and in interpretation thereof.
- L. Obtaining advice of counsel and relying thereof, and employing, appointing and removing such other persons, agents, managers, officers, brokers, engineers, architects, employees, servants and assistants as they shall deem advisable, and defining their respective duties and fixing their pay and compensation.
- M. Granting of permits, licenses and/or easements and/or leases over, under, through and/or to the Common Areas for utilities, roads and/or all other purposes reasonably necessary and/or beneficial, useful for and/or to the proper maintenance and/or operation of the Condominium and/or the convenience of the Unit Owners, and modifying the terms and provisions of any easements, permits and/or licenses beneficial to the Common Areas and/or the Condominium.
- N. Altering the layout, location, nature and/or use of any of the Common Elements, making installations therein, and moving and removing the same, subject, however, to a Unit Owner's rights to use any appurtenance to this Unit as specified in the Master Deed.
- O. Enforcing obligations of the Unit Owners, including, but not limited to, the levying of general and special assessments for Common Expenses and the providing of adequate remedies for failure to pay such assessments, levying reasonable fines, attorney's fees, fines, costs and expenses against the Unit Owners for violations by the Unit Owners, or persons for whom a Unit Owner is responsible, of the Rules and Regulations or of the provisions of the Trust or the Master Deed, and in the case of persistent violations of the Rules and Regulations or of this Trust or the Master Deed by a Unit Owner, or persons for whom a Unit Owner is responsible, requiring such Unit Owner to post a bond to secure adherence thereto.

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P. Investing and reinvesting the funds of the Condominium, or any part or parts thereof, and from time to time and as often as they shall see fit to change investments, including power to invest in all types of securities, and other property, of whatsoever nature and however denominated, all to such extent as to them shall seem proper, and without liability for loss, even though such property or such investment shall be of a character or in an amount not customarily considered proper for the investment of trust funds, or which does or may not produce income.

Q. Selling and exchanging Trust Property or any interest therein for such consideration and upon such terms as they deem advisable.

R. Purchasing and otherwise acquiring any real or personal property.

S. Borrowing money and mortgaging or pledging all or any part of the Trust Property, and/or the Condominium's Funds, and issuing bonds, notes or other evidence of indebtedness.

T. Providing for payment by the Trust of real estate taxes becoming due and payable after the date of recording of the Master Deed which are assessed upon all of the Land and/or improvements included within the Condominium, instead of upon individual Units and their proportionate interests in the Common Areas and Facilities, and levying an equitable assessment of said tax payments among the individual Unit Owners.

U. Incurring such liabilities, obligations and expenses, and paying from the principal or the income of the Condominium's funds all such sums, as they shall deem necessary or proper, for the furtherance of the purposes of the Trust.

V. Determining as to all sums of money and other things of value received by them, whether and to what extent the same shall be deemed to be and shall be accounted for as principal or as income, interest, late charges, attorney's fees, fines, costs and/or expenses, and as to all charges or expenses paid by them, whether and to what extent the same shall be charged against principal or against interest, late charges, attorney's fees, fines, costs and/or expenses, including, without hereby limiting the generality of the foregoing power, to apportion any receipt or expense between principal income, interest, late charges, attorney's fees, fines, costs and/or expenses, and the power to determine what portion, if any, of the actual income received upon any asset purchased or acquired at a premium or any wasting investment shall be added to principal to prevent a diminution thereof upon the maturity or exhaustion of such asset or investment.

W. Entering into and having such access to Units and Common Areas reserved to Units in the Condominium as shall be reasonably necessary to the performance and exercise of the duties, obligations, rights and powers of the Trustee(s) hereunder.

X. Executing any and all instruments incidental or necessary to carry out any of the foregoing powers.

Y. Generally, in all matters not herein otherwise specified, controlling, managing and disposing of the Trust Property and controlling and managing the Property (excluding the Units) as if the Trustee(s) were the absolute owners thereof and doing any and all acts, including the execution of any instruments, which by their performance thereof shall be shown to be in their judgment for the best interest of

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the Condominium and its Unit Owners. The Trustees may delegate to the manager such powers as the Trustees, in their sole discretion determine.

Section 5.2. Maintenance and Repair of Units; Trustee Access to Units. Except as hereinafter provided, the Unit Owners shall be responsible for the proper maintenance, replacement and repair of their respective Units and the Limited Common Elements, except as otherwise provided in the Trust or Master Deed and such obligations shall include but not be limited to compliance with the obligations set forth in Exhibit B attached hereto and made a part hereof. Except to the extent covered by the Trust's insurance, each Unit Owner shall be responsible for any and all damage to any and all other Units and/or the Common Areas and Facilities caused by his failure to satisfy this maintenance obligation, including all costs, charges, attorney's fees, fines and expenses incurred by the Trust. If the Trustee(s) shall at any time in their reasonable judgment determine that a Unit, or any part thereof, or Limited Common Element, is in such need of maintenance or repair that the market value of one or more other Units is being adversely affected, or that the condition of a Unit, any part thereof, or limited common element, or any fixtures, furnishings, facilities or equipment therein, is hazardous to any Unit or the occupants thereof and/or adversely affects any other Unit and/or the Common Elements and/or the Common Expenses, the Trustee(s) shall in writing request the Unit Owner thereof to perform the needed maintenance, repair, replacement and/or work and/or to correct the relevant condition and/or its cause. In such case as action thereon shall not have been commenced within the time as may be reasonably set by the Trustee(s) and thereafter diligently brought to completion, the Trustee(s) shall be entitled to have such performed for the account of such Unit Owner whose Unit, or Limited Common Elements, is in need thereof and to enter upon and have access to such Unit or Limited Common Elements for these purposes. In the case of an emergency which necessitates immediate action and the Unit Owner is unavailable or fails to take immediate action, the Trustee(s) may proceed thereto without delay. The cost incurred by the Trustee(s), including, but not limited to, attorney's fees and expenses for such as is reasonably necessary there for shall constitute an obligation of the applicable Unit Owner and shall be considered a Common Expense attributable to such Unit. The Trustee(s) may in their discretion additionally impose a fine upon a Unit Owner who, in the Trustee(s)' judgment, unreasonably fails to comply with a request made by the Trustee(s) hereunder.

Should it be necessary that any part of a Unit, personal property of a Unit Owner, and/or any part of the Common Areas and Facilities to which a Unit Owner has the right of exclusive use, be required to be removed for the purpose performing such work, or for the purpose of the Trustee(s) performing work upon the Common Elements, such Unit Owner shall promptly comply with such request by the Trustee(s). Should such Unit Owner fail to so comply, or in the case of emergency, the Trustee(s) may remove and store such part and/or property for the account of the Unit Owner, the cost of which, including, but not limited to, attorney's fees, fines and expenses shall constitute an obligation of the applicable Unit Owner and shall be considered a Common Expense attributable to such Unit. Such removal and storage shall be reasonable in manner, extent and terms.

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Each Unit Owner, subject to the reasonable approval of the Trustees, shall be responsible for arranging for the maintenance, repair and replacement of the Limited Common Areas (those Common Areas to which a Unit Owner has an exclusive right of use), including but not limited to the patios, decks and balconies and the Trustees shall charge the cost thereof to the Unit Owner of such Unit as a common expense if the Trust performs the work because the Unit Owners fail to perform such work and such common expense shall be due upon demand and enforceable in the same manner and to the same extent as other common expenses to that Unit. In addition to the foregoing, each Unit Owner shall be required to maintain appropriate climate control, keep his or her dwelling Unit clean, and take necessary measures to retard and prevent mold from accumulating in the dwelling Unit. Each Unit Owner shall be required to clean and dust the dwelling Unit on a regular basis and to remove visible moisture accumulation on windows, windowsills, walls, floors, ceilings and other surfaces as soon as reasonably possible and must not block or cover any heating, ventilation or air-conditioning ducts. Unit Owners are required to report immediately in writing to the Trustees; (i) any evidence of water leak or water infiltration or excessive moisture in the dwelling Unit, common hallways, if any, and any other common areas; (ii) any evidence of mold that cannot be removed with a common household cleaner; (iii) any failure or malfunction in heating, ventilation or air conditioning, and (iv) any inoperable doors or windows and each Unit Owner shall be responsible for damage to the dwelling unit and personal property as well as any injury to the Unit Owner and/or occupants of the dwelling unit resulting from the Unit Owner's failure to comply with these terms. Each Unit Owner is fully responsible and liable for the entire amount of cleaning expenses and remediation costs incurred by the Trustees to remove mold from the dwelling Unit if the Unit Owner fails to remediate same and each Unit Owner shall be responsible for the repair and remediation of all damages to the dwelling Unit caused by mold.

Section 5.3. Maintenance, Replacement and Repair of Common Areas and Tort Immunity. Except as stated in the Master Deed or in Section 5.2, the Trustee(s) shall be responsible for arranging for the proper cleaning, replacement, maintenance and repair of the Common Areas and Facilities and such other portions of the Condominium as may be herein specified within the budgetary constraints of the Condominium. The Trustee(s) may approve payment of vouchers for such work, and the expenses of such replacement, maintenance and repair shall be assessed to the Unit Owners as Common Expenses of the Condominium at such times and in such amounts as provided in Section 5.5; provided, however, that such cleaning, replacement, maintenance and/or repair as may be necessitated by the negligence, misuse or neglect of a Unit Owner, his family, servants, agents, employees, invitees, licensees, pets, or others upon the Property at the Unit Owner's behest, whether directly or by virtue of a Unit Owner's failure to properly maintain, repair or replace the Unit, components thereof, or Common Elements to which such Unit Owner has exclusive use, including all charges, fines, attorney's fees, costs and expenses, shall be charged to such Unit Owner, constitute an obligation of such Unit Owner and be considered a Common Expense attributable to such Unit, except to the extent such as are covered by the Trust's master casualty policy.

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- A. Notice of Person Responsible For Maintenance. The Trustee(s) shall provide every Unit Owner with the name, address, and telephone number of the person, firm or entity responsible for the maintenance of the Common Elements.
- B. Tort Immunity. The Trust and Trustees shall not be liable, in any legal action brought by or on behalf of a Unit Owner, resident or visitor, for bodily injury or death occurring to a Unit Owner, resident or visitor on the Trust's Common Areas and Facilities, on limited common areas and facilities of in a Unit unless the Trust or Trustees are adjudicated after final appeal to have acted with gross negligence.

Section 5.4. Right of Access. The Trustee(s) or any other person authorized by the Trustee(s), shall have a right of access to any Unit, and/or Common Areas to which a Unit has an exclusive right of use, for the purpose of making inspections, or for the purpose of correcting any conditions originating in the Unit and/or said Common Areas, or threatening another Unit or the Common Areas and Facilities, or for any other purpose reasonably necessary for the proper maintenance or operation of the Condominium, or for any other purpose as herein provided for which access to a Unit and/or said Common Areas is necessary; provided, however, that such entry is made after advanced notice and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency or in such case as a Unit Owner fails to cooperate with the Trustee(s) after notice as aforesaid, such right of entry shall be immediate, and without prior notice where such is impractical. In furtherance hereof, the Trustees may require that each Unit Owner shall provide to the Trustee(s) duplicate keys to all locks upon every means of access to a Unit.

Section 5.5. Common Expenses, Profits and Funds. The Unit Owners shall be liable for Common Expenses and entitled to common profits of the Condominium in proportion to their respective percentages of the Beneficial Interest. The Trustees may round installments of common expenses to the nearest whole dollar. The Trustee(s) may at any time or times, as they in their sole discretion may determine, distribute common profits and/or surplus accumulations among the Unit Owners in such proportions.

- A. Reserve Funds. The Trustee(s) may establish and maintain as hereinafter provided the following separate and segregated funds to be used for the purposes hereinafter specified:
  - i. Capital Expense Fund. The Trustee(s) shall set aside from the regular monthly payments of Common Charges an amount to be adequate and appropriate to provide a reserve for the periodic repair and/or replacement of the Common Elements and other capital purposes and may, to the extent consistent with these purposes, use the funds so set aside for the reduction of indebtedness or other lawful capital purpose, or subject to the provisions of these By-Laws and the provisions of Chapter 183A, Section 17 and/or 18, for the repair, replacement, rebuilding, restoration or improvement of the Common Areas and Facilities. Such reserves shall be maintained in a separate and segregated account to be known as the Capital Expense Reserve Account and the funds so set aside shall not be deemed common

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profits available for distribution; but, rather, shall be considered as property of the Trust held for the account of the Unit Owners in accordance with their respective Beneficial Interests. To ensure the adequacy of such Fund, the Trustee(s) may periodically engage an appropriate professional to undertake a capital reserve study, and/or to up-date one previously undertaken, and based thereon establish an appropriate policy to fund such capital expense needs as therein determined.

ii. **Working Capital.** The Trustee(s) may maintain a working capital reserve in an amount as the Trustee(s) shall in their judgment determine as adequate and appropriate, to provide available funds to meet unforeseen expenditures, to cover cash flow requirements, or to acquire additional equipment or services deemed by the Trustee(s) as necessary or desirable, and may, to the extent consistent with these purposes, use the funds so set aside for operating expenses consistent with the provisions of these By-Laws. Such reserve shall be maintained in a separate and segregated account to be known as the Working Capital Reserve Account and the funds so set aside shall not be deemed common profits available for distribution, but, rather, shall be considered as the property of the Trust. **At the time of closing, every purchaser of a Unit shall be responsible for the payment of an additional amount equal to two months' common expenses to fund the working capital fund. Such amounts shall not be considered an advance on the payment of common expenses but, rather, a separate cost.**

B. **Determination of Common Expenses and Fixing Of Common Charges.** The Trustee(s) shall prepare a budget for the Condominium by establishing the Common Expenses expected to be incurred during the ensuing fiscal year together with a reasonable provision for contingencies and reserves as referred to above, and after taking into account any undistributed common profits from prior years (reserves excepted), shall determine the assessment to be made for such fiscal year (herein referred to as "Common Expenses"). The Common Expenses shall include, but in no way be limited to, all such amounts as the Trustee(s) may deem proper for the operation and maintenance of the Condominium, including, without limitation, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained pursuant to the provisions of this Declaration, an amount for a capital expense reserve, an amount for a working capital reserve, and an amount to make up for any deficit in the Common Expenses for any prior year. The Common Expenses may also include such amounts as may be required for the purchase or lease by the Trustee(s), on behalf of all Unit Owners, pursuant to the terms of this Declaration of Trust, of any Unit which is to be sold at foreclosure or other judicial sale, or otherwise. The Trustee(s) shall promptly render statements to the Unit Owners for their respective shares of such assessment, according to their percentages of Beneficial Interest, and the amount shown on such statement shall, unless otherwise provided therein, be due and payable within thirty

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(30) days after the same is rendered. In the event an annual assessment is not made as above required, an assessment shall be presumed to have been made in the amount of the last prior assessment. In the event that the Trustee(s) shall determine at any time during any fiscal year that the assessment so made is less than the Common Expenses actually incurred, or in the reasonable opinion of the Trustee(s), likely to be incurred, or in the event that the Trustee(s) shall determine that it is advisable to establish a larger reserve or other fund for projected capital or other expenditures or otherwise, the Trustee(s) may make one or more temporary fee increase and/or supplemental assessments and render such statements as they may deem necessary there for in the manner aforesaid, and the amount shown in such statement shall be payable and take effect as aforesaid.

C. Payment and Collection of Common Expenses. The Trustee(s) shall, so far as reasonably possible, provide for payment of the annual assessment of Common Expenses in advance in monthly substantially equal installments, which shall be due upon the first day of each month, or such other periodic payment as the Trustee(s) may determine. The amount of each such statement, together with late charges as may be reasonably imposed by the Trustee(s), reasonable attorneys' fees, fines and interest on the assessment at the rate of one and one-half percent (1 1/2%) per month, if that amount is not paid when due, shall constitute a lien on the Unit of the Unit Owner assessed and the personal obligation of the Unit Owner, all pursuant to provisions of Chapter 183A, Section 6. The Trustee(s) shall take prompt action to collect any Common Expenses due from any Unit Owner which remains unpaid. The Trustee(s) may, also, prohibit the delinquent Unit Owner, or persons occupying his or her Unit, from using any of the amenities of the Condominium, if any, not necessary to the use of the Unit. To the extent a Unit Owner may be persistently delinquent in the timely payment of common expenses due, as the Trustee(s) in their sole discretion may determine, the Trustee(s) may require such Unit Owner to pay the Common Expenses due in one lump sum as opposed to periodically as herein provided for.

All obligations and charges to a Unit Owner and such Unit Owner's Unit shall for the purposes hereof be deemed a Common Expense attributable to such Unit and payment thereof shall be enforceable as herein provided.

D. Payment of Common Expenses Subsequent To Transfer. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to a sale, transfer or other conveyance by him of such Unit. A purchaser of a Unit shall not be personally liable for the payment of Common Expenses assessed and unpaid against such Unit prior to the acquisition by him of such Unit unless such purchaser has agreed to assume such obligation. This provision shall not, however, affect the statutory lien on such Unit for such unpaid Common Expenses. Except as provided in M.G.L. c. 183A, s. 6, a purchaser of a Unit at a foreclosure sale of such Unit by a first mortgagee or any first mortgagee

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who comes into possession of the Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage or deed (or assignment) in lieu of foreclosure, shall take the property free of any claims and/or liens for unpaid assessments or charges against the mortgaged Unit which accrue prior to the time such holder comes into possession of the Unit.

E. Default In Payment of Common Expenses. In the event of default by any Unit Owner in paying to the Trustee(s) the Common Expenses attributable to his Unit (the "Common Charge"), such Unit Owner shall be obligated to pay all expenses, including attorneys' fees, fines, late charges and interest incurred by the Trustee(s) in any proceeding brought to collect such unpaid Common Expenses, irrespective of the amount so unpaid. The Trustee(s) shall have the right and duty to attempt to recover such unpaid Common Expenses, irrespective of the amount so unpaid, together with late charges, interest thereon, fines and the expenses of the proceeding, including attorneys' fees, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit, or in any proceeding wherein the Unit Owner seeks to avoid payment of the common expenses due, all such constituting a lien as provided in Section 6 of Chapter 183A. In furtherance hereof, a defaulting Unit Owner hereby waives any argument upon such a proceeding that the expenses thereof, including attorney's fees, are unreasonable and/or excessive when considered in the light of the amount so unpaid. A Unit Owner shall, upon any action brought by the Trustee(s) to collect unpaid Common Expenses, have no right to make any claims or defense of off-set upon any basis.

After an action is commenced by the Trustee(s) to foreclose a lien on a Unit because of unpaid Common Expenses, a Unit Owner remaining in his Unit for any period of time thereafter shall be required to pay a reasonable fee for the use and occupancy of his Unit and a receiver may be appointed to collect same.

The Trustee(s) acting on behalf of all Unit Owners, shall have power to purchase a Unit at the lien foreclosure sale and to acquire, hold, lease, mortgage (but not to vote the votes appurtenant thereto), convey or otherwise deal with the same.

A suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same and may be brought simultaneously with an action to so establish and foreclose upon said lien.

F. Application of Common Funds. The Trustee(s) shall expend common funds only for Common Expenses and other purposes permitted hereby and by the provisions of Chapter 183A.

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G. Notice of Default in Payment of Common Expenses. Pursuant to the applicable provisions of M.G.L. c. 183A, s. 6, and/or upon the written request of the holder of any mortgage upon a Unit, the Trustee(s) shall notify such holder of any default by a Unit Owner in the payment of his share of the Common Expenses.

H. 6(d) Certificates. Upon request of a Unit Owner or his designee, a majority of the Trustee(s) shall, within ten (10) days of request and payment of any fee therefor, provide a certificate in conformity with M.G.L. c. 183A, s. 6(d), specifying the amount, if any, of any unpaid Common Charges assessed to the Unit Owner and/or attributable to the Unit. The Trustee(s) may in their discretion impose a reasonable fee for the provision of such statement. Such Certificate shall be signed by a majority of the Trustees, except that a Trustee may not sign a 6(d) Certificate for their own Unit. A majority of the Trustees, by an instrument recorded at said Registry, may delegate the authority to sign 6(d) certificates to a third party including a managing agent or employees or principals of a managing agent.

Section 5.6. Insurance. The Trustee(s) and the Unit Owners shall obtain and maintain the following insurance policies:

A. Liability Insurance. The Trustee(s) shall obtain and maintain, to the extent obtainable and/or applicable, master policies of insurance with respect to the Common Areas and Facilities for the benefit and protection of the Trust and all Unit Owners for: (i) comprehensive public liability insurance in such limits as the Trustee(s) may, from time to time, determine but in no case less than \$2,000,000/\$2,000,000 in coverage, covering the Trust, the Trustee(s), the Property Manager, if any, and each Unit Owner with respect to liability arising out of ownership, maintenance or repair of the Common Areas and Facilities of the Condominium, such insurance containing a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Condominium Unit Owner because of negligent acts of the Trust, the Trustee(s), the Unit Owner or other Unit Owners, and other provisions commonly referred to as a "Special Condominium Endorsement" or its equivalent; (ii) workmen's compensation and employee's liability insurance; (iii) if applicable, boiler and machinery insurance in such limits as the Trustee(s) may, from time to time, determine; and (iv) such other liability insurance as the Trustee(s) may from time to time deem appropriate and desirable.

B. Fidelity Coverage. The Trustee(s) shall obtain fidelity coverage against dishonest acts on the part of the Trustee(s), the Property Manager, if any, employees or volunteers responsible for handling funds belonging to Trust or administered by the Trustee(s). This fidelity insurance shall name Copley Heritage Townhomes as the named insured and shall be written in an amount equal to the maximum amount that will be in the custody of the Trust at any one time, but in no event less than three months Common Expenses plus all reserves. In connection with such

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coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

- C. Directors and Officers Liability Insurance. The Trustee(s) may obtain Directors' and Officers' Liability Insurance in such amounts and upon such terms as they deem appropriate.
- D. FHLMC and FANNIE MAE Insurance Requirements. The Trustees and its managing agent may rely upon the advice of its insurance agent in determining what coverage and in what amounts those coverages should be maintained by the Trust.
- E. Unit Owners' Insurance. Unit Owners shall carry insurance for their own benefit insuring their furniture, furnishings and other personal property located within their respective Units or its appurtenances, and for such as is not covered by the Condominium master policies, particularly any deductible; provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Trustee(s) shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. Unit Owners shall in all events maintain liability insurance covering damage to the Property in such reasonable amounts as the Trustee(s) may determine and, upon request, provide evidence thereof to the Trustee(s).
- F. Terms and Conditions of Policies. Policies for casualty insurance, and to the extent applicable, such other policies of insurance, shall provide: (i) that the insurance company waive any right of subrogation against the Trustee(s), their agents and employees, and the Unit Owners, their respective employees, agents, and guests to the extent they are not specifically obligated hereunder; (ii) that the insurance shall not be prejudiced by any act or neglect of any Unit Owners or occupants or any other person or firm (including employees and agents of the Trustee(s)) when such act or neglect is not within the control of the Trustee(s) (or Unit Owners collectively) or by failure of the Trustee(s) (or Unit Owners collectively) to comply with any warranty or condition with regard to any portion of the premises over which the Trustee(s) (or Unit Owners collectively) have no control; (iii) that such policies may not be canceled or substantially modified without at least twenty (20) days' prior written notice to all Unit Owners and mortgagees of Units to whom certificates of insurance have been issued; (iv) that recovery there under shall not be affected on account of the availability of proceeds under any policies obtained by individual Unit Owners covering their Units; and (v) if obtainable, that the company shall waive any right it may have under the policy to repair or restore damage should the Unit Owners elect to terminate the Condominium because of such damage.

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Such insurance policies may provide for a deductible for each coverage thereof as determined by the Trustee(s) in their absolute discretion. In the event of any loss which relates in part to insurable portions of a Unit, or Units, and/or in part to the Common Elements, the Trustee(s) shall apportion the deductible amount directly proportional to the amount of such loss related to such Unit, or Units, and/or the amount of the loss related to the Common Areas and Facilities. Where such loss is solely to a Unit, the deductible amount shall be borne solely by the Unit Owner thereof. Where such loss is solely to the Common Elements, such shall be borne from the common funds.

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- G. Trustee(s) As Insurance Trustee(s). The Trustee(s) (i) shall have exclusive authority to negotiate all losses as herein provided for, (ii) shall collect and receive all loss insurance proceeds, and (iii) shall hold, use, apply and disburse the same in accordance with the applicable provisions of these By-Laws for the benefit of the Unit Owners and their respective mortgagees. With respect to losses which affect portions or elements covered by such insurance or more than one Unit and/or the Common Elements to different extents, the proceeds relating thereto shall be used, applied and disbursed by the Trustee(s) in their judgment in a fair and equitable manner, primarily based upon the relative losses.
- H. Authorized Insurance Representative. Notwithstanding any of the forgoing provisions and requirements to the contrary relating to physical damage or liability insurance, there may be named as an insured, on behalf of the Trustee(s), the Trustee(s)' authorized representative, including any Trustee, with whom such Trustee(s) may enter into any Insurance Trust Agreement or any successor to such Trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such physical damage or public liability insurance. Each Unit Owner appoints the Trustee(s), or any Insurance Trustee or substitute Insurance Trustee designated by the Trustee(s), as his attorney-in-fact for the purpose of purchasing, maintaining and administering such insurance, including without limitation the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.
- I. Notification of Mortgagees. The Trustee(s), on behalf of the organization of Unit Owners, shall, when requested by mortgagees of Units, give written notice to such mortgagees of such loss to the Common Areas and Facilities, or to the Unit mortgaged, as the mortgagee requests.
- J. Certificates of Insurance. Certificates of insurance with proper mortgagee endorsements, when requested, shall be issued to Unit Owners or their designees. The Trustee(s) may charge a reasonable fee for obtaining and issuing such certificates.

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K. Notification to Trustee(s) of Improvements. Each Unit Owner shall notify the Trustee(s) in writing of all improvements to his or her Unit (except personal property other than fixtures) which exceed a total value of Five Thousand Dollars (\$5,000.00) within twenty (20) days after the commencement of construction or installation of such improvement, and upon receipt of such notice, the Trustee(s) shall notify the insurer under any casualty policy obtained pursuant to this Section of such improvements and shall, if necessary, purchase additional casualty insurance in such amounts as may be required under this Section. Any premium increase caused by insuring such improvements may be assessed to the Owner of the improved Unit as a Common Expense attributable to such Unit. No Unit Owner shall be entitled to receive insurance proceeds for repair, replacement or restoration of any such improvement not so reported to the Trustee(s), unless otherwise consented to the Trustee(s).

Section 5.7. Rebuilding, Restoration and Condemnation. The following provisions shall apply in the case of casualty loss or condemnation:

A. Casualty Loss. In the event of damage to or destruction of the Condominium as a result of fire or any other casualty, the Trustee(s) shall proceed as follows:

i. Casualty Loss to Units. Where such damage or destruction is solely to a Unit, or Units, the Insurance Trustee designated herein shall promptly adjust and collect the loss and disburse the master policy insurance proceeds in appropriate progress payments with appropriate retainage to the Unit Owner(s) affected so as to facilitate and ensure the repair and restoration of the Unit or Units, so damaged or destroyed. In such case as an affected Unit Owner should fail to promptly take such action as the Trustee(s) deem appropriate to repair or restore his Unit, the Trustee(s) may, but shall not be obligated to, proceed thereto, in whole or in part, for his account and utilize the said insurance proceeds accordingly. The affected Unit Owner(s) shall bear any cost or expense for such repair and restoration in excess of the available insurance proceeds under the master policy, including any excess resultant from the application of any deductible thereon. Where more than one Unit is so damaged or destroyed, said proceeds and deductible shall be apportioned based upon the basis of the relative damage to each Unit; provided, however, that in such case as such damage or destruction is caused by the acts or omissions of a Unit Owner, his family, servants, agents, employees or invitees, any deficiency in the insurance proceeds shall be borne solely by such Unit Owner. Similarly, should there be any deficiency in the insurance proceeds resultant from a Unit Owner's failure to promptly and accurately report any improvements to his Unit pursuant to the provisions of Section 5.6.M, such deficiency shall be borne by such Unit Owner. The extent to which the cost is in excess of the insurance proceeds is attributable to such Unit Owner's failure to report improvements or is due to

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the acts or omissions as aforesaid shall be determined by the Trustee(s) in their reasonable discretion.

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ii. Casualty Loss to Units and Common Elements or Common Elements Only. Where such damage or destruction is solely to the Common Elements, or to both the Common Elements and Units, the Trustee(s), in their reasonable discretion, shall forthwith determine whether or not the loss exceeds ten percent (10%) of the value of the entire Condominium community immediately prior to the casualty and thereupon shall notify all Unit Owners of such determination. In furtherance thereof the Trustee(s) may employ such persons, firms or entities as are, in their judgment, appropriate to assist in such determination.

a. Loss Less Than Ten Percent. If the loss as so determined is less than, or equals, ten percent (10%) of the value of the entire Condominium community immediately prior to the loss, the Trustee(s) shall proceed as provided in Subsection i above provided that the Common Elements shall be repaired and restored by the Trustee(s) and any deficiency thereto relating shall be borne from common funds.

b. Loss In Excess Of Ten Percent. If the loss to the Common Elements as so determined exceeds ten percent (10%) of the value of the entire Condominium community immediately prior to the loss, the Trustee(s) shall seek the agreement of seventy-five percent (75%) of the Unit Owners by submitting to the Unit Owners a form of agreement (the Restoration Agreement) whereby the Unit Owners authorize the Trustee(s) to proceed with the necessary repair and restoration.

(1) If such percentage of Unit Owners agree (by executing the Restoration Agreement) to proceed to the necessary repair and restoration, then the Trustee(s) shall proceed thereto as provided in Subparagraphs i and ii above; provided that the cost of such repair and restoration in excess of available insurance proceeds shall be a Common Expense payable from common funds or by special assessment, if necessary; and further provided, however, that any Unit Owners who did not so agree may apply to the Superior Court of the county in which the Condominium is located on such notice to the Trust as the Court shall direct, for an order directing the purchase of their Units by the Trust at the fair market value thereof as approved by the Court. The cost of any such purchase shall be a Common Expense.

(2) If such percentage of Unit Owners do not, within one hundred twenty (120) days of the occurrence of such loss, agree to proceed with the repair and restoration (by executing the Restoration

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C O Agreement and timely returning the same to the Trustee(s)), a Unit Owner's proportionate share of the insurance proceeds with respect to the Common Areas and Facilities, together with the portion of the insurance proceeds allocated to any Unit as a result of a loss to such Unit due to the casualty shall, to the extent permitted by law, shall be paid first to the holder of the first mortgage of such Unit, if any, up to, but not in excess of, the then principal balance secured thereby and any accrued interest and other charges then due the holder of the first mortgage, and thereafter to the Unit Owner, and if first mortgagees, of which the Trustee(s) have received notice, holding mortgages on Units having at least seventy-five percent (75%) of the Beneficial Interest approve a suit for partition then the Condominium shall be subject to partition at the suit of any Unit Owner. Such suit shall be subject to dismissal at any time prior to entry of an order to sell if an appropriate agreement to rebuild is recorded. The net proceeds of a partition sale together with common funds of the Trust (adjusted for insurance proceeds paid or payable to mortgagees as aforesaid) shall be divided all as provided by law and distributed, with respect to the amounts respectively secured thereby, to the secured parties and thereafter to the Unit Owners. Upon such sale, the Condominium shall be deemed removed from the provisions of Chapter 183A.

(3) The Trustee(s) may perform emergency work essential to the preservation and safety of the Property or the safety of persons or required to avoid the suspension of any essential service to the Condominium without having first adjusted the loss or obtained proceeds of insurance or otherwise having complied herewith.

(4) If there shall have been a repair or restoration pursuant to the foregoing and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds, if any, shall be added to the Condominium's Capital Expense Reserve Account or shall be, at the option of the Trustee(s), divided among all of the Unit Owners in the condominium community in proportion to their respective Beneficial Interest; provided, however, that no provision herein shall be deemed to give a Unit Owner or any other party priority over any rights of the holder of a first mortgage (if any) on such Unit Owner's Unit pursuant to such mortgage in the case of a distribution to such Unit Owner of insurance proceeds for losses to Units and/or Common Elements. First Mortgagees of Units will be entitled to priority with respect to any insurance proceeds distributed to their mortgagors.

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(5) Notwithstanding anything to the contrary contained in this Subsection, in the event that any Unit Owner shall dissent from any determination of the Trustee(s) with respect to the value of the Condominium or any other determination or action of the Trustee(s) under this Subsection by notice in writing to the Trustee(s) within ten (10) days after such determination or action, and such dispute shall not have been resolved within thirty (30) days after such notice, then either the Trustee(s) or the dissenting Unit Owner may submit the matter to arbitration, and such arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association.

(6) Notwithstanding anything to the contrary contained in the preceding paragraphs of this Subsection, the Trustee(s) shall not, in any event, be obliged to proceed with any repair or restoration unless and until they have received funds in an amount equal to the estimate of the Trustee(s) of all costs thereof.

(7) The foregoing provisions are intended to comply with Section 17 of Chapter 183A and to be, in addition, consonant with the requirements of FHLMC and FANNIE MAE. To the extent there is a conflict between the provisions hereof and Chapter 183A, Chapter 183A shall control.

B. Eminent Domain. If more than ten percent (10%) of the entire Condominium is taken under any power of eminent domain, the taking shall be treated as a "casualty loss", and the provisions of Section 17 of Chapter 183A of Massachusetts General Laws shall apply. Where one or more Units have been substantially altered or rendered uninhabitable as a result of a partial taking, and the Unit Owners vote to restore and continue the Condominium pursuant to the provisions of Section 17 of said Chapter 183A, the Trustee(s) shall have the authority to acquire the remaining portions of such Units, for such price as the Trustee(s) shall determine, provided that any Unit Owner of such remaining portion who does not agree with such determination may apply to the Superior Court, on such notice to the Trustee(s) as the Court shall direct, for an order directing the purchase of such remaining portion at the fair market value thereof as approved by the Court. Where as a result of a partial taking any Unit is decreased in size or where the number of Units is decreased by a partial taking, then the Trustee(s) may make such provision for realignment of the Undivided Interests in the Common Areas and Facilities as shall be just and equitable.

In the event of a total or partial taking under the powers of eminent domain, the Unit Owners shall be represented by the Condominium acting through the

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Trustee(s). In the event of a partial taking, the award shall be allocated among the affected Units according to their appurtenant Beneficial Interest, and paid first to the extent permitted by law, to the holder(s) of the first mortgage of such Unit(s), if any, up to, but not in excess of, the then principal balance secured thereby and any accrued interest and other charges then due the holder(s) of the first mortgage. In the case of a total taking of all Units and the Common Areas and Facilities, the entire award shall be payable to the Trustee(s) to be allocated among the Units according to their appurtenant Beneficial Interest, and paid first to the extent permitted by law, to the holder(s) of the first mortgages of such Unit(s), if any, up to, but not in excess of, the then principal balance secured thereby and any accrued interest and other charges then due the holder(s) of the first mortgage. As to any portion or portions of any award which are attributable to direct or consequential damage suffered by particular Units, they shall be payable to the owners of such particular Units and their mortgagees, as their interests may appear.

Section 5.8. Improvements to the Units and Common Elements. The following provisions shall apply in the case of any improvement at the Condominium.

A. Improvements to Common Areas and Facilities as Shared Expenses. If and whenever the Trustee(s) shall propose to make any improvement (versus maintenance, repair or replacement) to the Common Areas and Facilities or shall be requested in writing by one-half of the Unit Owners to make any such improvement, the Trustee(s) shall submit to all Unit Owners a form of agreement (which may be in several counterparts) (the "Improvement Agreement") specifying the improvement or improvements proposed to be made and the estimated cost thereof, and authorizing the Trustee(s) to proceed to make the same. Upon the receipt by the Trustee(s) of such Improvement Agreement executed by seventy-five percent (75%) of the Unit Owners or the expiration of ninety (90) days after such agreement was first submitted to the Unit Owners, whichever of said events shall first occur, the Trustee(s) shall notify all the Unit Owners of the aggregate percentage of the Unit Owners who have then executed such Improvement Agreement. If such percentage is equal to or exceeds seventy-five percent (75%), the Trustee(s) shall proceed to make the improvement or improvements specified in such agreement and, in accordance with Section 18 of Chapter 183A, shall charge the cost of such improvement to all Unit Owners as a Common Expense in accordance with their Beneficial Interest. Provided, however, that if the Trustee(s) shall determine in their reasonable discretion that the cost of such improvement exceeds ten percent (10%) of the then value of the entire Condominium community, any Unit Owner who did not so agree to proceed may apply to the Superior Court, on such notice to the Trustee(s) as the Superior Court shall direct, for an order directing the purchase of his Unit by the Trustee(s) at the fair market value thereof as approved by the Court. The cost of any such purchase shall be a Common Expense. If more than fifty percent (50%) of the Unit Owners but less than seventy-five percent (75%) of them so approve, the Trustee(s) shall proceed to make such

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improvement or improvements and shall charge the same solely to the Unit Owners so approving; provided, however, that the Unit Owners shall be afforded the opportunity to execute the Improvement Agreement conditioned upon obtaining the aforesaid seventy-five percent (75%) agreement.

Notwithstanding anything to the contrary contained in this Subsection, in the event that any Unit Owner or Owners shall dissent from any determination of the Trustee(s) with respect to the value of the Condominium or any other determination or action of the Trustee(s) under this Subsection by notice in writing to the Trustee(s) within ten (10) days after such determination or action, and such dispute shall not be resolved within thirty (30) days after such notice, then either the Trustee(s) or the dissenting Unit Owner or Owners may submit the matter to arbitration, and such arbitration shall be conducted by a single arbitrator appointed by and in accordance with the rules and procedures of the Real Estate Bar Association of Massachusetts (REBA).

Notwithstanding anything to the contrary contained in this Subsection, the Trustee(s) shall not in any event be obligated to proceed with any improvement unless and until they have received funds in an amount equal to the estimate of the Trustee(s) of all costs thereof.

- B. Improvement at Unit Owner Expense. If and whenever any Unit Owner shall propose to make an improvement to or affecting the Common Areas and Facilities of the Condominium at such Unit Owner's own expense, and the Trustee(s) determine in their reasonable discretion that such improvement would be consistent and compatible with the Condominium and the use and enjoyment thereof by its residents, the Trustee(s) may, but shall not be obligated to, authorize such improvement to be made at the sole expense of the Unit Owner proposing the same, without the consent or approval of other Unit Owners, subject to such contractual undertakings of the Unit Owner proposing such improvement as the Trustee(s) in their reasonable discretion deem to be necessary or desirable in the circumstances.
- C. Improvements to Units. No Unit Owner shall make any addition, alteration or improvement in or to his Unit or to any portion of the Common Areas and Facilities to which he has the exclusive use, which may affect the appearance or structure of the Condominium, or the integrity of its systems, or which is otherwise restricted by the Master Deed, without the prior written consent thereto of the Trustee(s). Said request shall include adequate plans, specifications and similar items, so as to enable the Trustee(s) to reasonably review such request.

As to any request for approval pursuant to this Subsection the Trustee(s) may engage, if they so choose, an architect or engineer or both, if necessary, to review the plans and specifications to be attached to said request, and such architect or engineer's fees shall be paid by the requesting Unit Owner. If the said engineer

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and/or architect determines that the plans and specifications are consistent with the structural integrity and/or design character, as relevant to the particular request, of the Condominium, the Trustee(s) may then, in their sole discretion, approve or disapprove said plans, or approve them subject to certain conditions including restrictions in the manner of performing such work and requirements thereto related and such other restrictions as may be contained in the Master Deed.

All additions, alterations or improvements to any Unit (whether or not affecting the structural or mechanical systems of the Condominium) shall be performed in compliance with all applicable laws, regulations and codes, and when required thereby, by licensed contractors and shall be completed in a good and workmanlike manner. Each Unit Owner, and his contractors, shall cooperate with the Trustee(s) and other Unit Owners so as not to unduly inconvenience or disturb the occupants of the Condominium. Notwithstanding any other provision of these By-Laws, the cost of repairing or restoring any damage to the Common Areas and Facilities or to any Unit which is caused by any work being performed by or for a Unit Owner shall be charged solely to such Unit Owner. The foregoing shall not be construed to interfere with a Unit Owner's right to decorate his Unit and/or affix fixtures normally associated with the permitted uses of the Unit.

D. Permits. To the extent that any addition, alteration or improvement to a Unit by the Unit Owner requires a permit, license or similar item to be obtained in the name of the Condominium, Trust or Trustee(s), from a governmental authority, the application there for shall be executed by the Trustee(s) without, however, incurring any liability on the part of the Trustee(s), or any of them, or the Trust to any contractor, subcontractor or materialman or any other person on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom, or, if permissible, to such governmental authority. The Unit Owner shall bear all costs associated herewith and shall be fully responsible there for, and wholly liable there under; and shall pay to the Trustee(s) such fee there for as the Trustee(s) may reasonably determine.

Section 5.9. Rules, Regulations, Restrictions and Requirements. The use of the Condominium and each Unit Owner's Unit shall be restricted to and shall be in accordance with the provisions of the Master Deed, this Trust (including the By-Laws and such administrative rules and regulations as the Trustee(s) may adopt pursuant to this Trust), and all applicable laws, zoning ordinances, rules, regulations and requirements of all governmental bodies having jurisdiction over the Condominium or the use and occupancy thereof.

The Trustee(s) shall have the right (which right shall not be delegated) at any time and from time to time to adopt, amend and rescind reasonable administrative rules and regulations governing the operation, appearance and use of the Common Areas and Facilities including, without limitation, Common Areas and Facilities the exclusive use of which is for one or more Units, and otherwise providing for the administration of the Condominium as contemplated by the

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Master Deed and the Trust and in interpretation thereof (the "Rules and Regulations"); provided, however, that any such Rules and Regulations shall not be promulgated and/or amended which will materially and adversely affect the holder of any first mortgage of which the Trustee(s) have received notice without the written consent of such holder. Any such Rules and Regulations shall be consistent with provisions of the Master Deed, the Declaration of Trust and Chapter 183A. Copies of such Rules and Regulations and any amendments or changes thereto shall be furnished by the Trustee(s) to each Unit Owner and shall be recorded with the Registry of Deeds. The Rules and Regulations shall be considered By-Laws for all purposes, and the initial Rules and Regulations are set forth herein as Exhibit "A".

The Master Deed, this Trust and the Rules and Regulations, as from time to time amended, shall be enforced by the Trustee(s). The Trustee(s) may eliminate any violation and the cost and expense, including, but not limited to, attorney's fees and fines, of eliminating such shall be chargeable to the Unit Owner who himself or whose family, servants, employees, agents, visitors, licensees, or pets are responsible for such violation. The cost of eliminating a violation caused by another than as specified shall be a Common Expense. The Trustee(s) may also levy reasonable fines against the Unit Owner for such violations and such fine shall constitute a portion of such Unit Owner's Common Expenses which shall be payable by the Unit Owner of such Unit upon demand and enforceable as a Common Expense. For each day a violation continues after notice it shall be considered a separate violation. In the case of persistent violation, the Trustee(s) shall have the power to require the Unit Owner to post a bond, or other security as they may determine, to provide for adherence.

Section 5.10. Pets. Subject to the applicable restrictions contained in the Master Deed and the attached Rules and Regulations as the same may be amended, Unit Owners may keep in their Units dogs (up to 50 lbs) and cats in their Exclusive Use areas and subject to the following conditions and such other reasonable conditions as the Trustee(s) may by rule and regulation impose:

- A. Such pets shall not interfere with the quiet enjoyment of the Condominium by its residents and may not be in such number as to create a nuisance;
- B. The Trustees may exclude a pet, including, but not limited to, exclusion based on the general disposition and noise level of a breed, or if said breed or behavior impacts the ability of the Trustees to obtain, or the premium for, any insurance required herein.
- C. Any permitted pet shall not be allowed upon the Common Elements unless restrained by a leash, transport box or cage; and in no event upon the land portion of the Property save for transit there across, except for areas designated therefor; and
- D. Each Unit Owner keeping such a pet or pets who violates any of the above conditions or permits any damage to or soiling of any of the Common Elements or permits any nuisance or unreasonable disturbance or noise shall:

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- i. be assessed by the Trustee(s) for the cost of the repair of such damage or cleaning or elimination of such nuisance and/or
- ii. be levied such fine as the Trustee(s) may reasonably determine and such legal fees and costs as the Trustees may incur; and/or
- iii. be required by the Trustee(s) to permanently remove such pet from Condominium upon five (5) days' written notice from the Trustee(s).

Section 5.11. Unit Owner Responsibility. Except as may be otherwise specifically provided herein, a Unit Owner shall be fully responsible for the acts and omissions, feasance, malfeasance and misfeasance, and all other conduct of his family members, servants, agents, employees, invitees, licensees, guests, pets or others upon the Property at the behest of the Unit Owner.

**Section 5.12. Enforcement of Charges, Fines, Obligations.** Any charge, fine, attorney's fees or other financial obligation to, of or on any Unit Owner, and/or Unit herein provided for shall constitute a lien upon such Unit and be enforceable to the same manner and extent as for Common Expenses provided for in this Declaration and Section 6 of Chapter 183A.

**Section 5.13. Attorneys' Fees and Costs.** In such case as it is necessary for the Trustee(s) to engage the services of an attorney, or attorneys, for the purpose of enforcing against a Unit Owner, occupant, or other person bound thereby, any provision of the Master Deed, the Declaration of Trust, the Rules and Regulations, or obligations there under, and/or for the purpose of defending any action brought by such person(s), said Unit Owner, occupant or other such person shall be liable for, in addition to any other liability, the fees and costs of such attorneys in so proceeding thereto, including the fees of all experts engaged in connection therewith. As to Unit Owners, the amount of such fines, fees and costs and attorney's fees shall constitute a lien upon the Unit enforceable to the same manner and extent as a lien for Common Expenses, and the Unit Owner shall be personally liable there for.

Section 5.14. Inspection of Books. The books, accounts and records of the Trustee(s) and of the organization of Unit Owners shall be open to inspection to any one or more of the Trustee(s), to the Unit Owners and to first mortgagees. The Trustee(s) may, however, subject to and in accordance with the applicable provisions of Chapter 183A, adopt reasonable rules and impose reasonable restrictions upon such access, including, but not limited to hours and place of availability, fees for reproduction, access only for condominium related purposes, and provision for the maintenance of confidentiality as to appropriate records.

**Section 5.15. Financial Reports to Unit Owners.** Within one hundred and twenty (120) days of the end of the fiscal year, the Trustee(s) shall cause to be provided to the Unit Owners a financial statement prepared by Management or by an accountant as determined in the sole discretion of the Trustees. Any Unit Owner, at his sole cost and expense, may at any time have the financial records of the Condominium audited by a certified public accountant of his choosing. The Trustee(s) shall fully cooperate therein; provided, however, that the auditing Unit Owner shall pay upon demand all reasonable costs and expenses incurred by the Trust in regards thereto.

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Section 5.16. Fiscal Year. The fiscal year of the Trust shall be each calendar year ending December 31 or such other date as may from time to time be determined by the Trustee(s).

Section 5.17. Checks, Notes, Drafts, and Other Instruments. Except as to reserve accounts, checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the names of the Trustee(s) or of the Trust may be signed by any Trustee, or by the Property Manager to whom such power may at any time or from time to time be delegated. Checks drawn on the Trust's reserve account(s) may only be signed by at least two Trustee(s) or one Trustee if there be only one.

Any instrument signed by any one or more, Trustee(s) which contains or is accompanied by a certification that said Trustee, or Trustee(s), are authorized to execute and deliver the same by appropriate vote of the Trustee(s) shall be conclusive evidence in favor of every person relying thereon or claiming there under. The Trustee(s) may sign any instrument under seal without being required to affix a formal, common or wafer seal.

Section 5.18. Notices to Unit Owners. Unless otherwise required by applicable law or order of court, every notice to any Unit Owner required under the provisions hereof, or which may be deemed by the Trustee(s) necessary or desirable in connection with the administration of the Condominium or which may be ordered in any judicial proceeding shall be deemed sufficient and binding if a written or printed copy of such notice shall be given by one or more of the Trustee(s) to such Unit Owner by leaving such notice, or mailing it postage prepaid and addressed to such Unit Owner, at his address at the Condominium, unless such Unit Owner has designated in writing to the Trustee(s) some other address for the receipt of notices. Such notice shall be given within such time period as herein, or by such court, required, and if there be no specified period then at least seven (7) days prior to the date fixed for the happening of the matter, thing or event of which such notice is given.

Section 5.19. Information to Be Provided By Unit Owners to Trustee(s). Each Unit Owner shall provide the Trustee(s), at such times and in such manner and form as the Trustee(s) shall require that information and data as the Trustee(s) may reasonably require in and for the efficacious performance of the Trustee(s)' duties as herein provided. Such information and data shall include, but shall not be limited to:

- A. The name and mailing address of the Unit Owner(s).
- B. The names of all occupants of the Unit, except guests of less than thirty (30) days duration.
- C. The name and address of all mortgagees, including the applicable loan numbers.

Section 5.20. Voting, Consents and Action Thereon. In regard to such actions and things as to which the consent or vote of the Unit Owners is required, unless a shorter period or requirement is imposed hereunder or by applicable law, the Trustee(s) shall have a period of six (6) months in which to obtain such consent or vote. The Trustee(s) shall have an additional period of six (6) months to obtain any required mortgagee consent. No Unit Owner may, after giving his consent

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or vote, rescind, modify or revoke such during said period. Should a Unit be sold during said period after the giving of such consent or vote, such consent or vote shall remain valid notwithstanding the change of ownership.

Section 5.21. Acquisition of Units by Trustee(s). Acquisition of Units by the Trustee(s) for the Trust may be made from the working capital and common funds in the hands of the Trustee(s), or if such funds are insufficient, the Trustee(s) may levy an assessment against each Unit Owner in proportion to his Beneficial Interest, as a Common Charge, or the Trustee(s), in their discretion, may borrow money to finance the acquisition of such Unit; provided, however, that no financing may be secured by an encumbrance or hypothecation of any property other than the Unit, together with the Appurtenant Interests, to be so acquired by the Trustee(s) and/or a pledge of the Common Charges.

Section 5.22. Property Manager. The Trustee(s) may hire or appoint a Property Manager to assist in the administration of the Condominium who shall perform such duties in the administration, management and operation of the Condominium, including the incurring of expenses, the making of disbursements and the keeping of accounts as the Trustee(s) shall from time to time determine. The Property Manager so retained shall in all events fully comply with the applicable provisions of Chapter 183A. Notwithstanding the appointment of such a Property Manager, the Trustee(s) shall retain ultimate control over the administration, management and operation of the Condominium.

Any such agreement for professional management of the Condominium shall be terminable without cause and without incurring payment of a termination fee on ninety (90) days' written notice, or such lesser period as the Trustee(s) may agree upon in such agreement. Such agreement may, additionally, be terminated for cause upon ten (10) days' notice; provided, however, that the Manager may cure within such period. Notwithstanding this provision, there shall be no right of cure in regard to the misappropriation of the Condominium's funds upon which event termination may be had immediately upon notice.

Section 5.23. Arbitration. All claims, disputes and other matters in question arising out of or relating to the Declarant shall be decided by arbitration, using a single arbitrator, in accordance with the construction industry arbitration rules of the Real Estate Bar Association of Massachusetts (REBA) then in effect. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrator shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Each party shall solely bear its own expenses, including legal fees, relating to arbitration and the parties agree that the arbitrators shall not be entitled to award punitive damages, multiple damages under M.G.L. c. 93A or attorney's fees.

Notices of the demand for arbitration shall be filed in writing with the other party to the dispute and with the Real Estate Bar Association of Massachusetts (REBA). The demand for arbitration shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen and a demand shall not be made after the date when institution of legal

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proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations or barred by the Limited Warranty Agreement provided to each Unit Owner at closing and incorporated herein by reference.

Notwithstanding the foregoing, the Trustees shall not undertake legal action relating to the Declarant or initial Trustee unless all of the unit owners of all units which may be created consent in writing to such legal action at a special meeting duly called by the Trustees and at which full disclosure is made by the Trustees and legal counsel as to the estimated cost of such legal action, estimated said costs shall include, but not be limited to, attorney's fees, costs of the arbitrator and the costs for any professionals to prepare reports or attend as expert witnesses. Any such action must be commenced within ninety (90) days after transfer of control of the Trust to the unit owners or shall be deemed forever waived by the Trustees and unit owners.

In the event of arbitration, the parties shall first attempt to agree upon a single arbitrator. If no agreement on an arbitrator can be reached, the Executive Director of the Real Estate Bar Association of Massachusetts (REBA) shall appoint an arbitrator from its panel of approved neutrals.

## ARTICLE VI

### Mortgages

Section 6.1. Unit Mortgages. Any Unit Owner may, without the prior written approval of the Trustee(s), mortgage his Unit to any person, firm or entity.

- A. Notice to Trustee(s). A Unit Owner who mortgages his Unit shall notify the Trustee(s) of the name and address of his mortgagee and loan number, and the Trustee(s) shall maintain such information. Except as may be provided by applicable law, the failure of a Unit Owner to notify the Trustee(s) shall not invalidate the mortgage or any other provisions or the rights of any holder of such mortgage.
- B. Notice of Unpaid Common Charges or Other Default; Material Amendment. In addition to the requirements of Section 6 of Chapter 183A, the Trustee(s), whenever so requested in writing by a mortgagee of a Unit, shall promptly report (i) any then unpaid Common Charges due from, or any other default by, the Unit Owner of the mortgaged Unit; (ii) any other default in the performance by the Unit Owner of the mortgaged Unit of any obligation under the Master Deed, this Trust or the Rules and Regulations which is not cured within sixty (60) days of notice to the Unit Owner; (iii) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a mortgage held, insured, or guaranteed by a mortgage holder or insurer or guarantor, as applicable; (iv) any lapse, cancellation or material modification of any insurance policy or fidelity insurance maintained by the Trustee(s); (v) any proposed action which requires the consent of a specified percentage of eligible mortgage holders as specified in the

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Master Deed or this Declaration of Trust; and/or (vi) any proposed material amendment to this Trust which may affect such eligible mortgagee's interests or rights.

C. Assignment of Unit Owner Rights. The right of any Unit Owner to vote, to grant or withhold any consent, and to exercise any other right or option herein granted to a Unit Owner may be assigned or transferred in writing to, or restricted in favor of, any mortgagee or a mortgage covering that Owner's Unit, and the Trustee(s) shall upon receipt of written notice thereof from such Unit Owner or mortgagee be bound by any such assignment or transfer which appears of record to be in full force and effect.

## ARTICLE VII

### Rights and Obligations of Third Parties Dealing With the Trustee(s)

Section 7.1. Third Parties' Reliance. No purchaser, mortgagee, lender or other person dealing with the Trustee(s) as they then appear of record in the Registry of Deeds shall be bound to ascertain or inquire further as to the identity of said Trustee(s) or of any changes therein. The receipts of the Trustee(s), or any one of them, for moneys or things paid or delivered to them, or him, shall be effectual discharges therefrom to the persons paying or delivering the same and no person from whom the Trustee(s), or any one or more of them, shall receive any money, property or other credit shall be required to see to the application thereof. No purchaser, mortgagee, lender or other person dealing with the Trustee(s) or with any real or personal property which then is or formerly was Trust Property shall be bound to ascertain or inquire as to the existence or occurrence of any event or purpose in or from which sale, mortgage, pledge or charge is herein authorized or directed, nor otherwise as to the purpose or regularity of any of the acts of the Trustee(s), or any one or more of them, purporting to be done in pursuance of any of the provisions or powers herein contained, nor as to the regularity of the resignation, election or appointment of any Trustee.

Section 7.2. Personal Liability Excluded. No recourse shall at any time be had under or upon any note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustee(s) or by any agent or employee of the Trustee(s), or by reason of anything done or omitted to be done by or on behalf of them, or any of them, against the Trustee(s) individually, or against any such agent or employee, or against any beneficiary, either directly or indirectly, by legal or equitable proceeding, or by virtue of any suit or otherwise, and all persons extending credit to, contracting with or having any claim against the Trustee(s), shall look only to the Trust Property for payment under contract or claim, or for the payment of any debt, damage, judgment or decree, or of any money that may otherwise become due or payable to them from the Trustee(s), so that neither the Trustee(s) nor the Unit Owners, present or future, shall be personally liable there for; provided, however, that nothing herein contained shall be deemed to limit or impair the liability of Unit Owners under provisions of Chapter 183A.

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Section 7.3. All Instruments Subject To Terms Hereof. Every note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustee(s), or by any agent or employee of the Trustee(s), shall be deemed to have been entered into subject to the terms, conditions, provisions and restrictions hereof, whether or not express reference shall have been made to this instrument.

Section 7.4. Recording. This Declaration of Trust and any amendments hereto and any certificate herein required to be recorded and any other certificate or instrument (including without limitation a certificate pursuant to General Laws, Chapter 183A, Section 6(d)) signed by any one Trustee which may be deemed desirable to record shall be recorded with the Registry of Deeds and such recording shall be deemed conclusive evidence of the contents and effectiveness thereof according to the tenor thereof; and all persons dealing in any manner whatsoever with the Trustee(s), the Property and/or the Trust Property or any beneficiary hereunder shall be held to have notice of any alteration or amendment of this Declaration of Trust, or change of Trustee or Trustee(s), when the same shall be recorded with said Registry of Deeds. Any certificate signed by a majority of the Trustee(s) in office at the time (or one Trustee if there be but one) setting forth as facts any matters affecting the Trust, including statements as to who are the beneficiaries, as to what action has been taken by the beneficiaries, and as to matters determining the authority of the Trustee(s) to do any act, when duly acknowledged and recorded with said Registry of Deeds shall be conclusive evidence as to the existence of such alleged facts in favor of all third persons, including the Trustee(s), acting in reliance thereon. Any certificate executed by any Trustee hereunder, or by a majority of the Trustee(s) hereunder, setting forth the existence of any facts, the existence of which is necessary to authorize the execution of any instrument or the taking of any action by such Trustee or majority, as the case may be, shall as to all persons acting in good faith in reliance thereon be conclusive evidence of the truth of the statements made in such certificate and of the existence of the facts therein set forth.

Section 7.5. Certificates of Incumbency and Address. The Trustee(s) shall from time to time as required by M.G.L. c. 183A and/or this Declaration of Trust record with said Registry of Deeds appropriate instruments reflecting the composition of the Board of Trustee(s) and the mailing address of this Trust.

## ARTICLE VIII

### Amendment and Termination

Section 8.1. Amendments to Declaration of Trust. The Trustee(s) may at any time and from time to time amend, alter, add to or change this Declaration of Trust in any manner or to any extent, provided such amendment, alteration, addition, or change is consented to in writing by the Unit Owners holding at least seventy-five percent (75%) of the Beneficial Interest or if such amendment, alteration, addition or change affects a provision then requiring more than such percentage, then by such larger percentage; provided, always, however, that no such amendment, alteration, addition or change (a) made without the written consent of the Declarant prior to the Declarant relinquishing control hereunder; or (b) made without the written consent of the Declarant, according to the purport of which, the Declarant's rights hereunder, or under the Master

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Deed, are changed in any way; or (c) according to the purpose of which, the percentage of the Beneficial Interest hereunder of any Unit Owner would be altered, or in any manner or to any extent whatsoever modified or affected so as to be different than the percentage of the Undivided Interest of such Unit Owner in the Common Areas and Facilities as set forth in said Master Deed, except as may be provided for elsewhere hereunder or in the Master Deed, other than by consent of the Unit Owners specified in the Master Deed; or (d) which would render this Trust contrary to or inconsistent with any requirements or provisions of Chapter 183A, shall be valid or effective.

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- A. Consent of Mortgagees to Amendments. In addition, this Trust may not be materially amended without the approval of at least seventy-five percent (75%) of the first mortgagees which have requested the Trustee(s) to notify them in such case as a material amendment is considered. As to any non-material amendment, the consent of any such mortgagee who does not respond to a request for consent within thirty (30) shall be deemed given.
- B. Effective Date of Amendment. Any amendment, alteration, addition or change pursuant to the foregoing provisions of this paragraph shall become effective upon the recording with said Registry of Deeds an instrument of amendment, alteration, addition or change, as the case may be, signed, sealed and acknowledged by a majority of the Trustee(s) then in office, setting forth in full the amendment, alteration, addition or change and reciting the consent of the Unit Owners and/or mortgagees herein required to consent thereto. Such instrument, so executed and recorded, shall be conclusive evidence of the existence of all facts and of compliance with all prerequisites to the validity thereof, whether stated in such instrument or not, upon all questions as to title or affecting the rights of third persons, and for all other purposes. No such amendment, addition or change shall be of any effect unless such instrument is so recorded within six (6) months of the date of the first consent thereto.
- C. Special Amendments. The foregoing notwithstanding, the Trustee(s) shall have the power coupled with the interest to, by an instrument signed by a majority of their number and duly recorded with said Registry of Deeds, amend this Declaration of Trust to (1) correct any scrivener's or technical error made herein; or (2) to make this Declaration of Trust comply with Massachusetts General Laws, Chapter 183A, requirements of the Town of Canton; or (3) to comply with rules or regulations promulgated by the Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC), and/or other so-called secondary mortgage market agencies; or (4) to satisfy applicable insurance requirements. This power may be exercised not only to add additional provisions or modify existing provisions, but also to delete theretofore required provisions should no longer be required.

Section 8.2. Termination. The Trust hereby created shall terminate only upon the removal of the from the provisions of Chapter 183A in accordance with the procedure there for set forth in Section 19 of Chapter 183 and the Master Deed.

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Section 8.3. Actions upon Termination. Upon the termination of this Trust, the Trustee(s) may, subject to and in accordance with provisions of Chapter 183A, sell and convert into money the whole of the Trust Property or any part or parts thereof, and, after paying or satisfying all known liabilities and obligations of the Trust and providing for indemnity against any other outstanding liabilities and obligations, shall divide the proceeds thereof among, and distribute in kind, all other property then held by them in trust hereunder, to the Unit Owners as tenants in common, according to their respective percentages of Beneficial Interest. In making any sale under this provision, the Trustee(s) shall have power to sell by public auction or private contract and to buy in or rescind or vary any contract of sale and to resell without being answerable for loss and, for said purposes, to do all things, including the execution and delivery of instruments, as may be their performance thereof be shown to be in their judgment necessary or desirable in connection therewith. The powers of sale and all other powers herein given to the Trustee(s) shall continue as to all property at any time remaining in their hands or ownership, even though all times herein fixed for distribution of Trust Property may have passed.

Notwithstanding anything to the contrary contained in this Section, in the event that any Unit Owner shall dissent from any determination of the Trustee(s) with respect to the value of the Condominium or any other determination or action of the Trustee(s) under this Section by notice in writing to the Trustee(s) within ten (10) days after such determination or action, and such dispute shall not have been resolved within thirty (30) days after such notice, then either the Trustee(s) or the dissenting Unit Owner may submit the matter to arbitration, and such arbitration shall be conducted in accordance with the rules and procedures of the Real Estate Bar Association of Massachusetts (REBA) as further described in Section 5.23.

**ARTICLE IX**  
Construction, Interpretation and Waiver

In the construction hereof, whether or not so expressed, words used in the singular or in the plural, respectively, include both the plural and the singular, words denoting males include females and words denoting persons include individuals, firms, associations, companies (joint stock or otherwise), trusts and corporations unless a contrary intention is to be inferred from them or required by the subject matter or context. The title headings of different parts hereof are inserted only for the convenience of reference and are not to be taken to be any part hereof nor to control or affect the meaning, construction, interpretation or affect hereof. All the trusts, powers and provisions herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts. Unless the context otherwise indicates, words defined in Chapter 183A shall have the same meaning herein and to the extent of any conflict between the terms hereof and the requirements of said Chapter 183A, the latter shall govern. The invalidity of any part of this Trust shall not impair or affect in any manner the validity, enforceability or effect of the balance of this Trust. No restriction, condition, obligation or provision contained in this Trust shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

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IN WITNESS WHEREOF said Declarant and Original Trustee has hereunto set its hand and seal on this 10th day of December, 2025.

Springdale Gardens, LLC

*Donald P. McNeice* Manager

Donald P. McNeice, Jr., Manager, Declarant

Acceptance by Initial Trustee:

See next page

W. Scott Lenhart, Initial Trustee

COMMONWEALTH OF MASSACHUSETTS

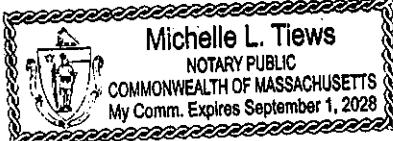
Bristol County, ss.

On this 10th day of December, 2025 before me, the undersigned notary public, personally appeared Donald P. McNeice, Jr., Manager of Springdale Gardens, LLC proved to me through my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose as Manager of Springdale Gardens, LLC.

  
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Michelle L. Tiews, Notary Public

My Commission Expires: 9/1/28

Qualified in the Commonwealth of Massachusetts



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Acceptance by Initial Trustee:

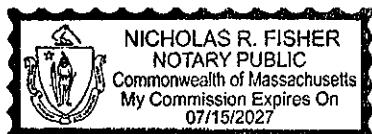
W. Scott Lenhart, Initial Trustee

COMMONWEALTH OF MASSACHUSETTS

Bristol County, ss.

On this 5th day of January, 2026 before me, the undersigned notary public, personally appeared W. Scott Lenhart, proved to me through my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose.

Nicholas R. Fisher, Notary Public  
My Commission Expires: 7/15/2027  
Qualified in the Commonwealth of Massachusetts



NOT  
AN  
OFFICIAL  
COPELEY HERITAGE TOWNHOMES ASSOCIATION  
DECLARATION OF TRUST

EXHIBIT A

## **RULES AND REGULATIONS**

## **GENERAL RULES:**

1. Littering within the Common Areas is prohibited.
2. All damage to the Common Areas caused by an owner, occupant, pet or guest must be repaired or replaced at the expense of the Homeowner.
3. All items left unattended in the Common Areas may be removed and stored by the Trustee(s) at the owner's expense.
4. Any noise, which distracts or disturbs others, is prohibited. Residents must refrain from any activity which creates a nuisance.
5. Homeowners must not give work instructions to any Association service contractor (e.g., landscaper or snowplow contractor). Instructions to service providers are set out in written contracts that can be modified only by the Trustee(s).
6. Each Homeowner or Resident shall keep his Exclusive Use Areas in a good state of preservation and cleanliness.
7. Each Homeowner or Resident assumes responsibility for his own safety and that of his family, guests, agents, servants and employees.
8. Pursuant to M.G.L. Chapter 183A and Article V, Section 5.12 and 5.13, the Trust may assess fines of up to Fifty Dollars (\$50.00) per day per violation and attorneys' fees against Homeowners for violations of the Master Deed, Trust and Rules and Regulations and these shall constitute a lien against the Lot and be the personal liability of the Homeowner.
9. No Unit may be rented for less than six months and under no circumstances can a Unit Owner permit the Unit to be used for hotel or transient purposes (for example, Air BnB. There is a maximum of three (3) units that are non-owner occupied at any given time. Unit 79 must be owner occupied at all times.
10. These Rules and Regulations may be amended from time to time as provided for in the Trust. The Board of Trustees shall have authority to enforce these regulations through the use of fines, legal action, etc.

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11. Attachments 1 and 2 are attached hereto and made a part hereof. Attachment 1 must be completed by a Homeowner prior to occupancy.

### **SNOW REMOVAL POLICY**

12. Snow shall be shoveled after 3 inches or more has accumulated and shall be cleared as soon as possible after the snowfall ceases.

13. It is the Homeowner's responsibility to:

- (i) Remove snow or ice build-up from balconies or roof decks. Salt should not be used on a roof deck as it may damage the roofing material.
- (ii) Remove snow underneath, around or what is left behind due to parked vehicles.
- (iii) Remove ice accumulations of steps, walkways and garage aprons. Only sand or calcium chloride may be used on poured concrete steps and aprons.
- (iv) It is your obligation to comply with the Town of Canton parking and snow removal policies at all times.

### **SOLAR PANELS**

14. Solar panels are not permitted to be installed unless approved by unanimous vote of all unit owners and under the condition that the panels are installed complex wide.

### **DECKS**

15. No grills may be used on decks.

16. No clothes, clotheslines, sheets, blankets, laundry or any kind of other articles shall be hung out in a location exposed to any other Subdivision lot or Marion Street.

17. The addition of or modifications to a deck may be made only with the express approval of the Trustee(s).

18. No antennas or satellite dishes are allowed without prior written approval of the Trustee(s) in accordance with their policies concerning physical location, installer insurance, wire location methods and indemnification for damage to the Common Areas.

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**MOTOR VEHICLES** C O P Y

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19. Parking in the common driveway in a fashion that blocks or makes access to other Units more difficult is prohibited. Blocking other garages or other Lots' parking spaces is prohibited.
20. All vehicles parked on the Common Areas must be operable and maintain a current plate from the Registry of Motor Vehicles. Vehicles with flat tires and expired registrations may be towed at owner's expense.
21. No commercial vehicles shall be parked on the Common Areas for more than twenty-four (24) hours.
22. No recreational motor vehicles or boats shall be parked on the common areas for more than twenty-four (24) hours for the purpose of loading or unloading. Homeowners with such vehicles must make arrangements for permanent storage off-site.
23. Visible oil or fluid leaks or spills on Common Areas must be cleaned IMMEDIATELY by the Homeowner. Efforts must be made immediately to correct the mechanical problem of any vehicle leaking oil or other surface staining fluids. Such repairs must be made within the Lot's garage or off the property.
24. Homeowners and residents must not pour or allow to spill, any oil, solvent or other volatile or flammable material into the storm drains or Common Areas. Vehicle repairs including oil changes are prohibited in the Common Areas.
25. Lawn ornaments and/or lawn furniture may not be placed in Common Areas. Landscape service contractors will not accept the responsibility of moving the personal property of residents to facilitate grass cutting.
26. Recreational equipment, which cannot be returned to the interior of the Lot each evening, is prohibited.
27. Skateboards, skateboard ramps and trampolines are prohibited from the Premises, including exclusive use areas.
28. There are five allocated guest parking spots and one handicapped spot for use by residents and their guests.
29. Homeowners may install storm doors, but only the brand, type and color approved by the Trustee(s) so as to provide a matching appearance.

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30. No change may be made in the exterior color of Lot doors unless the Trustee(s) approve a uniform change of the color of all doors.
31. Broken windows, torn screens, damaged front doors or damaged garage doors must be repaired immediately by the Homeowner at his expense.
32. No Homeowner may display neon signs from any window or doorway.

**PETS**

33. Dogs (under 50 lbs) and cats may be kept subject to the provisions of paragraph 5.10 herein. No animals of any kind shall be raised, bred or kept in any residence or the common or limited common areas.
34. All pets are to be leashed or kept in a kennel or crate when outside of a Lot.
35. Pets must not be permitted to run loose on the Common Areas.
36. NO PET shall be tied, fenced or housed outside a Lot.
37. Pet owners shall be held liable for all damages caused by their pets to any Common Areas including, but not limited to shrubs, bushes, trees and grass.
38. Pet owners are responsible for immediately picking up after their pets.

**GOOD NEIGHBOR POLICY**

The Association's Rules and Regulations define the standard of living residents may expect from our subdivision environment. These documents are designed to protect the rights of each resident. However, policy and procedure cannot replace courtesy and the need to communicate with each other. Before filing a complaint about a neighbor, take the time to have a personal discussion. Neighbors talking with each other, in a non-threatening way, can achieve quicker results in a friendlier fashion. Our documents are our foundation. Our community spirit lies within the hands of each resident.