

DECLARATION OF TRUST
AND
BY LAWS

SHREWSBURY COMMONS CONDOMINIUM TRUST

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THIS DECLARATION OF TRUST made this 28th day of January, 1974, at Boston, in the County of Suffolk and Commonwealth of Massachusetts, by John B. Hanley of Hanover, Plymouth County, Massachusetts, Desmond E. Sullivan of Magnolia, Essex County, Massachusetts, Robert Pickette of Waltham, Middlesex County, Massachusetts, Donald McGill of Boston, Suffolk County, Massachusetts (hereinafter called the Trustees, which term and any pronoun referring thereto shall be deemed to include their successors in trust hereunder and to mean the trustee or the trustees for the time being hereunder, wherever the context so permits).

ARTICLE I. – NAME OF TRUST

This trust hereby created shall be known as *Shrewsbury Commons Condominium Trust*, and under that name, so far as legal, convenient and practicable, shall all business carried on by Trustees be conducted and shall all instruments in writing by the Trustees be executed.

ARTICLE II. – THE TRUST AND ITS PURPOSE

SECTION 1. – GENERAL RIGHTS AND POWERS

All of the rights and powers in and with respect to the common areas and facilities of the Shrewsbury Commons Condominium, established by a Master Deed of even date and recorded herewith, which are by virtue of the provisions of Chapter 183A of the Massachusetts Laws conferred upon or exercisable by the Organization of Unit Owners of said Condominiums, and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder shall vest in the Trustees as joint tenants with right of survivorship as Trustees of this Trust, in trust to exercise, manage, administer, and dispose of the same and to receive the income thereof for the benefit of the beneficiaries, hereinafter called the Unit Owners according to the schedule of beneficial interest set forth in Exhibit 6 of said Master Deed, which is hereby made a material part of this trust, and in accordance with the provisions of said Chapter 183A; this Trust being the Organization of the Unit Owners established pursuant to the provisions of said Chapter 183A for the purposes therein set forth.

SECTION 2. – BENEFICIARIES OF TRUST

It is hereby expressly declared that a trust and not a partnership has been created and that the Unit Owners are cestuis que trustent (beneficiaries), and not partners or associates nor in any other relation whatever between themselves with respect to the trust property, and hold no relation to the Trustees other than of cestuis que trustent (beneficiaries) hereunder and under and pursuant to provisions of said Chapter 183A of the General Laws.

ARTICLE III. – BENEFICIAL INTEREST

The beneficiaries of the Trust shall be the Unit Owners of the Shrewsbury Commons Condominium. The Common Expenses and Residual Funds of the trust hereunder shall be divided among the Unit Owners, according to their respective percent of ownership in the common elements.

BY-LAWS

The Provisions of Articles IV, V, VI, and VII shall constitute the By-Laws of this Trust.

ARTICLE IV. – GENERAL PROVISIONS

SECTION 1. – APPLICABILITY OF BY-LAWS

The provisions of these By-Laws are applicable to the Property of the Condominium and to the use and occupancy thereof. The term "Property" as used herein shall include the land, the buildings and all other improvements thereon, including the Units and common areas and facilities, owned in fee simple absolute, 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 of Massachusetts General Laws. The provisions of these By-Laws shall automatically become applicable to property which may be added to the Condominium upon the recording of an amendment to the Master Deed submitting such additional property to the provisions of Chapter 183A of the Massachusetts General Laws.

SECTION 2. – APPLICATION

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

SECTION 3. – PERCENTILE OF INTEREST – VOTING

Each Unit will be entitled to one vote which will be weighted according to the percentage of interest of that particular Unit as specified in Exhibit 6 of the Master Deed.

SECTION 4. – VOTING

The beneficial interest of each Unit shall be held, exercised and voted as a unit and shall not be divided among several owners. To that end, whenever a Unit is owned by more than one person, the several owners of that Unit shall:

- a. Designate which person of such Unit shall be authorized to cast votes, execute instruments, and otherwise exercise the rights in these documents appertaining to that Unit;
- b. Notify the Board of Trustees of that designation in writing, the notice being signed by all of the Owners of that Unit.

SECTION 5. – PROXY

- a. The Owner of any Unit may designate some person to act as proxy on his behalf who shall have the right to cast the vote appurtenant to that Unit at any meeting of the Unit Owners.

- b. The proxy need not be a Unit Owner.
- c. The designation of a proxy must be by instrument in writing signed by all owners of record of that Unit and delivered to the Secretary of the Board of Trustees.
- d. The proxy designation may be revoked by written instrument delivered to the Secretary of the Board of Trustees signed by any one of that Unit's Owners.

SECTION 6. – MAJORITY

As used in these By-Laws, the term "Majority" shall mean the vote of Unit Owners having more than 50% of the total authorized weighted votes of all Unit Owners present in person or by proxy and voting at any meeting of the Unit Owners determined in accordance with the provisions of Section 3 of Article IV.

SECTION 7. – MEETINGS

- a. *Annual Meeting* – An Annual Meeting of all Unit Owners will be held on the first Thursday of December of each year. At this meeting members of the Board of Trustees will be elected by ballot of the Unit Owners in accordance with the provisions of this document. The Unit Owners may also transact such other business of the Condominium as may properly come before them.
- b. *Special Meetings* – Special meetings of the Unit Owners shall be called to transact business of the Condominium by the President or other officers so empowered:
 - (1) As directed by the Board of Trustees; or
 - (2) Upon written request signed by one fourth of the Unit Owners.

SECTION 8. – PLACE OF MEETING

The Board of Trustees will determine a place and time for meetings that are suitable and convenient for the Unit Owners.

SECTION 9. – NOTICE OF MEETINGS

It shall be the duty of the Secretary to mail a notice of each Annual or Special Meeting, stating the purpose, time and place of the meeting to each Unit-Owner of record at least seven (7) days prior but not earlier than twenty-one (21) days prior to that meeting.

SECTION 10. – ADJOURNMENT OF MEETING

If any meeting of Unit Owners cannot be held because a quorum has not attended, either a majority of the Unit Owners present or the President may adjourn the meeting to a time not less than 48 hours from the time of the original meeting. In this event, no new notice need be given and if a quorum is present, all business of the Condominium may be transacted.

SECTION 11. – QUORUM

The presence of a Unit Owner or Unit Owners possessing more than 50% of the beneficial interest shall constitute a quorum at all meetings of the Unit Owners.

SECTION 12. – MAJORITY VOTE

The vote of a weighted majority at a meeting at which a quorum is present shall be binding upon all Unit Owners except where a higher percentage is required by the Master Deed, the Declaration of Trust or Massachusetts General Laws, Chapter 183A.

SECTION 13. – PARLIAMENTARY PROCEDURES

All meetings of the Unit Owners shall be conducted according to the Rules of Parliamentary Procedures as set forth in Roberts Rules of Order.

ARTICLE V – TEMPORARY BOARD OF TRUSTEES

The Declarant of the Master Deed, hereinafter referred to as “Declarant” will initially appoint and may from time to time, at his discretion, replace four members of the Board of Trustees. These members will serve until the last Unit of the last part of the Condominium, as it may be expanded from time to time, is sold or the Condominium is declared completed by the Declarant by written notification to the Clerk of the Board of Trustees. The Trustees named herein are the original Trustees named by said Declarant.

Within thirty (30) days after the last unit in Part I is sold, or earlier at the discretion of the Declarant, Declarant will call a special meeting of the Unit Owners for the purpose of electing one additional member to the Board.

One additional member will be similarly elected to the Board at the completion of Part II and one at the completion of Part III. Thereafter, these three members only will be replaced upon completion of their respective terms at the annual meeting of the Unit Owners.

At the Annual Meeting of the Unit Owners following said completion of the Condominium, or the sale of the last Unit of the last part of the Condominium, the Unit Owners will elect four new members to the Board to replace the designees of the Declarant. The terms of all elected members of the Board will be staggered, in so far as possible, so that one third of the terms will expire each year.

ARTICLE VI – PERMANENT BOARD OF TRUSTEES

SECTION 1. – NUMBER OF MEMBERS

Subject to the provisions of Article V, there shall at all times be a permanent Board of Trustees consisting of not less than three nor more than seven members.

SECTION 2. – MANNER OF ELECTION OF BOARD MEMBERS

Board members will be elected at the annual meeting of the Unit Owners or at any special meeting of the Unit Owners called for that purpose.

SECTION 3. – TERMS OF THE BOARD MEMBERS

- a. The terms of office, except as provided herein, shall be a maximum of three years and such terms shall be staggered so that, insofar as possible, the terms of one-third of the Trustees shall expire each year.
- b. Upon any unscheduled decrease in the number of Board members, the term of office of the newly elected member will be to fill the unexpired term of the vacant office.
- c. Upon any increase in the number of Trustees, the term of office of each member will be determined by lot as to one, two or three years, so as to maintain the changeover on one-third of the Board Members each year.

SECTION 4. – LEGAL APPOINTMENT OF BOARD MEMBERS

Prior to performing any of the duties or exercising any of the powers of his office, a certificate of such appointment signed by a majority of the existing Trustees or by the Clerk of the Board of Trustees together with an acceptance thereof by the new member must be recorded in the Worcester Registry of Deeds.

SECTION 5. – OFFICERS OF THE BOARD AND DUTIES

- a. *President.* The President shall be the chief executive officer of the Condominium. He shall preside at all meetings of the Unit Owners and of the Board of Trustees. He shall have all of the general powers and duties which are incident to the office of President of a stock corporation organized under the Business Corporation Laws of the Commonwealth of Massachusetts, including but not limited to, the power to appoint committees from among the Unit Owners from time to time, as he may in his discretion decide, are appropriate to assist in the conduct of the affairs of the Condominium.
- b. *Vice President.* The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act the Board of Trustees shall appoint some other member of The Board of Trustees to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Trustees or by the President.
- c. *Secretary-Clerk.* The Secretary-Clerk shall keep the minutes of all meetings of the Unit Owners and of the Board of Trustees; shall have charge of such books and papers as the Board of Trustees may direct; and shall, in general, perform all the duties incident to the office of Secretary-Clerk of a stock corporation organized under the Business Corporation Law of the Commonwealth of Massachusetts.
- d. *Treasurer.* The Treasurer shall have the responsibility for Condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. He shall be responsible for the deposit of all moneys and other valuable effects in the name of the Board of Trustees, or the managing agent, in such depositories as may from time to time be designated by the Board of Trustees, and he shall, in general, perform all the duties incident to the office of Treasurer of a stock corporation organized under the Business Corporation of the Commonwealth of Massachusetts. No payment vouchers shall be paid unless and until approved by the Treasurer.

SECTION 6. – ELECTION OF OFFICERS

Officers of the Board will be elected annually by majority vote of the Board members at the first Board meeting following the Annual Meeting of Unit Owners.

SECTION 7. POWERS OF THE BOARD

The Board of Trustees, subject to the provision of Massachusetts General Laws, Chapter 183A, shall have the full power for the management and disposition of the Trust property. Such powers include, but are not necessarily limited to, the following:

- a. To operate, care for, and maintain the common elements;
- b. To determine the common expenses for the operation and maintenance of the common elements;
- c. To collect the common charges from the Unit Owners monthly in advance or at other reasonable times as they shall determine;
- d. To open bank accounts on behalf of the Condominium and designate signatories required therefor;
- e. To employ and dismiss personnel necessary or advisable for the operation and maintenance of the Condominium;
- f. To sell, assign, convey, transfer, exchange, and otherwise deal with or dispose of the Trust property, or any part or parts thereof, free and discharged of any and all trusts, at public or private sale, to any person or persons, for cash or on credit, and such manner, on such terms and for such considerations, and subject to such restrictions, stipulations, agreements and reservations as they shall deem proper, including the power to take back mortgages to secure the whole or any part of the purchase price of any of the Trust property sold or transferred by them, and to execute and deliver any deed or other instrument in connection with the foregoing; all agreements, deeds, leases, checks and other instruments of the Condominium shall be executed by any two (2) officers of the Board of Trustees or by such other person or persons as may be designated by the Board of Trustees;
- g. To purchase, rent, lease, or otherwise acquire such property as the Trust deems fit;
- h. To own, convey, encumber, lease, and otherwise deal with Units conveyed to it or purchased by it as a result of enforcement of a lien for common expenses, or right of first refusal, or otherwise;
- i. To lease, manage, or otherwise deal with the common elements;
- j. To obtain insurance for the property including the Units, subject to the provisions of Article VII, Section 4;
- k. To incur such liabilities, obligations and expenses, and to pay from the principal or the income of the Trust property in their hands all such sums as they shall deem necessary or proper for the furtherance of the purposes of the Trust;

- l. To adopt and amend rules and regulations covering the details of the operation and use of the Property;
- m. To make repairs, additions and improvements to, or alterations of, the Property and repairs to and restoring of the Property in accordance with the other provisions of these By-Laws; provided, however, that until Unit Owners comprise a majority of the Board of Trustees the Board shall not, without the consent of a majority in number and interest of the Unit Owners, except through the maker of the warranty, undertake any repair covered by warranty;
- n. To enforce obligations of the Unit Owners, to allocate income and expenses, and to do anything and everything else necessary and proper for the sound management of the Condominium; to levy fines against the Unit Owners for the violation of reasonable rules and regulations established by it to govern the conduct of the Unit Owners. (No fine may be levied for more than \$5 for any one violation but for each day a violation continues after notice it shall be considered a separate violation. Collection of fines may be enforced against the Unit Owners involved as if the fines were common charges owed by the particular Unit Owner or Unit Owners. In the case of persistent violations of the rules and regulations by a Unit Owner, the Board of Trustees shall have the power to require such Unit Owner to post a bond to secure adherence to the rules and regulations);
- o. To purchase or lease a Unit for use by a resident manager;
- p. To grant or relocate easements.

SECTION 8. – MANAGING AGENT AND MANAGER

The Board of Trustees shall employ for the Condominium a managing agent and/or a manager, at a compensation established by the Board of Trustees, to perform such duties and services as the Board of Trustees shall authorize.

SECTION 9. – DEFAULT IN PAYMENT OF COMMON CHARGES

In the event of default by any Unit Owner in paying to the Board of Trustees the common charges as determined by the Board of Trustees, such Unit Owner shall be obligated to pay interest at the legal rate on such common charges from the due date thereof, together with all expenses including attorneys' fees, incurred by the Board of Trustees in any proceeding brought to collect such unpaid common charges. The Board of Trustees shall have the right and duty to attempt to recover such common charges, together with interest thereon, 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 as provided in Section 6 of Chapter 183A of Massachusetts General Laws.

SECTION 10. – FORECLOSURE OF LIENS FOR UNPAID COMMON CHARGES

In any action brought by the Board of Trustees to foreclose a lien on a Unit because of unpaid common charges, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Trustees acting on behalf of all Unit Owners, shall have power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same, (but not to vote the votes appurtenant to). A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

SECTION 11. – STATEMENT OF COMMON CHARGES

The Board of Trustees shall promptly provide any Unit Owner so requesting the same in writing, with a written statement of all unpaid common charges due from such Unit Owner.

SECTION 12. – MEETINGS OF THE BOARD

- a. The Board of Trustees will meet at least twice each year. These meetings will be a minimum of three months apart.
- b. The first meeting will be held within ten days after the Annual Meeting of the Unit Owners.
- c. Regular meetings of the Board of Trustees may be held at such time and place as a majority of the Board Members shall determine.
- d. Additional meetings of the Board shall be called by the President of the Board: (1) at such times as he determines necessary; or (2) upon written request to him signed by any two members of the Board.

SECTION 13. – NOTICE OF BOARD MEETINGS

For any meeting of the Board of Trustees, written notification by mail or telegraph at least five (5) working days prior but not more than fourteen (14) days will be given to each Board member by the Clerk.

SECTION 14. – WAIVER OF NOTICE

- a. Any member of the Board of Trustees may at any time waive notice of any meeting of the Board in writing and such waiver shall be deemed equivalent to giving such notice.
- b. Attendance by any member at any meeting of the Board shall constitute a waiver of notice by him.
- c. If all the members of the Board are present at any meeting of the Board, no notice shall be required and any business may be transacted at that meeting.

SECTION 15. – QUORUM

The presence of a majority of the Board Members will constitute a quorum and the votes of a majority of the members present at a meeting at which a quorum is present shall constitute the decision of the Board. In any case, no business may be transacted at any meeting of the Board with any member absent unless that member has been given the required notice.

SECTION 16. – VACANCIES

- a. If a vacancy on the Board of Trustees is created for any reason a majority of the remaining members may, at their discretion, call a Special Meeting of the Unit Owners for the purpose of electing a new member to fill that vacancy. If no Special Meeting is called, the new member will be elected at the next Annual Meeting of Unit Owners.

- b. If at any time the number of Trustees shall become less than three, a Special Meeting of the Unit Owners will be held to elect new members so that the Board will at all times consist of a minimum of three members.
- c. If for any reason after that time less than three Board members have been elected, then Trustees to fill such vacancies may, upon the application of any Unit Owner, be appointed by any court having competent jurisdiction:

SECTION 17. – RESIGNATION OF BOARD MEMBERS

Any Trustee may resign at any time by instrument in writing, signed and acknowledged in the manner required in Massachusetts General Laws for the acknowledgement of deeds. That resignation to take effect upon the recording of that instrument in the Worcester Registry of Deeds.

SECTION 18. – REMOVAL OF BOARD MEMBERS

Any elected Trustee may be removed without cause by an affirmative vote of Unit Owners possessing more than 50% of the beneficial interest in the Trust but no such removal will be effective until notice thereof has been recorded with the Worcester Registry of Deeds.

SECTION 19. – LIABILITY OF THE BOARD MEMBERS

The members of the Board of Trustees shall not be liable to the Unit Owners for any negligence, erroneous judgement, or other reason, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Trustees against all contractual liability to others arising out of contracts made by the Board of Trustees on behalf of the Condominium unless any such contract shall have been made in bad faith, as aforesaid. It is intended that the members of the Board of Trustees shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is understood and permissible for the original Board of Trustees, who are members of or employed by the Declarant to contract with the Declarant and the affiliated corporations without fear of being charged with self-dealing. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Trustees or out of the aforesaid indemnity in favor of the members of the Board of Trustees shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements. Every agreement made by the Board of Trustees or by the managing agent or by the manager on behalf of the Condominium shall provide that the members of the Board of Trustees or the managing agent, or the manager, as the case may be, are acting only as agent for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder as his interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements.

SECTION 20. – BONDING OF BOARD MEMBERS

The Board of Trustees will attempt to obtain adequate fidelity bonds for all Board Members and employees of the Condominium handling or responsible for Condominium funds.

The premium on such bonds shall constitute a common expense.

SECTION 21. – COMPENSATION

No member of the Board of Trustees shall receive any compensation from the Condominium for acting as such.

SECTION 22. – POTENTIAL CONFLICTS OF INTEREST

No Trustee shall be disqualified by his office from contracting or dealing with the Trustees or with one or more Unit Owner (whether directly or indirectly because of his interest individually or the Trustees' interest in any corporation, firm, trust or other organization connected with such contracting or dealing or because of any other reason), as vendor, purchaser, or otherwise, nor shall any such dealing, contract or arrangement entered into in respect to this Trust in which any Trustee shall be in any way interested be avoided, nor shall any Trustee so dealing or contracting or being so interested be liable to account for any profit realized by any such dealing, contract or arrangement by reason of such Trustee's holding office or of the fiduciary relation hereby established; provided the Trustee shall act in good faith and shall disclose the nature of his interest before the dealing, contract or arrangement is entered into.

SECTION 23. – INDEMNITY OF TRUSTEES

The Trustees and each of them shall be entitled to indemnity both out of the Trust property and by the Unit Owners against any liability incurred by them or any of them in the execution hereof, including without limiting the generality of the foregoing, liabilities in contract and in tort and liabilities for damages, penalties and fines. Each Unit Owner shall be personally liable for all sums lawfully assessed for his share of the common expenses of the Condominium and for his proportionate share of any claims involving the Trust property in excess thereof, all as provided in Sections 6 and 13 of said Chapter 183A. Nothing in this paragraph contained shall be deemed, however, to limit in any respect the powers granted to the Trustees in this instrument.

ARTICLE VII. – OPERATION OF THE CONDOMINIUM

SECTION 1. – COMMON EXPENSES

The Unit Owners shall be liable for common expenses and entitled to any unexpended residual funds of the Condominium in proportion to their respective percentages of beneficial interest in the Trust.

The Board of Trustees may, at their discretion:

- a. Distribute any residual funds among the Unit Owners;
- b. Set aside common funds as a reserve for contingencies;
- c. Use the common funds for the reduction of indebtedness or other capital purposes;
- d. Use the common funds for improvements, repair, rebuilding, or restoration of trust property according to provisions of this declaration.

SECTION 2. – BUDGETS

- a. **Normal Budget** – At least thirty days prior to the start of each fiscal year, the Board of Trustees shall estimate the common expenses expected to be incurred during the fiscal year. The Board of Trustees shall then promptly render statements to the Unit Owners for their respective shares of such expenses. The budget shall include but not be limited to:
 - (1) Reasonable provision for contingencies and reserves,
 - (2) Insurance costs,
 - (3) Maintenance and operational costs including working capital,
 - (4) Management services fees.
- b. **Supplemental Assessments** – In the event that the Board of Trustees shall determine that actual costs will exceed or are likely to significantly exceed the projected budget, then they shall make supplemental assessments on the Unit Owners to cover such excess and render a statement therewith in the manner of the annual budget.
- c. **Expenditure of Funds** – The Board of Trustees shall expend common funds only for common expenses and lawful purposes permitted in this declaration, or by the Master Deed, or by the provisions of Massachusetts General Laws, Chapter 183A.

SECTION 3. – FINANCING OF PURCHASE OF UNITS BY BOARD OF TRUSTEES

Acquisition of Units by the Board of Trustees may be made from the working capital and common charges in the hands of the Board of Trustees, or if such funds are insufficient, the Board of Trustees may levy an assessment against each Unit Owner in proportion to his ownership in the Common Elements as a common charge, which assessment shall be enforceable in the manner as provided in Section 9 and 10 of Article VI, or the Board of Trustees, in its discretion, may borrow money to finance the acquisition of each 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, so to be acquired by the Board of Trustees.

SECTION 4. – INSURANCE

- a. **Master Policy** – The board of Trustees shall obtain and maintain master policies of casualty and physical damage insurance for the benefit and protection of the trustees and all of the Unit Owners and their mortgagees and shall insure against (1) loss by fire and other hazards covered by the standard extended coverage endorsement; and (2) other hazards as the Board may deem necessary or appropriate. Certificates of such insurance and all renewals thereof, together with proof of payment of premiums, shall be delivered by the Trustees to all Unit Owners and their mortgagees upon request.

- b. **Coverage** – This insurance shall cover the building and all other insurable improvements forming part of the common areas and facilities, including but not limited to;
- (1) Elevator,
 - (2) Heating equipment and water heaters,
 - (3) Service machinery,
 - (4) Apparatus, equipment and installations comprised in the common areas and facilities, and
 - (5) Such portions of the Units which may normally be deemed to constitute part of the buildings such as:
 - (a) Kitchen cabinets, tile and flooring,
 - (b) Built-in kitchen appliances,
 - (c) Wall-to-Wall carpeting
 - (d) Bathroom fixtures, tile, and
 - (e) Non plug-in electrical lamps, chandeliers

but not including:

- (1) Furniture and furnishings or other personal property of the Unit Owners.
 - (2) Improvements within a Unit made subsequent to the first sale of said Unit by the Declarant.
- c. **Amount of Insurance** – The Board of Trustees shall maintain insurance on the building insofar as practical, in amount equal to the full replacement value (exclusive of foundations).
- d. **Inclusions and Waivers in the Master Policy** – All policies of casualty or physical damage insurance shall, insofar as practical, provide:
- (1) That such policies may not be cancelled, terminated, or modified, without at least thirty days' written notice to the insureds.
 - (2) That, notwithstanding any provisions thereof which give the insurer the right to elect to restore damage in lieu of making a cash settlement, such election may not be exercisable without the approval of the Trustees and may not be exercisable if in conflict with the terms of said Chapter 183A, the Trust, or these By-Laws.
 - (3) For waiver of subrogation as to any claims (except claims involving arson or fraud) against the Trust, the Trustees, the manager, agents, employees, the Unit Owners and their respective employees, agents and guests.
 - (4) For waivers of any defense based upon the conduct of any insured.

- (5) In substance and effect that the insurer shall not be entitled to contribution as against any casualty insurance which may be purchased separately by Unit Owners.
 - (6) All policies of physical damage insurance shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including all mortgagees of Units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of premiums, shall be delivered to all mortgagees of Units at least ten (10) days prior to expiration of the then current policies.
 - (7) Unit Owners should carry insurance for their own benefit insuring their wallcovering, fixtures, furniture, furnishings and other personal property provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Board of Trustees shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.
- e. **Other Insurance** – The Trustees shall also obtain and maintain, in amounts they deem necessary, master policies of insurance with respect to the common areas and facilities for the benefit and protection of the Trustees and all of the Unit Owners, including but not limited to:
- (1) Comprehensive public liability,
 - (2) Workmen's compensation and employee liability with respect to any manager, employee, or agent of the Trust but excluding any independent agent or manager,
 - (3) Other risks as the Board deems necessary or appropriate.
- f. **Insurance Trustee** – The Board of Trustees shall name an insurance trustee who shall:
- (1) Be designated to the insurers to receive and collect all casualty loss proceeds;
 - (2) Hold, use, apply and disburse these proceeds in accordance with the applicable provisions of this document.
- g. **Cost of Insurance and Bonds** – The cost of all such insurance and fidelity bonds obtained and maintained by the Board of Trustees will be a common expense.

SECTION 5. – REBUILDING/RESTORATION

- a. **Loss Less Than 10%.** In the event of any casualty loss to the common area or facilities that totals less than 10% of the value of the Condominium (as determined by the Board of Trustees) the Board of Trustees will proceed with the necessary repairs, rebuilding, or restoration in accordance with the provisions of Massachusetts General Laws, Chapter 183A.

- b. **Loss Greater Than 10%.** If such loss exceeds 10% of the value of the Condominium, the Board of Trustees shall submit to all Unit Owners:
- (1) A form of agreement by the Unit Owners authorizing the Board of Trustees to proceed with the necessary repair, and
 - (2) A copy of the provisions of Section 17 of said Chapter 183A. The Trustees shall thereafter take such further action as they deem advisable to implement the provisions of Massachusetts General Laws, Chapter 183A.

SECTION 6. – CONDEMNATION

If more than ten percent (10%) of the Condominium is taken under the 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 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 Board of Trustees shall have the authority to acquire the remaining portions of such Units, for such price as the Board of Trustees shall determine, provided that any Unit Owner of such remaining portion who does not agree with such determination may apply to the Superior Court of Worcester County on such notice to the Board of Trustees 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 partial taking, then the Board of Trustees may make such provisions for realignment of the percentage interests in the Common Elements 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 Board of Trustees. In the event of a partial taking the award shall be allocated to the respective Unit Owners according to their undivided interest in the Common Elements, except as to such portion or portions of the award which are attributable to direct or consequential damages suffered by particular Units, which shall be payable to the owners of such Units or their mortgagees, as their interests may appear. In the case of a total taking of all Units and the Common Elements, the entire award shall be payable to the Board of Trustees to be distributed to the Unit Owners in accordance with their respective percentage interests in the Common Elements.

SECTION 7. – IMPROVEMENTS

- a. If the Trustees shall propose to make any improvements to the condominium or more than 25% of the Unit Owners shall request in writing that an improvement be made, the Trustees shall submit to all Unit Owners:
- (1) A form of agreement specifying the improvement proposed and the estimated cost thereof, and authorizing the Trustees to make that improvement, and
 - (2) A copy of the provisions of said Chapter 183A.

- b. Upon receipt of these forms by the Board of Trustees,
 - (1) Signed and agreed to by Unit Owners possessing 75% or more of the beneficial interest in the Trust, the Board shall undertake to make that improvement (in which case the cost shall be a common expense) or
 - (2) Signed and agreed to by Unit Owners with more than 50% but less than 75% of the beneficial interest the Board of Trustees may proceed with the improvement provided, however, that those Unit Owners assenting further agree to pay the cost of that improvement.
- c. In no case will the Board of Trustees be obligated to make any improvement until all monies for that improvement have been received.

SECTION 8. – NOTICE TO BOARD OF TRUSTEES

A Unit Owner who mortgages his Unit, shall notify the Board of Trustees of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board of Trustees; the Board of Trustees shall maintain such information in a book entitled "Mortgages of Units".

SECTION 9. – NOTICE OF UNPAID COMMON CHARGES

The Board of Trustees, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges due from or any other default by, the owner of the mortgaged Unit.

SECTION 10. – NOTICE OF DEFAULT

The Board of Trustees, when giving notice to a Unit Owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board of Trustees.

SECTION 11 – ARBITRATION

In the event that any Unit Owner or Owners shall, by notice in writing to the Board of Trustees, dissent from any determination or action of the Trustees and such dispute shall not be resolved within thirty (30) days from the date of that notice, then either the Board of Trustees or the dissenting owner may submit the matter to arbitration.

For that purpose one arbitrator shall be designated by the Board of Trustees. A second arbitrator will be designated by the dissenting Unit Owner or Owners and a third by the two arbitrators so designated. Subsequent arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association and the resulting decision shall be binding on all parties.

SECTION 12 – SPECIAL COMMON FACILITIES

- a. The Trustees may from time to time assign parking spaces to particular Units, such parking spaces will be assigned to such owners and for such time as the Board of Trustees deems reasonable. For such use, the Board of Trustees may levy monthly charges. Funds received therefrom shall constitute common funds of the Condominium. As an alternative, the Board of Trustees may issue credits against

the common charges to those Unit Owners not utilizing additional spaces. Such parking shall be so assigned for such periods and for such monthly charges as the Trustees may in their reasonable discretion determine. All such designations and assignments shall be made on a fair and equitable basis, taking into account the reasonable needs of particular Unit Owners.

- b. The Board of Trustees may, at reasonable times and in accordance with rules and regulations from time to time adopted by the Trustees, close any of the recreational facilities of the Condominium to common use of the Unit Owners and temporarily allocate the use thereof to the Board of Trustees or, upon application therefor, to any Unit Owner or Owners, for their exclusive use for meetings, social and other functions and other purposes consistent with the comfort and convenience of the Unit Owners and their enjoyment of the amenities of the Condominium, and upon payment of charges therefor from time to time established, charges shall be in addition to common expenses and shall, upon receipt by the Trustees, constitute common funds.

SECTION 13. – RULES, REGULATIONS, RESTRICTIONS AND REQUIREMENTS

The Board of Trustees may, at any time and from time to time, adopt, amend and rescind administrative rules and regulations governing the details of the operation and use of the common areas and facilities, and such restrictions on and requirements respecting the use and maintenance of the Units and the use of the common areas and facilities as are consistent with provisions of the Master Deed and are designed to prevent unreasonable interference with the use by the Unit Owners of their Units and of the common areas and facilities.

SECTION 14. – FIRST REFUSAL

The right of first refusal with respect to sales of Units as set forth in Section 14 of the Master Deed shall be exercised by the Board of Trustees. In the event that the Trustees shall elect to purchase or lease a Unit pursuant to provisions of said Section 14, the purchase price or rents and the costs thereof shall constitute common expenses and the Trustees may expend common funds therefor.

SECTION 15. – INSPECTION OF BOOKS; REPORTS TO UNIT OWNERS

Books, accounts and records of the Trustees shall be open to inspection to any one or more of the Trustees and the Unit Owners at all reasonable times. The Trustees shall, as soon as reasonably possible after the close of each fiscal year, or more often if convenient to them, submit to the Unit Owners a report of the operations of the Trustees for such year which shall include financial statements in such summary form and only in such detail as the Trustees shall deem proper. Any person who has been furnished with such report and shall have failed to object thereto by notice in writing to the Trustees given by registered mail within a period of six (6) months of the date of the receipt by him shall be deemed to have assented thereto.

ARTICLE VIII. – RIGHTS AND OBLIGATIONS OF THIRD PARTIES DEALING WITH THE TRUSTEES

SECTION 1. No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear of record in said Registry of Deeds shall be bound to ascertain or inquire further as to the persons who are then Trustees hereunder or be affected with any notice, implied or actual, otherwise than by a certificate thereof, and such record or certificate shall be conclusive evidence of the personnel of said Trustees and of any changes therein. The receipts of the Trustees or any one or more 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 persons from whom the Trustees 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 Trustees 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 or any event or purpose in or for which a sale, mortgage, pledge or charge is herein authorized or directed, or otherwise as to the purpose or regularity of any of the acts of the Trustees or any one or more of them purporting to be done in pursuance of any of the provisions or powers herein contained, or as to the regularity of the resignation or appointment of any Trustee, and any instrument of appointment of a new Trustee or of any old Trustee purporting to be executed by the Trustees, Unit Owners or other persons herein required to execute the same shall be conclusive evidence in favor of any such purchaser or other person dealing with the Trustees of the matters therein recited relating to such discharge, resignation, or appointment or the occasion thereof.

SECTION 2. 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 Trustees or by any agent or employee of the Trustees, or by reason of anything done or omitted, to be done by or on behalf of them, against the Trustees 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 Trustees, shall look only to the Trust property for payment under such 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 Trustees, so that neither the Trustees nor the beneficiaries, present or future, shall be personally liable therefor; provided, however, that nothing herein contained shall be deemed to limit or impair the liability of Unit Owners, under the provisions hereof or under provisions of said Chapter 183A.

SECTION 3. Every note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustees, or by any agent or employee of the Trustee, 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 4. This Declaration of Trust and any amendments hereto and any certificate herein required to be recorded and any other certificate or paper signed by said Trustees or any of them which it may be deemed desirable to record shall be recorded with said Registry of Deeds and such record 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 Trustees, the Trust property, or any beneficiary thereunder shall be held to have notice of any alteration or amendment of this Declaration of Trust, or change of Trustee or Trustees, when the same shall be recorded with said Registry of Deeds. Any certificate signed by the Trustees in office at the time, 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 Trustees 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 Trustees acting in reliance thereon. Any certificate executed by any Trustee hereunder, or by a majority of the Trustees 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.

ARTICLE IX. – AMENDMENTS AND TERMINATION OF TRUST

SECTION 1. – AMENDMENT OF TRUST

The Trustees at the direction of the Unit Owners possessing more than 66-2/3% of the beneficial interest of the Trust shall amend this declaration. However, the Board of Trustees or the Unit Owners may not amend, change or alter the declaration so as to impair or vitiate any of the rights or privileges reserved to the Declarant in any of the provisions of this declaration or in any provisions of the Master Deed of Shrewsbury Commons Condominium without the prior written consent of the Declarant.

SECTION 2. – RECORDING OF AMENDMENT

An Amendment shall become effective upon the recording with the Worcester Registry of Deeds of any instrument of amendment signed, sealed and acknowledged by a majority of the Board of Trustees in the manner required in Massachusetts for the acknowledgment of deeds and setting forth in full such amendment and reciting the required consent of the Unit Owners.

SECTION 3. – TERMINATION OF THE TRUST

The Trust hereby created shall terminate only upon the removal of the Condominium from the provisions of said Chapter 183A in accordance with the procedure therefor set forth in Section 19 of said Chapter.

SECTION 4. – LIQUIDATION OF THE TRUST

Upon the termination of this Trust, the Trustees may, subject to and in accordance with provisions of said Chapter 183A, sell and convert into money the whole of the Trust property, or any part or parts thereof, and, after paying or retiring all known liabilities and obligations of the Trustees and providing for indemnity against any other outstanding liabilities and obligations of the Trustees and providing for indemnity against any other outstanding liabilities and obligations, shall divide the proceeds thereof among, and distribute in kind, at valuations made by them which shall be conclusive, all other property then held by them in trust hereunder to the Unit Owners according to their respective percentages of beneficial interest hereunder. And in making any sale under this provision, the Trustees shall have the power to sell 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 Trustees 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.

ARTICLE X. – CONSTRUCTION AND INTERPRETATION

In the construction hereof, whether or not so expressed, words used in the singular or in the plural respectively include both the plural and singular; words denoting males include females; and words denoting persons include individuals, firms, associations, companies, (joint stock or otherwise), trust and corporations unless a contrary intention is to be inferred from or required by the subject matter or context. The cover, title, headings of different parts hereof, the table of contents and the marginal notes, if any, are inserted only for the convenience of reference and are not to be taken any part hereof or to control or affect the meaning, construction, interpretation or effect hereof. All the trust and powers and provisions herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts.

APPENDIX

UNIT DEED

We, John M. Corcoran, P. Leo Corcoran and Edward Darman, Co-Partners, doing business under the firm name and style of the Corcoran-Darman Shrewsbury Condominium Associates, (the Grantors), for and in consideration of \$ _____, paid, grant to _____ with QUITCLAIM COVENANTS, the dwelling unit (the Unit) located at _____ Shrewsbury, Worcester County, Massachusetts, known as Unit No. _____ in Building No. _____ (the Building) of the Condominium known as Shrewsbury Commons Condominium created by the Grantors pursuant to and described in a Master Deed dated _____, 1974 recorded with said Registry on _____, 1974 in Book _____, Page _____, in accordance with and subject to the provisions of Chapter 183A of the General Laws of the Commonwealth of Massachusetts.

Said Unit is conveyed together with:

1. an _____ % undivided interest in the common areas and facilities (the Common Elements) as described in said Master Deed. In the event that additional Parcels are added to the Condominium by amendment of the Master Deed, the undivided interest of the Unit in the Common Elements shall be and become that specified respectively in Exhibit 6 of the Master Deed. The Unit is shown on the floor plans of the Building filed simultaneously with the Master Deed in said Registry of Deeds and on the copy of a portion of said plans attached hereto and made a part hereof, to which is affixed the verified statement of a Registered Engineer in the form required by Section 9 of Chapter 183A.

2. an exclusive right to use Parking Space No. _____ as shown on Exhibit 8 filed with the Master Deed.

3. an exclusive right to use the balcony or patio to which there is direct access from the Unit.

4. an exclusive right to use Storage Cubicle No. _____ located in the Storage Room of the Building shown on Exhibit 9 filed with the Master Deed.

5. the right to use all the Common Elements in common with the owners of other Units, including the right to use the pipes, wires, ducts, flues, cables, conduits, public utility lines and other Common Elements located in any of the other units or elsewhere in the Condominium and serving the Unit.

6. the benefit of all rights and easements set forth or referred to in the Master Deed.

Said Unit is conveyed subject to:

1. the provisions of the Master Deed, Declaration of Trust, and By-Laws of the Shrewsbury Commons Condominium Trust recorded with said Registry of Deeds, as the same may be amended from time to time by instruments duly recorded with said Deeds, which provisions, together with any amendments thereto, shall constitute covenants running with the land and shall bind any person having at any time any interest or estate in the Unit, his family, servants and visitors as though such provisions were recited and stipulated in full herein; any and all rules and regulations adopted under or pursuant to the foregoing documents;

2. such taxes attributable to the Unit and Common Elements for the current year as are not due and payable on the date of delivery hereof;

3. provisions of existing building and zoning laws.

Grantee by accepting this Deed and for other good and valuable consideration, the receipt of which is hereby acknowledged, grants, transfers and assigns to the Grantors the right to amend the Master Deed so as to submit the land and the buildings to be built, including Lots E, F and H on plan entitled "Subdivision Plan of Land in Shrewsbury, Mass." by James W. Haley, dated December 5, 1973, to be recorded herewith, to the provisions of said Chapter 183A.

There is excluded from said Unit so much of the Common Elements as are located within said Unit.

EXECUTED as sealed instrument this _____ day of _____ 1974.

CORCORAN-DARMAN SHREWSBURY CONDOMINIUM ASSOCIATES

For Self & Partners Co-Partner

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss _____ January _____, 1974

Then personally appeared the above named _____ Co-Partner as aforesaid, and acknowledged the foregoing instrument to be his free act and deed as Co-Partner, before me,

Notary Public

My Commission expires

For authority see Certificate of Delegation of Authority Recorded with Worcester District Registry of Deeds, Book 5434, Page 201.