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**THE LANDINGS AT TERNBERRY
CONDOMINIUM 5-7 TRUST**

DECLARATION OF TRUST

TABLE OF CONTENTS



	<u>Page</u>
Article I: Name of Trust - - - - -	1
Article II: The Trust And Its Purpose - - - - -	1-2
Section 2.1: Unit Owners Organization - - - - -	1-2
Section 2.2: Entity Created - - - - -	2
Article III: The Trustees - - - - -	2-7
Section 3.1: Number Of Trustees - - - - -	2
Section 3.2: Terms Of Trustees - - - - -	3
Section 3.3: Vacancies, Appointment And Acceptance Of Trustees - - - - -	3
Section 3.4: Trustees During Initial Period Of Condominium; Transition Provisions - - - - -	3-4
Section 3.5: Trustee Action - - - - -	4
A. Power To Act When Vacancy Exists - - - - -	4
Section 3.6: Trustee Meetings - - - - -	4
A. Minutes - - - - -	4
Section 3.7: Resignation; Removal - - - - -	5
Section 3.8: Bond Or Surety - - - - -	5
Section 3.9: Compensation Of Trustees - - - - -	6
Section 3.10: No Personal Liability - - - - -	6


 Seth Emmer, Esquire
 Marcus, Errico, Emmer & Brooks, P.C.
 45 Braintree Hill Office Park, Suite 107
 Braintree, MA 02184

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Section 3.11: Trustees, Unit Owners May Deal With The Condominium	- - - -	6-7
Section 3.12: Indemnification	- - - -	7
Article IV: Beneficiaries And The Beneficial Interest In The Trust	- - - - -	8
Section 4.1: Beneficiaries And The Beneficial Interest	-	8
Section 4.2: Beneficial Interest Held By One Person	- -	8
Section 4.3: Meetings Of Unit Owners	- - - -	8
A. Minutes	- - - - -	8
Article V: By-Laws	- - - - -	9-47
Section 5.1: Powers And Duties Of Trustees	- - -	10-15
Section 5.2: Maintenance And Repair Of Units; Access To Units	- - - -	15
Section 5.3: Maintenance, Replacement And Repair Of Common Areas And Facilities	- - -	15-16
A. Notice Of Person Responsible For Maintenance	- - - - -	16
Section 5.4: Common Expenses, Profit And Funds	- -	16-21
A. Reserve Fund	- - - -	16-17
B. Determination Of Common Expenses And Fixing Of Common Charges	- - -	17-18
C. Payment And Collection of Common Expenses	- - - - -	18
D. Payment Of Common Expenses Subsequent To Transfer	- - - - -	19
E. Default In Payment Of Common Expenses	-	19-21

F.	Application Of Common Funds	-	-	-	-	21
G.	Notice Of Default In Payment Of Common Expenses	-	-	-	-	21
H.	6(d) Certificates	-	-	-	-	21
Section 5.5:	Insurance	-	-	-	-	22-29
A.	Casualty Insurance	-	-	-	-	22-23
B.	Liability Insurance	-	-	-	-	23-24
C.	Fidelity Coverage	-	-	-	-	24
D.	Directors And Officers Liability Insurance	-	-	-	-	24
E.	FHLMC And FNMA Insurance Requirements	-	-	-	-	24-25
F.	Unit Owners' Insurance	-	-	-	-	25
G.	Terms And Conditions Of Policies	-	-	-	-	25-27
H.	Insurance Appraisal	-	-	-	-	27
I.	Trustees As Insurance Trustees	-	-	-	-	27
J.	Authorized Insurance Representative	-	-	-	-	27-28
K.	Notification Of Mortgagees	-	-	-	-	28
L.	Certificates Of Insurance	-	-	-	-	28
M.	Notification To Trustees Of Improvements	-	-	-	-	28-29
Section 5.6:	Rebuilding, Restoration And Condemnation	-	-	-	-	29-35
A.	Casualty Loss	-	-	-	-	29-34
i.	Casualty Loss To Units	-	-	-	-	29-30

ii.	Casualty Loss To Units And Common Elements Or Common Elements Only	-	30-32
a.	Loss Less Than Ten Percent	-	30-31
b.	Loss In Excess of Ten Percent	-	31-32
B.	Eminent Domain	- - - - -	34-35
Section 5.7:	Improvements To The Units And Common Elements	- - - - -	35-39
A.	Improvements To Common Areas And Facilities	- - - - -	35-36
B.	Improvements To Units	- - - - -	36-39
1.	Permits	- - - - -	38-39
2.	Notification To Trustees Of Value	-	39
Section 5.8:	Rules, Regulations, Restrictions And Requirements	- - - - -	39-40
Section 5.9:	Pets	- - - - -	41
Section 5.10:	Unit Owner and Resident Responsibility-	-	41
Section 5.11:	Enforcement Of Charges, Fines, Obligations	-	42
Section 5.12:	Attorneys Fees And Costs	- - - - -	42
Section 5.13:	Inspection Of Books	- - - - -	42-43
Section 5.14:	Financial Reports To Unit Owners	- -	43
A.	Audit	- - - - -	43
Section 5.15:	Fiscal Year	- - - - -	43

Section 5.16: Checks, Notes, Drafts, And Other Instruments -	43-44
A. Seal - - - - -	44
Section 5.17: Notices To Unit Owners - - - -	44
Section 5.18: Information To Be Provided By Unit Owners To Trustees And Tenants - - - - -	44-45
Section 5.19: Property Manager - - - - -	45-46
Article VI: Mortgages - - - - -	46-47
Section 6.1: Unit Mortgages - - - - -	46-47
A. Notice To Trustees - - - - -	46
B. Notice Of Unpaid Common Charges Or Other Default; Material Amendment - - - -	46-47
C. Assignment Of Unit Owner Rights - -	47
Article VII: Rights And Obligations Of Third Parties Dealing With The Trustees - - - - -	47-50
Section 7.1: Third Parties' Reliance - - - -	47-48
Section 7.2: Personal Liability Excluded - -	48-49
Section 7.3: All Instruments Subject To Terms Hereof -	49
Section 7.4: Recording - - - - -	49-50
Section 7.5: Certificates Of Incumbency And Address -	50
Article VIII: Amendment And Termination - - - -	50-53
Section 8.1: Amendments To Declaration Of Trust - -	50-52
A. Consent Of Mortgagees To Amendments -	51
B. Effective Date Of Amendment - - - -	51
C. Special Amendments - - - - -	51-52

Section 8.2: Termination -	-	-	-	-	-	52
Section 8.3: Actions Upon Termination	-	-	-	-	-	52-53
Article IX: Construction, Interpretation And Waiver	-	-	-	-	-	53-54

THE LANDINGS AT TERNBERRY
CONDOMINIUM 5-7 T

DECLARATION OF TRUST

THIS DECLARATION OF TRUST is made this 26th day of October, 1998, by
The Landings At Ternberry, LLC (the "Declarant").

ARTICLE I

Name Of Trust

The Trust hereby created shall be known as THE LANDINGS AT TERNBERRY
CONDOMINIUM 5-7 T TRUST (the "Trust"), and under that name, so far as legal,
convenient and practicable, all activities shall be carried on by the Trustees and all
documents shall be executed by the Trustees.

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 and Facilities" or
"Common Elements") of THE LANDINGS AT TERNBERRY CONDOMINIUM 5-7 T, a
condominium located in Shrewsbury, Worcester County, Massachusetts (the
"Condominium") established by a Master Deed (the "Master Deed") of even date
herewith and recorded herewith in the Worcester County Worcester District 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 Trustees (the "Trust Property")

hereunder shall vest in the Trustees as 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 cestuis que trustent and not partners or associates nor in any other relation whatsoever between themselves and with respect to the Common Elements and/or Trust Property other than as Unit Owners of the Condominium, and hold no relation to the Trustees other than of cestuis que trustent, with only such rights as are conferred upon them as such cestuis que trustent hereunder and under the provisions of Chapter 183A.

ARTICLE III

The Trustees

Section 3.1. Number Of Trustees. There shall be a Board of Trustees (the "Board" or the "Trustees") consisting of two (2) natural persons who shall be appointed as hereinafter provided.

Section 3.2. Terms Of Trustees. There shall be no limit to the term of a Trustee.

Rather, each Trustee shall serve at the pleasure of the Unit Owner appointing him.

Section 3.3. Vacancies, Appointment And Acceptance Of Trustees. Each Unit Owner shall designate a natural person, as aforesaid, to represent that Unit. Any vacancy, for whatever cause, shall be filled by like appointment of the applicable Unit Owner. In the event that a Unit Owner should fail to so appoint a successor Trustee within thirty (30) days of a vacancy, then such vacancy shall, upon the petition therefor of the other Unit Owner, with notice to the nonappointing Unit Owner, be filled by the appointment of a court of competent jurisdiction. The appointment of Trustees shall become effective upon such appointment. An instrument certifying such appointment shall be recorded with the Worcester County Worcester District Registry of Deeds, sworn and subscribed to by the appointing Unit Owner, (1) referencing this Declaration of Trust and the Master Deed; (2) reciting the existence and cause of the vacancy; (3) the appointment of the successor Trustee; and (4) containing an acceptance of such appointment by the successor Trustee. In the case of appointment by a court, an attested copy of the order may be recorded. Except as provided in Article VII hereof, the failure or delay in recording said instrument shall not effect the validity of such Trustee's appointment.

Section 3.4. Trustees During Initial Period Of Condominium; Transition Provisions.

Notwithstanding the foregoing, during the period from the establishment of the Condominium - that is, the recording of the Master Deed and this Declaration of Trust - until the conveyance by the Declarant, its successors or assigns, of both of the Units

or three (3) years from the conveyance of the first Unit, whichever should first occur, there shall be one (1) Trustee appointed by the Declarant, its successors or assigns.

The original Trustee appointed by the Declaration is specified in the Master Deed recorded herewith. Upon any vacancy existing in such Trustee, his successor shall be appointed by the Declarant, its successors or assigns, within thirty (30) days of the date thereof. Upon a failure to so appoint such successor Trustee, his successor shall be appointed by the Unit Owners as aforesaid. Within one hundred twenty (120) days of the third anniversary delineated above, a special meeting of the Unit Owners shall be held for the purpose of appointing Trustees and for transitional purposes. Upon the sale of the second Unit it shall be deemed that the Declarant appointed Trustee has resigned and, thereupon Unit Owner appointed Trustees shall assume office.

Section 3.5. Trustee Action. In any matter relating to the administration of the Condominium and the exercise of the powers herein conferred, the Trustees shall act by unanimous decision. In such event as the Trustees cannot agree the matter shall be settled by arbitration as provided for in Section 24 of the Master Deed.

A. Power To Act When Vacancy Exists. When a vacancy exists leaving but one Trustee, said Trustee shall refrain from so exercising and discharging any powers, discretions and duties except as to matters which, by their nature and/or effect, require immediate attention.

Section 3.6. Trustee Meetings. The Trustees shall meet at such interval, time and place as they determine is necessary, and specially upon the request of any Trustee.

A. Minutes. Accurate records of all Trustee decisions shall be maintained by the Trustees as part of the records of the Trust.

Section 3.7. 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 Trustee. Such resignation shall take effect upon the recording of such instrument with the Worcester County Worcester District Registry of Deeds, unless specified to be effective at some other time in said instrument. The remaining Trustee shall forthwith cause said instrument to be duly recorded with the said Registry of Deeds. Upon a failure thereof, or the absence of another Trustee, the resigning Trustee may so record said instrument and shall notify the Unit Owners thereof.

Any Trustee may, with or without cause, be removed by the Unit Owner who appointed them. The vacancy so resulting shall be filled in the manner provided in Section 3.3 hereof. Such removal shall become effective upon such removal and a certificate thereof shall be recorded with the Worcester County Worcester District Registry of Deeds executed by the Unit Owner removing such Trustee. 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 3.8. Bond Or Surety. No Trustee 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. The foregoing shall not effect any fidelity coverages hereinafter provided for under the insurance provisions of this Trust.

Section 3.9. Compensation Of Trustees. No Trustee 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.

Section 3.10. No Personal Liability. No Trustee 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 the other Trustee, or any Unit Owner, 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 his own personal and willful malfeasance and defaults, and/or such other conduct as would exempt him from indemnification as provided in Section 3.12 hereof.

Section 3.11. 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 or 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 or Unit Owner shall in any way be interested be avoided nor shall any Trustee 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

holding office or of the fiduciary relation hereby established, or by reason of such Unit Owner's status, provided the Trustee 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 3.12. Indemnification. The Trust shall, to the extent legally permissible, indemnify each of its Trustees 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, 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 may be entitled herein or by contract or otherwise under applicable law. As used in this Section, the term "Trustee" includes his heirs, executors and administrators. Nothing in this Section shall, however, be deemed to limit in any respect the powers granted to the Trustees in this instrument.

ARTICLE IV

Beneficiaries And The Beneficial Interest In The Trust

Section 4.1. Beneficiaries And The Beneficial Interest. The cestuis que trustent or beneficiaries 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 act in concert. Upon a failure to so act, the Trustees may, as necessary, designate any one such Owner for such purpose. For Units to which title is held by a fiduciary, the fiduciary shall be the individual acting on behalf of the Unit. For Units to which title is held by a corporation, a duly authorized employee of such corporation shall be such person.

Section 4.3. Meetings Of Unit Owners. The Unit Owners shall meet at such interval, time and place as may be necessary to the affairs of the Condominium and specially upon the request of any Unit Owner.

- A. Minutes. Accurate records of all Unit Owner decisions shall be maintained as part of the records of the Trust.

ARTICLE V

By Laws

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 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, lessees 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 entering into of a lease 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.

Wherever in this Declaration of Trust and/or the Master Deed an obligation is imposed upon the Trustees, or the Trustees undertake to arrange for, perform, or otherwise accomplish any and all work, maintenance, repairs, construction, improvement or like action, the standard of care applicable thereto shall be that of ordinary due care or reasonable business judgment within budgetary constraints as determined in the sole discretion of the Trustees with respect to the scope, extent and timing of the aforesaid. In the event of any conflict or inconsistency between the foregoing and any other term or provision this Declaration of Trust or the Master Deed, the foregoing shall govern.

Section 5.1. Powers And Duties Of Trustees. The Trustees shall, subject to the provisions of all applicable laws, the Master Deed and this Declaration, including these By-Laws, have the absolute control and management 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. The powers and duties of the Trustees 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, managing, and maintaining the Common Areas and Facilities of the Condominium or any part thereof.
- B. 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 the enforcement of these By-Laws, any and all Rules and Regulations promulgated hereunder, or restrictions in the Master Deed or Unit Deeds.
- C. 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.
- D. 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.
- E. Employing and dismissing personnel necessary for the maintenance and operation of the Common Areas and Facilities.
- F. Opening and utilizing bank accounts on behalf of the Trust and designating the signatories required therefor.
- G. Obtaining of insurance.
- H. Making repairs, additions and improvements to or alterations of the Property.
- I. Incurring obligations and paying, compromising or adjusting all obligations incurred and rights acquired in the administration of the Trust.

J. 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.

K. 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.

L. Granting permits, licenses, 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.

M. 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.

N. Enforcing obligations of the Unit Owners, including the levying of general and special assessments for Common Expenses and the providing of adequate remedies for failure to pay such assessments.

O. 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.

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

Q. 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.

R. 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.

S. 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.

T. 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 and/or late charges, 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 and/or late charges, including, without hereby limiting the generality of the foregoing power, to apportion any receipt or expense between principal income, interest and/or late charges, 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.

U. 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 Trustees hereunder.

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

W. 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 Trustees 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 the Condominium and its Unit Owners.

Section 5.2. Maintenance And Repair Of Units; Trustee Access To Units. Except as hereinafter provided, the Unit Owners shall be responsible for the maintenance, replacement and repair of their respective Units (other than to the Common Elements contained therein) and the Limited Common Areas appurtenant thereto, all as defined in the Master Deed. Mowing and fertilizing the yard areas shall, however, be arranged for by the Trustees and paid for as a common expense. Except to the extent covered by the Trust's master casualty insurance, each Unit Owner shall be responsible for any and all damage to the other Unit and/or the Common Areas and Facilities caused by his failure to satisfy this maintenance obligation, including all administrative costs incurred in regard thereto.

Section 5.3. Maintenance, Replacement And Repair Of Common Areas. The Trustees shall be responsible for arranging for the cleaning, replacement, maintenance and repair of the Common Areas and Facilities and such other portions of the Condominium as may be herein specified when the need for the same has been brought to their attention and subject to budgetary constraints, the Trustees exercising ordinary due care and reasonable business judgment with respect to the scope, extent and timing of such maintenance, repair, and replacement. In the case of a casualty loss the provisions hereinafter contained shall apply. The Trustees 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, lessees, tenants, 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 administrative charges associated therewith, 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.

- A. Notice Of Person Responsible For Maintenance. The Trustees 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.

Section 5.4. 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 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 Trustees shall establish and maintain a separate and segregated reserve fund in an adequate amount to be used 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. The funds so set aside shall not be deemed common 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.

B. Determination Of Common Expenses And Fixing Of Common Charges.

At least thirty (30) days prior to the end of the fiscal year, the Trustees shall prepare a budget for the Condominium by estimating the Common Expenses expected to be incurred during the ensuing fiscal year together with a reasonable provision for contingencies and reserves 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 Expense Assessment"). The Trustees shall promptly inform the Unit Owners for their respective shares of such Assessment according to their percentages of Beneficial Interest, such share to be due and payable in twelve equal monthly installments. In the event that the Trustees 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 Trustees, likely to be incurred, or in the event that the Trustees shall determine that it is advisable to establish a larger reserve or

other fund for projected capital or other expenditures, or otherwise, the Trustees may make one or more supplemental assessments ("Special Assessments") and render such statements as they may deem necessary therefor and the amount shown in such statement shall be payable and take effect as specified by the Trustees in such Special Assessment. The Trustees may, additionally, or in the alternative, either as they deem appropriate, revise the current budget and adjust the Common Expense Assessments appropriate thereto.

C. Payment And Collection Of Common Expenses. The amount of each specified installment 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 be the personal obligation of the Unit Owner, all pursuant to provisions of Chapter 183A, Section 6. The Trustees shall take prompt action to collect any Common Expenses due from any Unit Owner which remain unpaid. Should the Trustees fail to so act, the non-delinquent Unit Owner may proceed thereto in the name and stead of the Trustees.

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, effect 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 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 purchaser or holder comes into ownership or possession of the Unit.

E. Default In Payment Of Common Expenses. In the event of default by any Unit Owner in paying to the Trustees the Common Expenses attributable to his Unit (the "Common Charge"), such Unit Owner shall be obligated to pay all expenses, including attorneys' fees, incurred by the Trustees in any proceeding brought to collect such unpaid Common Expenses, irrespective of the amount so unpaid. The Trustees 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, 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 attorneys 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 Trustees to collect unpaid Common Expenses, have no right to make any claims or defense or offset upon any basis.

In such event as the Unit which Common Expenses are in arrears is leased, rented or let, and upon compliance by the Trustees with the applicable provisions of M.G.L. c. 183A, s. 6, the Trustees shall be entitled to require the lessee or tenant to pay the rent due therefore directly to the Trustees until such time as the arrearage, late fees interest, costs and expenses are fully paid and, upon a failure thereof, to an order of a Court of competent jurisdiction so requiring. This right shall be in addition to any other remedy herein or by law provided.

After a successful action brought by the Trustees 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.

The Trustees acting on behalf of all Unit Owners, shall have power to purchase a Unit at the lien foreclosure sale and to 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 Trustees shall expend common funds only for Common Expenses and other purposes permitted hereby and by the provisions of Chapter 183A.

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, either Trustee 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 the Trustees shall, within ten (10) days, 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. Such Certificate must be signed by both Trustees.

Section 5.5. Insurance. The Trustees and the Unit Owners shall obtain and maintain the following insurance policies:

A. Casualty Insurance. The Trustees shall obtain and maintain, to the extent reasonably obtainable and permitted by applicable law, so-called master policies of casualty insurance providing fire-with-extended coverage and so-called all risk coverage insurance, insuring the Condominium, including, without limitation, the Common Areas and Facilities, all of the Units with all fixtures, additions, alterations and improvements thereof, thereto, and thereon, all heating and cooling equipment and other service machinery, apparatus, equipment and installations, and also all such portions normally deemed to constitute part of the buildings and customarily covered by such insurance, but not including any furniture, furnishings, carpeting, wall coverings, light fixtures, appliances, or household and personal property belonging to and owned by individual Unit Owners or Tenants, in an amount equal to the full replacement cost thereof (as that term is used for insurance purposes), subject to such reasonable deductible as the Trustees may determine, and which shall include, if available at a reasonable cost, so-called Agreed Amount, Inflation Guard, Construction Code and Replacement Cost Endorsements. In determining full replacement value, the Trustees may reasonably rely upon the advice of the insurer or their agent. The name of the insured under such policy shall be Trustees of the Condominium Trust for use and benefit of the Unit Owners of the Condominium and their mortgagees as their interests may appear. Such insurance shall contain the standard mortgagee clause and shall

name the Trustees as Insurance Trustees for the use and benefit of all Unit Owners of the Condominium and their mortgagees as their interest may appear, with losses payable to and adjusted by the Trustees as Insurance Trustees in accordance with the provisions of these By-Laws. The Trustees may insure against such other hazards or risks of casualty as the Trustees from time to time in their discretion shall determine to be appropriate, including, but not limited to, vandalism, malicious mischief, windstorm and water damage, earthquake, flood and machinery explosion or damage.

B. Liability Insurance. The Trustees 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 Trustees may, from time to time, determine but in no case less than \$1,000,000/\$1,000,000 in coverage, covering the Trust, the Trustees, 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 providing for cross claims by the co-insureds, and 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 Trustees 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) uninsured automobile insurance; and (iv) such other liability insurance as the Trustees may from time to time deem appropriate and desirable.

C. Fidelity Coverage. The Trustees shall obtain fidelity coverage against dishonest acts on the part of the Trustees, the Property Manager, if any, employees or volunteers responsible for handling funds belonging to Trust or administered by the Trustees. This fidelity insurance shall name the Condominium Trust 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 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.

D. Directors And Officers Liability Insurance. The Trustees may obtain Directors and Officers Liability Insurance in such amounts and upon such terms as they deem appropriate.

E. FHLMC And FNMA Insurance Requirements. If the Federal Home Loan Mortgage Corporation (FHLMC) or the Federal National Mortgage Association (FNMA) holds any interest in one or more mortgages on Units of which the Trustees have received notice, the Trustees shall obtain and maintain, to the extent reasonably obtainable, such other insurance as may be required from time to time by whichever of FHLMC or FNMA holds any interest in one or more mortgages on Units. All such policies shall be in such amounts and

contain such terms as may be required from time to time by whichever of FHLMC or FNMA holds such interest.

F. Unit Owners' Insurance. Unit Owners may, and it is suggested that they should, 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 Trustees shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner, or if so effected, it shall be deemed that the Unit Owners' insurance coverage has been assigned to the Trust to the extent of such effect. Unit Owners shall in all events maintain liability insurance covering damage to the Property in such reasonable amounts as the Trustees may determine and, upon request, provide evidence thereof to the Trustees.

G. 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 Trustees, their agents and employees, and the Unit Owners, their respective employees, agents, tenants 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 Trustees) when such act or neglect is not within

the control of the Trustees (or Unit Owners collectively) or by failure of the Trustees (or Unit Owners collectively) to comply with any warranty or condition with regard to any portion of the premises over which the Trustees (or Unit Owners collectively) have no control; (iii) that such policies may not be cancelled 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 thereunder 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.

Such insurance policies may provide for a reasonable deductible from the coverage thereof as determined by the Trustees in their reasonable 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 Trustees 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.

H. Insurance Appraisal. The Trustees may obtain an appraisal of the full replacement cost of the property to be insured in accordance with the foregoing provisions of this Section, without deduction for depreciation, for the purpose of determining the amount of insurance to be maintained pursuant to this Section and may rely thereon, or upon the advice of the Trust's insurance agent as to the amount of necessary coverage. If the Trustees in their discretion deem it necessary, they shall upon notification of improvements to be made to a Unit by a Unit Owner increase the insurance coverage afforded by said master policy.

I. Trustees As Insurance Trustees. The Trustees (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 of more than one Unit and/or the Common Elements to different extends, the proceeds relating thereto shall be used, applied and disbursed by the Trustees in their judgment in a fair and equitable manner, primarily based upon the relative losses.

J. 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 Trustees, the Trustees' authorized representative, including any Trustee,

with whom such Trustees 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 Trustees, or any Insurance Trustee or substitute Insurance Trustee designated by the Trustees, 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.

K. Notification Of Mortgagees. The Trustees, 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.

L. Certificates Of Insurance. Certificates of insurance with proper mortgagee endorsements, when requested, shall be issued to Unit Owners or their designees.

M. Notification To Trustees Of Improvements. Each Unit Owner shall notify the Trustees in writing of all improvements to his Unit (except personal

property other than fixtures) which exceed a total value of One Thousand Dollars (\$1,000.00) within twenty (20) days after the commencement of construction or installation of such improvement, and upon receipt of such notice, the Trustees 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 Trustees, unless otherwise consented to the Trustees.

Section 5.6. 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 Trustees shall proceed as follows:

- i. Casualty Loss To Units. Where such damage or destruction is solely to a Unit, 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 affected so as to facilitate and ensure the repair and restoration of the Unit or Units, so damaged or destroyed. The affected

Unit Owner 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. In such case as such damage or destruction is caused by the acts or omissions of a Unit Owner, his family, servants, agents, employees, invitees, licensees or lessees, 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 5.5.M, such deficiency shall be borne by such Unit Owner.

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 Trustees, in their reasonable discretion, shall forthwith determine whether or not the loss exceeds ten percent (10%) of the value of the Condominium immediately prior to the casualty and thereupon shall notify all Unit Owners of such determination. In furtherance thereof the Trustees 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 Condominium immediately prior to the loss, the Trustees shall

proceed as delineated in Subsection i above provided that the Common Elements shall be repaired and restored by the Trustees 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 Condominium immediately prior to the loss, the Trustees shall seek the agreement of both Unit Owners authorizing the Trustees to proceed with the necessary repair and restoration.

(1) If such percentage of Unit Owners agree to proceed to the necessary repair and restoration, then the Trustees shall proceed thereto as provided in Subparagraphs i and ii.a. 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;

(2) If both Unit Owners do not, within one hundred twenty (120) days of the occurrence of such loss, agree to proceed with the repair and restoration, 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, 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 Trustees have received notice, holding mortgages on Units having at least fifty-one percent (51%) 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 filed. 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.

The Trustees 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.

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 Trustees, divided among the Unit Owners 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.

Notwithstanding anything to the contrary contained in this Subsection, in the event that any Unit Owner shall dissent from any determination with respect to the value of the Condominium or any other determination or action under this Subsection and such dispute shall not have been resolved within thirty (30) days, then either the Trustees or the dissenting Unit Owner may submit the matter to arbitration as provided for in Section 25 of the Master Deed.

Notwithstanding anything to the contrary contained in the preceding paragraphs of this Subsection, the Trustees 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 Trustees of all costs thereof.

The foregoing provisions are intended to comply with Section 17 of the Chapter 183A and to be, in addition, consonant with the requirements of FHLMC and FNMA. 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 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.

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 Trustees. 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 Trustees 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 damages suffered by particular Units, they shall be payable to the owners of such particular Units and their mortgagees, as their interests may appear.

Section 5.7. 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. If and whenever the Trustees shall propose to make any improvement to the Common Areas and Facilities or shall be requested by either of the Unit Owners to make any such improvement, the Trustees shall submit to both Unit Owners a form of agreement (the "Improvement Agreement") specifying the improvement or improvements proposed to be made and the estimated cost thereof, and authorizing the Trustees to proceed to make the same. Upon execution of such Improvement Agreement by both of the Unit Owners, the Trustees 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 both Unit Owners as a Common Expense in accordance with their Beneficial Interest. If, after the expiration of ninety (90) days from the date of submittal of the Improvement Agreement only one Unit Owner has executed it, that Unit Owner may proceed to make the improvement or improvements at his own expense; provided, however, that if the cost of

such improvement exceeds ten percent (10%) of the then value of the Condominium, the Unit Owner who did not so agree to proceed may apply to the Superior Court, for an order directing the purchase of his Unit by the other Unit Owner at the fair market value thereof as approved by the Court.

Notwithstanding anything to the contrary contained in this Subsection, in the event that any Unit Owner shall dissent from any determination with respect to the value of the Condominium or any other determination or action under this Subsection and such dispute shall not be resolved within thirty (30) days after, then either the Trustees or the dissenting Unit Owner may submit the matter to arbitration as provided in Section 25 of the Master Deed.

Notwithstanding anything to the contrary contained in this Subsection, the Trustees 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 Trustees of all costs thereof.

B. 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 Trustees. The Trustees shall have the obligation to answer any written request by a Unit Owner for approval of such a proposed

addition, alteration or improvement within thirty (30) days after receipt of the request, and failure to do so within this time period shall constitute a consent by the Trustees. Said request shall include adequate plans, specifications and similar items, so as to enable the Trustees to reasonably review such request, and the period for response herein provided shall not begin to run unless and until such are so provided.

As to any request for approval pursuant to this Subsection the Trustees 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 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 Trustees may then 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; provision for the maintenance of such improvement; 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. The Unit Owner, and his contractors, shall cooperate with the Trustees 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.

1. 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 Trustees, from a governmental authority, the application therefor shall be executed by the Trustees without, however, incurring any liability on the part of the Trustees, 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 therefor, and

wholly liable thereunder; and shall pay to the Trustees such fee therefor as the Trustees may reasonably determine.

2. Notification To Trustees Of Value. If the Trustees approve any said request as provided hereinabove or if the Unit Owner makes any addition, alteration or improvement not requiring the consent of the Trustees, the Unit Owner shall promptly notify the Trustees of the insurable value of said improvement pursuant to the applicable provisions of Section 5.5.M. hereof. Such notice shall state in reasonable detail the nature of the improvements and the value thereof. Each Unit Owner shall, upon request by the Trustees, also submit to the Trustees such further information relating to said improvements as the Trustees shall reasonably require.

Section 5.8. 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 Trustees 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 Trustees 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 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 Trustees 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 Trustees to each Unit Owner and shall be recorded with the Worcester County Worcester District Registry of Deeds. The Trustees may charge a reasonable fee for the provision of such copies.

The Master Deed, this Trust and the Rules and Regulations, as from time to time amended, shall be enforced by the Trustees and/or either Unit Owner. The cost and expense of eliminating such violation shall be chargeable to the Unit Owner who himself or whose family, servants, employees, agents, visitors, lessees, tenants, licensees, or pets are responsible for such violation. The cost of eliminating a violation caused by another than as immediately before specified shall be a Common Expense.

Section 5.9. Pets. Subject to the applicable restrictions contained in the Master Deed, Unit Owners may keep in their Units customary household pets subject to the following conditions:

- A. Such pets shall not exceed such number and kind as to interfere with the quiet enjoyment of the Condominium by its residents;
- B. No pet shall be left unattended outside the Unit, and while outside the Unit shall at all times be under the control of the attending person. All deposits made by a pet shall be promptly removed and properly disposed of.
- C. Each Unit Owner keeping such a pet who violates any of the above conditions or permits any damage to any of the Common Elements or permits any nuisance or unreasonable disturbance or noise shall:
 - i. be assessed for the cost of the repair of such damage or cleaning or elimination of such nuisance and/or
 - ii. be required to permanently remove such pet from the Condominium.

Section 5.10. Unit Owner and Resident Responsibility. Except as may be otherwise specifically provided herein, a Unit Owner shall be fully responsible for the acts and omissions, feausance, malfeasance and misfeasance, and all other conduct of his family members, servants, agents, employees, invitees, lessees, tenants, licensees, guests, pets or others upon the Property at the behest of the Unit Owner. Residents shall subsidiarily be so responsible for those upon the Property at their behest.

Section 5.11. Enforcement Of Charges, Fines, Obligations. Any charge 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 5.12. Attorneys Fees And Costs. In such case as it is necessary for the Trustees or either Unit Owner to engage the services of an attorney, or attorneys, for the purpose of enforcing against a Unit Owner, tenant, occupant, or other person bound thereby, any provision of the Master Deed, the Declaration of Trust, the Rules and Regulations, or obligations thereunder, and/or for the purpose of defending any action brought by such person(s), and the Trustees or either Unit Owner should prevail thereon, said offending Unit Owner, tenant, 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 fees and costs 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 therefor.

Section 5.13. Inspection Of Books. The books, accounts and records of the Trustees and of the organization of Unit Owners shall be open to inspection to any one or more of the Trustees, to the Unit Owners and to first mortgagees. The Trustees 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 5.14. Financial Reports To Unit Owners. Unless otherwise agreed by the Unit Owners, within one hundred and twenty (120) days of the end of the fiscal year, the Trustees shall cause to be provided to the Unit Owners a financial statement prepared in conformity with so-called review standards by a certified public accountant which shall include a balance sheet, income and expense statement and statement of funds.

A. Audit. 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 Trustees 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.

Section 5.15. 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 Trustees.

Section 5.16. Checks, Notes, Drafts, And Other Instruments. All checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the names of the Trustees or of the Trust must be signed by both Trustees.

Any instrument, other than above or elsewhere provided, signed by any one, or more, Trustees which contains or is accompanied by a certification that said Trustee, or Trustees, are authorized to execute and deliver the same by appropriate vote of the Trustees shall be conclusive evidence in favor of every person relying thereon or claiming thereunder.

- A. Seal. The Trustees may sign any instrument under seal without being required to affix a formal, common or wafer seal.

Section 5.17. 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 Trustees as 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 Trustees 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 Trustees 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 5.18. Information To Be Provided By Unit Owners To Trustees And Tenants.

Each Unit Owner shall provide to the Trustees, at such times and in such manner and form as the Trustees shall require, that information and data as the Trustees may reasonably require in and for the efficacious performance of the Trustees' 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 permanent occupants of the Unit.
- C. The name and address of all mortgagees, including the applicable loan numbers.

Unit Owners who lease, let and/or rent their Units shall provide to the tenant the name, address, and telephone number of the person responsible for the maintenance of the Unit and the name of the person responsible for the maintenance of the Common Elements, which latter shall be provided to the Unit Owner by the Trustees.

Section 5.19. Property Manager. The Trustees 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 Trustees 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 Trustees 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. 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.

In such event as the Property Manager is the Declarant, or an affiliate of the Declarant, such contract may be terminated without penalty at any time after transition to Unit Owner control.

ARTICLE VI

Mortgages

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

A. Notice To Trustees. A Unit Owner who mortgages his Unit shall notify the Trustees of the name and address of his mortgagee and loan number, and the Trustees shall maintain such information. Except as may be provided by applicable law, the failure of a Unit Owner to so notify the Trustees 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 Trustees, 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 Trustees; (v) any proposed action which requires the consent of a specified percentage of eligible mortgage holders as specified in the 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 Trustees 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 Trustees

Section 7.1. Third Parties' Reliance. No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear of record in the Worcester County Worcester District Registry of Deeds shall be bound to ascertain or inquire further as to the identity of said Trustees or of any changes therein. The receipts of the Trustees, 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 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 of any event or purpose in or from which such 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 Trustees, 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 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, or any 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 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 Unit Owners, 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 provisions of Chapter 183A.

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 Trustees, or by any agent or employee of the Trustees, 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 signed by any both Trustees which may be deemed desirable to record shall be recorded with the Worcester County Worcester District 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 Trustees, 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 Trustees, when the same shall be recorded with said Worcester County Worcester District Registry of Deeds. Any certificate signed by both of 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 Worcester County Worcester District 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.

Section 7.5. Certificates Of Incumbency And Address. The Trustees shall from time to time as required by M.G.L. c. 183A and/or this Declaration of Trust record with Worcester County Worcester District Registry of Deeds appropriate instruments reflecting the composition of the Board of Trustees and the mailing address of this Trust.

ARTICLE VIII

Amendment And Termination

Section 8.1. Amendments To Declaration Of Trust. This Declaration of Trust may be amended only by written instrument executed by both Unit Owners; provided, always, however, that no such amendment, alteration, addition or change (a) made without the consent of the Declarant prior to the Declarant's relinquishing control hereunder; or (b) according to the purport of which, the Declarant's rights hereunder, or under the Master Deed are changed in any way; or (c) which would render this

Trust contrary to or inconsistent with any requirements or provisions of Chapter 183A, shall be valid or effective.

A. Consent Of Mortgagees To Amendments. In addition, this Trust may not be materially amended without the approval of all of the First Mortgagees which have requested the Trustees to notify them in such case as an amendment is considered. As to any non-material amendment, the consent of any such Mortgagee who does not respond to a request for consent with 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 the Worcester County Worcester District Registry of Deeds an instrument of amendment, alteration, addition or change, as the case may be, signed, sealed and acknowledged by both Unit Owners, setting forth in full the amendment, alteration, addition or change and reciting the consent of 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.

C. Special Amendments. The foregoing notwithstanding, the Trustees, including the Declarant appointed Trustees during the period of Declarant control, shall have the power coupled with the interest to, by an instrument signed and duly recorded with the Worcester County Worcester District

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, and other applicable state or federal law or regulation; or (3) to comply with rules or regulations promulgated by the Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMA), and/or other so-called secondary mortgage market agencies; or (4) to satisfy applicable insurance requirements; and each Unit Owner, by the acceptance of a deed to his Unit, shall be deemed to have consented to his Unit, shall be deemed to have consented thereto, duly constituting and appointing said Trustees as his attorney-in-fact to execute such on his behalf. This power may be exercised not only to add additional provisions or modify existing provisions, but also to delete theretofore required provisions should such no longer be required.

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

Section 8.3. Actions Upon Termination. Upon the termination of this Trust, the Trustees 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 Trustees 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 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.

Notwithstanding anything to the contrary contained in this Section, in the event that any Unit Owner shall dissent from any determination with respect to the value of the Condominium or any other determination or action of the Trustees under this Section, and such dispute shall not have been resolved within thirty (30) days, then either the Trustees or the dissenting Unit Owner may submit the matter to arbitration as provided in Section 25 of the Master Deed.

ARTICLE IX

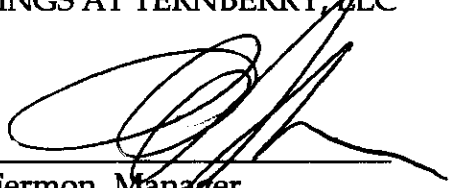
Construction, Interpretation And Waiver

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

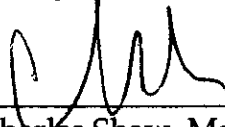
convenience of reference and are not to be taken to be any part hereof nor to control or affect the meaning, construction, interpretation or affect hereof. All the trusts, powers and provisions herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts. 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.

Witness the execution hereof under and seal on this 26th day of October, 1998.

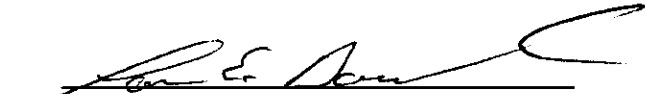
THE LANDINGS AT TERNBERRY, LLC

BY: 

Jeffrey Fermon, Manager



Charles Shaw, Manager



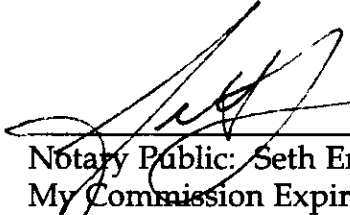
Jon E. Bovarnick, Manager

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

October 26, 1998

Then personally appeared before me the above named Jeffrey Fermon, Charles Shaw and Jon E. Bovarnick, Managers of The Landings At Ternberry, LLC, and attested to the foregoing to be their respective free acts and deeds on behalf of The Landings At Ternberry, LLC.



Notary Public: Seth Emmer
My Commission Expires: 3/10/2000