

PICKMAN PARK CONDOMINIUM TRUST

THIS AGREEMENT AND DECLARATION OF PICKMAN PARK CONDOMINIUM TRUST OF Salem, Essex County, Massachusetts, is made this 26th day of June, 1985, by the DiBiase Corporation a duly organized Corporation under the General Laws of the Commonwealth of Massachusetts and having a usual place of business in Lynnfield, Essex County, Massachusetts. The word "Trustee" or "Trustees" wherever used in this instrument shall extend to and include the present Trustee, and to which term and any pronoun referring thereto shall be deemed to include the successors in trust hereunder.

ARTICLE I

Name of the Trust

The trust hereby created shall be known as the PICKMAN PARK CONDOMINIUM TRUST, and under that name, so far as legal, convenient and practicable, shall all business carried on by the Trustees be conducted, and shall all instruments in writing by the Trustees be executed.

ARTICLE II

Office of the Trust

The office of the trust shall be located at PICKMAN PARK CONDOMINIUM, Salem, Massachusetts, or at such other address as shall be designated in writing by the Trustees of the trust.

ARTICLE III

Purposes of the Trust

Section 3.1 Unit Owners' Organization

The trust is organized for the purpose of maintaining, managing, regulating and preserving the PICKMAN PARK CONDOMINIUM (hereinafter called the "Condominium"). All of the rights and powers in and with respect to the common areas and facilities (the "Common Areas and Facilities") of the PICKMAN PARK CONDOMINIUM established by a Master Deed recorded herewith (hereinafter the "Master Deed"), which are by

virtue of the provisions of Chapter 183A of the Massachusetts General Laws (hereinafter "Chapter 183A" or the "Condominium Law") conferred upon or exercisable by the Organization of unit owners of said Condominium, 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 owners of record from time to time of the Units (hereinafter the "Units" or individually the "Unit") of the Condominium (hereinafter the "Unit Owners" or "Owners" and individually the "Unit Owner" or "Owner") in accordance with the percentage of undivided beneficial interest appertaining to the Units as set forth in the Master Deed (hereinafter referred to as the "Beneficial Interest"), referred to in Article V hereof, and in accordance with the provisions of Section 10 of Chapter 183A for the purposes therein set forth.

Section 3.2 Trust Relationship

It is expressly declared that a trust has been created hereby, and the same shall not be deemed to be, and shall not be treated as a general partnership, joint venture, corporation or joint stock company and that the Unit Owners are 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 beneficiaries, with only such rights and liabilities as are conferred upon them as such beneficiaries hereunder and under and pursuant to the provisions of said Chapter 183A.

ARTICLE IV

The Trustees

Section 4.1 Number of Trustees

There shall at all times be trustees, consisting of such number, not less than three (3) nor more than five (5) as shall be determined by vote of the Unit Owners entitled to more than fifty (50%) percent of the Beneficial Interest hereunder except that there shall always be an odd number of Trustees; provided, however, notwithstanding anything herein contained in this trust to the contrary until such time as (i) The DiBiase Corporation, declarant of the PICKMAN PARK CONDOMINIUM (hereinafter the "Declarant", which term and any pronoun referring thereto shall be deemed to include the said Declarant and its successors and assigns) ceases to be entitled to more than fifty (50%) percent Beneficial Interest hereunder, or (ii) until a period of one hundred twenty

(120) days after the conveyance by Declarant of seventy-five (75%) percent of all Units, or (iii) five (5) years from the date the first Unit is conveyed, whichever event shall first occur, the number of trustees shall be three persons consisting of the original Trustees designated by the Declarant, or if the original Trustees or any one of them shall die, resign, be removed, become incapacitated, or be unable or unwilling to serve as Trustee, then a successor Trustee shall be designated by the Declarant in accordance with the following paragraph. It is further understood such right of designation shall in no way diminish or limit the exercise of Declarant's voting power.

Notwithstanding anything to the contrary herein contained in this trust, any vacancy resulting from the expiration of a term, resignation, removal, incapacity or death of a Trustee designated by the Declarant, shall, during the term that Declarant is entitled to designate Trustees, be filled by an instrument in writing executed by the Declarant setting forth the appointment of a natural person to act as Trustee, that such Trustee is being so designated, and the acceptance of such appointment signed and acknowledged by the person so appointed, which appointment shall be effective upon recording with the Essex South Registry District of the Land Court or Essex South Registry of Deeds, as appropriate.

The Declarant's rights under this Section 4.1 shall inure to the benefit of any successor to the Declarant's interest in the Condominium.

Section 4.1.1 Term

At such time as the Declarant ceases to be entitled to designate the Trustee in accordance with the provisions of Section 4.1 hereof (hereinafter "Operating Event"), then for purposes hereof the office of the Trustee so designated shall be deemed vacant, but his term shall not expire until such Trustee's successor is chosen and qualified at the next annual meeting of the Unit Owners (or special meeting in lieu thereof) in the manner hereinafter set forth. In the event the annual meeting of the Unit Owners is scheduled later than 120 days after the Operating Event, the Trustee shall call a Special Meeting of the Unit Owners within said 120 day period for the purpose of electing successor trustees. Thereafter, the terms of office of the Trustees shall, except as hereinafter provided, be for three (3) years, and shall end at the annual meeting of Unit Owners (or special meeting in lieu thereof) at which such Trustee's successor is chosen and qualified, provided, however that the terms of the persons first chosen as Trustees at the annual meeting of the Unit Owners (or special meeting in lieu thereof) next after the Operating Event shall be staggered so that insofar as possible the terms of one-third of the Trustees shall expire each year, and the term

of each such Trustee shall be determined by lot, the terms of the persons first elected as trustees after the Operating Event shall be one year, two years, and three years respectively; and, thereafter upon any increase in the number of trustees, the terms of any then newly appointed trustee or trustees shall be determined insofar as necessary by lot so as to maintain such staggering of terms insofar as possible. Notwithstanding anything to the contrary contained herein, the Trustees designated by the Declarant, as aforesaid, shall resign no later than one hundred twenty (120) days after the Operating Event in order to comply with the requirements imposed by the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC").

Section 4.1.2 Vacancies; Appointment and Acceptance of Trustees

If and whenever any Trustee's term is to expire or for any other reason, including, without limitation, removal, resignation, incapacity or death of a Trustee, the number of Trustees shall be less than the number established under Section 4.1, a vacancy or vacancies in said office shall be deemed to exist. Subject to the rights of the Declarant set forth in Section 4.1 hereof, each such vacancy shall be filled at any time by an instrument in writing which sets forth: (i) the appointment of a natural person to act as Trustee signed by three (3) Unit Owners who certify under oath that Unit Owners entitled to more than fifty (50%) percent of the Beneficial Interest have voted to make such appointment; and (ii) the acceptance of such appointment signed and acknowledged by the person appointed. If the Unit Owners have not voted to make such appointment(s) within thirty (30) days after the vacancy or vacancies first existed, then such vacancy or vacancies may also be filled by vote of the remaining Trustee(s) by an instrument in writing which sets forth; (a) the Trustee(s) appointment of a natural person to act as Trustee signed by a majority of the Trustees then in office (or by the sole Trustee if there be only one then in office); and (b) the acceptance of such appointment signed and acknowledged by the person appointed. Any vacancy which shall continue for more than sixty (60) days may also be filled by appointment by any court of competent jurisdiction upon the application of one or more Unit Owner(s) or Trustees and notice to all Unit Owners and Trustees and to such other parties in interest, if any, to whom the court may direct that notice be given.

Appointments of Trustees shall be effective upon recording with the Essex South District of the Land Court or Essex South Registry of Deeds (the "Registry") the instrument of appointment and acceptance and such person shall become a Trustee and shall be vested with the title to the trust property jointly with the remaining or surviving Trustee or Trustees without the necessity of any act of transfer or conveyance.

The foregoing provisions of this Section notwithstanding, despite any vacancy in the office of Trustee, however caused and for whatever duration, the remaining or surviving Trustee(s) shall continue to exercise and discharge all of the powers, discretions and duties hereby conferred or imposed upon the Trustees.

Section 4.2 Trustee Action

In any matter relating to the administration of the trust hereunder and the exercise of the powers hereby conferred, the Trustees shall act by majority vote at any duly called meeting at which a quorum, as provided in Section 6.3.5, is present, provided, however, that in no event shall a majority consist of less than two (2) Trustees hereunder, except that so long as Declarant is entitled to designate the Trustee, a quorum and a majority shall consist of one (1) Trustee, and, if, and whenever, the number of Trustees hereunder shall become less than two (2), after the election of Trustees at the first Annual Meeting of Unit Owners (or Special Meeting in lieu thereof) after the Operating Event, the then remaining or surviving Trustee, if any, shall have no power or authority whatsoever to act with respect to the administration of the Trust hereunder or to exercise any of the powers hereby confirmed except as provided in Section 4.1.2 hereof. The Trustees may act without a meeting in any case by unanimous written consent and in cases requiring, in their sole judgment, response to an emergency by majority written consent.

Section 4.3 Resignation; Removal

Any Trustee may resign at any time by instrument in writing signed and duly acknowledged by that Trustee in the manner required in Massachusetts for the acknowledgment of deeds, and such resignation shall take effect upon the recording of such instrument with the Registry. Subject to the rights of the Declarant recited in Section 4.1 to designate Trustees of its choice, any Trustee may be removed with or without cause by vote of Unit Owners entitled to more than fifty (50%) percent of the Beneficial Interest hereunder and the vacancy resulting from such removal shall be filled in the manner provided in Section 4.1.2. Any removal shall become effective upon the recording with the Registry of a certificate of removal signed by a majority of the remaining Trustees in office, or by three (3) Unit Owners, who certify under oath that Unit Owners holding more than fifty (50%) percent of the Beneficial Interest hereunder have voted such removal. By instrument recorded with the Registry, the Declarant may remove, with or without cause, any Trustee it is entitled to designate, and appoint a successor Trustee as provided in Section 4.1.

Section 4.4 Bond or Surety

The Trustees shall obtain and maintain in the name of the Condominium Trust blanket fidelity bond(s) for anyone, including said Trustees, who either handles or is responsible for funds held or administered by the Trustees or on behalf of the Condominium Trust whether or not such persons receive compensation for their services. All expenses incident to any such bond(s) shall be charged as a common expense of the Condominium and shall name the Condominium Trust as an obligee.

Said fidelity bond(s) shall cover the maximum funds that will be in the custody of the Trustees or the Condominium Trust or its management agent at any time while the bond(s) are in force. In addition, the fidelity bond coverage must at least equal the sum of three (3) months' assessments on all Units in the Condominium plus any reserve funds maintained in accordance with the trust.

The fidelity bond(s) must include a provision for ten (10) days' written notice to the Condominium Trust or insurance trustees before the bond(s) can be cancelled or substantially modified for any reason. The same notice must also be given to each servicer that services an FNMA-owned mortgage in the Condominium.

A management agent that handles funds for the Condominium Trust shall be covered by its own fidelity bond in the same manner and to the same extent as provided above.

Section 4.5 Compensation of Trustees

With the approval of Unit Owners entitled to more than fifty (50%) percent of the Beneficial Interests hereunder a Trustee (but not the Trustee designated by the Declarant) may receive such reasonable remuneration for extraordinary or unusual services, legal or otherwise, rendered by him or her in connection with the trust hereof, all as shall be from time to time fixed and determined by the Trustees, and such remuneration shall be a common expense of the Condominium.

Section 4.6 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 by reason of any action taken, suffered or omitted in good faith or be so liable, accountable or deprived by reason of honest errors or judgment or mistakes of act or law or by reason of the existence of any personal or adverse interest or by reason of anything except his own personal and willful malfeasance and defaults.

Section 4.7 Trustees May Deal With Condominium

No Trustee shall be disqualified by his office from contracting or dealing with the Trustees or with one or more Unit Owners (whether directly or indirectly because of his interest individually or the Trustees' interest or any Unit Owner's interest in any corporation, firm, trust or other organization connected with such contract 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 so dealing or contracted by 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 entering into the dealing, contract or arrangement.

Section 4.8 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 and, acting by majority, may purchase such insurance against such liability as they shall determine is reasonable and necessary, the cost of such insurance to be a common expense of the Condominium. Each Unit Owner shall be personally liable for (i) all sums lawfully assessed for his share of the common expenses of the Condominium, (ii) all sums lawfully assessed for his share of the costs and expenses relating to exclusive common areas or facilities of the Condominium as to which he has been granted rights under the Master Deed, and (iii) his proportionate share of any claims involving the trust property in excess hereof, all as provided in Section 6 and 13 of Chapter 183A. Nothing in this paragraph shall be deemed to limit in any respect the powers granted to the Trustees in this Declaration of Trust.

ARTICLE V

Beneficiaries and the Beneficial Interest in the Trust

Section 5.1 Beneficial Interest

The beneficiaries of this trust shall be the Unit Owners of the Pickman Park Condominium, as they appear of record in the Registry from time to time. The Beneficial Interest in this trust shall be divided among the Unit Owners in the percentage of undivided Beneficial Interest appertaining to the Units of the Condominium as stated in the Master Deed of the Condominium, as it may be amended from time to time.

Section 5.2 Each Unit to Vote by One Person

The Beneficial Interest of each Unit of the Condominium shall be held and exercised as a Unit and shall not be divided among several owners of any such Unit. To that end, whenever any Unit is owned on record by more than one person, the several owners of such Unit shall (a) determine and designate which one of such owners shall be authorized and entitled to cast votes, execute instruments and otherwise exercise the rights appertaining to such Unit hereunder, and (b) notify the Trustees of such designation by a notice in writing signed by all of the record owners of such Unit. Any such designation shall take effect upon receipt by the Trustees and may be changed at any time, and from time to time, by notice as aforesaid. In the absence of any such notice of designation, the Trustees may designate any one such owner for such purposes.

ARTICLE VI

By-Laws

The provisions of this Article VI shall constitute the By-Laws of this trust and the organization of Unit Owners (the "By-Laws") to wit:

Section 6.1 Applicability

The provisions hereof are applicable to all of the property of the Condominium, and to the use and occupancy thereof, including but not limited to the land, the building and all other improvements thereon, including the Units and Common Areas and Facilities, and all easements, rights and appurtenances 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 Chapter 183A. 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 said Chapter 183A. All present and future Unit Owners, mortgagees, lessees and occupants of Units, and their employees or agents, and all other persons who may occupy or use the property of the Condominium in any manner shall be subject to the provisions of this trust instrument, and By-Laws, the rules and regulations promulgated pursuant thereto, the Master Deed and all covenants, agreements, and restrictions, easements and declarations of record (hereinafter referred to as "Title Conditions"). The acceptance of a deed, or conveyance, or the entering into a lease, or the act of occupancy of a Unit, shall constitute an agreement that the provisions of this trust instrument and By-Laws, the rules and regulations promulgated pursuant thereto, the provisions of the Master Deed, as the same may from time to time be amended, and the Title Conditions, are accepted, ratified and will be complied with.

Section 6.2 Powers of the Trustees

The Trustees shall, subject to and in accordance with all applicable provisions of said Chapter 183A, have the absolute control, management and disposition of the trust property (which term as herein used shall insofar as applicable be deemed to include the Common Areas and Facilities of the Condominium) as if they were the absolute owners thereof, and, without by the following enumeration limiting the generality of the foregoing or of any item in the enumeration, with full power and uncontrolled discretion, subject only to the limitations and conditions herein and in the provisions of said Chapter 183A, at any time and from time to time and without the necessity of applying to any court or to the Unit Owners for leave so to do:

(a) To retain the trust property, or any part or parts thereof, in the same form or forms of investment in which received or acquired by them so far and so long as they shall think fit, without liability for any loss resulting therefrom;

(b) To sell, assign, convey, transfer, exchange and otherwise deal with or dispose of, the trust property, or any part or parts thereof (excluding Common Areas and Facilities of the Condominium), free and discharged of any and all trusts, at public or private sale, to any person, or persons, for cash or on credit, and in such manner, on 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;

(c) To purchase or otherwise acquire title to, and to rent, lease or hire from others for terms which may extend beyond the termination of this trust any property or rights to property, real or personal, and to own, manage, use and hold such property and such rights;

(d) To borrow, or in any other manner raise such sum or sums of money or other property as they shall deem advisable in any manner and on any terms, and to evidence the same by notes, bonds, securities, or other evidences of indebtedness, which may mature at a time or times, even beyond the possible duration of this trust, and to execute and deliver any mortgage, pledge or other instrument to secure any such borrowing;

(e) To enter into any arrangement for the use or occupation of the trust property, or any part or parts thereof, including without thereby limiting the generality of the foregoing, leases, subleases, easements, licenses or concessions, upon such terms and conditions and with such stipulations and agreements as they shall deem desirable, even if the same extend beyond the possible duration of this trust;

(f) To invest and reinvest the trust property, 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 investments shall be of a character or in an amount not customarily considered proper for the investment of trust funds or which does not or may not produce income;

(g) To incur such liabilities 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;

(h) To determine 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, and as to all charges or expenses paid by them, whether and to what extent the same shall be charged against principal or against income, including, without hereby limiting the generality of the foregoing, power to apportion any receipt or expense between principal and income, and power to determine what portion, if any, of the 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;

(i) To vote in such manner as they shall think fit or all shares in any corporation or trust which shall be comprised in the trust property, and for that purpose to give proxies, to any person or persons or to one or more of their number, to vote, waive any notice, or otherwise act in respect of any such shares;

(j) To guarantee performance of the obligations of others in any cases where they shall deem that it is to the advantage of this trust that they give such guaranty;

(k) To maintain such offices and other places of business as they shall deem necessary or proper and to engage in business in Massachusetts or elsewhere;

(l) To employ, appoint and remove such agents, managers, officers, board of managers, brokers, employees, servants, assistants and counsel (which counsel may be a firm of which one or more of the Trustees are members) as they shall deem proper, for the purchase, sale or management of the trust property, or any part or parts hereof, or for conducting the business of the trust, and may define their respective duties and fix and pay their compensation, and the Trustees shall not be answerable for the acts and defaults of any such person. The Trustees may delegate to any such agent, manager, officer,

board, broker, employee, servant, assistant or counsel, any or all of their powers (including discretionary powers except that the power to join in amending, altering, adding to, terminating or changing this Declaration of Trust and the trust hereby created shall not be delegated) all for such times and purposes as they shall deem proper. Without hereby limiting the generality of the foregoing, the Trustees shall at least as often as annually designate from their number a Chairman, a Treasurer, a Secretary, and such other officers of the Board of Trustees as they deem fit, and may from time to time designate one or more of their own number to be the Managing Trustee or Managing Trustees for the management and administration of part or parts thereof; from time to time to enter into management contracts with one or more managing agents for such compensation and upon such terms and conditions as the Board of Trustees may deem prudent; except that any agreement for professional management of the Condominium shall be terminable without cause and without incurring payment of a termination fee or penalty on ninety (90) days (or less) written notice. The term of such agreement shall not exceed a period longer than three (3) years;

(m) To deposit any funds of the trust in any bank or trust company, and to delegate to anyone the power to deposit, withdraw and draw checks on any funds of the trust;

(n) To improve, manage, maintain, repair, restore and replace Common Areas and Facilities, and, to the extent authorized under Section 6.5, to perform necessary maintenance, repairs or replacements in any Unit; to enter and have access into 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; to obtain and maintain such casualty, liability and other insurances on and with respect to the trust property and the Condominium as they shall deem necessary or proper;

(o) To determine the common expenses, and collect the common charges from the Unit Owners; to enforce obligations of the Unit Owners and levy and collect reasonable fines against them for violation of reasonable rules and regulations established for the benefit of the Unit Owners;

(p) From time to time to adopt, amend and rescind rules and regulations covering the details of the operation and use of the Common Areas and Facilities, and to regulate the use, occupancy and maintenance of the Units;

(q) Generally, in all matters not herein otherwise specified, to control, manage and dispose of the trust property (excluding Common Areas and Facilities of the Condominium) as if the Trustees were the absolute owners thereof and to do any and all acts, including the execution of any instrument, which by their performance thereof shall be shown to be in their judgment for the best interests of the Unit Owners; and to execute any and all instruments incidental or necessary to carry out any of the foregoing powers.

Section 6.3 Meetings of the Trustees

Section 6.3.1 Annual Meeting

The Trustees shall meet annually on the date of the Annual Meeting of the Unit Owners, and at such meeting may elect a Chairman, Treasurer, and Secretary and any other officer they deem expedient who shall have such duties and powers as the Trustees may from time to time designate.

Section 6.3.2 Regular Meetings

Regular meetings of the Trustees may be held at such time and place as shall be determined from time to time by the Trustees, provided, however, at least one such meeting, which may be the Annual Meeting, shall be held during each fiscal year. Written notice of each such meeting setting forth the place, day and hour thereof shall be given at least three (3) days before such meeting to such Trustees.

Section 6.3.3 Special Meetings

Special meetings may be called by any Trustee in such manner as the Trustees may establish, provided, however, that written notice of each meeting stating the place, day and hour thereof shall be given at least three (3) days before such meeting to each Trustee.

Section 6.3.4 Waiver of Notice

Any Trustee may at any time waive notice of any meeting in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Trustee at any such meeting shall constitute a waiver of notice by him or her of the time and place thereof.

Section 6.3.5 Quorum and Voting

At any meeting of the Trustees, a majority of the Trustees then in office shall constitute a quorum for the transaction of business, but if at any meeting of the Trustees there shall be less than a quorum present, those present may adjourn the meeting, from time to time, to any subsequent time at the discretion of a majority of those present, until a quorum be had. At any adjourned meeting at which a quorum be present, any business may be transacted which might have been transacted at the meeting as originally called. For the transaction of business, it shall require an affirmative vote of a majority of Trustees present and voting, unless a different vote is required by law, the provisions of this trust instrument or Master Deed. So long as the Declarant is entitled to designate the Trustees as provided in Section 4.1 hereof, a quorum shall consist of one Trustee.

Section 6.3.6 Consent in Lieu of Meeting

Any action by the Trustees may be taken without a meeting if a written consent thereto is signed by all of the Trustees then in office, and filed with the records of the Trustees' meetings. Such consent shall be treated as a vote of the Trustees for all purposes.

Section 6.3.7 Notice

Any notice herein required shall be deemed sufficient and given for all purposes, by mailing said notice, postage prepaid, and addressed to such Trustee at his business address, or by delivery to such Trustee.

Section 6.4 Meeting of Unit Owners

Section 6.4.1 Annual Meeting

There shall be an annual meeting of the Unit Owners on the first Tuesday of September in each year at 8:00 p.m. at such reasonable place as may be designated by the Trustees by written notice given by the Trustees to the Unit Owners at least seven (7) days prior to the date so designated. If no annual meeting is held in accordance with the foregoing provisions, a special meeting may be had in lieu thereof, and any action taken at such meeting shall have the same effect as if taken at the annual meeting.

Section 6.4.2 Special Meetings

Special meetings of the Unit Owners may be called at any time by the Trustees, and shall be called by them upon the written request of Unit Owners entitled to more than twenty-five (25%) percent of the Beneficial Interest of the trust. Written notice of any special meeting, designating the place, day and hour thereof, shall be given by the Trustees to the Unit Owners at least seven (7) days prior to the date so designated.

Section 6.4.3 Notice of Certain Matters

Whenever at any meeting the Trustees propose to submit to the Unit Owners any matters with respect to which specific approval of, or action by, the Unit Owner is required by law or this trust, the notice of such meeting shall so state and reasonably specify such matter.

Section 6.4.4 Waiver of Notice

Any Unit Owner may at any time waive notice of any meeting in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Unit Owner at any such meeting shall constitute a waiver of notice by him or her of the time and place thereof.

Section 6.4.5 Quorum

Unit Owners entitled to not less than fifty-one (51%) percent of the Beneficial Interest of this trust shall constitute a quorum at all meetings. If less than a quorum be present, any meeting may be adjourned from time to time, to any subsequent time, at the discretion of a majority of the Unit Owners present, and entitled to vote, until a quorum be had. At any such adjourned meeting at which a quorum may be present, any business may be transacted at the meeting as originally called. Any action voted at a meeting shall require the vote of more than fifty (50%) percent of the Beneficial Interest in the trust, except where the other provisions of this trust or Chapter 183A requires a larger percentage.

Section 6.4.6 Consent in Lieu of Meeting

Any action to be taken by the Unit Owners may be taken without a meeting if all the Unit Owners entitled to vote on the matter consent to the action by a writing filed with the records of the meetings of the Unit Owners. Such consent shall be treated for all purposes as a vote at a meeting.

Section 6.4.7 Maintenance and Repair of Units

The Unit Owners shall be responsible for the proper maintenance and repair of their respective Units and the maintenance, repair and replacement of utility fixtures therein serving the same including, without limitation, interior finish walls, ceilings and floors; windows and interior door trim; plumbing and sanitary waste fixtures

and fixtures for water and other utilities; electrical fixtures and outlets; and all wires, pipes, drains and conduits for water, sewerage, electric power and light, telephone and any other utility services which are contained in and serve such Unit. The Unit Owners shall further be responsible for maintaining minimum temperatures in their respective Units of forty-five (45) degrees so as to avoid the freezing of pipes, plumbing facilities and the like. If the Trustees shall at any time in their reasonable judgment determine that the interior of any Unit is in such need of maintenance or repair that the market value of one or more other Units is being adversely affected or that the condition of a Unit or fixtures, furnishings, facility or equipment therein is hazardous to any Unit or the occupants thereof, the Trustees shall in writing request the Unit Owner to perform the needed maintenance, repair or replacement or to correct the hazardous condition, and in case such work shall not have been commenced within fifteen (15) days (or such reasonable shorter period in case of emergency as the Trustees shall determine) of such request, and thereafter diligently brought to completion, the Trustees shall be entitled to have the work performed for the account of such Unit Owner and to enter upon and have access to such Unit for that purpose. In the event the minimum temperature is not maintained, the Trustees shall have the right of access to such Unit at any time to increase the heating to maintain the minimum temperature or to repair any damage caused by the failure to maintain the minimum temperature. The reasonable cost of such work shall constitute a lien upon such Unit and the Unit Owner shall be personally liable therefor.

Section 6.5.1 Maintenance, Repair and Replacement of Common Areas and Facilities: Assessment of Common Expenses Therefor

The Trustees shall be responsible for the proper maintenance, repair and replacement of the Common Areas and Facilities of the Condominium (see Section 6.9 for specific provisions dealing with repairs and replacement necessitated because of casualty loss), except that separate provision has been made in the Master Deed for the maintenance, repair or replacement of certain common areas or facilities, the exclusive use of which is reserved to one or more (but not all) of the Unit Owners, which may be done through the managing agent, as herein provided, and any two Trustees or the managing agent or any other who may be so designated by the Trustees may approve payment of vouchers for such work. The expenses of such

maintenance, repair and replacement shall be assessed to the Unit Owners as common expenses of the Condominium at such times and in such amounts as provided in Section 6.8.2.

Section 6.5.2 Connecting Units: Exclusive Use of Common Areas

The Trustees may authorize that exclusive use of one or more Common Areas or Facilities be assigned to one or more Units for the purpose of business meetings, social gatherings and similar uses on a temporary basis, and on such conditions as the Trustees may determine, which conditions may, without limitation, include a requirement that the Unit Owners so benefited pay, as additional common expenses, such costs of said Common Areas or Facilities as the Trustees from time to time may determine. The failure of the Trustees granting said exclusive use to require payment of any such costs as a condition of such exclusive use shall not preclude those Trustees, or any successor Trustee, from imposing reasonable additional common expenses for the exclusive use of said Common Areas or Facilities. Such rights of exclusive use of Common Areas or Facilities shall be personal to the Unit Owners to whom granted and shall terminate when such Unit Owners no longer own the Units so benefited.

Section 6.6 Additions, Alterations or Improvements by Unit Owners

No Unit Owner shall make any structural addition, alteration or improvement in or to his Unit, 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 a proposed structural addition, alteration or improvement in each such Unit Owner's Unit, within thirty (30) days of receipt of such request, and failure to do so within the stipulated time shall constitute a consent by the Trustees to the proposed addition, alteration or improvement. Any application to any department of the City of Salem for a permit to make an addition, alteration or improvement in or to any Unit shall be executed by the Trustees only; provided, however, the Trustees shall not thereby incur any liability to any contractor, subcontractor, or materialman 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. Nothing in this section shall prevent a Unit Owner from painting and decorating the interior surface of the walls, ceilings and floors of his Unit, including decorations therein so long as the same does not affect the accoustical integrity of the Unit or interfere unreasonably with the quiet enjoyment of other Units. The provisions of this Section 6.6 shall not apply to Units owned by the Declarant until such Units have been initially sold by the Declarant and paid for.

Section 6.7 Use of Units

In order to provide for congenial occupancy of the property and for the protection of the values of the Units, the property shall be used only for residential purposes by not more than one family unit or by not more than two unrelated persons, and in addition thereto:

(a) The Common Areas and Facilities shall be used for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.

(b) No nuisances shall be allowed on the property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of this property by its residents.

(c) No immoral, improper, offensive, or unlawful use shall be made of the property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any Unit shall be eliminated by and at the sole expense of the Owner of said Unit, and relating to the Common Areas and Facilities shall be eliminated by the Trustees.

(d) No portion of a Unit (other than the entire Unit) may be rented, and no Unit may be leased or rented for a period of less than thirty (30) days. All leases or rental agreement shall be in writing and shall be specifically subject to the provisions of (i) Chapter 183A; (ii) the Master Deed and, (iii) this Declaration of Trust and By-Laws and any rules and regulations promulgated thereunder.

Section 6.7.1 Signs

So long as the Declarant owns any Unit, no sign, plaque or communication of any description shall be placed on the exterior of any Unit or on any portion of the Common Areas and Facilities, by either a Unit Owner or the Trustees, and no "For Sale", "For Rent" or "For Lease" signs or other window displays or advertising shall be maintained or permitted on any part of the property or in any Unit, except by the Declarant. Thereafter no Unit Owner shall place any sign or other communication on the exterior of any Unit or on any portion of the Common Areas and Facilities without procuring the prior written approval of the Trustees.

Section 6.8 Common Expense Funds

Section 6.8.1 Reserve Funds

The Unit Owners shall be liable for common expenses and, subject to the requirements as to reserve and contingent liability funds set forth in Section 8.4 hereof, shall be entitled to surplus accumulations, if any, of the Condominium in proportion to their Beneficial Interest in the trust except that separate provision has been made in the Master Deed for the payment of or reimbursement for certain costs and expenses relating to those Common Areas or Facilities, the exclusive use of which is reserved to one or more (but not all) of the Unit Owners. The Trustees may from time to time distribute surplus accumulations, if any, among the Unit Owners in such proportions. The Trustees shall, to the extent they deem advisable or as otherwise required by the provisions of Section 8.4 hereof, set aside common funds of the Condominium for reserve or contingent liabilities, and, subject to the provisions of Section 8.4 hereof, may use the funds so set aside for reduction of indebtedness or other lawful capital purpose, or, subject to the provisions of the following Sections 6.8.2 and 6.8.5 for repair, rebuilding or restoration of the trust property or for improvements thereto, and the funds so set aside shall not be deemed to be common profits available for distribution.

Section 6.8.2 Estimates of Common Expenses and Assessments

At least thirty (30) days prior to the commencement of each fiscal year of this trust, the Trustees shall estimate the common expenses expected to be incurred during the next fiscal year together with a reasonable provision for contingencies and reserves, and after taking into account any undistributed surplus accumulations from prior years, shall determine the assessment to be made for the next fiscal year. The Trustees shall promptly render statements to the Unit Owners for their respective shares of such assessment, according to their Beneficial Interest in the Common Areas and Facilities, and such statements shall be due and payable in advance in monthly installments on the first (1st) day of each month in the fiscal year. In the event that the Trustees shall determine 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, the Trustees shall make a supplemental assessment or assessments and render statements therefor in the manner aforesaid, and such statements shall be payable and take effect as aforesaid. The amount of each such monthly installment shall be personal liability of each Unit Owner (jointly and severally among the owners of each Unit) owning the Unit at the time the assessment became due and, if not paid when due, or upon the expiration of thirty (30) days, shall carry a late charge in such amount or at such rate (which amount or rate need not be in proportion to the Beneficial Interests in this trust) as the Trustees shall determine and, together with any such late amount or charge and

attorneys' fees for collection as hereinafter provided, shall constitute a lien on the Unit pursuant to the provisions of Section 6 of Chapter 183A. Each Unit Owner, by acceptance of a Unit Deed, agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by the Trustees in collection of said assessments for common expenses and enforcements of said lien. Said lien shall in all events be subordinate to a first mortgage on the Unit if the mortgage was recorded or filed before the delinquent assessment was due. Said lien shall not be affected by the sale or transfer of the Unit except in the event of a foreclosure of a first mortgage in which case the foreclosure shall extinguish the lien for any assessments that were payable before the foreclosure sale, but will not relieve any subsequent Unit Owner from paying further assessments. The effective date for assigning assessments and granting voting rights to Units added to the Condominium pursuant to the Master Deed shall be the date of recording of the amendment of said Master Deed adding such Units to the Condominium.

Section 6.8.3 Foreclosure of Liens

The Trustees shall have the right and the duty to take such action as the Trustees deem reasonably required under the circumstances to collect such common charges, including without thereby limiting the generality of the foregoing, the commencement of appropriate legal proceedings. The Trustees shall have the right to recover such common charges by foreclosure of the lien on such Unit as provided in Section 6 of the Chapter 183A. In any such action brought by the 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 Trustees acting on behalf of all Unit Owners shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage (but not to vote the Beneficial Interest appurtenant thereto) convey or otherwise deal with the same. Notwithstanding the foregoing, a suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 6.8.4 Trustees Authorize Tax Abatement Applications

No Unit Owner shall file an application for abatement of real estate taxes without the written approval of the Trustees, which approval shall not be unreasonably withheld.

Section 6.8.5 Application of Common Funds

The Trustees shall expend common funds only for the purposes permitted by this Trust and by Chapter 183A.

Section 6.8.6 Notice of Default to Mortgagees

Upon written request addressed to the Trustees by a first mortgagee of any Unit, the Trustees shall notify such mortgagee of any default by the mortgagor of such Unit in the performance of the mortgagor's obligation under the Master Deed or this Declaration of Trust.

Section 6.9 Rebuilding and Restoration, Improvements

Section 6.9.1 Determination of Scope of Loss

In the event of any casualty loss to the trust property, the Trustees shall determine in the reasonable discretion whether or not such loss exceeds ten (10%) percent of the value of the Condominium immediately prior to the casualty, and shall notify all Unit Owners of such determination. If such loss as so determined does not exceed ten (10%) percent of such value, the Trustees shall proceed with the necessary repairs, rebuilding or restoration in the manner provided in paragraph (a) of Section 17 of Chapter 183A. If such loss as so determined exceeds ten (10%) percent of such value, the Trustees shall forthwith submit to all Unit Owners (a) a form of agreement (which may be in several counterparts) among the Unit Owners authorizing the Trustees to proceed with the necessary repair, rebuilding or restoration, and (b) a copy of the provisions of Section 17; and the Trustees shall thereafter proceed in accordance with, and take such further action as they may in their discretion deem advisable in order to implement, the provisions of paragraph (b) of Section 17 to wit:

(a) If seventy-five (75%) per cent in interest of the Unit Owners do not agree within one hundred and twenty (120) days after the casualty to proceed with repair or restoration, the Condominium, including all units, 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 appropriate agreement to rebuild is filed. The net proceeds of the partition sale, together with any common funds shall be divided in proportion to the Unit Owners' respective Beneficial Interests. Upon such sale, the Condominium shall be deemed removed from the provisions of Chapter 183A.

(b) If seventy-five (75%) per cent in interest of the Unit Owners agree to proceed with the necessary repair or restoration, the cost of the rebuilding of the Condominium in excess of any available common funds, including the proceeds of any insurance, shall be a common expense, provided however, that if such excess cost exceeds ten (10%) per cent of the value of the Condominium prior to the casualty, any Unit Owner who did not so agree may apply to the Superior Court of Essex County on such notice to the Trustees as the Court shall direct, for an order directing the purchase of his Unit by the Trustees at the fair market value thereof as approved by the Court. The cost of any such purchase shall be a common expense.

Section 6.9.2 Submission to Unit Owners of Proposed Improvements

If and whenever the Trustees shall propose to make any improvement to the Common Areas and Facilities of the Condominium, or shall be requested in writing by the Unit Owners holding twenty-five (25%) per cent or more of the Beneficial Interest in this trust to make any such improvement, the Trustees shall submit to all Unit Owners (a) a form of agreement (which may be in several counterparts) specifying the improvement or improvements proposed to be made and the estimated cost thereof, and authorizing the Trustees to proceed to make the same, and (b) a copy of the provisions of Section 18 of Chapter 183A. Upon the receipt by the Trustees of such agreement signed by the Unit Owners holding seventy-five (75%) per cent or more of the Beneficial Interest, or the expiration of ninety (90) days after such agreement was first submitted to the Unit Owners, whichever shall first occur, the Trustees shall notify all Unit Owners of the aggregate percentage of Beneficial Interest held by Unit Owners who have then signed such agreement. If such percentage exceeds seventy-five (75%) per cent, 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 improvement to all the Unit Owners. The agreement so circulated may also provide for separate agreement by the Unit Owners that if more than fifty (50%) per cent, but less than seventy-five (75%) per cent of the Beneficial Interest so consent, the Trustees shall proceed to make such improvement or improvements and shall charge the same to the Unit Owners so consenting.

Section 6.9.3 Arbitration of Disputed Trustee Action

Notwithstanding anything in Sections 6.9.1 and 6.9.2: (a) In the event that any Unit Owners(s), by written notice to the Trustees shall dissent from any determination of the Trustees with respect to the value of the Condominium or any other determination or action of the Trustees with respect to the value of the Condominium or any other