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MASTER DEED17 DOWNING THREE

JAMES A. NEWSLOW, III, d/b/a BETNR ENTERPRISES, having a place of business at 172 Hubbard Avenue, Dalton, Massachusetts, PETER W. MORESI and FRANCIS A. WOJCIK, co-partners doing business as TOG REALTY COMPANY, having a place of business at 17 Downing Three, Pittsfield, Massachusetts, and JOHN B. CARDONNEL and JAMES H. KELLY, II, co-partners doing business as GI REALTY, having a place of business at 17 Downing Three, Pittsfield, Massachusetts (the "Declarants") being the owners of the premises hereinafter described in Pittsfield, Berkshire County, Massachusetts, by duly executing and recording this Master Deed, do hereby submit such premises to the provisions of Chapter 183A of the General Laws of Massachusetts, and create with respect to such premises, a condominium (the "Condominium") to be governed by and subject to the provisions of Chapter 183A. To that end the Declarants declare and provide the following:

1. NAME OF CONDOMINIUM AND PLAN OF DEVELOPMENT. The name of the Condominium shall be 17 Downing Three.
2. DESCRIPTION OF LAND. The premises which constitute the Condominium shall consist of the land in Pittsfield, Berkshire County, Massachusetts described in

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*Note: See Amendment recorded
in Book 1197, Page 946 &c*



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Exhibit A attached hereto together with the improvements now or hereafter constructed thereon and all easements, rights and appurtenances belonging thereto (the "Condominium Property"). The Condominium Property is shown on the site plan (the "Site Plan") entitled "Condominium Site Plan, 17 Downing Three, Downing Industrial Park, Pittsfield, Massachusetts," prepared by Scalise-Knysh Associates, Inc. dated December 30, 1986 and recorded herewith in the Registry of Deeds in Drawer N, Plan File 2. The Site Plan shows the layout, location, building designations and dimensions of the buildings in the Condominium, as built.

3. DESCRIPTION OF BUILDINGS. The Condominium consists of a total of six units contained in two buildings (the "Buildings") designated as follows:

<u>Building Designation</u>	<u>Units in Building</u>
Building 1	Unit 1-A Unit 1-B Unit 1-C
Building 2	Unit 2-A Unit 2-B Unit 2-C

Each Building (a) is two stories high, (b) contains three units, and (c) is constructed primarily of steel, with a poured concrete foundation.

4. DESIGNATION OF UNITS AND THEIR BOUNDARIES. The designations of the units in the Condominium (the "Units") and the locations, approximate areas, immediately accessible common areas, and other descriptive

specifications of the Units are set forth on Exhibit B attached hereto. Simultaneously with the recording hereof there has been recorded with the Berkshire Middle District Registry of Deeds (the "Registry of Deeds") a set of floor plans complying with the requirements of Chapter 183A (the "Floor Plans"). The dimensions of the Units shown on the Floor Plans may extend in some instances to the surface of walls, ceilings and floors facing the Unit. The Unit boundaries are nevertheless defined as follows:

4.1 Floors: the unfinished surface of the top of the concrete flooring on the ground floor;

4.2 Ceilings: the interior surface of the steel roof sheets above the perlin subframing, but excluding primary steel framing and steel subframing below the roof sheets;

4.3 Interior building walls between Units: the unfinished interior surface of the masonry walls between Units;

4.4 Exterior building walls: the plane of the interior surface of the steel girt subframing facing the Unit;

4.5 Doors and windows: as to doors, the exterior surface thereof; as to windows and screens, the exterior surface of the glass and screens and of the frames.

5. COMMON AREAS AND FACILITIES; EASEMENTS; PERCENTAGE INTEREST IN COMMON AREAS AND FACILITIES; COMMON AREA EXPENSES.

5.1 Common Areas and Facilities. The common areas and facilities of the Condominium (sometimes referred to as "common elements") shall consist of all parts of the Condominium Property which are not included within the boundaries of any Unit, including, without limitation, the following elements:

5.1.1 The foundations, slabs, subflooring structural columns, primary steel framing and steel subframing below the roof sheets, girders, beams, interior loadbearing walls, supports, exterior walls and roofs of the Buildings, and common walls within a Building (but not including (a) any portions of the foregoing which are a part of the Units, or (b) any portions of the foregoing which are installed by a Unit Owner in connection with the construction of second floor space pursuant to Section 8.2, which installations shall be considered part of the Unit in which they are installed).

5.1.2 All installations designed and intended for common use (including, without limitation, telephone, electricity, gas, hot and cold water, sewer, heat ventilation and air conditioning, and all pipes, ducts, vents, wires, cables, and conduits designed and intended for common use in connection therewith), whether located in common areas or in Units, but excluding from such installations all parts thereof, and all items affixed or connected thereto, not designed or intended for common use, including among such exclusions, without limitation, any

individual heat and hot water systems located in the common areas of the Condominium Property and serving exclusively one Unit and pipes, ducts, vents, wires, cables, and conduits designed for and intended to be used in connection therewith;

5.1.3 The plaza areas, yards, lawns, driveways, parking areas, walkways, and the improvements thereon and thereof, including, without limitation, railings, steps, lighting fixtures, landscaping and plantings; and

5.1.4 All parts of the Condominium Property designed and intended for common use or necessary or convenient to the existence, maintenance or safety of the Condominium.

As used herein, the term "common use" includes, without limitation, use by or for any two or more Units.

5.2 Exclusive Use of Certain Common Areas and Facilities. The use of certain of the common elements of the Condominium is assigned to particular Units, and to that end there is appurtenant to each such Unit:

5.2.1 the right and easement to use the parking spaces which are either: (a) designated on the Site Plan as parking spaces for a particular Unit, or (b) assigned to a particular Building or a particular Unit pursuant to the By-Laws of the 17 Downing Three Condominium Trust, hereinafter referred to (the "By-Laws").

5.2.2 the right and easement to use in common with other Units in a particular Building the parking spaces which shall be designated as visitor parking spaces for a particular Building pursuant to the By-Laws;

5.2.3 the exclusive right and easement to use the walkways, stoops, entryways and docking and loading areas, if any, which serve exclusively one Unit.

5.3 Easement for Encroachments. If any portion of the common elements encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the common elements, or if any such encroachment shall occur hereafter as a result of (a) settling of the Buildings, or (b) alteration or repair to the common elements made by or with the consent of the Trustees of the 17 Downing Three Condominium Trust (the "Trustees"), or (c) as a result of repair or restoration of the Buildings or any Unit after damage by fire or other casualty, or (d) as a result of condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Buildings stand.

5.4 Undivided Interests in Common Areas and Facilities. There shall be appurtenant to each Unit the percentage undivided interest in the common areas and facilities set forth on Exhibit B. The undivided interest of each Unit has been determined on the basis of the approximate relation that the fair value of that Unit on the date hereof bears to the aggregate fair value of all Units

on the date hereof. If and when (a) a second floor is added to any Unit pursuant to Section 8.2, (b) the second floor of any Unit is expanded pursuant to Section 8.2, or (c) Unit 1-A or Unit 1-B is expanded pursuant to Section 8.3, the percentage interests applicable to each Unit shall be revised to reflect the change in the approximate relation that the fair value of each Unit bears to the aggregate fair value of all the Units at the time of such change. The revised percentage interest of each Unit shall be set forth in an amendment to the Master Deed and shall be determined by dividing (a) the approximate area (square feet) of each Unit at the time of such amendment, by (b) the approximate area (square feet) of all Units at the time of such amendment.

5.5 Use of Common Areas and Facilities and Expenses Therefor. The common elements shall be subject to the provisions of the By-Laws and to rules and regulations promulgated pursuant thereto with respect to the use thereof, the expenses therefor, and assignments of certain common elements to particular Units.

6. PURPOSES. The Buildings, and the Units and other facilities therein may be used only for industrial, manufacturing, warehousing, research and general office purposes and purposes related thereto, and for no other purpose.

7. RESTRICTIONS ON USE; ENFORCEMENT OF RESTRICTIONS.

7.1 Restrictions on Use. Unless otherwise permitted by this Master Deed:

7.1.1 Except as otherwise permitted by an instrument in writing duly executed by a majority of the Trustees, the architectural integrity of the Buildings and the Units shall be preserved without modification, and to that end, without limiting the generality of the foregoing, no awning, screen, antenna, banner or other device, and no exterior change, addition, structure, projection, decoration, or other feature shall be erected or placed upon or attached to any such Unit or any part thereof; no sign shall be erected or placed upon or attached to any unit, any part thereof or any of the common elements except in accordance with uniform sign requirements to be promulgated by the Trustees; no alteration to the interior to a Unit that is of a structural nature or affects the common elements shall be made; no addition to or change or replacement (except, so far as practicable, with identical kind) of any exterior light, exterior doors, window frames or door frames or other exterior hardware shall be made; and no painting or attaching of decoration shall be done on any exterior part or surface of the Buildings or any Unit nor on the interior surface of any window.

7.1.2 No Unit shall be used or maintained in a manner contrary to or inconsistent with the purposes set forth in Section 6 or with the By-Laws and rules and

regulations which may be adopted pursuant thereto; nor shall any nuisance be maintained on the Condominium Property.

7.1.3 The Units shall be used only for purposes consistent with their design.

7.1.4 No Unit Owner or occupant of a Unit shall commit or permit any violation of the policies of insurance purchased by the Trustees in accordance with the By-Laws, (it being understood that the Trustees shall purchase policies of insurance which are consistent with the industrial, manufacturing and related purposes of the Condominium) or do or permit anything to be done, or keep or permit anything to be kept, or permit any condition to exist, which might (i) result in termination of any of such policies, (ii) adversely affect the right of recovery thereunder, (iii) result in reputable insurance companies refusing to provide insurance as required or permitted by the By-Laws, or (iv) result in any increase in the insurance rate or premium unless, in the case of such increase, the Unit Owner responsible for such increase shall pay the same. If the rate of premium payable with respect to the policies of insurance taken out by the Trustees in accordance with the By-Laws, or with respect to any policy of insurance carried independently by any Unit Owner as permitted by the By-Laws shall be increased, or shall otherwise reflect the imposition of a higher rate than that applicable to the lowest-rated Unit in the Condominium, by reason of anything that is done or kept in a particular Unit, or as a result of

the failure of any Unit Owner or any occupant of a Unit to comply with the requirements of the policies of insurance taken out by the Trustees, or as a result of the failure of any such Unit Owner or occupant to comply with any of the other terms and provisions of this Master Deed or the By-Laws, the Unit Owner of that particular Unit shall reimburse the Trustees and such other Unit Owners respectively for the resulting additional premiums, which shall be payable by the Trustees or such other Unit Owners as the case may be. The amount of any such reimbursement due the Trustees may, without prejudice to any other remedy of the Trustees, be enforced by assessing the same to that particular Unit pursuant to the By-Laws.

7.1.5 No unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, orders, rules and regulations of all governmental agencies having jurisdiction thereof (collectively "Legal Requirements") shall be strictly complied with. Compliance with any Legal Requirements shall be accomplished by and at the sole expense of the Unit Owner or Owners, or the Trustees, as the case may be, whichever shall have the obligation under the By-Laws to maintain and repair the portion of the Condominium Property affected by any such Legal Requirement. Each Unit Owner shall give prompt notice to the Trustees of any written notice it receives of the violation of any Legal Requirement affecting its Unit or the Condominium Property. Notwithstanding the foregoing

provisions, any Unit Owner may, at its expense, defer compliance with and contest, by appropriate proceedings prosecuted diligently and in good faith, the validity or applicability of any Legal Requirement affecting any portion of the Condominium Property that such Unit Owner is obligated to maintain and repair, and the Trustees shall cooperate with such Unit Owner in such proceedings, provided that:

- (i) Such Unit Owner shall pay and shall defend, save harmless and indemnify the Trustees, and each other Unit Owner against all liability, loss or damage that any of them respectively shall suffer by reason of such contest and any noncompliance with such Legal Requirement, including reasonable attorneys' fees and other expenses reasonably incurred; and
- (ii) Such Unit Owner shall keep the Trustees advised as to the status of such proceedings.

Such Unit Owner need not comply with any Legal Requirement so long as it shall be so contesting the validity or applicability thereof, provided that noncompliance shall not create a dangerous condition or constitute a crime or an offense punishable by fine or imprisonment, and that no part of the Condominium Property shall be subject to being condemned or vacated by reason of noncompliance or otherwise by reason of such contest. The Trustees may also contest any Legal Requirement without

being subject to the foregoing conditions as to contest and may also defer compliance with any Legal Requirement, but only subject to the foregoing conditions as to deferral of compliance. The costs and expenses of any contest by the Trustees shall be a common expense as defined in the By-Laws. The amount due the Trustees under the foregoing obligation of a Unit Owner to defend, save harmless and indemnify the Trustees may, without prejudice to any other remedy of the Trustees be enforced by assessing the same to the Unit or Units of such Unit Owner pursuant to the By-Laws.

7.1.6 If any governmental license or permit (other than a certificate of occupancy) shall be required for the proper and lawful conduct of business in any particular Unit, and if failure to secure such license or permit would in any way affect any other Unit or Unit Owner thereof or the Trustees, the owner of such particular Unit at its expense shall procure and maintain such license or permit, submit the same to inspection by the Trustees and comply with all the terms and conditions thereof.

7.1.7 No Unit Owner or occupant shall discharge, or permit to be discharged, anything into waste lines, vents or flues of the Condominium that might reasonably be anticipated to cause damage thereto, spread odors or otherwise be offensive.

7.1.8 All mechanical equipment installed in any Unit shall be so designed, installed, maintained and

used by the Unit Owner or occupant of such Unit as to minimize insofar as possible and in any event reduce to a reasonably acceptable level (considering the industrial, manufacturing and related purposes of the Condominium) the transmission of noise, vibration, odors and other objectionable transmissions from such Unit to any other area of the Condominium Property.

7.2 Enforcement of Restrictions. The restrictions set forth in Section 7.1 (a) shall be for the benefit of the owners of all of the Units and the Trustees, (b) shall be administered on behalf of such Unit Owners by the Trustees, (c) shall be enforceable solely by such Unit Owners or Trustees, insofar as permitted by law, and (d) shall, insofar as permitted by law, be perpetual, and to that end may be extended at such time or times and in such manner as permitted or required by law for the continued enforceability thereof. No Unit Owner shall be liable for any breach of the provisions of this Section 7 with respect to a particular Unit except such as occur during such Unit Owner's ownership of such Unit.

8. AMENDMENT OF MASTER DEED.

8.1 Amendments Requiring Approval of Unit Owners. Except for amendments relating to (a) the construction of second floor space within a Unit pursuant to Section 8.2, (b) the lateral expansion of Unit 1-A or Unit 1-B pursuant to Section 8.3, or (c) the combining, subdividing or re-aligning pursuant to Section 8.4 of Units owned by the

Principal Declarant (as defined in Section 8.4), this Master Deed may only be amended (i) by the vote of the Unit Owners holding at least 75% of the undivided interest in the common areas and facilities, cast in person or by proxy at a meeting duly held in accordance with the provisions of the By-Laws, or (ii) without a meeting, by unanimous written consent of all Unit Owners entitled to vote under the By-Laws. No such amendment requiring the approval of Unit Owners shall alter the foregoing provisions of this Section 8.1, the configuration or size of any Unit in any material respect, or the percentages of interest of the Units in the common areas and facilities without the unanimous vote or written consent of all Unit Owners entitled to vote under the By-Laws. No amendment of this Master Deed pursuant to this Section 8.1 shall be effective until a certificate setting forth the same and its adoption shall have been recorded with the Registry of Deeds.

8.2 Addition of Second Floor Space Within Units.

Without the consent of any other Unit Owner, the owner of any Unit shall have the right to alter its Unit by adding a second floor therein or expanding the second floor thereof, in accordance with plans and specifications approved by the Trustees. If a Unit Owner shall choose to add a second floor to, or expand the second floor of, its Unit pursuant to this Section 8.2, such Unit Owner shall record with the Registry of Deeds an amendment to this Master Deed complying with the requirements of Section 5.4 and accompanied by

amended floor plans for the Condominium complying in all respects with Chapter 183A and showing the changed floor plan of the Unit as built. Such amendment and revised floor plans must be approved by the Trustees as to both form and substance prior to their being recorded, which approval shall not be unreasonably withheld.

8.3 Lateral Expansion of Certain Units. Without the consent of any other Unit Owner, (a) the owner of Unit 1-A shall have the right to expand Unit 1-A into the 40' x 70' area shown on the Site Plan as "Expansion Area for Bldg. 1, Unit 1-A" (the "Unit 1-A Expansion Area") in accordance with plans and specifications approved by the Trustees, and (b) the owner of Unit 1-B shall have the right to expand Unit 1-B into the 40' x 100' area shown on the Site Plan as "Expansion Area for Bldg. 1, Unit 1-B" in accordance with plans and specifications approved by the Trustees. If the owner of either Unit 1-A or Unit 1-B shall choose to so expand either of said Units, such Unit Owner shall record with the Registry of Deeds an amendment to this Master Deed changing the boundaries of Unit 1-A or Unit 1-B, as the case may be, and complying with the requirements of Section 5.4. Any such amendment shall be accompanied by amended site plans and floor plans for the Condominium complying in all respects with Chapter 183A and showing the expanded boundaries of Unit 1-A or Unit 1-B, as the case may be, as built. Such amendment and revised site plan and floor plans must be approved by the Trustees as to both form and

substance prior to their being recorded, which approval shall not be unreasonably withheld. In connection with any expansion of Unit 1-A in accordance with this Section 8.3, the owner of Unit 1-A shall have the right, at its sole expense, to alter the paved parking and driveway area west of the westernmost corner of the Unit 1-A Expansion Area, to the extent reasonably necessary to accommodate the expansion of Unit 1-A, by (i) extending said parkway and driveway area further west on the Condominium Property, and (ii) relocating any one or more of parking spaces 23, 24 and 25 shown on the Site Plan to the area directly east of parking space 7 shown on the Site Plan.

8.4 Right of Principal Declarant to Combine, Sub-divide or Re-align Units Held by the Principal Declarant. Notwithstanding any other provision of this Master Deed or the By-Laws, as long as James A. Newslow, III (the "Principal Declarant") owns one or more Units in the Condominium, the Principal Declarant shall have the right, without the consent of any Unit Owners or the Trustees, to combine or sub-divide or otherwise re-align Units held by the Principal Declarant in order to facilitate their sale, and to reflect such changes in the affected Unit or Units in a duly recorded amendment to this Master Deed. In no event, however, shall such combining, sub-dividing or re-aligning of Units held by the Principal Declarant: (a) alter or diminish the common areas and facilities; (b) alter or diminish the undivided interest in the common areas and

facilities, or the voting rights, of Units not then owned by the Principal Declarant or Units owned by the Principal Declarant but under a contract of sale not then in default; or (c) diminish the total undivided interest in the common areas and facilities, voting rights or share of common charges previously allocated to the Units undergoing such combining, sub-dividing or re-aligning.

8.5 No amendment to this Master Deed which would affect the rights of particular Unit Owners or the Principal Declarant to amend this Master Deed pursuant to Sections 8.2, 8.3, or 8.4 may be made without the written consent of the Unit Owner affected or the Principal Declarant, as the case may be.

9. RIGHTS AND EASEMENT FOR COMPLETION OF CONDOMINIUM AND ALTERATION AND EXPANSION OF UNITS In connection with (a) the completion of the Condominium by the Declarants, (b) the addition or expansion of a second floor within individual Units pursuant to Section 8.2, (c) the rights of the owners of Units 1-A and 1-B to expand said Units pursuant to Section 8.3, and (d) the right of the Principal Declarant to combine, sub-divide or re-align Units held by the Principal Declarant pursuant to Section 8.4, the Declarants, the Principal Declarant and such Unit Owners, as the case may be, shall have for themselves and their successors and assigns the following rights and easements appurtenant to the Units to which the foregoing development rights appertain:

9.1 To use, maintain, install, repair and replace and connect with utility pipe lines, wires, cables, conduits, and sewage and drainage lines now or hereafter installed on the Condominium Property.

9.2 To pass and repass by foot and vehicle over all common areas and facilities of the Condominium for all purposes, including, without limitation, the transportation of construction materials, equipment and personnel for the purposes of constructing improvements;

9.3 To demolish, renovate and construct improvements on the Condominium Property and to engage in all activities necessary or appropriate to accomplish the completion of the Condominium or the alteration or expansion of Units described above; and

9.4 To reasonably interrupt service provided by utility lines, pipes, wires, cables, conduits and sewage and drainage lines as may be necessary or appropriate to accomplish the completion of the Condominium or the expansion of Units described above without liability for such interruption of service; provided, however, that the Declarants or the Unit Owner causing such interruption shall use their best efforts to minimize any such interruption of service.

10. TRUST. The entity through which the Unit owners shall manage and regulate the Condominium established hereby is the 17 Downing Three Condominium Trust under Declaration of Trust of even date attached hereto as Exhibit C (the

"Declaration of Trust"). Such Declaration of Trust establishes an organization of which all Unit Owners shall be members and in which such owners shall have a beneficial interest in proportion to the percentage of undivided interest in the common areas and facilities to which they are entitled hereunder. The names and addresses of the original and present trustees thereof (therein designated as Trustees) are as follows:

<u>Name</u>	<u>Address</u>
James A. Newslow, III	172 Hubbard Avenue Dalton, MA 01226
Peter W. Moresi	17 Downing Three Pittsfield, MA 01201
John B. Cardonnel	17 Downing Three Pittsfield, MA 01201

The Trustees have enacted By-Laws, which are set forth in such Declaration of Trust, pursuant to and in accordance with provisions of Chapter 183A.

11. CHAPTER 183A GOVERNS. The Units and common areas and facilities, and the Unit Owners and Trustees, shall have the benefit of and be subject to the provisions of Chapter 183A of the General Laws of Massachusetts, and in all respects not specified in this Master Deed or in the Declaration of Trust and the By-Laws, shall be governed by provisions of Chapter 183A in their relation to each other and to the Condominium, including, without limitation, provisions thereof with respect to removal of the

Condominium Property or any portion thereof from the provisions of said Chapter 183A.

12. ALTERATION OF UNITS.

12.1 Except as provided in Sections 8.2, 8.3 and 8.4, no owner of a Unit shall make or cause to be made structural modifications or alterations in his Unit, or in the water, gas, electrical, plumbing, heating and air-conditioning equipment or utilities therein, without the consent of the Trustees, which consent may be withheld in the event the Trustees determine that such structural alteration or modification would in any manner endanger, or diminish the value of, the Condominium Property. If the modification or alteration desired by a Unit Owner involves the removal of any permanent interior partition, the Trustees may permit same if the same is not a loadbearing partition and if the same does not interfere with any common utility source. The Trustees shall respond to requests for such permission within 15 days of the presentation of such requests to the Trustees, and shall not unreasonably withhold such permission.

12.2 Notwithstanding Section 12.1, with the permission of the Trustees, abutting Units may be physically combined into a single business premises, but they shall nevertheless, for all other pertinent purposes including, but not limited to assessments, attribution of common elements and voting, be deemed separate Units. Units which have been or are combined to form a single business premises

may be severed into their component parts (separate Units) at any time the owner of the combined Units so desires. Any construction or modification of the interior of such Units as may be required to effectuate the severance of the combined Units into separate Units shall be subject to the approval of the Trustees. The Trustees shall respond to requests for such approval within 15 days of the presentation of such requests to the Trustees and shall not unreasonably withhold such approval. Such modifications for the combining or severing of combined Units shall in any and all events be accomplished at the sole expense of the owner or owners of the combined Units and not at the expense of the Trustees. Nothing herein shall be deemed to require the Trustees to approve any modification which will alter the exterior appearance of the Building in which the combined Unit being severed into its component parts is located or in which the separate Units being combined are located.

13. ALTERATIONS, ADDITIONS AND IMPROVEMENTS TO COMMON ELEMENTS. The Trustees shall have the right to make or cause to be made substantial material alterations, improvements and additions to the common elements, in accordance with the following provisions:

13.1 A special meeting of all of the Unit Owners may be called for the purpose of acting upon the proposal for such substantial alteration, improvement or addition, upon not less than 30 days nor more than 60 days notice.

13.2 A vote of 75% of the beneficial interests, in person or by proxy, shall be required to approve and adopt the provisions allowing such alterations, improvements or additions.

13.3 The cost of such alteration, improvement or addition shall be assessed and collected as a common expense and each Unit Owner shall bear the same portion or share of such cost as is the share of the common elements appurtenant to its Unit.

14. DEFINITIONS. All terms and expressions herein used which are defined in Section 1 of Chapter 183A shall have the same meanings herein unless the context otherwise requires.

15. RESTRICTION ON CONVEYANCES. In order to assure a community of congenial occupants and protect the value of the Units and to further the continuous harmonious development of the Condominium Property, the sale or lease of Units shall be subject to the following provisions which shall be covenant running with the land so long as the Condominium shall be subject to the condominium form of ownership under the laws of Massachusetts.

15.1 In the event of an attempted conveyance in contravention of the directions herein contained, the Trustees shall have the right to enforce these provisions by legal proceedings, by injunctive proceedings, or by any legal means calculated to produce compliance.

15.2 A Unit Owner intending to make a bona fide sale or lease of his Unit or any interest therein shall give to the Trustees a written notice of his intention to sell or to lease, together with the name and address of the intended purchaser or lessee, and such other information as the Trustees may reasonably require, and the terms of the proposed transaction. The giving of such notice shall constitute a warranty and representation by the Unit Owner that he believes the proposal to be bona fide in all respects.

15.3 No sale, transfer, lease or conveyance (other than a mortgage) of a Unit shall be valid without the approval of the Trustees except in the cases elsewhere provided in this Master Deed, which approval shall not be unreasonably withheld. Approval shall be in recordable form, signed by the Trustees or an executive officer of the Trustees and shall be delivered to the purchaser or lessee and made a part of the documents of conveyance.

15.4 Failure of the Trustees to act in 30 days shall be deemed to constitute approval, in which event the Trustees must on demand prepare and deliver approval in recordable form.

15.5 Except as otherwise provided elsewhere in this Master Deed, the provisions of this Section 15 shall apply to original and all successive sales, leases, transfers and assignments.

15.6 No Unit shall be sold or leased, nor shall approval be given for the same, until and unless all assessments past and due are paid or their payment provided for to the satisfaction of the Trustees and unless the proposed purchaser or lessee can qualify as to the use restrictions.

15.7 Every purchaser or lessee who acquires any interest in a Unit shall acquire the same subject to this Master Deed and the By-Laws.

15.8 Should any Unit at any time become subject to a mortgage or similar lien given as security, in good faith and for value, the holder thereof (hereinafter called the "Mortgagee"), upon becoming the owner of such interest through foreclosure of that mortgage or deed in lieu of foreclosure, shall have the unqualified right to sell, lease or otherwise dispose of said Unit, including the fee ownership thereof, without complying with the provisions of Sections 15.3 through 15.6; provided, however, that in all other respects the provisions of this Master Deed and the By-Laws shall be applicable thereto; and provided further that nothing herein contained shall be deemed to allow or cause a severance from the Unit of the share of the common elements and limited common or other appurtenances of said Unit. Once the Mortgagee mentioned above has sold, transferred or conveyed his fee simple interest to any person whomsoever, the provisions of Sections 15.3 through

15.6 shall again be fully effective with regard to subsequent sales or conveyances of said Unit.

16. PRINCIPAL DECLARANT'S UNITS, RIGHTS AND PRIVILEGES.

16.1 The provisions of Section 15 of this Master Deed respecting sale, transfer and lease of Units shall not be applicable to the Principal Declarant. The Principal Declarant has and reserves the right to sell, lease or rent Units to any purchaser or lessee approved by it for periods no less than 30 days, subject, however, to the use restrictions herein provided. The Principal Declarant shall have the right to transact any business necessary to consummate the sale of Units including, but not limited to, the right to maintain models, advertise on the premises and use the common elements. In the event there are unsold Units the Principal Declarant retains the right to ownership thereof under the same terms and obligations as other Unit Owners except as elsewhere provided herein. The Principal Declarant may sell, lease, mortgage and/or rent Units owned by it to any person or persons whomsoever and the provisions of Section 15.2 through 15.6 shall not be applicable to the Principal Declarant or to any such sale, mortgage, conveyance or lease by the Principal Declarant notwithstanding anything to the contrary contained in this Master Deed or the By-Laws, provided, however, that this Section 16.1 shall not apply to any Unit after the initial sale thereof by the Principal Declarant.

16.2 For a period of three years after the recording of this Master Deed, so long as the Principal Declarant holds any Units for sale in the ordinary course of business none of the following actions may be taken by the Trustees without the written approval of the Principal Declarant:

16.2.1 Assessment of the Principal Declarant as a Unit Owner for capital improvements; and

16.2.2 Any action by the Trustees that would be detrimental to the sale of Units by the Principal Declarant; however, an increase in assessments for common expenses without discrimination against the Principal Declarant shall not be deemed to be detrimental to the sales of Units for the purpose of this Section 16.

16.3 The Principal Declarant may retain and use as sales offices, models or for purposes of otherwise promoting or effecting sales of any Units or other interests in real property, whether or not included in this Condominium, or for the conducting of any lawful business or activity attendant thereto, any Units retained or owned by the Principal Declarant.

16.4 This Section 16 shall not be amended without the written consent of the Principal Declarant.

17. WAIVER. No provision contained in this Master Deed 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 that may occur.

18. CAPTIONS. The captions herein are inserted as a matter of convenience only, and in no way define, limit, or describe the scope of this Master Deed nor the intent of any provision hereof.

EXECUTED under seal this 3rd day of ~~January~~^{FEBRUARY}, 1987.

James A. Newslow, III
JAMES A. NEWSLOW, III, d/b/a
Betnr Enterprises

TOG REALTY COMPANY

By Peter W. Moresi
Peter W. Moresi, Partner

By Francis A. Wojcik
Francis A. Wojcik, Partner

GI REALTY

By John B. Cardonnel
John B. Cardonnel, Partner

By James H. Kelly, II
James H. Kelly, II,
Partner

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

Jan. 16, 1987

Then personally appeared the above-named James A. Newslow, III, d/b/a Betnr Enterprises, Inc. and acknowledged the foregoing instrument to be his free act and deed, before me,



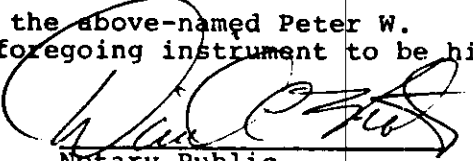
William B. Roberts
Notary Public
My commission expires: May 7, 1993

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

January 31, 1987

Then personally appeared the above-named Peter W. Moresi, and acknowledged the foregoing instrument to be his free act and deed, before me,


Notary Public

My commission expires: June 26, 1992

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

January 31, 1987

Then personally appeared the above-named Francis A. Wojcik and acknowledged the foregoing instrument to be his free act and deed, before me,


Notary Public


My commission expires: June 26, 1992

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

February 3, 1987

Then personally appeared the above-named John B. Cardonnel and acknowledged the foregoing instrument to be his free act and deed, before me,


Notary Public

My commission expires: 10/14/88

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

February 3, 1987

Then personally appeared the above-named James H. Kelly, II and acknowledged the foregoing instrument to be his free act and deed, before me,


Notary Public

My commission expires: 11/14/88

EXHIBIT A

That certain parcel of land located in the City of Pittsfield, County of Berkshire, Commonwealth of Massachusetts, bounded and described as follows:

All of Parcel 1 as shown on a plan entitled "Plan of Land Surveyed for James A. Newslow, Betnr Enterprises at Downing Industrial Park, Pittsfield, Massachusetts," dated December 19, 1986 and prepared by Scalise-Knysh Associates, Inc., which Plan is recorded with the Berkshire Middle District Registry of Deeds in Plan Drawer Q as Plan No. 92.

Said Parcel 1 is further bounded and described as follows:

Beginning at an iron pin in the southerly sideline of Downing Three, said pin marking the northeasterly corner of Parcel 1 and the northwesterly corner of Parcel 2 as shown on said Plan;

Thence South 25° 45' 55" West a distance of 175.50 feet along the westerly line of said Parcel 2 to an iron pipe;

Thence North 82° 40' 01" West along said Parcel 2 a distance of 40.00 feet to a P.K.;

Thence South 7° 19' 59" West along said Parcel 2 a distance of 48.00 feet to a P.K.;

Thence South 82° 40' 01" East along said Parcel 2 a distance of 55.62 feet to an iron pipe;

Thence South 25° 45' 55" West a distance of 185.52 feet to an iron pipe marking the southeasterly corner of the parcel hereby conveyed;

Thence North 50° 47' 29" West along land of Central Berkshire County Development Corporation a distance of 500.35 feet to an iron pipe;

Thence North 65° 00' 51" West along said Central Berkshire County Development Corporation a distance of 335.00 feet to an iron pipe marking the southwesterly corner of the parcel hereby conveyed;

Thence North 53° 36' 29" East along land of James A. Newslow a distance of 502.56 feet to an iron pipe in the southerly sideline of Downing Three;

Thence turning to the right along a curve with a radius of 1970.00 feet a distance of 578.50 feet to an iron pipe marking the point and place of beginning.

Containing, according to said Plan, 6.52 acres of land more or less.

The Parcel is subject to the following easements, covenants and restrictions:

1. Thirty-foot wide water line easement as shown on the above referenced Plan.
2. A thirty-foot drainage easement following the course of Barton Brook, as shown on said Plan. (See also Plan entitled "City Government Plan of Downing III, Laid out by the City of Pittsfield Engineering Division, Scale 1 inch = 60 feet, November, 1978," which Plan is filed with the City of Pittsfield.)
3. A gas pipeline easement granted to the Berkshire Gas Company by deed of James A. Newslow, III, d/b/a Betnr Enterprises, dated October 7, 1986 and recorded in said Registry in Book 1167, Page 144, and deed of Peter W. Moresi, et al dated February 3, 1987 and recorded in said Registry prior hereto.

4. The Parcel shall not be subdivided, but a condominium may be created thereon in accordance with the City of Pittsfield Zoning Ordinance.

5. The Parcel may not be utilized for the purpose of self-service storage or mini warehousing, so-called.

6. All construction equipment stored on the Parcel must be stored in conformity with present Downing Industrial Park Regulations, and must be screened so as to not be in plain view. Central Berkshire County Development Corporation ("CBCDC") shall have final authority as to compliance with this provision.

7. The reserved right of CBCDC to review and approve all proposed uses of the Parcel including, without limiting the generality of the foregoing, condominium use.

8. The Rules and Regulations Governing Downing Industrial Park of the Central Berkshire County Development Corporation, Pittsfield, Massachusetts, dated December 15, 1972 and recorded in said Registry in Book 933, Page 335, as amended by an Amendment dated July 12, 1973 and recorded in said Registry in Book 939, Page 808 and by a Second Amendment dated June 30, 1983 and recorded in said Registry in Book 1076, Page 145, and as the same may, from time to time, be further amended.

9. An easement and right-of-way over said Parcel 1, as set forth in deed of James A. Newslow, III et al to Betnr Engineering & Construction Corporation dated February 3, 1987 and recorded in said Registry prior hereto.

Being a portion of "Lot A" which was conveyed to James A. Newslow, III, d/b/a Betnr Enterprises by deed of Central Berkshire County Development Corporation dated December 9, 1985 and recorded in said Registry in Book 1133, Page 1217, as corrected by Corrective Deed dated June 25, 1986 and recorded in said Registry in Book 1152, Page 1033, undivided percentage interests in which premises were subsequently conveyed by the said Newslow to Peter W. Moresi and Francis A. Wojcik, co-partners, doing business as Tog Realty Company by deed dated June 20, 1986 and recorded in said Registry in Book 1152, Page 1055, and to John B. Cardonnel and James H. Kelly, II, co-partners doing business as GI Realty by deed dated June 20, 1986 and recorded in said Registry in Book 1152, Page 1131.

Descriptive Schedule of Condominium Units

EXHIBIT B

(A)	(B)	(C)	(D)	(E)
Unit Designation	Location	Approximate Area (sq. ft.)	Immediate common areas to which Unit has Access	Percentage Interest in Common Elements
1-A	Building 1	1st floor 10,950 2nd floor 2,200 Total 13,150	Exterior of Building 1	20.74
1-B	Building 1	1st floor 5,905 2nd floor 5,615 Total 11,520	Exterior of Building 1	18.16
1-C	Building 1	1st floor 10,950 2nd floor 2,130 Total 13,080	Exterior of Building 1	20.62
2-A	Building 2	1st floor 8,180 2nd floor 2,225 Total 10,405	Exterior of Building 2	16.41
2-B	Building 2	1st floor 3,535 2nd floor 0 Total 3,535	Exterior of Building 2	5.57
2-C	Building 2	1st floor 8,180 2nd floor 3,550 Total 11,730	Exterior of Building 2	18.50

The percentage interests in column (E) are subject to change as set forth in this Master Deed. When changes in the approximate area of particular Units result in changes in such percentage interests as set forth in this Master Deed, the correct percentage interest of Units then included in the Condominium will be set forth in the Amendment to Master Deed reflecting such changes in the approximate area of particular Units.

011487

EXHIBIT C17 DOWNING THREE CONDOMINIUM TRUSTDECLARATION OF TRUST

DECLARATION OF TRUST made this 3RD day of ~~January~~ ^{FEBRUARY}, 1987 at Pittsfield, Berkshire County, Massachusetts by JAMES A. NEWSLOW, III of Lanesborough, Massachusetts, PETER W. MORESI of Pittsfield, Massachusetts and JOHN B. CARDONNEL of Pittsfield, Massachusetts (hereinafter called the "Trustees", which terms and any pronoun referring thereto shall be deemed to include their successors in trust hereunder and to mean the Trustees for the time being hereunder wherever the context so permits).

1. Name of Trust; Principal Address. The Trust hereby created shall be known as 17 Downing Three 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. The initial principal address of the Trust shall be 17 Downing Three, Pittsfield, Massachusetts. The principal place of business may be changed by an instrument executed by a majority of trustees and recorded with the Berkshire Middle District Registry of Deeds (the "Registry of Deeds").

2. The Trust and Its Purpose.

2.1 Unit Owners' Organization. All of the rights and powers in and with respect to the common areas and facilities of 17 Downing Three, a condominium (the "Condominium") established by a Master Deed of even date (the "Master Deed") which are by virtue of provisions of Chapter 183A of the Massachusetts General Laws conferred upon or exercisable by the organization of Unit Owners of the 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 of the Condominium (hereinafter referred to as the "beneficial interest") set forth in Section 4 hereof and in accordance with the provisions of Section 10 of Chapter 183A for the purposes therein set forth.

2.2 Not a Partnership. It is hereby expressly declared that a trust and not a partnership has been created 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 that of beneficiaries, with only such rights as are conferred upon them as such beneficiaries hereunder and under and pursuant to the

provisions of Chapter 183A of the Massachusetts General Laws.

3. The Trustees.

3.1 Number Designation and Acceptance of Trustees. Except as expressly provided in this Section 3.1, there shall at all times be Trustees consisting of such number not less than three nor more than five, as shall be determined by vote of not less than 51% of the beneficial interest hereunder. The Trustees shall serve staggered terms of three years, except that one of the initial Trustees shall serve an initial term of one year, one of the initial Trustees shall serve an initial term of two years and the remaining initial Trustee shall serve for an initial term of three years. Thereafter, Trustees shall be elected for terms of three years at the annual meeting of Unit Owners. If the number of Trustees shall be increased, the additional Trustees shall be elected for terms which will correspond with the staggered terms of the original Trustees, so that to the extent possible, one-third of the Trustees will be elected each year for three-year terms.

3.2 Vacancies.

3.2.1 If and whenever the number of such Trustees shall become less than 3, or less than the number of Trustees last determined as aforesaid, a vacancy or vacancies in said office shall be deemed to exist. Each such vacancy shall be filled for the unexpired term by instrument in writing setting forth (a) the appointment of a

natural person to act as such Trustee, signed (i) by any three Unit Owners who certify under oath that Unit Owners entitled to not less than 51% of the beneficial interest hereunder have voted to make such appointment, or (ii) if Unit Owners entitled to such percentage have not within 30 days after the occurrence of any such vacancy made such appointment, by a majority of the then remaining Trustees, or by the sole remaining Trustee if only one, and (b) the acceptance of such appointment, signed and acknowledged by the person so appointed. Such appointment shall become effective upon the recording with the Registry of Deeds of a certificate of such appointment signed by a majority of the then remaining Trustees or Trustee if any there be still in office or by said three Unit Owners on behalf of Unit Owners holding at least 51% of the beneficial interest if there be no such Trustees, together with such acceptance, and such person shall then be and become such Trustee and shall be vested with the title to the trust property jointly with the remaining or surviving Trustees or Trustee without the necessity of any act of transfer or conveyance.

3.2.2 If for any reason any vacancy in the office of Trustee shall continue for more than 60 days and shall at the end of that time remain unfilled, a Trustee or Trustees to fill such vacancy or vacancies may be appointed by any court of competent jurisdiction upon the application of any Unit Owners and Trustees and notice to all Unit Owners and Trustees and to such other, if any, parties in interest to

whom the court may direct that notice be given. The term of any such successor Trustee(s) shall end on the same date as the term of the Trustee(s) which the successor(s) replace(s). The foregoing provisions of this Section to the contrary notwithstanding, despite any vacancy in the office of Trustee, however caused and for whatever duration, the remaining or surviving Trustee(s), subject to the provision of the immediately following Section, shall continue to exercise and discharge all of the powers, discretions and duties hereby conferred or imposed upon the Trustees.

3.3 Quorums. In any matters relating to the administration of the trust hereunder and the exercise of the powers hereby conferred, the Trustees may act by majority vote at any duly called meeting at which a quorum is present, as provided in Section 5.9.1. The Trustees may act without a meeting but in such event must act unanimously, except in cases requiring response to an emergency, in which event a majority of Trustees may act without a meeting.

3.4 Resignations. Any Trustee may resign at any time by instrument in writing, signed and acknowledged 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 of Deeds. By vote of Unit Owners entitled to not less than 60% of the beneficial interest hereunder, any Trustee (other than the original Trustees and any Trustees designated by the

Declarant pursuant to Sections 3.1 and 3.2) may be removed with or without cause and the vacancy among the Trustees caused by such removal shall be filled in the manner provided herein. Such removal shall become effective upon the recording with the Registry of Deeds of a certificate of removal signed by a majority of the remaining Trustees in office by three Unit Owners who certify under oath that Unit Owners holding at least 60% of the beneficial interest hereunder have voted such removal.

3.5 Bond or Surety. No Trustee, whether an original Trustee or a successor to or as substitute for another, shall be obliged to give any bond or surety or other security for the performance of any of his duties hereunder; provided, however, that Unit Owners entitled to not less than 51% of the beneficial interest of this Trust may at any time by instrument in writing signed by them and delivered to the Trustee or Trustees affected require that any one or more of the Trustees shall give bond in such amount and with such sureties as shall be specified in such instrument. Notwithstanding the foregoing, the Trustees shall arrange for a fidelity bond covering each of the Trustees and all employees of the Condominium. All expenses and premiums incident to any such bond shall be charged as a common expense of the Condominium.

3.6 Compensation of Trustees. With the approval of a majority of the Trustees, each Trustee may receive such reasonable remuneration for his services and also additional

reasonable remuneration for extraordinary or unusual services, legal or otherwise, rendered by him 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.

3.7 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 of judgment or mistakes of fact or law or by reason of anything except his own personal and willful malfeasance and defaults.

3.8 Interest Not Disqualifying.

3.8.1 No person shall be disqualified from holding any office by reason of any interest. In the absence of fraud, any Trustee or Unit Owner or any officer of this Trust individually, or any concern in which any such Trustees, officers or Unit Owners have any interest, may be a party to, or may be pecuniarily or otherwise interested in, any contract, transaction or other act of this Trust, and

3.8.1.1 such contract, transaction or act shall not be in any way invalidated or otherwise affected by that fact;

3.8.1.2 no such Trustee, officer, Unit Owner or concern shall be liable to account to this Trust for any

profit or benefit realized through any such contract, transaction or act; and

3.8.1.3 Any such Trustee may be counted in determining the existence of a quorum at any meeting of the Trustees or of any committee thereof which shall authorize any such contract, transaction or act, and may vote to authorize the same;

3.8.2 provided, however, that such contract, transaction or act shall be duly authorized or ratified by a majority of the Trustees who are not so interested and to whom the nature of such interest has been disclosed, except that no such contract, transaction or act involving any of the Declarants or any concern in which the original Trustees of this Trust have any interest shall require such authorization or ratification.

As used herein:

3.8.2.1 The term "interest" shall include any personal interest and interest as a director, officer, stockholder, shareholder, trustee, member or beneficiary of any concern.

3.8.2.2 The term "concern" shall mean any corporation, association, trust, partnership, firm or person other than this trust.

3.8.3 To the extent permitted by law, the authorizing or ratifying vote of the holders of a majority in interest of the beneficial interests at an annual meeting or a special meeting duly called for the purpose (whether

such vote is passed before or after judgment rendered in a suit with respect to such contract, transaction or act) shall validate any contract, transaction or act of this Trust, or of the Trustees or any committee thereof, with regard to all Unit Owners, whether or not of record at the time of such vote, and with regard to all creditors and other claimants under this Trust; provided, however, that with respect to the authorization or ratification of contracts, transactions or acts in which any of the Trustees, officers or Units Owners has an interest, the nature of such contracts, transactions or acts and the interest of any Trustee, officer or Unit Owner therein shall be summarized in the notice of any such annual or special meeting, or in a statement or letter accompanying such notice, and shall be fully disclosed at any such meeting; provided, also, that Unit Owners so interested may vote at any meeting; and provided further, that any failure of the Unit Owners to authorize or ratify such contract, transaction or act shall not be deemed in any way to invalidate the same or to deprive this Trust, its Trustees, officers or employees of its or their right to proceed with such contract, transaction or act. No contract, transaction or act shall be avoided by reason of any provision of this Subsection which would be valid but for those provisions.

3.9 Indemnity of Trustees. The Trustees and each of them shall be indemnified 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 limitation, liabilities in contract and in tort and liabilities for damages, penalties and fines, except for any liability resulting from willful wrongful acts. The Trustees shall purchase such insurance against such liability as the Trustees 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 the sums lawfully assessed for his share of the common expenses of the Condominium and for his proportionate share of any claims involving the trust property in excess thereof, all as provided in Sections 6 and 13 of said Chapter 183A. Nothing in this Section 3.9 contained shall be deemed, however, to limit in any respect the powers granted to the Trustees in this instrument.

4. Beneficiaries and the Beneficial Interest in the Trust.

4.1 Beneficial Interest. The beneficiaries of this Trust shall be the Unit Owners of the Condominium. Each Unit Owner's beneficial interest in this Trust shall be the same as the undivided interest in the common elements of the Condominium appertaining to that Unit Owner's Unit as set forth in Exhibit B to the Master Deed, as the same may be amended as set forth therein.

4.2 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. Whenever any Unit is owned of record by more than one person, the several owners of such Unit shall (a) determine and designate which one of such owners shall be authorized and entitled to cast votes, execute instruments and otherwise exercise the rights appertaining to such Unit hereunder, and (b) notify the Trustees of such designation by a notice in writing signed by all of the record owners of such Unit. Whenever any Unit is owned of record by a corporation or partnership, the corporation or partnership shall (a) determine and designate an authorized representative who shall be 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 the record owner 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, corporate officer or partnership representative for such purposes.

5. By-Laws. The provisions of this Section 5 shall constitute the By-Laws of this Trust and the organization of Unit Owners established hereby.

5.1 Powers of the Trustees. The Trustees shall have all the powers and duties necessary for the administration of the offices of the Condominium and may do all

things, subject to and in accordance with all applicable provisions of said Chapter 183A and the Master Deed.

Without limiting the generality of the foregoing the Trustees may, with full power and uncontrolled discretion, at any time and from time to time and without the necessity of applying to any court or to the Unit Owners for leave to do so, except as specifically stated in this Section 5.1:

5.1.1 Retain the Trust Property (as hereafter defined), 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 (as used in this Declaration of Trust, the term "Trust Property" shall mean all property or rights to property, real or personal, in which the Trustees, in their capacities as trustees hereunder, have any legal or equitable interest).

5.1.2 Sell, assign, convey, transfer, exchange and otherwise deal with or dispose of the Trust Property, but not the whole thereof, free and discharged of any and all trusts, at public or private sale, to any person or persons for cash or on credit, and in such manner and 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 execute and deliver any deed or other instrument in connection with the foregoing; provided, however, that

the Trustees shall not sell, assign, convey, transfer, exchange or otherwise deal in real property held by the Trustees without the vote, at a meeting of Unit Owners, or the written consent of not less than 66 2/3% of the beneficial interest hereunder;

5.1.3 Purchase or otherwise acquire title to, and 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 own, manage, use and hold such property and such rights;

5.1.4 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 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 execute and deliver any mortgage, pledge or other instrument to secure any such borrowing;

5.1.5 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;

5.1.6 Invest and reinvest the Trust Property, or any part or parts thereof, and from time to time, as often as they shall see fit, change investments, including investment 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 or may not produce income;

5.1.7 Incur such liabilities, obligations and expenses and 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 this Trust;

5.1.8 Determine whether receipts by them constitute principal or income or surplus and allocate between principal and income and designate as capital or surplus any of the funds of the Trust;

5.1.9 Vote in such manner as they shall think fit any or all shares in any corporation or trust which shall be held as Trust Property, and for that purpose give proxies to any person or persons or to one or more of their number, vote, waive any notice or otherwise act in respect of any such shares;

5.1.10 Deposit any funds of the Trust in any bank or trust company, and delegate to any one or more of their

number, or to any other person or persons, the power to deposit, withdraw and draw checks on any funds of the Trust;

5.1.11 Maintain such offices and other places of business as they shall deem necessary or proper and engage in business in Massachusetts or elsewhere;

5.1.12 Employ, appoint and remove such agents, managers, officers, board of managers, brokers, engineers, architects, employees, servants, assistants and counsel (which counsel may be a firm of which one or more of the Trustees are members or employees) as they shall deem proper for the purchase, sale or management of the Trust Property, or any part or parts thereof, 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, engineer, architect, 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 limiting the generality of the foregoing, the Trustees may designate from their number a Chairman, a Treasurer, a Secretary, and such other officers 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 the Trust Property and the business of the Trust, or any part or parts thereof;

5.1.13 Generally, in all matters not herein otherwise specified, control and do each and every thing necessary, suitable, convenient or proper for the accomplishment of any of the purposes of the Trust or incidental to the powers herein or in said Chapter 183A, manage and dispose of the Trust Property as if the Trustees were the absolute owners thereof and to do 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 Unit Owners.

5.2 Maintenance and Repair of Units. The Unit Owners shall pay for all utilities used or consumed in their respective Units and by any heating, hot water and air conditioning equipment serving their Unit, and shall be responsible for the proper maintenance, repair and replacement of their respective Units, including, without limitation, exterior window frames and doors; interior finish walls, ceilings, and floors; windows, window glass and interior window trim; interior portions of doors, door frames and interior door trim; plumbing and sanitary waste fixtures and fixtures for water and other utilities; heating, hot water and air-conditioning apparatus, 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. Each Unit Owner shall also be responsible for the proper maintenance and repair of any common area and facility the exclusive use of which is assigned to his Unit, except for the parking spaces, driveways and docking and loading areas assigned to his Unit, which shall be maintained by the Trustees. If the Trustees shall at any time in their reasonable judgment determine that the interior of a Unit or an exclusively assigned common element is in such need of maintenance or repair that the market value of one or more other Units is being adversely affected or that the condition of the common areas and facilities or of a Unit or fixtures, furnishing, 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 30 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 work performed for the account of such Unit Owner whose Unit is in need of work and to enter upon and have access to such Unit for that purpose, and the cost of such work as is reasonably necessary therefor shall constitute a lien upon such Unit and the Unit Owner thereof shall be personally liable therefor.

5.3 Maintenance, Repair and Replacement of Common Areas and Facilities; Assessment of Common Expenses Therefor.

5.3.1 Trustees' Responsibilities. Subject to the provisions of Section 5.2, the Trustees shall be responsible for the proper maintenance, repair and replacement of the common areas and facilities of the Condominium (see Section 5.5 for specific provisions dealing with repairs and replacement necessitated because of casualty loss) and such may be done through the managing agent, as hereinafter provided, and any two Trustees or any others who may be so designated by the Trustees may approve payment of vouchers for such work, and 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 5.4.

5.3.2 Connecting Units and Exclusive Use of Common Areas. The Trustees may authorize that Units be connected for the purposes of single occupancy and that for such purposes cuts be made in common walls or floors provided, always that the owner of Units permitted so to combine them shall do any work involved in connecting Units at such owner's expense and in the manner prescribed by the Trustees. The Trustees may also assign exclusive use of a common area to a Unit Owner or Unit Owners. Any such authorization shall be valid only if in writing signed by a majority of the Trustees then in office; any such

authorization for connection of units shall become void unless the work to connect the Units contemplated by such authorization shall be commenced within six months after the date of such authorization and shall be completed within a reasonable time thereafter. The Trustees may assess a special charge in connection with permission for exclusive use of a common area or may require that the owner receiving the right to exclusive use of a common area maintain such common area. At such time as connected Units are no longer in common ownership, the owners of such Units shall promptly restore the common walls and/or floors between the Units at their expense, and, upon their failure to do so, the Trustees may perform or cause to be performed such work, in which event the said Unit Owners shall be personally liable to the Trust for the cost of such work which, if not paid when demanded, shall constitute a lien on the Units of the Unit Owners assessed in proportion to their respective beneficial interests.

5.4 Common Expense and Tax Funds.

5.4.1 Reserve Funds. The Unit Owners shall be liable for common expenses and, subject to the Trustees' judgment as to reserve and contingent liability funds stated below, shall be entitled to rebates of excess common expense assessments, if any, of the Condominium in proportion to their respective percentages of beneficial interest as established in Section 4. The Trustees shall, to such extent as they deem advisable, reserve and set aside common

funds, and 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 5.4.2 and 5.4.4, for repair, rebuilding or restoration of the Trust Property or for improvements thereto, and the funds so reserved shall not be deemed to be available for distribution.

Notwithstanding anything in the foregoing of this Section 5.4.1 or elsewhere in these By-Laws to the contrary, the Trustees shall use best efforts to manage the Trust Property in such a manner as to minimize any income taxes payable by the Trust, and no part of the net earnings of the trust property shall inure (other than by a rebate of excess assessments) to the beneficiaries of this Trust.

5.4.2 Estimates of Common Expenses and Assessments and Taxes. At least 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 excess assessments from the prior year, shall determine the assessment to be made for such fiscal year. The Trustees shall promptly render statements to the Unit Owners for their respective shares of such assessment, according to their percentages of beneficial interest in the common areas and facilities, and such statements shall, unless otherwise provided therein, be due and payable within 30 days after the same are rendered. 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 Trustees may in their discretion provide for payments of statements in monthly or other installments. The amount of each such statement shall be a personal liability of the Unit Owner and if not paid when due, shall upon the expiration of such grace period as the Trustees may (but need not) designate, carry a late charge of 18% per annum and shall constitute a lien on the Unit of the Unit Owner assessed, pursuant to the provisions of Section 6 of said 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 assessment for common expenses and enforcement of said lien. During the period, if any, the Condominium is assessed on one tax bill, as opposed to a separate tax bill for each unit, each unit owner not paying a monthly tax escrow deposit to his bank mortgagee shall deposit with the Trustees on the first of each and every month 1/12 of the estimated real estate tax liability of that unit determined by that unit's percentage of beneficial interest. The Trustees shall pay such tax deposits to the City of Pittsfield at least ten days prior

to the dates in each calendar year when taxes are due and payable. Such tax deposits shall be deemed a common expense with respect to that Unit, and the Trustees shall have the same rights and remedies with respect to a default in making tax deposits required hereunder as they would for a default in payment of common expenses and supplemental assessments as aforesaid.

5.4.3 Trustees Authorize Tax Abatement

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

5.4.4 Application of Common Funds. The Trustees shall expend common funds only for common expenses and lawful purposes permitted hereby and by the provisions of Chapter 183A.

5.4.5 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 obligations under the Master Deed or this Declaration of Trust.

5.5 Rebuilding and Restoration; Improvements; Parking Area Expansion.

5.5.1 Rebuilding and Restoration. In the event of any casualty loss to the Trust Property, the Trustees shall determine in their reasonable discretion whether or not such

loss exceeds 10% 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 10% 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 said Chapter 183A. If such loss as so determined does exceed 10% of such value, the Trustees shall forthwith submit to all Units Owners (a) a form of agreement (which may be in several counterparts) by the Unit Owners authorizing the Trustees to proceed with the necessary repair, rebuilding or restoration, and (b) a copy of the provisions of said 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 said Section 17.

5.5.2 Submission to Unit Owners of Proposed Improvements. Except as otherwise provided in Sections 5.5.3 and 5.5.4, 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 Unit Owners holding 25% 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 said Chapter 183A. If the proposed improvement is approved as provided in said Section 18, the cost of such improvement shall be treated as provided in said Section 18.

5.5.3 Expansion of Parking Areas at Front of the Condominium Property. If any one or more owners of Units 1-A, 1-B, 2-A, 2-B and 2-C shall request the Trustees to construct additional parking spaces within any of the areas shown on the Site Plan as "Future Parking-A," the Trustess shall construct the additional parking spaces so requested, within 60 days by a contractor of the Unit Owner's choice. Such additional parking spaces shall be assigned as exclusive common area to the Unit or Units for which such spaces have been designated on the Site Plan, and the cost of constructing such additional parking spaces shall be assessed to such Unit or Units in proportion to the number of parking spaces which, on each such occasion, shall be assigned to each pursuant to this Section 5.5.3.

5.5.4 Expansion of Parking Areas Elsewhere on the Condominium Property. If any one or more Unit Owners ("Petitioning Unit Owner(s)") shall request the Trustees to construct additional parking spaces to be assigned to the Unit or Units owned by the Petitioning Owner(s), the Trustees may, in their discretion, lay out and construct such number of additional parking spaces for such Unit or Units as the Trustees in their discretion shall deem appropriate, in a location on the Condominium Property (other than the areas shown on the Site Plan as "Future Parking-A") deemed appropriate by the Trustees. All costs

of laying out and constructing such parking spaces shall be borne solely by the Unit or Units owned by the Petitioning Unit Owner(s), in proportion to the number of additional parking spaces assigned to each such Unit pursuant to this Section 5.5.4.

5.6 Administrative Rules and Regulations. The Trustees may at any time and from time to time adopt, amend and rescind administrative rules and regulations governing the details of the operation and use of the common areas and facilities, and such restrictions on and requirements respecting the use and maintenance of the Units and the use of the common areas and facilities as are consistent with provisions of the Master Deed and are designed to prevent unreasonable interference with the use by the Unit Owners of their Units and of the common areas and facilities and the Trustees do hereby adopt the Rules and Regulations annexed to this Declaration of Trust, which Rules and Regulations are incorporated herein by reference.

5.7 Managing Agent. The Trustees may, at their discretion, appoint a manager or managing agent, to administer the 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 Trustees or such manager or managing agent may appoint, employ and remove such additional agents, attorneys, accountants or employees as the Trustees may from time to time determine.

5.8 Insurance.

5.8.1 Insurance Coverage. The Trustees shall obtain and maintain, to the extent available, master policies of insurance of the following kinds, naming the Trust, the Trustees, all of the Unit Owners and their mortgagees as insureds as their interests appear:

5.8.1.1 Casualty or physical damage insurance on the buildings and all other insurable improvements forming part of the Condominium (including all of the Units but not including furniture, furnishings, equipment and other personal property of the Unit Owners contained therein), now existing or as they may from time to time be increased by amendment to the Master Deed, together with the service machinery, apparatus, equipment and installations located in the Condominium and existing for the provision of central services or for common use, in an amount not less than 100% of their full replacement value (exclusive of foundations) as determined by the Trustees in their judgment, against (1) loss or damage by fire or other hazards covered by the standard extended coverage endorsement, together with coverage for the payment of common expenses with respect to damaged Units during the period of reconstruction, and (2) such other hazards and risks 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, boiler and machinery explosion or damage and plate glass damage. All policies of casualty or physical damage insurance shall provide (to the extent such clauses are obtainable) (1) that such policies may not be cancelled or

substantially modified without at least ten days' prior written notice to all of the insureds, including each Unit mortgagee and (2) that the coverage thereof shall not be terminated for nonpayment of premiums without 30 days' notice to all of the insureds including each Unit mortgagee. Certificates of such insurance and all renewals thereof, together with proof of payment of premiums, shall be delivered by the Trustees to all Unit Owners and their mortgagees upon request at least ten days prior to the expiration of the then current policies. Such policies may include such deductible provisions as the Trustees shall determine. The cost of repairs due to fire or other insured casualty to a Unit or to the common facilities that is not covered by insurance by virtue of the deductible provisions shall be a common expense.

5.8.1.2 Comprehensive public liability insurance and property damage insurance in such amounts and forms as shall be determined by the Trustees, covering the Trust, the Trustees, all of the Unit Owners and any manager or managing agent of the Condominium, with limits of not less than \$1,000,000 combined single limit.

5.8.1.3 Workmen's compensation and employer's liability insurance covering any employees of the Trust.

The Trustees may, in their sole discretion, purchase such other insurance as they shall determine.

5.8.2 Payment to Trustees in Case of Loss. Such master policies shall provide that all casualty loss proceeds thereunder shall be paid to the Trustees as insurance trustees under these By-Laws. The duty of the Trustees as such insurance trustees shall be to receive such proceeds as are paid and to hold, use and disburse the same for the purpose stated in this Section and Section 5.5.1. If repair or restoration of the damaged portions of the Condominium is to be made, all insurance loss proceeds shall be held in shares for the Trust and the owners of damaged Units in proportion to the respective costs of repair or restoration of the damaged portions of the common areas and facilities and of each damaged Unit, with each share to be disbursed to defray the respective costs of repair or restoration of the damaged common areas and facilities and damaged Units, and with any excess of any such share of proceeds above such costs of repair or restoration to be paid to the Trust or Unit Owner for whom held upon completion of repair or restoration; but if pursuant to Section 5.5.1, restoration or repair is not to be made, all insurance loss proceeds shall be held as common funds of the Trust and applied for the benefit of Unit Owners in proportion to their percentage interests as established in Section 4 if the Condominium is totally destroyed, and, in the event of a partial destruction, to those Unit Owners who have suffered damage in proportion to the damage suffered by them. Such application for the benefit of Unit Owners shall

include payment directly to a Unit Owner's mortgagee if the mortgage with respect to such Unit so requires.

5.8.3 Other Provisions. In addition to the coverage and provisions set forth in Section 5.8.1, the Trustees shall, in their discretion, see that all policies of physical damage insurance obtained shall: (1) contain waivers of subrogation by the insurer as to claims against the Condominium, the Trustees and their employees and Unit Owners and their employees except in cases of arson and fraud; (2) contain a waiver of defense of invalidity on account of the conduct of any of the Unit Owners over which the Trustees have "no control"; (3) provide that in no event shall the insurance under said policies be brought into contribution with insurance purchased individually by Unit Owners or their mortgagees; and (4) exclude policies obtained by individual Unit Owners from consideration under any "no other insurance" clause.

5.8.4 Unit Owner's Insurance and Responsibility for Increase in Premiums of Master Policy. Each Unit Owner may obtain additional insurance for its own benefit and at its expenses. No such policy shall be written so as to decrease the coverage under any of the policies obtained by the Trustees pursuant to Section 5.8.1 above, and each Unit Owner hereby assigns to the Trustees the proceeds of any such policy to the extent that any such policy does in fact result in a decrease in such coverage, said proceeds to be applied pursuant to the terms hereof as if produced by such

coverage. Copies of all such policies (except policies covering only personal property owned or supplied by individual Unit Owners) shall be filed with the Trustees. If any improvements to a Unit causes any increase in the premium of the insurance carried by the Trustees pursuant to Section 5.8.1, such increase shall be paid as a common expense by the owner of the Unit making said improvement.

5.8.5 Notice of Owner's Improvements. Each Unit Owner, within twenty (20) days after the commencement of construction of such improvements, shall notify the Trustees in writing of all improvements to its Unit (except personal property other than fixtures) which exceed a total value of One Thousand Dollars (\$1,000.00) and upon receipt of such notice, the Trustees shall notify the insurer under any policy obtained pursuant to Section 5.8.1 hereof of any such improvements.

5.8.6 Insurance a Common Expense. The cost of such insurance shall be deemed a common expense assessable and payable as provided in Section 5.4.

5.9 Meetings.

5.9.1 Meetings of Trustees. The Trustees shall meet annually on the date of the annual meeting of the Unit Owners and at such meeting may elect the Chairman, Treasurer and Secretary and any other officers they deem appropriate. Other meetings may be called by any two Trustees and in such other 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 two days before such meeting to each Trustee. A majority of the number of Trustees then in office shall constitute a quorum at all meetings. Such meetings shall be conducted in accordance with such rules as the Trustees may adopt.

5.9.2 Meetings of Unit Owners. There shall be an annual meeting of the Unit Owners on the last Tuesday of January in each year at 8:00 P.M. at such reasonable place as may be designated by the Trustees by written notice given to the Unit Owners at least seven days prior to the date so designated by the Trustees. Special meetings (including a meeting in lieu of a passed annual meeting) 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 33% of the beneficial interest hereunder. Written notice of any such meeting designating the place, day and hour thereof shall be given by the Trustees to the Unit Owners at least seven days prior to the date so designated.

5.9.3 Notice of Certain Matters; Quorum; Majority Vote. Whenever at any meeting the Trustees propose to submit to the Unit Owners any matter with respect to which specific approval of, or action by, the Unit Owners is necessary or required by law, the notice of such meeting shall so state and reasonably specify such matter. Unit Owners entitled to not less than 51% of the beneficial interest of this Trust shall constitute a quorum at all

meetings. Any action voted at a meeting shall require the vote of 51% of the beneficial interest in the Trust except where the other provisions of this Trust or said Chapter 183A requires a larger percentage.

5.9.4 Absentee Ballot. Unit Owners may vote on matters presented at a meeting by absentee ballot in form specified by the Trustees. Properly executed absentee ballots shall be counted for the purpose of determining the presence of a quorum, but only with respect to the issue for which the ballot is executed and which is described in the ballot.

5.10 Notice to Unit Owners. Every notice to any Unit Owner required under the provisions hereof, or which may be deemed by the Trustees necessary or desirable in connection with the execution of the trust created hereby or which may be ordered in any judicial proceeding shall be deemed sufficient and binding if given in writing by one or more of the Trustees to such Unit Owner by mailing it, postage prepaid, addressed to such Unit Owner at his address as it appears upon the records of the Trustees if other than at his Unit in the Condominium or to such Unit if such Unit appears as the Unit Owner's address or if no address appears, by delivering it to such Unit, at least seven days prior to the date fixed for the happening of the matter, thing or event of which such notice is given. The owner or owners of each Unit shall have the responsibility of

providing the Trustees with any address other than the Unit to which they desire notices to be mailed.

5.11 Inspection of Books; Reports to Unit Owners.

Books, accounts and records of the Trustees shall be open to inspection to any one or more of the Trustees, to the Unit Owners and to first mortgagees of any Unit at all reasonable times. The Trustees shall, as soon as reasonably possible after the close of each fiscal year, or more often if convenient to them, submit to the Unit Owners a report of the operations of the Trustees for such year which shall include financial statements by a certified public accountant which may, but need not be certified, as the Trustees shall determine, and shall be in such summary form and in only such detail as the Trustees shall deem proper. Any person who has been furnished with such report and shall have failed to object thereto by notice in writing to the Trustees given by registered mail within a period of thirty (30) days of the date of the receipt by him shall be deemed to have assented thereto.

5.12 Checks, Notes, Drafts, and Other Instruments. Checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the name of the Trustees or of the Trust may be signed by any two Trustees (or by one Trustee if there is only one), or by any person or persons to whom such power may at any time or from time to time have been delegated by not less than a majority of the Trustees.

5.13 Fiscal Year. The fiscal year of the Trust shall be the year ending with the last day of December or such other date as may from time to time be determined by the Trustees.

6. Rights and Obligations of Third Parties Dealing with the Trustees.

6.1 No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear of record in the Registry of Deeds shall be bound to ascertain or inquire further as to the persons who are then Trustees hereunder, or be affected by any notice, implied or actual, other than by a certificate thereof, and such record or certificate shall be conclusive evidence of the personnel of said Trustees and of any changes therein. The receipts of the Trustees and of any one or more of them, for monies 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 for which a sale, mortgage, pledge or charge is herein authorized or directed, or otherwise as to the purpose or regularity of any of the acts

of the Trustees, and any instrument of appointment of a new Trustee or resignation of an old Trustee purporting to be executed by the Trustees, Unit Owners or other persons herein required to execute the same, shall be conclusive in favor of any such purchaser or other person dealing with the Trustees of the matters therein recited relating to such discharge, resignation or appointment or the occasion thereof.

6.2 No recourse shall at any time be had under or upon any note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustees or by any agent or employee of the Trustees, or by reason of anything done or omitted to be done by or on behalf of them 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 proceedings, or by virtue of any suit or otherwise, and all persons extending credit to, contracting with or having any claim against the Trustees shall look only to the Trust Property for payment under such contract or claim, or for the payment of any debt, damage, judgment or decree, or of any money that may otherwise become due or payable to them from the Trustees, so that neither the Trustees nor the beneficiaries, present or future, shall be personally liable therefor; provided, however, that nothing herein contained shall be deemed to limit or impair the

liability of Unit Owners under provisions of Section 3.8 hereof or under provisions of Chapter 183A.

6.3 Every note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustees, or by any agent or employee of the 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.

6.4 This Declaration of Trust and any amendments hereto and any certificate herein required to be recorded and any other certificate or paper signed by said Trustees or any of them which it may be deemed desirable to be recorded shall be recorded with the Registry of Deeds and such record shall be deemed conclusive evidence of the contents and effectiveness thereof according to the tenor thereof; and all persons dealing in any manner whatsoever with the Trustees, the trust property or any beneficiary thereunder shall be held to have notice of any alteration or amendment of this Declaration of Trust, or change of Trustee or Trustees, when the same shall be recorded with the Registry of Deeds. Any certificate signed by two Trustees in office at the time (only one Trustee if there is only one at the time), setting forth as facts any matters affecting the Trust, including statement as to whether common expenses are paid with respect to a particular Unit, 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, or any one of them to do any act, when duly acknowledged and recorded with the Registry of Deeds shall be conclusive evidence of the truth of the statements made in such certificate, the existence of the facts therein set forth and the existence of the authority of such one or more Trustees to execute and deliver the designated instrument on behalf of the Trust.

7. Amendments and Termination.

7.1 Amendments. The Trustees, with the consent in writing of Unit Owners entitled to not less than 75% of the beneficial interest in this Trust, may at any time and from time to time amend, alter, add to or change this Declaration of Trust in any manner or to any extent, the Trustees first, however, being duly indemnified to their reasonable satisfaction against outstanding obligations and liabilities; provided always, however, that no such amendment, alteration, addition or change (a) according to the purpose of which the percentage of the beneficial interest hereunder of any Unit Owner would be altered or in any manner or to any extent whatsoever modified or affected, so as to be different from the percentage of the individual interest of such Unit Owner in the common areas and facilities as set forth in the Master Deed, and any amendment thereto, or (b) which would render this Trust contrary to or inconsistent with any requirements or

provisions of said Chapter 183A, shall be valid or effective. Any amendment, alteration, addition or change pursuant to Section 7.1 shall become effective upon the recording with the Registry of Deeds of an instrument of amendment, alteration, addition, or change as the case may be, signed sealed and acknowledged in the manner required in Massachusetts for the acknowledgment of deeds, by any two Trustees, if there be at least two then in office (or one Trustee if there be only one), setting forth in full the amendment, alteration, addition or change and reciting the consent of the Unit Owners 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 of such amendment, alteration, addition or changed. This 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 said Chapter.

7.3 Disposition of Trust Property Upon Termination. Upon the termination of this Trust, the Trustees may, subject to and in accordance with the 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 retiring all known liabilities and obligations of the Trustees and providing for indemnity against any other outstanding liabilities and obligations,

shall divide the proceeds thereof among, and distribute in kind, at valuations made by them which shall be conclusive, all other property then held by them in trust hereunder, to the Unit Owners according to their respective percentages of beneficial interest hereunder. In making any sale under this Section, the Trustees shall have power to sell by public auction or private contract and to pay off 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 by 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.

8. Construction and Interpretation. In the construction hereof, whether or not so expressed, words used in the singular or in the plural respectively include individuals, firms, associations, companies (joint stock or otherwise), trusts and corporations unless a contrary intention is to be inferred from or required by the subject matter or context. The title headings of different parts hereof are inserted only for convenience of reference and are not to be taken to be any part hereof or to control or affect the meaning, construction, interpretation or effect

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 here.

IN WITNESS WHEREOF, we have set our hands and seals on the date and year hereinabove set forth.

As Trustees and not
individually

James A. Newslow, III
James A. Newslow, III

Peter W. Moresi
Peter W. Moresi

John B. Cardonnel
John B. Cardonnel

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

Jan. 16, 1987

Then personally appeared the above-named James A. Newslow, III and acknowledged the foregoing instrument to be his free act and deed, before me,

William B. Roberts
Notary Public

My Commission Expires: May 7, 1993

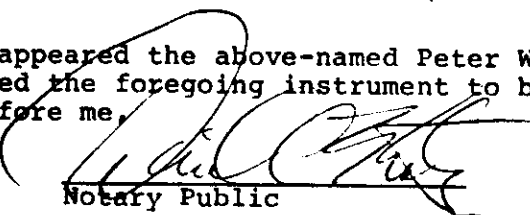


COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

January 31, 1987

Then personally appeared the above-named Peter W. Moresi and acknowledged the foregoing instrument to be his free act and deed, before me,


Notary PublicMy Commission Expires: June 26, 1992

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS:

February 3, 1987

Then personally appeared the above-named John B. Cardonnel and acknowledged the foregoing instrument to be his free act and deed, before me,


Notary PublicMy Commission Expires: 10/14/88

RULES AND REGULATIONS

17 DOWNING THREE

In these rules and regulations the word "Condominium" shall refer to 17 Downing Three and the words "common areas and facilities", "Trustees", "Unit" and "Unit Owners" shall have the meaning given to these terms in the Master Deed creating 17 Downing Three as a condominium.

1. Unit Owners shall not cause, nor shall they suffer, obstruction of common areas and facilities except as the Trustees may in specific instances expressly permit in writing.
2. Each Unit Owner shall keep its Unit in a good state of cleanliness, shall not allow anything to fall from the windows or doors of the Unit, nor sweep or throw from the Unit any dirt or other substance into any of the common areas and facilities other than dumpsters or other trash receptacles. Refuse shall be placed in containers in such manner and at such times and places as the Trustees or the managing agent may direct.
3. No animals of any kind shall be permitted in the Buildings.
4. Toilets, sinks, and other water apparatus in the Buildings shall not be used for any purpose other than those for which they were designed, nor shall any sweepings, rubbish, rags or other articles be thrown into them. Any drainage anywhere resulting from misuse of any toilets, sinks, or other water apparatus in a Unit shall be repaired and paid for by the owner of such Unit.
5. Except as otherwise provided in the Master Deed, no awnings, aerials or other projections shall be attached to the outside walls or roof of the Buildings, and no blinds, shades, or screens shall be attached to, hung, used, or exposed on or at any exterior window or door of a unit, without the prior written consent of the Trustees.
6. No sign, advertisement, notice of other lettering shall be exhibited, inscribed, painted, or affixed by any Unit Owner on any part of the exterior of the Buildings or any Unit without the prior written consent of the Trustees. No "For Sale," "For Rent," or "For Lease" signs or other window displays or advertising are permitted on any part of the Property without the prior written consent of the Trustees.

7. A Unit Owner shall grant a right of access to its Unit to the Trustees and any person authorized by the Trustees for the purpose of (a) making inspections, (b) correcting any conditions originating in its Unit and threatening another Unit or any portions of the common areas and facilities, and (c) making repairs, replacements, and improvements to the common areas and facilities, provided that request for entry is made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of any emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

To facilitate such right of access, each Unit Owner shall furnish the Trustees or managing agent with keys to locked entrances to its Unit, and shall promptly furnish replacement keys when and if such locks are supplemented or changed. No entrances to a unit shall be barred by a sliding bolt or other device that renders access by such keys difficult or impossible. If any key or keys are entrusted by a Unit Owner or occupant or by his or her agent, servant, employee, licensee or visitor to an employee of the Trustees or managing agent except pursuant to the provisions of this Paragraph 7, whether for such unit or an automobile or other item of personal property, the delivery of the key shall be at the sole risk of such Unit Owner or occupant, and neither the Trustees shall not be liable for injury, loss, or damage of any nature whatsoever directly or indirectly resulting therefrom or connected therewith. Each Unit Owner and occupant shall assume full responsibility for protecting its space and the contest thereof from theft, robbery, pilferage, vandalism, and other loss.

8. The Trustees shall have the right to approve the weight, size, and location of safes and other heavy equipment and articles in the Buildings (so as not to exceed the legal live load), and to require all such items and furniture, furnishings and equipment and similar items to be moved into and out of the Buildings only at such times and in such manner as the Trustees shall direct. Movement of each Unit Owner's property into or out of any Building and within any Building is entirely the risk and responsibility of that Unit Owner. Loading bays shall not be used for any purpose other than the loading and unloading of trucks and delivery of furniture, furnishings, and equipment for installation in the Units and the delivery of supplies, goods, and packages in the normal course of each Unit Owner's business.

9. No noxious, offensive or illegal activity shall be carried on in any Unit, or in the common areas and facilities, nor shall anything be done therein, either wilfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants. No Unit Owner shall make or permit any disturbing noises by himself, his servants, employees, agents, visitors and licensees, nor do or permit anything by such persons that will interfere with the rights, comforts or convenience of other Unit Owners.

10. The Trustees shall have the right to take all such reasonable measures as they may deem advisable for the security of the Condominium and its occupants, including without limitation, the temporary denial of access to the Buildings and the closing of the portions of the Buildings devoted after regular working hours, subject, however, to the right of the owner and occupant of each Unit to admittance when the Buildings are closed after regular working hours under such reasonable regulations as the Trustees may prescribe from time to time.

12. A Unit Owner may apply to the Trustees for a temporary waiver of one or more of the foregoing rules. Such temporary waiver may be granted by the Board for good cause shown, if, in the Trustees' judgment, such temporary waiver will not unreasonably interfere with other Unit Owners.

13. Complaints regarding services or operation of the Condominium shall be made in writing to the Trustees.

14. No parking space which is designated on the Site Plan of the Condominium as a parking space for a particular Unit or which has been assigned to a particular Unit pursuant to By-Laws of the Condominium Trust shall be used at any time by any person who is not authorized by the Unit Owner of such Unit to use such parking space. The Trustees shall have the right to enforce this parking regulation by levying fines for violations hereof against the Unit Owner of the Unit with which any person violating this parking regulation is associated, the amount of such fines to be in accordance with schedules of parking fines established by the Trustees from time to time.