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126A PLEASANT VALLEY STREET CONDOMINIUM TRUST

*Amend 7  
Dec 1 Trust  
B2663 P136  
Appt of Trustee  
B2594 P125  
Accept of Trustees  
B2594 P125*

THIS DECLARATION OF TRUST is made this 7th day of October 1987, by Joseph S. Pappalardo and Christine M. Pappalardo of Methuen, Massachusetts and John C. Tommasi of Salem, New Hampshire ("the Trustees").

ARTICLE I  
DEFINITIONS

All terms which are capitalized shall, unless the context otherwise requires, have the meanings set forth below, and if not set forth below they shall have the same meanings as contained in Chapter 183A of the General Laws of the Commonwealth of Massachusetts.

**Beneficiaries:** The Owners of Units at 126A Pleasant Valley Street Condominium.

**Beneficial Interests:** The beneficial interest of the Beneficiaries under 126A Pleasant Valley Street Unit Owners Association, which is the same as the undivided interest of each Unit owner in the Common Areas and Facilities set forth in Schedule B of the Master Deed.

**By-laws:** The by-laws of 126A Pleasant Valley Street Unit Owners Association which are set forth in Article VI of this trust instrument.

**Condominium:** 126A Pleasant Valley Street Condominium a condominium established by the Master Deed recorded immediately prior to the recording of this Trust.

**Condominium Law:** Chapter 183A of the General Laws of the Commonwealth of Massachusetts, as amended from time to time.

**Condominium Plans:** The site plans and the floor plans recorded with the Master Deed and described respectively, as follows: "Condominium Site Plan 126A Pleasant Valley Street Condominiums, September 9, 1987, Andover Consultants Inc. and Condominium Floor Plans 126A Pleasant Valley Street Condominiums, September 3, 1987, Andover Consultants Inc."

**Declarant:** Joseph S. Pappalardo of Methuen, Essex County, Massachusetts.

**Fiscal Year:** The calendar year ending December 31, unless changed by the Trustees.

**Unitowner:** A person, persons or entity owning a Unit at 126A Pleasant Valley Street Condominium.

Managing Agent: The manager or other person or entity appointed by the Trustees, pursuant to Section 6.9 of the By-laws, to administer the operation of 126A Pleasant Valley Street Condominium.

Master Deed: The master deed by which the Declarant has established 126A Pleasant Valley Street Condominium which has been recorded immediately prior to the recording of this Trust.

Owner: A Unitowner, or a person, persons or entity owning a Unit at 126A Pleasant Valley Street Condominium.

Premises: The land, buildings and all other improvements which constitute 126A Pleasant Valley Street Condominium as the same may be amended from time to time.

126A Pleasant Valley Street Unitowners Association: This Trust and the association of Unitowners at 126A Pleasant Valley Street Condominium.

Registry of Deeds: Essex North District Registry of Deeds.

Rules and Regulations: Rules and regulations promulgated pursuant to Section 6.8 of the Bylaws and regulating the use of the common areas and facilities of 126A Pleasant Valley Street Condominium.

Unit: A "Unit", as defined in Section 126A Pleasant Valley Street Unitowners Association of the Condominium Law: "...a part of the condominium including one or more rooms, with appurtenant areas if any are stipulated in the master deed as being owned by the unit owner, occupying one or more floors or as being owned by the unit owner, occupying one or more floors or a part or parts thereof, including the enclosed space therein, intended for any type of use, and with a direct exit to a street or way or to a common area leading to a street or way."

Trustees: Joseph S. Pappalardo and Christine M. Pappalardo of Methuen, Massachusetts and John C. Tommasi of Salem, New Hampshire and their successor trustees serving as trustees of this Trust.

Trust: 126A Pleasant Valley Street Unitowners Association established by this declaration of trust.

ARTICLE II  
Name of Trust

The Trust hereby created shall be known as the 126A Pleasant Valley Street Condominium Trust and shall sometimes be referred to as the Trust or the 126A Pleasant Valley Street Unitowners Association Trust.

ARTICLE III  
The Trust and its Purpose

The purpose of this Trust is to serve as the governing entity of the organization of Unitowners at 126A Pleasant Valley Street Condominium pursuant to the provisions of section 10 of the Condominium Law. The Trustees hereby declare that they and their successors in trust will hold all property now or hereafter conveyed to them, or in any other way acquired by them as Trustee, for the benefit of the Unitowners pursuant to the terms, provisions and conditions of the Master Deed, the By-laws, the other terms and conditions of this Trust, the Condominium Law and all other applicable laws, rules and regulations. All property, real, personal, tangible or intangible, conveyed to the Trustees shall vest in the Trustees as joint tenants with rights of survivorship as Trustees of this Trust, in trust, and the Trustees shall manage, administer and dispose of the same and receive the income thereof for the benefit of the owners of record, from time to time, of the Units in the Condominium, according to the schedule of undivided interest in the common areas and facilities set forth in Schedule B of the Master Deed and in accordance with the provisions of the Condominium Law.

ARTICLE IV  
The Trustees

4.1 Number and Vacancy. There shall at all times be not less than three (3) nor more than five (5) Trustees hereunder, as shall be determined from time to time by vote of the Owners holding not less than Fifty-one (51) percent of the Beneficial Interest; provided, however, that until the earlier to occur of (a) sale by the Declarant of all Units or (b) two (2) years from the date of recording of the Master Deed, the Declarant shall be entitled to designate a majority of such Trustees. If and whenever the number of Trustees shall become less than the number determined as set forth above, a vacancy or vacancies shall be deemed to exist. Subject to the rights of the Declarant in this Section to designate a majority of Trustees, each such vacancy shall be filled by a vote of Owners entitled to at least fifty-one (51) percent of the Beneficial Interest; or, if Owners entitled to such percentage shall fail or neglect within thirty (30) days after the occurrence of any such vacancy to make such appointment, then (i) by a majority of the then remaining Trustees or by the sole remaining Trustee if only one, and (b) the acceptance of such appointment, executed and acknowledged by the person so appointed. Such person shall then be and become such Trustee and shall be vested with the title to the trust property jointly with the remaining Trustees or Trustee without the necessity of any deed of transfer or conveyance. If for any reason any vacancy in the office of Trustee shall continue for more than sixty (60) days, a Trustee or Trustees to fill such vacancy or vacancies may be appointed by any court of competent jurisdiction upon the application of any Owner or Trustee and notice to all other Owners and Trustees and to such other parties in interest, if any, to whom the court may direct that notice be given. The foregoing provisions of this Section to the contrary notwithstanding, during the period of any vacancy, however caused and for whatever duration, the remaining Trustees, subject to the

provisions of the immediately following Section; shall continue to exercise and discharge all of the powers, discretions and duties conferred or imposed upon the Trustees by this Trust.

**4.2 Manner of Acting.** In any matters relating to the administration of this Trust and to 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 defined in paragraph A of Section 6.11; provided, however, that in no event shall a majority consist of less than two (2) Trustees, and, if and whenever the number of Trustees shall become less than two (2), the then remaining Trustee, if any, shall have no power of authority to act or to exercise any of the powers conferred under this Trust except to elect a new Trustee or Trustees as provided in Section 4.1 or to execute a certificate as provided under Section 7.4. The Trustees may also act without a meeting by instrument signed by a majority of their number.

**4.3 Resignation and Removal.** Any Trustee may resign at any time by instrument in writing, signed, acknowledged and delivered to or another Trustee then in office. By vote of Owners entitled to not less than fifty-one (51%) percent of the Beneficial Interest, but subject to the right of the Declarant recited in Section 4.1 to designate a majority of Trustees of the Declarant's choice, any Trustee may be removed with or without cause and the vacancy among the Trustees caused by such removal shall be filled in the manner above provided.

**4.4 Surety Bonds.** No Trustee named or appointed as hereinbefore provided, whether as original Trustee or as successor to or as substitute for another, shall be obliged to give any bond or surety or other security for the performance of any of his duties hereunder, unless Owners entitled to not less than fifty-one (51%) percent of the Beneficial Interest vote that any one or more of the Trustees shall give bond in such amount and with such sureties as shall be specified in such vote. Any cost of such bond shall be a common expense of the Condominium.

**4.5 Compensation.** No Trustee shall receive any compensation for serving as such; provided, however, each Trustee shall be entitled to reimbursement for all reasonable expenses incurred by him on behalf of the Trust.

**4.6 No Personal Liability.** No Trustee shall under any circumstance or in any event be held liable or accountable out of his personal assets by reason of any action taken, suffered or omitted by him in good faith while serving as Trustee, or for allowing one or more of the other Trustees to have possession of the trust books or property, or be so liable, accountable or deprived by reason of honest errors of judgment or mistakes of fact or law, except for willful acts in bad faith.

**4.7 Self-dealing.** No Trustee shall be disqualified by reason of being a Trustee from contracting or dealing with the Trustees or with one or more Owners (whether directly or indirectly) because of such Trustee's interest, personally or as Trustee, or because of any

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Owner's interest in any corporation, firm, trust or other organization connected with such contracting or dealing or because of any other reason, as vendor, purchaser or otherwise, nor shall any such dealing, contract or arrangement entered into with respect to this Trust in which any Trustee shall be in any way interested be voided, nor shall any Trustee so dealing or contracting or being so interested be liable to account for any profit realized by any such dealing, contract or arrangement by reason of such Trustee's holding office or because of the fiduciary relation hereby established, provided the Trustee shall act in good faith and shall disclose the nature of such Trustee's interest before the dealing, contract or arrangement is entered into. Notwithstanding the foregoing, during the period in which the Declarant's designees constitute a majority of the Trustees, the Trustees shall not enter into any contract with the Declarant or any affiliate of the Declarant without the consent of a majority of the Unitowners, except that the foregoing shall not be applicable to any agreement for management of the Condominium between the Trustees and Joseph S. Pappalardo.

4.8 Indemnity. The Trustees and each of them shall be indemnified out of the trust property and by the Owners to the extent of their Unitownership and in proportion to their Beneficial Interest, against any liability incurred by them or any of them in the carrying out of their duties hereunder, including, without limiting the generality of the foregoing, liabilities in contract and in tort and liabilities for damages, penalties and fines.

#### ARTICLE V

#### Beneficiaries and Their Beneficial Interest in the Trust

5.1 Percentage Interest. The beneficiaries of this Trust shall be the Unitowners, from time to time, at 126A Pleasant Valley Street Condominium. The Beneficial Interest in this Trust shall be divided among the Owners in the same percentage as the percentage interest of the Unitowners in the Common Areas and Facilities as set forth in Schedule B of the Master Deed.

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

ARTICLE VI  
By Laws

The provisions of this Article VI shall constitute the By-Laws of this Trust and the 126A Pleasant Valley Street Unitowners Association.

6.1 Powers of the Trustees. The Trustees shall, subject to and in accordance with all applicable provisions of the Condominium Law, have the absolute control, management and disposition of the trust property (which term as used herein shall be deemed to include the Common Areas and Facilities) as if they were the absolute owners thereof, free from the control of the Owners (except as limited in this trust instrument) and, without limiting the generality of the foregoing, shall have full power and uncontrolled discretion, subject only to the limitations and conditions herein and in the provisions of the Condominium Law at any time and from time to time and without the necessity of applying to any court or to the Owners:

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

(b) To sell, assign, convey, transfer, exchange and otherwise deal with or dispose of portions 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, upon such restrictions, stipulations, agreements and reservations as they shall deem proper, including the power to take back mortgages to secure the whole or any part of the purchase price of any of the trust property sold or transferred by them, and to execute and deliver any deed or other instrument in connection with the foregoing;

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

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

(e) To enter into any arrangement for the use or occupation of the trust property, or any part or parts thereof, including, without thereby limiting the generality of the foregoing, leases (including leasing of parking spaces), 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;

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

(g) To incur such liabilities, obligations and expenses, and to pay from the principal or the income of the trust property in their hands all such sums as they shall deem necessary or proper for the furtherance of the purposes of this Trust;

(h) To determine whether receipt by them constitutes principal or income or surplus and to allocate between principal and income and to designate as capital or surplus any of the funds of this Trust;

(i) To 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 to give proxies to any person or persons or to one or more of their number to vote, waive any notice or otherwise act in respect to any such shares;

(j) To deposit any funds of the Trust in any bank or trust company, and to 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 this Trust;

(k) To maintain such offices and other places of business in the Commonwealth of Massachusetts as they shall deem necessary or convenient;

(l) To adopt and amend from time to time Rules and Regulations relating to the operation of the Condominium;

(m) To levy fines against Owners as a result of the violation of the terms of the Master Deed, this Trust or any of the Rules and Regulations now or hereafter adopted by the Trustees. Such fines shall not exceed \$10.00 per violation, but each day such violation continues after notice shall be a separate violation and all such fines shall be the personal obligation of such Owner and shall be deemed to be an assessment against such Owner pursuant to Section 6.4 hereof;

(n) To 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) as they shall deem proper for the purchase, sale or management of the trust property or any part of parts hereof, or for conducting the business of this Trust, and to 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 Trust and the trust hereby created shall not be delegated) all for such times and purposes as they shall deem proper. Without hereby limiting the generality of the foregoing, the Trustees may designate from their number a Chairperson, a Treasurer, a Secretary, and such other officers as they deem fit, and may from time to time designate one or more or their own number to be the Managing Agent(s) for the management and administration of the trust property and the business of this Trust, or any part of parts hereof;

(o) Generally, in all matters not herein otherwise specified, to control, to do each and everything necessary, suitable, convenient, or proper for the accomplishment of any of the purposes of this Trust or incidental to the powers granted herein or in the Condominium Law, to manage and dispose of the trust property as if the Trustees were the absolute owners hereof 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 Owners.

(p) Notwithstanding anything contained above to the contrary, any contract with the Trust shall be for a period of not more than three (3) years and shall be terminable upon not more than ninety (90) days notice without payment of a termination fee.

6.2 Maintenance and Repair of Units. The Owners shall be responsible for the proper maintenance and repair of their respective Units and any appurtenant garage space and the maintenance, repair and replacement of utility fixtures therein exclusively serving the same, including, without limitation, interior finish walls, ceilings, and floor; windows and the interior portions of window frames and interior window trim; screens; doors; balconies and decks; patios; the interior portions of door frames and interior door trim; plumbing and sanitary waste fixtures for water and other utilities; electric fixtures and outlets; heat pumps and/or heating and air conditioning units; 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 exclusively serve such Unit. Notwithstanding the provisions of Sections 6.3, 6.4 or 6.5, the cost, in excess of available insurance proceeds, or repairing or restoring any damage to the Common Areas and Facilities or to any Unit which is caused by the failure of an Owner to so maintain such Owner's Unit shall be charged solely to such Owner. If the Trustees shall at any time in their reasonable judgment determine that (i) the interior of a Unit is in such need of maintenance or repair that the market value of one or more other Unit is being adversely affected, (ii) the condition of a Unit or any fixtures, furnishings, facility or equipment therein is hazardous to any Unit or to the occupants thereof or (iii) any balcony, deck, or patio to which a Unit has exclusive access is in such condition that the appearance of the Condominium is adversely affected, the Trustees shall in writing request the Owner to perform the needed maintenance, repair or replacement or to correct the



hazardous condition, and if such work shall not have been commenced within fifteen days (or such reasonably shorter period in case of emergency as the Trustees shall determine) of such request and thereafter diligently brought to completion, the Trustees shall be entitled to have the work performed for the account of such Owner whose Unit is in need of such work, and the cost thereof shall constitute a lien upon such Unit and the Owner thereof shall be personally liable therefor.

6.3 Operation, Maintenance, Repair and Replacement of Common Areas and Facilities and Assessment of Common Expenses Therefor. The Trustees shall be responsible for the proper operation, maintenance, repair and replacement of the Common Areas and Facilities of the condominium and such may be done through any managing agent appointed pursuant to Section 6.9, and any two Trustees or such managing agent, or any others who may be designated by the Trustee, may approve payment of vouchers for such work, and the expenses of such operation, maintenance, repair and replacement shall be assessed to the Owners as common expenses of the Condominium at such times and in such amounts as provided in Section 6.4.

6.4 Common Expenses, Profits and Funds.

A. Each Owner shall be personally liable for such Owner's share of common expenses of the Condominium, together with costs of collection thereof (including attorney's fees) and any interest accrued thereon, and shall be entitled to such Owner's share of common profits of the Condominium, in each case in proportion to his respective percentage of Beneficial Interest. The Trustees shall, to such extent as they deem advisable, set aside common funds of the Condominium as reserve or contingent funds, and may use the funds so set aside for reduction of indebtedness or other lawful capital purpose, or subject to the provisions of Sections 6.5 and 6.6, for repair, rebuilding or restoration of the trust property or for improvements thereto, and the funds so set aside shall not be deemed to be common profits available for distribution.

B. At least thirty days prior to the commencement of each fiscal year of this Trust, the Trustees shall estimate the common expenses expected to be incurred during such fiscal year together with a reasonable provisions for contingencies and reserves and, after taking into account any undistributed common profits from prior years, shall determine the assessment to be made for such fiscal year. The Trustees shall promptly render to each Owner a budget showing the various categories and amounts of estimated expenses. Based upon the budget and the respective percentages of Beneficial Interest, the Trustees shall render to each Owner either monthly or quarterly statements which shall be due within fifteen (15) days after the same are rendered. In the event that the Trustees shall determine during any fiscal year that the budget 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 which shall be due and payable within thirty (30) days after the same are rendered. The amount of each such statement shall be a personal liability of the

Unitowner and if not paid when due shall, if the Trustees so elect, carry a late charge at a rate equal to two percent (2%) per annum over the prime interest rate in effect at Bank of Boston or any successor to such bank, at the time such payment was due. All such charges (and the costs of collection thereof including, but not limited to, customary hourly attorney fees charged in the City of Lawrence) shall constitute a lien on the Unit of the Owner assessed pursuant to provisions of Section 6 of the Condominium Law.

C. The Trustees shall expend common funds only for common expenses and lawful purposes permitted hereby and by provisions of the Condominium Law.

D. The Trustees shall designate one or more of the Trustees or an officer or agent who shall have the authority to issue certificates on behalf of the Trust indicating the status of unpaid common charges assessed against a Unit which shall have the effect of a statement referred to in Section 6(d) of the Condominium Law.

#### 6.5 Rebuilding and Restoration.

A. In the event of any casualty loss solely to the Common Areas and Facilities, the Trustees shall determine in their reasonable discretion whether or not such loss exceeds ten (10%) percent of the value of the Condominium immediately prior to the casualty and shall notify all Unitowners of such determination. If such loss as so determined does not exceed ten (10%) percent of such value, the Trustees shall proceed with the necessary repairs, rebuilding or restoration of the Common Areas and Facilities. If such loss as so determined does exceed ten (10%) percent of such value, the Trustees shall forthwith submit to all Owners a form of agreement (the Restoration Agreement) by the Owners authorizing the Trustees to proceed with the necessary repair, rebuilding or restoration. Upon receipt by the Trustees of the Restoration Agreement signed by Owners holding at least seventy-five (75%) percent of the Beneficial Interest, the Trustees shall proceed with the necessary repairs and restoration. The cost of all repairs and restoration shall be a common expense and the excess of such cost over any available common funds (including the proceeds of any insurance) shall be assessed to the Owners in accordance with their Beneficial Interest; provided, however, that if such excess cost exceeds ten (10%) percent of the value of the Condominium immediately prior to such casualty, any Owner who did not so agree may apply to a court of proper jurisdiction upon such notice to the Trustees as the court shall direct, for an order directing the purchase of his Unit by the Trustees at the fair market value thereof as approved or directed by the court. The cost of any such purchase shall be a common expense. If Owners holding at least seventy-five (75%) percent of the Beneficial Interest do not agree (by signing the Restoration Agreement and returning the same to the Trustees within 120 days after the date of the casualty) to proceed with repairs and restoration, the Condominium shall be subject to partition upon the suit of any Owner. Any such suit for partition shall be dismissed at any time prior to the sale if an appropriate agreement to rebuild is filed with the court and the Trustees shall thereafter proceed with the necessary repairs and restoration in accordance with this

340 paragraph A. The net proceeds of a partition sale together with any common funds (including the proceeds of any insurance) shall be distributed to the Owners in accordance with their Beneficial Interests and upon such sale the Condominium shall be deemed removed from the Condominium Law.

B. In the event of any casualty loss solely to one or more Units, the Trustees shall forthwith proceed with the necessary repairs and restoration of such Units (including any permanent improvements made by the Unitowners but excluding any wall, ceiling or floor covering or decoration, drapes, furniture, furnishings, equipment or other personal property of the Owners) using the proceeds of any insurance for that purpose and the cost of repair and restoration of the damaged Units in excess of any available insurance proceeds shall be a common expense and shall be assessed to all Owners in accordance with their Beneficial Interest; provided, however, that to the extent such cost in excess of insurance proceeds is the result of a lack of insurance coverage caused by the failure of an Owner promptly and accurately to report improvements made by him to his Units pursuant to Section 6.10 below, the excess cost resulting from such failure shall be borne solely by the Owner so failing to report the same. The extent to which the cost in excess of insurance proceeds is attributable to an Owner failing to report improvements as aforesaid shall be as determined by the Trustees and such cost shall constitute a lien upon the Unit in question, enforceable as any other lien for common charges as provided herein.

C. In the event of any casualty loss to the Common Areas and Facilities and to one or more Unit, the Trustees shall, in the manner set forth in paragraph A of this Section 6.5, determine whether the Common Areas and Facilities are to be repaired and restored and if it is determined to so repair and restore, the Trustees shall proceed with the necessary repairs and restoration of the Common Areas and Facilities and of the Units in accordance with the provisions of said paragraph A and B of this Section 6.5. If such loss to the Common Areas and Facilities is determined to exceed ten (10%) percent of the value of the Condominium and the Owners holding at least seventy-five (75%) percent of the Beneficial Interest do not agree (by signing the Restoration Agreement and returning the same to the Trustees within 120 days after the date of casualty) to proceed with repairs and restoration of the Common Areas and Facilities, then the Trustees shall not proceed with such repairs and the Condominium shall be subject to partition upon the suit of any Owner. Any such suit for partition shall be dismissed at any time prior to sale if an appropriate agreement is filed with the court and the Trustees shall thereafter proceed with the necessary repairs and restoration in accordance with paragraphs A and B of this Section 6.5. The net proceeds of a partition sale together with any common funds (including the proceeds of any insurance) shall be distributed to the Owners in accordance with their Beneficial Interest and upon sale the Condominium shall be deemed removed from the Condominium Law.

D. Notwithstanding anything to the contrary in the preceding paragraphs, in the event that any Owner shall dissent from any determination of the Trustees with respect to the value of the

Condominium or any other determination or action of the Trustees under this Section 6.5 by notice in writing to the Trustees within ten (10) days after such determination or action, and such dispute shall not have been resolved within thirty (30) days after such notice, then either the Trustees or the dissenting Owner may submit the matter to arbitration, and for that purpose, one arbitrator shall be designated by the Trustees, one by the dissenting Owner and a third by the two arbitrators so designated, and the decision of such arbitrators shall be binding. Arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association.

E. Notwithstanding anything to the contrary in the preceding paragraphs, the Trustees shall not, in any event, be obliged to proceed with any repair or restoration unless and until they have received funds in an amount equal to their estimate of all costs thereof.

6.6 Improvements to Common Areas and Facilities.

A. If and whenever the Trustees shall propose to make any improvement to the Common Areas and Facilities or shall be requested in writing by Owners holding at least twenty-five (25%) percent of the Beneficial Interest to make any such improvement, the Trustees shall submit to all Owners 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. Upon the receipt by the Trustees of such agreement signed by the Owners holding seventy-five (75%) percent or more of the Beneficial Interest or the expiration of ninety (90) days after such agreement was first submitted to the Owners, whichever shall first occur, the Trustees shall notify all Owners of the aggregate percentage of Beneficial Interest held by Owners who have then signed such agreement. If such percentage exceeds seventy-five (75%) percent, the Trustees shall proceed to make the improvement or improvements specified in such agreement and the cost of such improvements shall be a common expense assessed to all the Owners in proportion to their Beneficial Interest, provided that if the Trustees shall determine in their reasonable discretion that the cost of such improvements exceeds ten (10%) percent of the value of the Condominium, any Owner not so agreeing may apply to a court of proper jurisdiction, upon such notice to the Trustees as the court shall direct, for an order directing the purchase of his Unit by the Trust at the fair market value thereof as determined by such court. The cost of any such purchase shall be a common expense assessed to all Owners in proportion to their Beneficial Interest. The agreement so circulated or separate agreement may provide that if Owners holding more than fifty (50%) percent but less than seventy-five (75%) percent of the Beneficial Interest so consent, the Trustees shall proceed to make such improvement or improvements and shall assess the cost thereof only to the Owners so consenting.

B. Notwithstanding anything to the contrary in the preceding paragraph, in the event that any Owner or Owners shall dissent from any determination of the Trustees with respect to the value of the Condominium or any other determination or action of the Trustees under this section 6.6 by notice in writing to the Trustees within ten (10)

342 days after such determination or action, and such dispute shall not be resolved within thirty (30) days after such notice, then either the Trustees or the dissenting Owner or Owners may submit the matter to arbitration, and for that purpose one arbitrator shall be designated by the Trustees, one shall be designated by the dissenting Owner or Owners and a third shall be designated by the two arbitrators so designated, and such arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association and shall be binding. The Trustees shall not in any event be obligated to proceed with any improvement unless and until they have received funds in an amount equal to their estimate of all costs thereof.

6.7 Additions, Alterations or Improvements by Unitowners.

A. No Owner shall make any additions or alterations to his Unit which may affect the structure or mechanical systems of the Condominium without the prior written consent of the Trustees. The Trustees shall have the obligation to answer any written request by an Owner for approval of a proposed addition, alteration or improvement in such Owner's Unit which is accompanied by a description of such addition, alteration or improvement within fifteen (15) days after such request, and failure to do so within the stipulated time shall constitute consent by the Trustees to the proposed addition, alteration or improvement. The consent of the Trustees may contain such conditions as they deem appropriate, including restrictions in the manner of performing such work and requirements for builders' risk, liability and other insurance. The provisions of this paragraph shall not apply to Units owned by the Declarant prior to the initial sale thereof by the Declarant.

B. All additions, alterations or improvements to any Unit (whether or not affecting the structural or mechanical systems of the Condominium) shall be performed in compliance with all applicable laws, regulations and codes, and when required thereby, by licensed contractors. Each Owner and his contractors shall cooperate with the Trustees and other Owners and their contractors so as not to impede any work being performed by them and so as not to unduly inconvenience or disturb the occupants of the Condominium. Notwithstanding the provisions of Sections 6.3, 6.4 or 6.5, the cost, in excess of available insurance proceeds, of repairing or restoring any damage to the Common Areas and Facilities or to any Unit which is caused by any work being performed by or for an Owner shall be charged solely to such Owner.

6.8 Rules, Regulations, Restrictions and Requirements. The Trustees may at any time and from time to time adopt, amend and rescind administrative rules and regulations governing the operation and use of the Common Areas and Facilities as are consistent with provisions of the Master Deed and this Trust and shall give appropriate notice thereof to the Owners.

6.9 Managing Agent. The Trustees may, at their discretion, appoint a manager or managing agent who shall perform such duties in the administration, management and operation of the Condominium, including incurring of expenses, making of disbursements and 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 shall from time to time determine. Any agreement with respect to services to the Trust must be terminable by either party on not more than ninety (90) days notice without a termination fee.

**6.16 INSURANCE.** The Trustees shall obtain and maintain, to the extent available, master policies of insurance naming 126A Pleasant Valley Street Unitowners Association, the Trustees, all of the Owners and their mortgagees of record as insured, as their respective interests may appear; as follows:

A. Casualty or physical damage insurance on the buildings and all other insurable improvements forming part of the Condominium (including the Units, but not including any wall, ceiling or floor covering or decorations, drapes, furniture, furnishings, equipment or other personal property of the Owners), together with the service machinery, apparatus, equipment and installations located in the Condominium and existing for the provision of central service or for common use, in an amount of one hundred (100%) percent of their full replacement cost (exclusive of foundations) as determined by the Trustees in their judgment, having an agreed amount endorsement, insuring against (i) loss or damage by fire and other hazards covered by a standard all risk of loss coverage, together with coverage for the payment of common expenses with respect to damaged Units during the period of reconstruction and (ii) such other hazards and risks as the Trustees shall, from time to time in their discretion, determine to be appropriate, including, but not limited to, vandalism, malicious mischief, windstorm and water damage, or damage and plate glass damage. All such policies shall provide (a) that such policies may not be cancelled or substantially modified without twenty (20) days prior written notice to all of those named or insured, including each mortgagee, and (b) that the coverage shall not be terminated for nonpayment of premiums without thirty (30) days notice to all the named insureds, including each mortgagee. Certificates of such insurance and all renewals thereof, together with proof of payment of premiums, shall be delivered by the Trustees to any Owner and his mortgagee upon request, at least ten (10) days prior to the expiration of the then current policies.

B. Comprehensive public liability insurance in such amounts and forms as shall be determined by the Trustees, covering this Association, the Trustees, all of the Owners and any manager or managing agent of the Condominium, with limits of not less than a combined single limit of \$500,000.00 for claims for bodily injury or property damage arising out of one occurrence with cross liability endorsement to cover liability of any insured to other insureds.

C. Workmen's compensation and employer's liability insurance covering any employees of this Association.

D. Such other insurance as the Trustees shall determine to be appropriate.

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The cost of such insurance shall be deemed a common expense assessable and payable as provided in Section 6.4. All policies of casualty or physical damage insurance shall provide that all casualty loss proceeds payable thereunder shall be paid to the Trustees, as insurance trustees, under these By-laws. The sole duty of the Trustees as the insurance trustees shall be to hold, use and disburse any amounts so paid for the purposes stated in Section 6.5. In the event that the amount of the insurance proceeds exceeds the costs of all repairs and restoration pursuant to Section 6.5, such excess shall, at the discretion of the Trustees, either be deposited in the reserve fund or distributed to the Owners in accordance with their Beneficial Interest. Such policies shall contain (1) waivers of subrogation as to any claims against this Association, the Trustees and their agents and employees, and against the Owners and their respective employees and invitees, agents and guests, (2) waivers of any defense based on the conduct of any insured, and (3) provisions to the effect that the insurer shall not be entitled to contribution as against casualty insurance which may be purchased by individual Owners as hereinafter permitted. Each Owner or his mortgagee may obtain additional insurance at his own expense, provided that such insurance shall contain provisions similar to those required to be contained in the Association's casualty or physical damage policies waiving the insurer's right to subrogation and contribution. If the proceeds from the Association's policies are reduced due to proration with insurance individually purchased by an Owner, such Owner agrees to assign the proceeds of such individual insurance, to the extent of the amount of such reduction, to the Trustees, to be applied as herein provided. Each Owner shall promptly notify the Trustees of all improvements made by him to his Unit if the insurable replacement cost thereof exceeds one thousand dollars, and such Owner shall pay to the Trustees as an addition to his share of the common expenses of the Condominium otherwise payable by such Owner, any increase in insurance premium incurred by the Association which results from such improvements.

#### 5.11 Meetings.

A. The Trustees shall meet annually on the date of the annual meeting of the Unitowners and at such meeting may elect a Chairperson, Treasurer, Secretary and any other officers they deem expedient. Other meetings may be called by any Trustee (if there be no more than three then in office) or by any two Trustees (if there be more than three then in office) 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 (2) days before such meeting to each Trustee. A majority of the number of Trustees then in office shall constitute a quorum at all meetings, and such meetings shall be conducted in accordance with such rules as the Trustees may adopt.

B. There shall be an annual meeting of the Unitowners on the first day of March in each year at 8:00 p.m. at such reasonable place as may be designated by the Trustees by written notice to the Owners at least seven (7) days prior to the date so designated. Special meetings (including meetings in lieu of annual meetings) of the Owners

may be called at any time by the Trustees and shall be called by them upon the written request of Owners owing at least ten (10%) percent of the Beneficial Interest. Notice of any special meeting designating the place, day and hour thereof shall be given by the Trustees to the Owners at least seven (7) days prior thereto. The Owners representing a majority of Beneficial Interest either in person or by written proxy shall constitute a quorum at any meeting of Owners and the vote of the Owners in person or by written proxy representing a majority of Beneficial Interest represented at such meeting shall decide any matter except where a larger vote is required by law, by the Master Deed or by this Declaration of Trust.

**6.12 Notices to Unitowners.** Every notice to any 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 in writing, or copy of a writing, given by one or more of the Trustees to such Owner by mailing it, postage prepaid, and addressed to such Owner at his address as it appears upon the records of the Trustees if other than at his Unit or by delivering or mailing the same to such Unit if no address appears or if such Unit appears as the Unitowner's address, if any case, at least seven (7) days prior to the date fixed for the happening of the matter, thing or event of which such notice is given.

**6.13 Inspection of Books, Reports to Unitowners.** Books, accounts and records of the Trustees shall be open to inspection to any one or more of the Trustees and the Owners at all reasonable times. The Trustees shall, as soon as reasonable possible after the close of each fiscal year, submit to the Owners a report of the operations of the Association for such year which shall include financial statements in such summary form and 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 or certified mail, return receipt requested, within thirty (30) days of the date of receipt by him shall be deemed to have assented thereto.

**6.14 Checks, Notes, Drafts, and Other Instruments.** Checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the names of the Trustees or of the Trust may be signed by any two Trustees or by any person or persons to whom such power may at any time or from time to time be delegated by not less than a majority of the Trustees.

**6.15 Seal.** The Trustees may sign any instrument under seal without being required to affix, a formal, common or wafer seal, provided that such instrument shall bear recital of a seal.

**6.16 Fiscal Year.** The fiscal year of this Trust shall be the year ending with the 31st day of December or such other date as may from time to time be determined by the Trustees.

**6.17 No Pets.** Dogs, cats and other pet animals shall not be kept in any Unit without permission of the Trustees.



**6.18 Right of Access.** The Trustees or any person authorized by the Trustees shall have a right of access to any Unit for the purpose of making inspections or correcting any conditions originating therein and in any way threatening another Unit or the Common Areas and Facilities, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Areas and Facilities, provided that a notice of such entry is made in advance and that any such entry is at a time reasonably convenient to the Owner. In case of any emergency such right of entry shall be immediate, whether the Owner is present at the time or not.

**ARTICLE VII**  
**Rights and Obligations of Third Parties**

**7.1 Manner of Dealing.** 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, otherwise than by a certificate thereof duly recorded or registered, and such record or certificate shall be conclusive evidence as to the identity of the Trustees, any changes of Trustees and their authority to act. The receipts of the Trustees, or any one or more of them, for money 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 purpose in or for which a sale, mortgage, pledge or charge is herein authorized or directed, or otherwise as to the purpose or regularity of any of the acts of the Trustees, or any one or more of them, purporting to be done in pursuance of any of the provisions or powers herein contained, or as to the regularity of the resignation or appointment of any Trustees, and any instrument of appointment of a new Trustee or resignation of an old Trustee purporting to be executed by the Trustees, Owners or other persons herein authorized to execute the same, shall be conclusive evidence in favor of any such purchaser or other person dealing with the Trustees as to the matters therein recited relating to such discharge, resignation or appointment or the occasion thereof.

**7.2 No Recourse.** 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 Owners under provisions of Section 4.8 hereof or under the provisions of the Condominium Law.

7.3 Instruments Subject to Trust Terms. 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 Trust.

7.4 Recording of Certificates, etc. This Declaration of Trust and any amendments hereto and any certificate herein required to be recorded and any other certificate or paper signed by the Trustees or any of them which it may be deemed desirable to record shall be recorded in the Registry of Deeds and such recording shall be deemed conclusive evidence of the contents and effectiveness thereof according to the tenor thereof; and all persons dealing in any manner whatsoever with the Trustees, their agents, the trust property or any beneficiary hereunder shall be held to have notice of any alteration or amendment of this Declaration of Trust, or change of Trustees or Trustees and their agents, when the same shall be recorded in the Registry of Deeds. Any certificate signed by a majority of Trustees in office at the time (or by only one Trustee if there are less than three trustees at any time), setting forth as facts any matters affecting this Trust, including statements as to who are the beneficiaries, as to what action has been taken by the beneficiaries, and as to matters determining the authority of the Trustees to do any act, when duly acknowledged and recorded in the Registry of Deeds, shall be conclusive evidence as to the existence of such alleged facts in favor of all third persons, including the Trustees, acting in reliance thereon. Any certificate executed by a majority of the Trustees hereunder setting forth the existence of any facts, the existence of which is necessary to authorize the execution of any instrument or the taking of any action by any Trustee or majority, as the case may be, shall be, as to all persons acting in good faith in reliance thereon, conclusive evidence of the truth of the statements made in such certificate and of the existence of the facts therein set forth.

#### ARTICLE VIII Mortgages

8.1 Notice to Trustees. An Owner who mortgages his Unit shall notify the Trustees of the name and address of the mortgagee, and such notice may be given by the mortgagee. The Trustees shall maintain a current list of such information and mortgagee shall remain on such list until the Trustees receive written notice from such mortgagee to the contrary or a copy of a discharge by the mortgagee.

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8.2 Unpaid Common Expenses. The Trustees, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges due from, or any other violation of the provisions of the Master Deed of this Trust by the Owner of the mortgaged Unit which has not been cured within sixty (60) days.

8.3 Notice of Default. The Trustees, when giving notice to a Unitowner of a default in paying common expenses or of any other default, shall send a copy of such notice to each mortgagee of the Unit whose name and address has theretofore been furnished to the Trustees.

8.4 Examination of Books. Each mortgagee of a Unit shall be permitted to examine the books, accounts and records of the Condominium at reasonable times on business days.

8.5 Notice of Loss. The Trustees shall give each first mortgagee of which they shall have a record pursuant to Section 8.1 notice whenever there is (a) damage to a mortgaged Unit in excess of \$1,000.00 (notice to the mortgagee of the damaged Unit) or (b) damage to common areas and facilities in excess of \$10,000.00 (notice to all mortgagees).

ARTICLE IX  
Amendments and Termination

9.1 Amendment. The Trustees, with the consent in writing of Owners entitled to not less than seventy-five (75%) percent of the Beneficial Interest, may at any time and from time to time amend, add to or change this Declaration of Trust in any manner and to any extent, the Trustees first, however, being duly indemnified to their reasonable satisfaction against outstanding obligations and liabilities; provided always, however, that (a) no such amendment, alteration, addition or change which purports to alter in any manner or to any extent modify or affect the percentage of the Beneficial Interest of any Owner so as to be different from the percentage of Beneficial Interest of such Owner in the Common Areas and Facilities set forth in Schedule B of the Master Deed shall be valid or effective without the consent of all the Owners and (b) no such amendment, alteration or addition which would impair or diminish the rights of the Declarant set forth in Section 4.1 or in the Master Deed shall be valid or effective without the written consent of the Declarant. Any amendment, alteration, addition or change pursuant to the foregoing provisions of this paragraph shall become effective upon the recording in the Registry of Deeds of any 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 a majority of the Trustees setting forth in full the amendment, alteration addition or change and reciting the consent of the 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 change, whether stated in such instrument or not, upon all questions as to title or affecting the rights of third persons and for all other purposes therein expressed.

9.2 Termination. The Trust hereby created shall terminate only upon the removal of the Condominium from the provisions of the Condominium Law in accordance with the procedure for removal set forth in Section 19 thereof.

9.3 Sale Upon Termination. Upon the termination of this Trust, the Trustees may, subject to and in accordance with the provisions of the Condominium Law, 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 Owners according to their respective percentages of Beneficial Interest. The Trustees shall have power to sell at public auction or private sale and to rescind or vary any contract or sale and to resell without being answerable for loss and, for said purposes, to do all things, including the execution and delivery of instruments, as may be their performance thereof be shown to be in their judgment necessary or desirable in connection therewith. The powers of sale and all other powers herein given to the Trustees shall continue as to all property at any time remaining in their hands or ownership, even though all times herein fixed for distribution of trust property may have passed.

ARTICLE X  
Construction and Interpretation

10.1 In the construction hereof, whether or not so expressed, words used in the singular or in the plural respectively include both the plural and singular, words denoting males include females and words denoting persons include individuals, firms, associations, companies (joint stock or otherwise), trusts and corporations, unless a contrary intention is to be inferred from or required by the subject matter or context. The cover, title, headings of different parts hereof and the table of contents are inserted only for convenience of reference and are not to be considered a 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 otherwise defined herein, words defined in the Condominium Law shall have the same meaning herein, and in case of conflict, the definitions in the Condominium Law shall prevail.

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IN WITNESS WHEREOF, Joseph S. Pappalardo, Christine M. Pappalardo and John C. Tommasi have hereunto set their hands and seals on the day and year first set forth above.

*Joseph S. Pappalardo*  
Joseph S. Pappalardo

*Christine M. Pappalardo*  
Christine M. Pappalardo

*John C. Tommasi*  
John C. Tommasi

COMMONWEALTH OF MASSACHUSETTS

October 7,

1987

Essex, ss.

Then personally appeared the above-named Joseph S. Pappalardo, Christine M. Pappalardo and John C. Tommasi and acknowledged the foregoing instrument to be their free act and deed, before me,

*Arthur S. Sobil*  
Notary Public Arthur S. Sobil  
My commission expires: October 22, 1987

Recorded Oct. 8, 1987 at 12:48 PM #31509