

**MASTER DEED OF THE GARDENS OF WILBRAHAM CONDOMINIUM**

2301 Boston Road, LLC, a Massachusetts limited liability company with a place of business at 2301 Boston Road, Wilbraham, Massachusetts 01095 (the “Declarant”) being the sole owner of the buildings and improvements (collectively the “Buildings”) on the land situated in Wilbraham, Hampden County, Massachusetts, described in Exhibit A hereto (the “Land”), by duly executing and filing this Master Deed, does hereby submit the Land and Buildings (collectively the “Premises”) to the provisions of Chapter 183A of the General Laws of Massachusetts, as amended from time to time (“Chapter 183A”) and proposes to create and does hereby create a condominium (the “Condominium”), to be governed by and subject to the provisions of Chapter 183A, and to that end, Declarant does hereby declare and provide as follows:

**1. Name of Condominium.** The Condominium is to be known as THE GARDENS OF WILBRAHAM CONDOMINIUM.

**2. Description of Land.** The premises which constitute the Condominium consists of the Land together with the Buildings. The Land is shown on the site plan entitled “\_\_\_\_\_” dated \_\_\_\_\_ by R. Levesque Associates, Inc. recorded herewith in the Hampden County Registry of Deeds (the “Plan”). The Land and Buildings are subject to and have the benefit of easements, restrictions and appurtenant rights of record. The Post Office address of the Condominium is 2301 Boston Road, Wilbraham, Massachusetts 01095. The Post Office addresses of the Units are shown on Exhibit B, as from time to time amended.

**3. Description of Buildings.**

(a) The initial phase of the Condominium, designated as Phase 1, consists of Forty-Two (42) units (each a “Residence Unit” and collectively the “Residence Units”) located in the buildings shown as Buildings 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 (each a “Residence Building” and collectively the “Residence Buildings”) on the Plan.

(b) The Residence Buildings each have a poured concrete foundation, are constructed principally of wood with vinyl siding and an asphalt shingle roof. Buildings 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12 and 14 each have one (1) story plus a basement. Unit 35 in Building 13 (8 Lodge Lane) has two (2) stories plus a basement.

(c) As set forth in Section 5 below, the Declarant reserves the right to create additional phases. Future Residence Buildings and Residence Units added to the Condominium will be identified as such in the amendments to Master Deed submitting such Building(s) and Unit(s) to the Condominium. The Declarant also reserves the right to create a phase adding a building or buildings which will be identified as “Nursing

Home / Assisted Living Buildings” (the “NH/AL Building”) in the Amendment to Master Deed submitting such Building(s) to the Condominium, such NH/AL Building to be located approximately as shown on the Plan. It is contemplated that the NH/AL Building will contain a “Nursing Home / Assisted Living Unit” (the “NH/AL Unit”). The Residence Buildings and NH/AL Building are sometimes hereinafter generically referred to as a “Building” and collectively referred to as “Buildings.” The term “Buildings” shall include the Buildings described on the Plan recorded herewith, as well as subsequent Buildings described on plans to be recorded with amendments to this Master Deed.

#### **4. Description of Units.**

(a) As used herein, the term “Unit” shall generically refer to a Residence Unit or the NH/AL Unit. The term “Units” shall collectively refer to the Residence Units and the NH/AL Unit. The Unit designation, Building designation, approximate area, number of rooms, immediately accessible Common Areas and Facilities and other descriptive specifications are set forth in Exhibit B attached hereto, and are shown on the Building floor plans recorded herewith. Additional Units in subsequent phases will be described in amendments to this Master Deed, and subsequent floor plans describing the additional Units shall be recorded with said amendments. As used herein, the term “Floor Plans” shall refer to the floor plans recorded herewith, as well as floor plans to be recorded with amendments to this Master Deed, and the term “Units” shall include the Units described on the floor plans recorded herewith, as well as subsequent units described on floor plans to be recorded with amendments to this Master Deed. The Plan and the Floor Plans show the layout, locations, unit numbers and dimensions of said Units as built, and bear the verified statement as required by the applicable provisions of Chapter 183A.

(b) The boundaries of each of the Residence Units with respect to the floors, ceilings, walls, doors and windows thereof are as follows:

(i) Floors: The plane of the upper surface of the concrete floor slab.

(ii) Ceilings: The plane of the bottommost surface of the roof joists and other structural members appurtenant to such roof joists.

(iii) Interior Building Walls between Residence Units (for those Residence Units that are located in a Residence Building containing more than one Unit): the plane of the interior surface of the wall studs and/or concrete walls facing such Residence Unit;

(iv) Exterior Building Walls, Doors and Windows: Except for Interior Building Walls, the plane of the interior surface of the wall studs and/or concrete walls facing the Residence Unit; as to the exterior doors, the exterior surface thereof; as to the

exterior door frames and window frames, the exterior surface thereof; and as to the windows, the exterior surface of the glass.

(v) Garage: As to the garage included within each Residence Unit, the plane of the upper surface of the concrete floor slab, the plane of the lower surface of the roof rafters, and as to exterior garage walls, the plane of the interior surface of the wall studs and/or concrete walls facing the Residence Unit; as to the exterior doors, the exterior surface thereof; as to the exterior door frames and window frames, the exterior surface thereof and as to the windows, the exterior surface of the glass.

(vi) Doors and Windows: All windows, screens, storm windows and doors, whether interior or exterior, shall be the property of the owner of the Residence Unit (the "Residence Unit Owner") to which they are attached or attachable and shall be furnished, installed, maintained, repaired and replaced at the sole expense of such Residence Unit Owner, provided, however, that there shall not be any change, replacement or repair of any of the above items without the prior written approval of the Board of Trustees (hereinafter the "Trustees") of The Gardens of Wilbraham Condominium Trust, the organization of Unit Owners formed pursuant to Chapter 183A (the "Condominium Trust" or the "Trust").

(vii) Structural Elements: Each Residence Unit excludes the foundation, structural columns, girders, beams, supportors, perimeter walls, the studs between Residence Units lying inside of the inner surface of the wallboard facing such studs (for Residence Units located in a Residence Building containing more than one Residence Unit), roofs, ducts, pipes, flues, wires and other installations or facilities for the furnishing of utility services or waste removal which are situated within a Residence Unit, but which serve other Residence Units.

(viii) HVAC Systems: Each Residence Unit shall include the HVAC system servicing such Residence Unit, whether located outside or inside such Residence Unit. Such HVAC system shall be maintained, repaired and replaced at the sole expense of such Residence Unit Owner, provided, however, that there shall not be any change, replacement or repair of the HVAC system without the prior written approval of the Trustees. Notwithstanding the foregoing, in the event of an emergency, the Residence Unit Owner shall obtain the written approval of the Trustees for such emergency work after such work is completed.

(c) The Declarant reserves the right to establish the boundaries of the NH/AL Unit in the amendment to the Master Deed creating the NH/AL Unit. Notwithstanding the foregoing, it is anticipated that the boundaries of the NH/AL Unit will be as follows:

(i) Floors: The plane of the lower surface of the concrete floor slab.

(ii) Ceilings: The upper plane of the shingles or other roof covering.

(iii) Exterior Building Walls, Doors and Windows: The plane of the exterior siding of the NH/AL Unit and/or exterior concrete walls; as to the exterior doors, the exterior surface thereof; as to the exterior door frames and window frames, the exterior surface thereof; and as to the windows, the exterior surface of the glass. All NH/AL Building windows, screens, storm windows and doors, whether interior or exterior, as well as the roof covering and the exterior covering of the Unit shall be the property of the owner of the NH/AL Unit (the "NH/AL Unit Owner") and shall be furnished, installed, maintained, repaired and replaced at the sole expense of such NH/AL Unit Owner, provided, however, that there shall not be any construction, change, replacement or repair of any of the above items without the prior written approval of the Trustees. Notwithstanding the foregoing, any construction, change, replacement or repair required by the Massachusetts Department of Public Health or any other federal, state or local entity which regulates the use of the NH/AL Unit shall not require the prior approval of the Trustees.

(iv) The NH/AL Unit includes the foundation(s), structural columns, girders, beams, supporters, walls, the interior and exterior studs and the roofs of the NH/AL Building, as well as ducts, pipes, flues, wires and other installations or facilities for the furnishing of utility services or waste removal which are situated within the NH/AL Unit.

(v) HVAC Systems: The NH/AL Unit shall include the HVAC system servicing such NH/AL Unit, whether located outside or inside such NH/AL Unit. Such HVAC system shall be furnished, installed, maintained, repaired and replaced at the sole expense of such NH/AL Unit Owner.

(d) Each Unit includes the ownership of all utility installations contained therein which exclusively serve the Unit, including without limitation the furnace, air conditioning, water heater, electrical service panel, sump pump (if installed), radon vent (if installed), the fireplace flue and dryer vents and all other utilities or fixtures exclusively servicing that Unit.

(e) Each Unit shall have as appurtenant thereto the right and easement to use, in common with the other Units served thereby, all utility lines and other common facilities which serve it, but which are located in another Unit or Units.

(f) Each Unit shall have as appurtenant thereto the right for residents of the Unit and their guests to use the Common Areas and Facilities, as described in Section 6 hereof, in common with the other Units in the Condominium, except for the Limited Common Areas and Facilities described in Section 7 hereof which are reserved for the exclusive use of the Unit to which such Limited Common Areas and Facilities appertain

## **5. Rights Reserved to Declarant Regarding Future Phases and Easements**

(a) The Declarant hereby reserves the right and easement, but not the obligation, to construct Buildings, Units, parking areas, roadways and other amenities on and over the Premises.

(b) The Declarant hereby reserves the right, but not the obligation, to develop the Condominium in phases. All improvements intended for each future phase will be substantially completed prior to the addition of the phase in question. Improvements in future phases will be consistent with initial improvements in the initial phase in terms of quality of construction. It is contemplated that when and if all phases are completed, the Condominium will contain 224 Residential Units and 1 NH/AL Unit.

(c) Further, the Declarant hereby reserves the right to have as an appurtenance to the addition of subsequent phases, an easement to pass and repass over all of the Land in the Condominium for all purposes, including without limitation, the right to store equipment, materials and supplies, so far as the same are necessary and convenient, for the construction and addition of the Condominium infrastructure, the initial phases and the said additional phases.

(d) Further, the Declarant hereby reserves to itself and its successors-in-title and its or their nominees, for a period ending on the completion of all phases in the Condominium, the easement, license, right and privilege to pass and repass by vehicle and on foot in, upon, over and to the Common Areas and Facilities of the Condominium, and the Limited Common Areas and Facilities, both as hereinafter defined (including, but not limited to, driveways and walkways) for all purposes, including, but not limited to, transportation and storage of construction materials, in order to complete construction work on the Condominium, provided that in the exercise of such rights reserved by the Declarant in this section, the Declarant will not unreasonably affect the use and enjoyment of the Common Areas and Facilities and the Limited Common Areas and Facilities in the phases already added to the Condominium. Nothing in this section shall be deemed to create any rights in the general public.

(e) Further, the Declarant reserves the right in the creation of subsequent phases (including the right to create subphases within one or more phases) to change the order of such phases, provided that in all instances the percentage of interest attributable to each such Unit then existing shall be determined in a manner in conformity with the provisions of Chapter 183A.

(f) Further, the Declarant reserves the right to grant temporary and/or permanent easements over and across the Common Areas and Facilities of the

Condominium Land for access to and egress from Buildings and improvements located on other phases.

(g) Further, the Declarant reserves the right to grant easements over, under, through and across the Common Areas and Facilities of the Condominium Land and Buildings for the purpose of installing cable television lines and utilities serving the Units in the Condominium and such other equipment as may be necessary for the installation and operation of the same.

**6. Common Areas and Facilities.** Except for the Units and Limited Common Areas and Facilities as described in Section 7 hereof, the entire Premises, including without limitation the Land and all parts of all Buildings and all improvements thereon, shall constitute the Common Areas and Facilities of the Condominium (sometimes hereinafter referred to as General Common Areas and Facilities to distinguish them from Limited Common Areas and Facilities as defined in Section 7 hereof). These Common Areas and Facilities shall consist of and include, without limitation, the following:

(a) The Land, together with the benefit of and subject to all rights and easements set forth herein and all rights, easements, restrictions and agreements of record, insofar as the same may be in force and applicable, and subject to the rights and easements of the Declarant hereinbefore described which include, without limitation, the right to construct and add the Buildings and Units and improvements constituting additional phases. The Declarant hereby reserves, in conjunction therewith, the right to grant mortgages on all or part of the rights and easements reserved to the Declarant in this Master Deed and on all or part of the Buildings and Units and improvements constituting such additional phases, including the rights and easements hereunder reserved, and hereafter to submit such phases by amendment to said Master Deed. Until such amendments are recorded by the Declarant submitting any of said Buildings and Units and improvements, said Buildings and Units and improvements will remain the property of the Declarant and shall not constitute part of the Condominium and shall be subject to the rights of the Declarant set forth herein.

(b) The foundation, structural columns, girders, beams, supports and perimeter walls in Residence Buildings; for those Residence Units that are located in a Residence Building containing more than one Residence Unit, the studs between Residence Units lying inside of the inner surface of the wallboard facing such studs; and Residence Building roofs.

(c) All conduits, ducts, pipes, wires, meters and other installations or facilities for the furnishings of utility services and waste removal including, without limitation, sewer, water, gas, electricity, television cable, internet and telephone, which are not located within any Unit or which, although located within a Unit, serve other Units, whether alone or in common with such Unit.

(d) Installations of central services, including all equipment attendant thereto, but excluding equipment exclusively serving a Unit.

(e) In general, any and all apparatus, equipment and installations existing for common use.

(f) Such additional Common Areas and Facilities as may be defined in Chapter 183A.

Subject to the exclusive use provisions of Section 7 hereof, the restrictions set forth in Section 9 hereof and the reserved rights and easements set forth in Sections 3, 4, 5, 10 and 11 hereof, each Residence Unit Owner and NH/AL Unit Owner (collectively the "Unit Owners") may use the Common Areas and Facilities in accordance with their intended purposes without being deemed thereby to be hindering or encroaching upon the lawful rights of the other Unit Owners.

## **7. Limited Common Areas and Facilities.**

(a) Limited Common Areas and Facilities – Residence Units. The following portions of the Common Areas and Facilities are hereby designated Residence Limited Common Areas and Facilities for the exclusive use of one or more Residence Units as hereinafter described.

(i) Driveways. Each Residence Unit Owner shall have the exclusive right and easement to use the driveway area leading from the road to the garage portion of such Residence Owner's Unit in a manner consistent with the provisions of this Master Deed, the Condominium Trust and the Rules and Regulations.

(ii) Front Entry Stoops, Porches and Decks. Each Residence Unit Owner shall have the exclusive right and easement to use the front entry stoop, porch, deck and/or patio which is attached or immediately adjacent to such Residence Owner's Unit in a manner consistent with the provisions of this Master Deed, the Condominium Trust and the Rules and Regulations. This exclusive right and easement shall also apply to those areas adjacent to a Residence Unit directly under such front entry stoop, porch or deck, if any.

(iii) Steps, Walkways and Flower Beds. Each Residence Unit Owner shall have the exclusive right and easement to use any steps, walkways and flower beds which serve such Residence Unit alone, provided that steps, walkways and flower beds which serve more than one Residence Unit, if any, shall be for the shared exclusive use of the Residence Units they serve, all in a manner consistent with the provisions of this Master Deed, the Condominium Trust and the Rules and Regulations.

(iv) Notwithstanding the foregoing, the cost of maintenance and repair of any privacy screen shall be borne by the Residence Unit Owner to whose appurtenant patio or deck the privacy screen is attached. If any privacy screen is not maintained, repaired or replaced to the Trustees' satisfaction, the Trustees may, at their sole and absolute discretion, cause the maintenance, repair or replacement to be performed and assess the cost of same to the Owner(s) of the Residence Unit(s) benefiting from such privacy screen. Said assessment shall be a common expense constituting a lien on the Residence Unit(s) until paid.

(b) Limited Common Areas and Facilities – NH/AL Unit. The following portions of the Common Areas and Facilities are hereby designated NH/AL Limited Common Areas and Facilities for the exclusive use of the NH/AL Unit as hereinafter described.

(i) Parking Spaces and Parking Lot. The NH/AL Unit Owner shall have the exclusive right and easement to use parking spaces and parking lot(s) adjacent to the NH/AL Unit and designated as such on the site plan which adds the NH/AL Unit to the Condominium, in a manner consistent with the provisions of this Master Deed, the Condominium Trust and the Rules and Regulations.

(ii) Driveways. The NH Unit Owner shall have the exclusive right and easement to use the driveways adjacent to the NH/AL Unit and designated as such on the site plan which adds the NH/AL Unit to the Condominium, in a manner consistent with the provisions of this Master Deed, the Condominium Trust and the Rules and Regulations.

(iii) The Declarant reserves the right to designate additional NH/AL Limited Common Areas and Facilities for the exclusive use of the NH/AL Unit by amendment to this Master Deed as set forth in Section 5 hereof.

The exclusive right and easement to use the Limited Common Areas and Facilities as set forth in this subsection is coupled with the exclusive responsibility and liability of the NH/AL Unit Owner to maintain, repair, replace, insure and otherwise deal with said Limited Common Areas and Facilities. Each such policy of insurance obtained shall name the Trustees as additional insureds and the NH/AL Unit Owner shall provide the Trustees with a certificate evidencing such insurance.

(c) All of the above Limited Common Areas and Facilities shall, however, be subject to the restrictions set forth in Section 9 hereof and to the reserved rights and easements set forth in Sections 3, 4, 5, 10 and 11 hereof.

**8. Percentage Ownership Interest in Common Areas and Facilities.**

(a) Each Unit Owner shall be entitled to an undivided interest in the Common Areas and Facilities of the Condominium equal to the percentage set forth on Exhibit B attached hereto. Such interest is calculated on the basis of the fair market value of such Unit in relation to the fair market value of all of the Units in the Condominium.

(b) Upon the addition of new Units to the Condominium in additional phases, the interest of each Unit (both the new Units and the previously existing Units) in the Common Areas and Facilities (and therefore the responsibility of the owner of each Unit for assessments and the vote appurtenant to each Unit) will be recalculated in accordance with the formula set forth in the immediately preceding subsection (a) and shall be reflected in an amendment to the Master Deed adding the new phase (each a “Phasing Amendment”). The effective date for the change in the interest in the Common Areas and Facilities appurtenant to each Unit, by reason of the addition of each additional phase, is the date of the recordation, in the Hampden County Registry of Deeds, of the Phasing Amendment making such change.

**9. Purpose and Restriction on Use; Changes to Units.** The use of the Units, Common Areas and Limited Common Areas and any changes to the Units shall be restricted as set forth in this Section.

(a) It is the intent that the Condominium qualify as “Housing for Older Persons” as such term is used in Section 3607(b)(2) of the Fair Housing Act, Chapter 45 of Title 42 of the United States Code as amended (the “Fair Housing Act”). Each Residence Unit is to be owner occupied and is intended primarily for the housing of persons fifty-five (55) years of age or older (hereinafter referred to as an “Eligible Resident” or “Eligible Residents”), and each Residence Unit is hereby restricted to occupancy by an Eligible Resident or Eligible Residents or, in the event of the death of an Eligible Resident occupying a Residence Unit and in accordance with the terms of the Declaration of Trust, the surviving spouse of such Eligible Resident (the “Eligible Spouse”). Notwithstanding the foregoing, nothing in this subsection shall prohibit the occupancy by an Eligible Resident and his or her spouse or other family members (including, without limitation, parents, children or siblings) so long as the same are twenty-one (21) years of age or older. In no event may a Residence Unit be occupied by persons under the age of twenty-one (21). Occupancy by two unrelated individuals is also permitted so long as at least one is an Eligible Resident. The requirement that a Residence Unit be owner occupied is not intended to restrict a Residence Unit Owner from (a) transferring a Residence Unit to such Residence Unit Owner’s heirs provided that the transferring Residence Unit Owner has retained a life estate in the Residence Unit and that the transferring Residence Unit Owner continues to occupy the Residence Unit, or (b) transferring a Residence Unit to a trust for estate planning purposes provided that such trust gives the transferring Residence Unit Owner continued occupancy rights in the

Residence Unit and that the transferring Residence Unit Owner continues to occupy the Residence Unit. Further, the requirement that a Residence Unit be owner occupied shall not restrict the Declarant from letting, licensing or leasing Residence Units as more fully set forth in Sections 9(a)(ii) and 10(a)(i) below.

(i) Subject to the provisions contained in Section 9(a)(v) below, if an Eligible Resident ceases for any reason to occupy a Residence Unit leaving no other Eligible Resident occupying such Residence Unit, other occupants of the Residence Unit who resided with such Eligible Resident who do not qualify as Eligible Residents shall be permitted to occupy the Residence Unit in accordance with the following rules:

(A) An Eligible Spouse may continue to occupy the Residence Unit except as provided in Section 9(a)(v) below.

(B) Except as provided in Section 9(a)(iii), if the Eligible Resident no longer resides in the Residence Unit by reason of death, disability or permanent incapacity, the remaining non-Eligible Resident(s) (other than an Eligible Spouse) may reside in the Residence Unit, but only for a period not to exceed two (2) years following such Eligible Resident's death or departure from the Residence Unit due to disability or permanent incapacity unless, within such period, the Residence Unit is once again occupied by an Eligible Resident.

(C) Except as provided in Section 9(a)(iii), if the Eligible Resident no longer occupies the Residence Unit for any other reason, any remaining non-Eligible Resident(s) (other than an Eligible Spouse) may continue to reside in the Residence Unit, but only for a period not to exceed one (1) year following the departure from the Residence Unit by the Eligible Resident unless within such period the Residence Unit is once again occupied by an Eligible Resident.

(ii) Nothing in this Section 9(a) is intended to restrict the ownership of or transfer of title to any Residence Unit; however, no Residence Unit Owner may occupy any Residence Unit unless the requirements of this Section 9(a) are met, nor shall any Residence Unit Owner permit occupancy of his or her Residence Unit in violation of this Section 9(a). Each Residence Unit Owner shall be responsible for including in any agreement for sale of the Residence Unit a statement that the Residence Unit is intended primarily for the housing of persons fifty-five (55) years of age or older, in conspicuous type, and clearly disclosing such intent to any prospective purchaser or other potential occupant of the Residence Unit. Notwithstanding the foregoing, the Declarant, its successors or assigns, shall have the further perpetual right to license, let or lease to an Eligible Resident any Residence Units owned by it, including any such Residence Unit initially sold by the Declarant and later acquired or later leased by it, upon such terms and for such periods, but not less than thirty (30) days, as it, in its sole discretion, shall determine.

(iii) Notwithstanding the foregoing, any Residence Unit Owner may request, in writing, that the Trustees make an exception to the requirement of this Section 9(a) with respect to a specific current or potential occupant of his or her Residence Unit. In the case of a potential occupant, a Residence Unit Owner may make such request to the Trustees only after such Residence Unit Owner has entered into a purchase agreement with a potential buyer who intends to occupy the Residence Unit, which agreement shall state that all of the Residence Unit Owner's obligations thereunder are contingent upon the Residence Unit Owner receiving approval from the Trustees for such an exception and that such potential buyer intends to occupy the Residence Unit. The Trustees may, by vote of at least two-thirds of the Trustees who are disinterested, but shall not be obligated to, grant such exceptions in their reasonable discretion, provided that (a) all occupants are at least twenty one (21) years of age; (b) all requirements for the Condominium to qualify as Housing for Older Persons under the Fair Housing Act would still be met including, but not limited to, the requirement that no more than twenty percent (20%) of the total number of occupied Residence Units may be occupied solely by persons who do not qualify as Eligible Residents; (c) all requirements of any other local, state or federal law which permits the Condominium to maintain its age, use and occupancy restrictions would still be met; and (d) all zoning and land use requirements of the Town of Wilbraham would still be met. Any approval for such an exception from the Trustees shall be in writing, shall be specific to the occupant named in the application and shall immediately terminate if said occupant or potential occupant (a) fails to occupy the Residence Unit within three (3) months of the date of the approval, (b) ceases to occupy the Residence Unit; or (c) reaches the age of 55 (collectively, "Events of Termination"). The Residence Unit Owner shall immediately notify the Trustees in writing of the occurrence of any Event of Termination. The Trustees shall maintain records of all such approvals. A Residence Unit Owner may request an exception under this subsection for a non-Eligible Resident who may be permitted to occupy a Residence Unit temporarily under Sections 9(a)(i)(B) or (C).

(iv) The Trustees may, upon written request of any proposed resident aged fifty-four (54) or older who will not have attained the age of fifty-five (55) as of his or her proposed date of occupancy, permit such proposed resident to occupy a Residence Unit on a provisional basis until such person becomes an Eligible Resident, but for a period not in excess of eleven (11) months, upon the showing of family or financial hardship, provided that the twenty percent (20%) threshold set forth in Section 9(a)(iii) above is not exceeded.

(v) Notwithstanding the Trustees' discretion to make exceptions under Section 9(a)(iii) and notwithstanding Sections 9(a)(i) and (iv) above, it is the express requirement of this Master Deed that the Condominium qualify as Housing for Older Persons under the Fair Housing Act, and any comparable designation under any similar state or federal law which permits the Condominium to maintain its age, use and

occupancy restrictions and the zoning and land use requirements of the Town of Wilbraham. The rules set forth in this Section 9(a) shall be administered, interpreted and enforced so as to meet such statutory and regulatory requirements, including, as necessary, the provision of absolute or percentage limitations on the number of Residence Units which are occupied solely by non-Eligible Residents and Eligible Spouses and, if necessary, the termination of the occupancy rights of any Residence Unit or Units by non-Eligible Residents or Eligible Spouses otherwise permitted under Sections 9(a)(i), (iii) and (iv) to the extent necessary to meet such requirements. If the Trustees terminate the occupancy rights of any Residence Unit by such non-Eligible Resident(s) or Eligible Spouse(s), the Trustees shall terminate such occupancy rights as follows: first, to non-Eligible Residents permitted under Sections 9(a)(i)(B) and (C), beginning with such occupants with the shortest amount of time remaining on their temporary exceptions; second, to non-Eligible Residents permitted under Section 9(a)(i), beginning with such occupants with the greatest amount of time until they reach the age of fifty-five (55); and third, to non-Eligible Residents who have been granted an exception under Section 9(a)(iii) and to Eligible Spouses, beginning with such occupants which have occupied a Residence Unit for the least amount of time.

(vi) The proposed occupants of each Residence Unit shall be required, prior to entering into initial occupancy of such Residence Unit, and annually thereafter, to deliver to the Trustees an occupant's certificate certifying the name and age of the Eligible Resident or Residents occupying such Residence Unit, together with the names, ages and relationships to the Eligible Resident of any other occupants of the Residence Unit. In the event of any change in occupancy of any Residence Unit as a result of a transfer of title, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Residence Unit Owner shall immediately notify the Trustees in writing and provide to the Trustees the names and ages of all current occupants of the Residence Unit and such other information as the Trustees may reasonably require to verify the age of each occupant.

(vii) The Trustees shall have the power and authority to enforce this Section 9(a) in any legal manner available, as the Trustees deem appropriate, including, without limitation, conducting a census of the occupants of the Residence Units, requiring copies of birth certificates or other proof of age for each occupant of the Residence Units to be provided to the Trustees on a periodic basis, and taking action to evict the occupants of any Residence Unit which is not in compliance with the requirements and restrictions of this Section 9(a).

EACH RESIDENCE UNIT OWNER HEREBY APPOINTS THE TRUSTEES AS HIS OR HER ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT, OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER RESIDENCE UNIT AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS SECTION 9(a). Each Residence Unit Owner

shall fully and truthfully respond to any and all requests by the Trustees for information regarding the occupancy of his or her Residence Unit that, in the judgment of the Trustees, are reasonably necessary to monitor compliance with this Section 9(a).

(viii) Each Residence Unit Owner shall be responsible for ensuring compliance with respect to all occupants of his or her Residence Unit with the requirements and restrictions of this Section 9(a) and the rules of the Trustees adopted hereunder. EACH RESIDENCE UNIT OWNER, BY ACCEPTANCE OF TITLE TO A UNIT, AGREES TO INDEMNIFY, DEFEND, AND HOLD THE TRUSTEES AND THE DECLARANT HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, AND CAUSES OF ACTION THAT MAY ARISE FROM FAILURE OF SUCH RESIDENCE UNIT OWNER'S RESIDENCE UNIT TO SO COMPLY WITH THE TERMS OF THIS SECTION 9(a).

(ix) The Trustees shall maintain age records on all occupants of Residence Units. The Trustees shall, if necessary, adopt additional rules, policies and procedures to monitor and maintain compliance with this Section 9(a), including policies regarding visitors, updating of age records, the granting of exemptions pursuant to this Section 9(a), definitions of single family residences, additional restrictions and enforcement or compliance with law. If the Trustees adopt any such rules, the Trustees shall periodically distribute such rules to Residence Unit Owners and make copies available to Residence Unit Owners, their tenants and mortgagees upon reasonable request. The NH/AL Unit Owner will cooperate with the Trustees and provide the Trustees with the necessary information as to residents in such NH/AL Unit, if any, in order that the Trustees can monitor and maintain compliance with this Section 9(a).

(b) Each Residence Unit is hereby restricted to residential use and shall be occupied by no more than three (3) persons as a single-family residence. No more than two residents of any Residence Unit may be unrelated individuals. Overnight guests shall be allowed in Residence Units for reasonable visitation periods not to exceed thirty (30) days of continuous duration nor more than ninety (90) days per calendar year.

(c) The NH/AL Unit is restricted to use as a nursing home as such term is defined in M.G.L. c. 111, § 71, as hereinafter amended, and an assisted living residence as that term is defined in M.G.L. c. 19D, § 1, as hereinafter amended. The term nursing home as used herein shall include, without limitation, a so-called long term care facility or skilled nursing facility.

(d) Notwithstanding anything to the contrary contained herein, any of the provisions of this Section 9 (except the requirement that a Residence Unit must be occupied by an Eligible Resident or Eligible Spouse and the restriction prohibiting occupancy by persons under twenty-one (21) years of age) may be modified or waived by

the vote of two-thirds (2/3) of the disinterested Trustees, upon their determination and finding of the existence of a financial, physical or family handicap or hardship.

(e) Notwithstanding anything to the contrary contained herein or any of the provisions of this Section 9, a Residence Unit may be occupied by a licensed home health aide hired to provide assistance to an Eligible Resident based upon a prescribed or diagnosed medical or physical need.

(f) The architectural integrity of the Residence Buildings shall be preserved without modification and to that end, without limiting the generality of the foregoing, no balcony, patio or deck enclosure other than as presently exists, skylight, chimney, enclosure, awning, screen, screen door, antenna, sign, 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 Residence Building or attached to or exhibited through a window of any Residence Building, and no painting or other decorating shall be done on any exterior part or surface of any Residence Building, unless the same shall have been previously approved in writing by the Trustees in accordance with the provisions of the Condominium Trust and shall conform to the conditions set forth in said Condominium Trust. Except as otherwise set forth herein or in the Declaration of Trust, no modification or addition shall be made to the exterior of the NH/AL Building without the prior written consent of the Trustees, which consent will not be unreasonably withheld. Notwithstanding the foregoing, any modification or addition required by the Massachusetts Department of Public Health or any other federal, state or local entity which regulates the use of the NH/AL Unit shall not require the prior approval of the Trustees.

(g) The Owners of any Unit may, at any time and from time to time, modify, remove and install non-bearing walls lying wholly within such Unit, provided, however, that any and all work with respect to the modifications, removal and installation of interior walls shall be done in accordance with plans approved by the Building Department of the Town of Wilbraham and filed with the Trustees. In addition, a certified "as built" plan and any Amendment to the Master Deed shall be recorded with the Hampden County Registry of Deeds. No modification adversely affecting the structural integrity or the fire rating of any Building or any Unit shall be made.

In addition, the approval of the Trustees shall be required for any modification which seeks to improve and/or finish all or any part of the basement level of a Unit or to create any new room in any part of the Unit. Any Unit Owner desiring to so modify his or her Unit shall first submit to the Trustees a plan in detail as the Trustees may reasonably require depicting the improvements to be constructed.

The Unit Owner shall submit, together with such plan, an affidavit certifying that the space to be modified and/or improved will not create and will not be utilized as an

additional bedroom within the Unit. The Unit Owner shall provide the Trustees with a copy of the Building Permit issued by the Town of Wilbraham prior to initiation of construction to modify and/or improve the Unit. Upon receipt of the plan, affidavit and copy of the Building Permit, providing all are in compliance with the provisions hereof, the Trustees shall issue to the Unit Owner a statement suitable for recording with the Hampden County Registry of Deeds indicating that the Unit Owner has complied with the provisions of this subsection. All costs incurred by the Trustees with respect to any proposed modification of a Unit pursuant to this subsection 9(g) shall be borne by the Unit Owner proposing such modification.

(h) All use and maintenance of Units, the Common Areas and Facilities and Limited Common Areas and Facilities shall be conducted in a reasonable manner, consistent with the comfort and convenience of the occupants of the other Units. No Unit Owner may use or maintain his or her Unit, Common Areas and Facilities appurtenant thereto or Limited Common Areas and Facilities in any manner or condition which will impair the value or interfere with the beneficial enjoyment of the other Units, the Common Areas and Facilities and Limited Common Areas and Facilities.

(i) The driveways of the Residence Units are intended to be used solely for the parking of private passenger vehicles. Only cars and light trucks without signage are permitted to park overnight in the driveways of the Residence Units.

(j) The use of Units, the Common Areas and Facilities and the Limited Common Areas and Facilities is subject to this Master Deed, the Condominium Trust, the Bylaws and the Rules and Regulations. Any Unit Owner found by a court of competent jurisdiction to be in violation of the provisions of this Master Deed, the Condominium Trust, the Bylaws or the Rules and Regulations shall be liable for the reasonable attorneys' fees incurred by the Trustees in enforcing the same.

(k) The Trustees may adopt rules and regulations that affect the use or occupancy of Units only to: (1) prevent any use of the Unit which violates this Master Deed, the Condominium Trust, the Fair Housing Act or Chapter 183A; or (2) regulate any occupancy of a Unit which violates this Master Deed, the Condominium Trust or the Bylaws or adversely affects the use and enjoyment of other Units or the Common Areas and Facilities or the Limited Common Areas and Facilities by the Unit Owners.

(l) Nothing shall be done or kept in any Unit that will increase the rate of insurance of the Condominium. If the insurance of the Condominium is increased as a direct result of one or more Unit Owners, such increase will be charged to such Unit Owner(s) as a special assessment.

(m) No flammable, combustible or explosive fluid, material, chemical, or substance (except such lighting and cleaning fluids as are customary for residential use) may be stored in any Residence Unit.

(n) No pets other than common domestic animals having a shoulder height of twenty-four (24) inches or less shall be kept in any Unit. Such animals include, but are not necessarily limited to dogs, cats, birds, tropical fish, goldfish, and hamsters and/or gerbils (if properly caged). Notwithstanding the foregoing, no Rottweilers, Mastiffs, Pit Bulls or offspring of the same shall be kept in any Unit and under no circumstances are reptiles or “exotic” animals to be kept in any Unit. Upon petition by any Unit Owner, the Trustees shall have the right to approve or disapprove the keeping of any pet other than those species and breed types listed herein. Only Unit Owners may petition the Trustees for variance of this restriction. All dogs and cats must be spayed or neutered and must be licensed in accordance with state and municipal regulations. There shall be no breeding of any animals in or outside of any Unit. Service animals, including those which do not conform to the restrictions set forth herein, will be permitted for use by people with disabilities. Specific rules and restrictions regarding pets are contained in the Bylaws and Rules and Regulations in the Trust.

(o) Nothing shall be done in any Unit that will impair the structural integrity or fire rating of any Building or Building component, nor shall anything be done in or on said Unit that would structurally change any Building, without the prior written permission on each occasion by the Trustees. Notwithstanding the foregoing, the NH/AL Unit Owner shall not need to obtain the prior written approval of the Trustees for any construction, change, replacement or repair required by the Massachusetts Department of Public Health or any other federal, state or local entity which regulates the use of the NH/AL Unit.

(p) No de-icing chemicals shall be used on the access roads, driveways, sidewalks or walkways except with the prior written permission of the Trustees.

(q) Each Unit shall be used only as permitted by the Town of Wilbraham Zoning Bylaw and subject to the provisions of the documents referred to in Exhibit C attached hereto.

The foregoing restrictions shall be for the benefit of each of the Unit Owners and the Trustees, and shall be enforceable by each Unit Owner and also by the Trustees. Also, insofar as permitted by law, such restrictions shall be perpetual, and, to that end, they 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, except as occur during his or her ownership of a Unit.

The Trustees shall have the ability to levy monetary fines against one or more Unit Owners for any non-compliance with any of the terms of this Section 9. This ability to levy fines shall be in addition to all other remedies set forth herein or available to the Trustees at law or in equity.

**10. Rights Reserved to the Declarant for Leasing and Licensing, Sales and Future Development.**

(a) Notwithstanding any provision of this Master Deed, the Condominium Trust or the Bylaws to the contrary, in the event that there are unsold Residence Units or the NH/AL Unit, the Declarant shall have the same rights, as the Owner of such unsold Units, as any other Unit Owner. In addition to the foregoing, the Declarant reserves the right, for itself and its successors and assigns, to:

- (i) Lease or license the use of any Residence Unit(s) owned by it, subject however to the terms of this Master Deed;
- (ii) Lease or license the use of the NH/AL Unit upon such terms and conditions, and for such consideration, as the Declarant may elect;
- (iii) Raise or lower the price of unsold Units;
- (iv) Use any Unit owned by the Declarant as a model for display for purposes of sale or leasing of Units;
- (v) Use any Unit owned by the Declarant as an office for the Declarant's use; and
- (vi) Make such modifications, additions, or deletions in and to the Master Deed or the Condominium Trust as may be approved or required by any lending institution making mortgage loans on Units, or by public authorities, provided that none of the foregoing shall diminish or increase the percentage of undivided interest of or increase the price of any Unit under agreement for sale or alter the size or layout of any such Unit.

No amendment to this Master Deed, the Condominium Trust or the Bylaws which purports to restrict the Declarant's rights as set forth in this subsection (a) shall be of any force and effect unless such amendment is assented to, in writing, by the Declarant, or its successors or assigns, as the case may be.

Nothing contained herein shall be construed to require the Declarant, its successors or assigns to sell the NH/AL Unit or any Residence Unit to a third party, and the Declarant's rights set forth in subsections (i) and (ii) above shall exist in perpetuity.

(b) Notwithstanding any provision of this Master Deed, the Condominium Trust or the Bylaws to the contrary, the Declarant, its successors and assigns, and their authorized agents, representatives and employees shall have the right and easement to erect and maintain on any portion of the Condominium, including in or upon any Building, or other structure and improvements forming a part thereof, fences and sales trailer(s), and such sales signs and other advertising and promotional notices, displays and insignia as they shall deem necessary or desirable.

(c) Notwithstanding any provisions of this Master Deed, the Condominium Trust or the Bylaws to the contrary, the Declarant hereby reserves to itself and its agents, representatives, employees and contractors and Declarant's successors and assigns, the right and easement to enter upon all or any portion of the Common Areas and Facilities with workers, vehicles, machinery and equipment for purposes of constructing, selling and marketing (including sales trailer(s), construction trailer(s) and/or storage trailer(s)), erecting, installing, operating, maintaining, repairing, modifying, rebuilding, replacing, relocating and removing Buildings and their appurtenances, creating, extinguishing, and/or relocating utilities and easements of every character, including without limitation, electric, telephone, sewer and gas line easements, drainage and slope easements, roads, drives, walks and all other structures and improvements as the Declarant shall deem necessary or desirable to complete the development and construction of the Common Areas and Facilities of the Condominium. This right and easement shall include the right to store at, in or upon the Common Areas and Facilities vehicles, machinery, equipment and materials used or to be used in connection with said development work, sales and marketing for such periods of time as shall be conveniently required for said development and construction work. This easement shall not be construed to limit or restrict the scope of any easement granted for the purpose of facilitating development, construction and expansion of the Common Areas and Facilities of the Condominium under the provisions of any other section of this Master Deed or any other instrument or document, or under applicable law or regulation.

## **11. Rights Reserved to the Trustees.**

(a) Right of Access. Upon twenty-four (24) hours advance notice (or such longer notice as the Trustees shall determine appropriate) to the Unit Owner involved, or immediately in case of emergency or a condition causing or threatening to cause serious inconvenience to another Unit, the Trustees shall have the right of access to each Unit, to the Common Areas and Facilities and to the Limited Common Areas and Facilities:

(i) To inspect, maintain, repair or replace the Common Areas and Facilities or the Limited Common Areas and Facilities and to do work reasonably necessary for the proper maintenance or operation of the Condominium.

(ii) To grant permits, licenses and easements over the Common Areas and Facilities and the Limited Common Areas and Facilities for utilities, ways and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium, including without limitation, the right to create, extinguish, and/or relocate utilities and easements of every character, including without limitation, water, electric, telephone, sewer, cable television and gas line easements, drainage and slope easements, roads, drives, walks and all such other structures and improvements as the Trustees shall deem necessary or desirable for the proper maintenance and operation of the Condominium.

(b) Right of First Refusal. The Trustees shall have a right of first refusal to purchase a Residence Unit upon the same price, terms and conditions as a bona fide third party offeror, as more fully set forth herein.

(i) In the event that a Residence Unit Owner (which term for the purposes of this section shall include the Residence Unit Owner's heirs, successors or assigns) shall receive a bona fide third party offer to purchase the Residence Unit at such price and upon such terms and conditions as the Residence Unit Owner is willing to accept, the Unit Owner shall give written notice to the Trustees of said offer, which notice shall include a copy of the signed offer or purchase and sale agreement signed by the offeror. The giving of such notice shall constitute a warranty and representation by the Residence Unit Owner giving such notice that the offer is a bona fide third party offer in all respects. This right of first refusal shall not apply to a transfer by a Residence Unit Owner to such Residence Unit Owner's heirs or to a trust for estate planning purposes; provided, however, that such transferee shall continue to be bound by this Section 11(b).

(ii) The Trustees shall have ten (10) days following receipt of the written notice of the third party offer to exercise the right of first refusal to purchase the Residence Unit. Such election shall be made by giving to the offering Unit Owner a notice, in writing, of such exercise.

(iii) In the event the Trustees shall elect to purchase such Residence Unit, the closing shall occur on or before forty-five (45) days following the exercise of the right of first refusal by the Trustees, or the date of closing in the offer or purchase and sale agreement from the third party, whichever is later. At the closing, the Residence Unit Owner shall convey the Unit to the Trustees, or their designee, by a unit deed in the form required by Chapter 183A with any Massachusetts documentary tax stamps being paid by the selling Residence Unit Owner.

(iv) In the event the Trustees, or their designee, shall fail to accept such offer within ten (10) days as aforesaid, the offering Residence Unit Owner shall be free to sell such Unit to the third party offeror, upon the same terms and conditions contained in the notice to the Trustees, so long as such sale occurs on or before sixty (60) days after



**14. Units Owner's Rights and Obligations.**

(a) All present and future Unit Owners, visitors, invitees, servants and occupants of Units shall be subject to, and shall comply with, the provisions of this Master Deed (including, without limitation, Section 9(a) hereof), the Condominium Trust, the Bylaws, the Unit Deed and the Rules and Regulations, and the items affecting title to the land as set forth in Exhibit C. The acceptance of a deed or conveyance of a Unit or the entering into occupancy of a Unit shall constitute an agreement that the provisions of this Master Deed (including without limitation, Section 9(a) hereof), the Condominium Trust, the Bylaws, the Unit Deed and the Rules and Regulations, as they may be amended from time to time, and the said items affecting title to the land, are accepted and ratified by such owner, visitor, invitee, servant or occupant; and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provision were recited and stipulated at length in each and every deed or conveyance thereof or any arrangement with respect thereto.

(b) There shall be no restriction upon any Unit Owner's right of ingress to and egress from his or her Unit, which right shall be perpetual and appurtenant to Unit ownership.

(c) Each Unit shall be entitled to vote its appurtenant percentage interest as shown on Exhibit B of this Master Deed. If a Unit is owned by more than one Owner, such Unit Owners shall designate one of them to vote the Unit's appurtenant percentage interest.

(d) Each Unit Owner, including the Declarant, shall be required to pay a proportionate share of common expenses upon being assessed therefor by the Condominium Trust based on each Unit Owner's proportionate share of the Common Areas and Facilities of the Condominium. Commencing with the transfer of the first Unit in a Building, the Declarant shall be liable for the full fees for the remaining Units in the Building until the time of their transfer.

**15. Amendments.**

(a) While the Declarant owns at least ten percent (10%) of the Units of the Condominium or to be phased into the Condominium, this Master Deed may be amended by the Declarant, provided that any such amendment shall not substantially reduce the enjoyment or substantially increase the burdens of any Unit Owner. In the event that any such amendment would materially affect the rights of any mortgagee, then the written consent of a majority of the holders of first mortgages on mortgaged Units shall be required to approve any such amendment.

Thereafter, except as set forth in subsection (b) below, this Master Deed may be amended by an instrument in writing (1) signed by the Owners of Units at the time holding more than fifty percent (50%) of the total voting power of the Unit Owners, as said voting power is defined in the Condominium Trust, or signed by a majority of the Trustees, in which case such instrument shall recite that it has been agreed to in writing by Owners of Units at the time holding more than fifty percent (50%) of said total voting power of the Unit Owners, or, in either event, such higher percentage as required by Chapter 183A and (2) duly recorded with the Hampden County Registry of Deeds, provided, that:

(i) The date on which an Owner of a Unit first signs any instrument of amendment shall be indicated as the date of the amendment, and no amendment shall be of any force or effect unless recorded with six (6) months after such date.

(ii) No instrument of amendment which alters the dimensions of any Unit shall be of any force or effect unless signed by the Owner of said Unit so altered.

(iii) Except as provided herein, no instrument of amendment which alters the percentage of the undivided interest to which any Unit is entitled in the Common Areas and Facilities shall be of any force and effect unless signed by the Owners of all the Units so affected.

(iv) No instrument of amendment which alters this Master Deed in any manner which would render it contrary to or inconsistent with any requirement or provision of Chapter 183A shall be of any force or effect.

(v) No instrument of amendment which purports to affect the Declarant's reserved rights to construct, erect or install common use facilities as set forth in Section 16 hereof shall be of any force and effect unless it is assented to in writing by the Declarant, and the assent is recorded with such amendment at the Hampden County Registry of Deeds.

(vi) No instrument of amendment which would adversely affect the Declarant's right and ability to develop and/or market the Condominium shall be of any force or effect unless it is assented to in writing by the Declarant, and the assent is recorded with such amendment at the Hampden County Registry of Deeds. The requirements for the Declarant's assent contained in this subsection (vi) shall terminate (a) upon the completion of sales by the Declarant to third party purchasers of all the Residence Units of the Condominium or (b) ten (10) years from the date of the recording of this Master Deed, whichever shall first occur. Notwithstanding the foregoing, should the Declarant exercise its right to extend the deadline to add additional phases as set forth in Section 15(c)(iii) below, the ten (10) year term referred to immediately above shall be automatically extended to include such extension period.

(vii) No instrument of amendment affecting any Unit in a manner which impairs the security of a mortgage of record thereon held by a regulated lender of a purchase money mortgage shall be of any force or effect unless the same has been assented to by such mortgage holder.

(viii) No instrument of amendment which would, in any manner, disqualify mortgages of Units in the Condominium for sale to the Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC) shall be of any force or effect and all provisions of the Master Deed and Condominium Trust shall be construed so as to qualify any such mortgages for sale to FNMA and FHLMC.

(ix) Where required under the Master Deed and/or Chapter 183A, the instrument of amendment shall be deemed assented to by the Unit Owners, and/or the holders of the first mortgages of record with respect to the Units, upon the giving of sixty (60) days written notice sent to said Unit Owners and/or Mortgagees by certified mail/return receipt requested. All consents obtained pursuant to this section shall be effective upon the recording of an affidavit by the Trustees stating that all necessary notices have been sent via certified mail/return receipt requested and the receipt cards have been returned evidencing actual notice to such Unit Owner and/or mortgage holders of record.

(b) After such time as the Declarant no longer owns at least ten percent (10%) of the Units of the Condominium or to be phased into the Condominium, any amendment to this Master Deed which rescinds or materially modifies the requirement that the Units be occupied by persons aged fifty-five (55) years of age or older, as set forth in Section 9(a) hereof, must be approved by a writing signed by the Owners of Units at the time holding at least seventy-five percent (75%) of the total voting power of the Unit Owners, as said voting power is defined in the Condominium Trust, or signed by a majority of the Trustees, in which case such instrument shall recite that it has been agreed to in writing by Owners of Units at the time holding at least seventy-five percent (75%) of said total voting power of the Unit Owners. The writing referred to in this subsection shall be duly recorded at the Hampden County Registry of Deeds. In addition, the requirements of subsections 15(a)(i) through (ix) shall apply to any such amendment. Notwithstanding the foregoing, no such amendment shall become effective unless and until all necessary federal, state and municipal statutes and regulations are complied with, including without limitation, any necessary zone change.

(c) Notwithstanding any of the provisions herein (including subsection (a) of this Section) or of Chapter 183A, the Declarant, its successors and assigns, reserves the right to construct and add to the Condominium such additional Buildings, Units and improvements (or any lesser part thereof) as described herein, and after such additions are

substantially completed, to amend this Master Deed creating subsequent phases (including any subphase) as hereinbefore described; each Unit Owner, his or her successors, assigns and mortgagees shall, and hereby does, by the acceptance and recording of the Unit Deed, appoint the Trustees as his, her or its attorney to execute, acknowledge and deliver any and all instruments necessary to accomplish the provisions of this section. The right to amend this Master Deed to add such additional phase or phases, and the appointment of the Declarant as an attorney as aforesaid, shall expire upon the earlier of:

(i) the recording of an instrument with the Registry of Deeds executed by the Declarant terminating the Declarant's right to add such additional phase or phases;

(ii) the recording of the amendment which by its terms states that it is adding the last phase (or subphase in the last phase) by which all Units will thereupon have been added to the Condominium; or

(iii) ten (10) years from the date of recording of this Master Deed. Notwithstanding the foregoing, the Declarant shall have the right to extend the ten (10) year limitation set forth herein by recording in the Hampden County Registry of Deeds a notice of such extension. The notice shall refer to this Master Deed and include the length of the extension, which shall not be longer than ten (10) years.

The document that will be recorded to add each phase will be the amendment to this Master Deed made under the provisions of this subsection (c) of this Section 15, and an "as built" plan of the Unit(s) that are part of the phase being added, which Unit plans may be attached to the Unit deed as an exhibit.

(d) Each instrument of amendment executed and recorded in accordance with the requirements of this Section 15 shall be conclusive evidence of the existence of all facts recited thereon and of compliance with all prerequisites to the validity of such amendment in favor of all persons who rely thereon without actual knowledge that such facts are not true or that such amendment is not valid.

**16. Declarant's Reserved Rights to Construct Future Common Use Facilities in the Common Areas and Facilities.** The Declarant, for itself and its successors and assigns, hereby expressly reserves the right and easement to construct, erect and install on the Condominium property and in such locations as it shall determine to be appropriate or desirable one or more common use facilities to serve the Condominium. Upon substantial completion of any such common use facilities, they shall become part of the Common Areas and Facilities of the Condominium, and the Declarant shall turn it over to the Condominium Trust for management, operation and maintenance and the Trustees shall accept responsibility for such management, operation and maintenance. Nothing

contained in this Section 16, however, shall in any way obligate the Declarant to construct, erect or install such common use facilities as part of the Condominium.

**17. Definition of “Declarant”.** For purposes of this Master Deed, the Condominium Trust and the Bylaws, or other instruments recorded herewith, “Declarant” shall mean and refer to 2301 BOSTON ROAD, LLC and to any successors or assigns who come to stand in the same relationship as developer of the Condominium.

**18. Provisions for the Protection of Mortgagees.** Notwithstanding anything in this Master Deed or in the Condominium Trust and Bylaws to the contrary, and subject to any greater requirements imposed by Chapter 183A, the following provisions shall apply for the protection of holders of first mortgages (hereinafter “First Mortgagees”) of record with respect to the Units and shall be enforceable by any First Mortgagee:

(a) The right of first refusal reserved by the Trustees in Section 11(b) above shall not impair the rights of a First Mortgagee to:

(i) Foreclose or take title to a Unit pursuant to the remedies provided in its mortgage; or

(ii) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor; or

(iii) Sell a Unit acquired by the First Mortgagee through the procedures described in subsections (i) and (ii) above; provided, however, that the First Mortgagee shall comply with the terms of Chapter 183A, this Master Deed (including without limitation the requirements of Section 9(a)), the Bylaws and the Rules and Regulations.

(b) Any First Mortgagee who obtains title to a Unit by foreclosure or pursuant to any other remedies provided in its mortgage or by law shall not be liable for such Unit’s unpaid common expenses or dues which accrued prior to the acquisition of title to such Unit by such First Mortgagee except as otherwise provided by Chapter 183A.

(c) Any and all common expenses, assessments and charges that may be levied by the Trust in connection with unpaid expenses or assessments shall be subordinate to the rights of any First Mortgagee pursuant to its mortgage on any Unit to the extent permitted by applicable law.

(d) A lien for common expenses or assessments shall not be affected by any sale or transfer of a Unit, except that a sale or transfer pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for assessments which became payable prior to such sale or transfer except as otherwise provided by the provisions of Chapter 183A. However, any such delinquent assessments which are extinguished pursuant to the

foregoing provision may be reallocated and assessed to all Units as a common expense. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for, nor the Unit from the lien of, any assessment made thereafter.

(e) Unless all of the institutional First Mortgagees have given their prior written approval, neither the Unit Owners nor the Trustees shall be entitled to:

(i) By act or omission, seek to abandon or terminate the Condominium except in the event of substantial destruction of the Condominium premises by fire or other casualty or in the case of taking by condemnation or eminent domain; or

(ii) Partition any Unit or subdivide any Residence Unit; or

(iii) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas and Facilities, provided, however, that granting easements for public utilities or for other public purposes consistent with the intended use of the Common Areas and Facilities by the Condominium and the exercise of other actions with respect to granting of special rights of use or easements of Common Areas and Facilities contemplated herein or in the Condominium Trust shall not be deemed an action for which any prior approval of a mortgagee shall be required under this Subsection; and further provided that the granting of rights by the Trustees to connect adjoining Units shall require the prior approval of only the First Mortgagees of the Units to be connected; or

(iv) Use hazard insurance proceeds for losses on any property of the Condominium (whether to Units or to Common Areas and Facilities) for other than the repair, replacement or reconstruction of such property of the Condominium, except as provided by statute in case of taking of or substantial loss to the Units and/or Common Areas and Facilities of the Condominium.

(f) To the extent permitted by law, all taxes, assessments, and charges which may become liens prior to a first mortgage under the laws of the Commonwealth of Massachusetts shall relate only to the individual Units and not to the Condominium as a whole.

(g) In no case shall any provision of the Master Deed or the Condominium Trust give a Unit Owner or any other party priority over any rights of an institutional First Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of such Unit and/or Common Areas and Facilities of the Condominium.

(h) An institutional First Mortgagee, upon request to the Trustees, will be entitled to:

(i) receive written notice of any default by its borrower who is a Unit Owner with respect to any obligation of such borrower under this Master Deed or the provision of the Condominium Trust which is not cured within sixty (60) days;

(ii) inspect the books and records of the Condominium Trust at all reasonable times;

(iii) receive an audited annual financial statement of the Condominium Trust within ninety (90) days following the end of any fiscal year of the Condominium Trust;

(iv) receive written notice of all meetings of the Condominium Trust, and be permitted to designate a representative to attend all such meetings;

(v) receive written notice of any damage by fire or other casualty to the Unit upon which the institutional First Mortgagee holds a first mortgage or any proposed taking by condemnation or eminent domain of said Unit or the Common Areas and Facilities of the Condominium;

(vi) receive written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Trust; and

(vii) receive written notice of any action which requires the consent of a specified percentage of eligible First Mortgagees.

The Declarant intends that the provisions of this Section 18 shall comply with the requirements of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association with respect to condominium mortgage loans, and all questions with respect thereto shall be resolved consistent with that intention.

The provision of this Section 18 may not be amended or rescinded without the written consent of all First Mortgagees, which consent shall appear on the instrument of amendment as such instrument is duly recorded with the Hampden County Registry of Deeds in accordance with the requirements of Section 15 hereof.

**19. Special Amendment.** Notwithstanding anything herein contained to the contrary, the Declarant reserves the right and power to record a special amendment (“Special Amendment”) to this Master Deed or the Trust at any time and from time to time, which amends this Master Deed or Trust:

(a) To comply with requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or any other governmental agency or any other public, quasi-public or private entity which performs (or in the future may perform) functions similar to those currently performed by such entities;

(b) To induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Unit ownership;

(c) To bring this Master Deed or the Trust in compliance with Chapter 183A or the Fair Housing Act; or

(d) To correct clerical or typographical errors in this Master Deed or the Trust or any Exhibit thereto, or any supplement or amendment thereto.

In furtherance of the foregoing, a power coupled with an interest, is hereby reserved and granted to Declarant to vote in favor of, make or consent to any such Special Amendment on behalf of each Unit Owner. Each deed, mortgage, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof, shall be deemed to be a consent to the reservation of the power to the Declarant to vote in favor of, make, execute and record such Special Amendment. The right of Declarant to act pursuant to rights reserved or granted under this section shall be automatically assigned by the Declarant, without further confirmation or act or deed by the Declarant to the Trustees upon the occurrence of the takeover event.

**20. Severability.** In the event that any provision of this Master Deed shall be determined to be invalid or unenforceable in any respect, it shall be interpreted and construed so as to be enforceable to the extent and in such situations as may be permitted by applicable law, and in any event, the partial or total enforceability of such provision shall not affect in any manner the validity, enforceability or effect of the remainder of this Master Deed; and in such event, all of the other provisions of this Master Deed shall continue in full force and effect as if such invalid provision has never been included herein.

**21. 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.

Executed as a sealed instrument on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

2301 BOSTON ROAD, LLC

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Ziter S. Saloomey, Duly Authorized Signatory

**COMMONWEALTH OF MASSACHUSETTS**

Hampden, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned notary public, personally appeared Ziter S. Salomey, duly authorized signatory of 2301 Boston Road, LLC, personally known to me to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it of his own free act and deed and voluntarily for its stated purpose.

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Tracie M. Kester  
Notary Public  
My commission expires: April 6, 2012

## EXHIBIT A

### **TO BE UPDATED WHEN WE RECEIVE SITE PLAN FROM LEVESQUE ASSOC.**

Two certain parcels of real estate situated in Wilbraham, Hampden County, Massachusetts, bounded and described as follows:

PARCEL I: Certain real estate situated in the northwesterly part of Wilbraham on the southerly side of Boston Road, consisting of two parcels described in deed of Albert Realty Corporation to Louis Melikian et ux dated January 19, 1961 recorded in Hampden County Registry of Deeds in Book 2790, Page 213, the first parcel containing 50 acres, more or less, and the second parcel containing 14 acres, 17 and ½ square rods, more or less.

Being Parcel IV in deed from Marine Bank and Trust Company dated October 13, 1972 and recorded in said Hampden Registry of Deeds in Book 3742, Page 65.

Together with the rights set forth in an Easement recorded in the Hampden County Registry of Deeds in Book 14607, Page 357.

Being Parcel 1 as shown on a plan entitled “Plan of Land Boston & Brainard Roads Wilbraham, Mass. owned by Valley Planning Inc. to be conveyed to 2301 Boston Road, LLC ... scale 120 ft./in:... date March 2005 ... ” prepared by Smith Associates Surveyors, Inc. and recorded in the Hampden County Registry of Deeds in Book of Plans 336, Page 96.

PARCEL II: Being known and designated as Lot #15 (fifteen), Brainard Road as shown on a plan of lots recorded in said Hampden Registry of Deeds in Book of Plans 40, Page 124 and being part of the premises described in deed of Maranda A. Blanchard to Louis Melikian et ux dated September 14, 1980 and recorded as aforesaid in Book 2767, Page 569.

Being Parcel VI in said deed dated October 13, 1972 and recorded in said Hampden Registry of Deeds in Book 3742, Page 65.

Being Parcel 2 as shown on a plan entitled “Plan of Land Boston & Brainard Roads Wilbraham, Mass. owned by Valley Planning Inc. to be conveyed to 2301 Boston Road, LLC ... scale 120 ft./in:... date March 2005 ... ” prepared by Smith Associates Surveyors, Inc. and recorded in the Hampden County Registry of Deeds in Book of Plans 336, Page 96.

## EXHIBIT B

### DESCRIPTION OF UNITS

<b>Unit Number</b>	<b>Building Number</b>	<b>Number of Rooms<sup>1</sup></b>	<b>Immediately Accessible Common Areas</b>	<b>Approximate area (in square feet)</b>	<b>Common Area Percentage</b>	<b>Street Address</b>
1	1	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	22 Ivy Circle
2	1	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	24 Ivy Circle
3	1	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	26 Ivy Circle
4	1	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	28 Ivy Circle
5	2	5	Limited common areas: driveway, front steps, walkway	1752	2.8786%	32 Ivy Circle
6	2	5	Limited common areas: driveway, front steps, walkway	1752	2.8786%	34 Ivy Circle
7	3	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	38 Ivy Circle
8	3	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	40 Ivy Circle
9	3	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	42 Ivy Circle
10	3	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	44 Ivy Circle
11	5	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	21 Cherry Drive
12	5	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	23 Cherry Drive
13	6	5	Limited common areas: driveway, front steps, walkway	1752	2.8786%	35 Ivy Circle
14	6	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	37 Ivy Circle
15	6	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	39 Ivy Circle

<sup>1</sup> Does not include entrance foyers, bathrooms, closets, utility rooms, hallways, laundry rooms, garages, basements, porches, sunrooms or decks.

<b>Unit Number</b>	<b>Building Number</b>	<b>Number of Rooms<sup>1</sup></b>	<b>Immediately Accessible Common Areas and Facilities</b>	<b>Approximate area (in square feet)</b>	<b>Common Area Percentage</b>	<b>Street Address</b>
16	6	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	41 Ivy Circle
17	7	5	Limited common areas: driveway, front steps, walkway	1752	2.8786%	45 Ivy Circle
18	7	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	47 Ivy Circle
19	7	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	49 Ivy Circle
20	7	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	51 Ivy Circle
21	8	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	33 Cherry Drive
22	8	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	35 Cherry Drive
23	9	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	25 Cherry Drive
24	9	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	27 Cherry Drive
25	9	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	29 Cherry Drive
26	9	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	31 Cherry Drive
27	10	5	Limited common areas: driveway, front steps, walkway	1752	2.8786%	1 Lodge Lane
28	10	5	Limited common areas: driveway, front steps, walkway	1752	2.8786%	3 Lodge Lane
29	11	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	5 Lodge Lane
30	11	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	7 Lodge Lane
31	11	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	9 Lodge Lane
32	11	5	Limited common areas: driveway, front steps, walkway	1752	2.8786%	11 Lodge Lane
33	12	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	15 Lodge Lane
34	12	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	17 Lodge Lane

<b>Unit Number</b>	<b>Building Number</b>	<b>Number of Rooms<sup>1</sup></b>	<b>Immediately Accessible Common Areas and Facilities</b>	<b>Approximate area (in square feet)</b>	<b>Common Area Percentage</b>	<b>Street Address</b>
35	13	5	Limited common areas: driveway, front steps, walkway	1752	2.8786%	8 Lodge Lane
36	13	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	10 Lodge Lane
37	13	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	12 Lodge Lane
38	13	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	14 Lodge Lane
39	14	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	39 Cherry Drive
40	14	3	Limited common areas: driveway, front steps, walkway	1250	2.0538%	41 Cherry Drive
41	14	4	Limited common areas: driveway, front steps, walkway	1343	2.2066%	43 Cherry Drive
42	14	4	Limited common areas: driveway, front steps, walkway	1494	2.4547%	45 Cherry Drive

## EXHIBIT C

Commercial Mortgage, Security Agreement, and Assignment of Leases and Rents from 2301 Boston Road, LLC to Chicopee Savings Bank in the original principal amount of \$9,000,000.00, dated April 7, 2005 and recorded with the Hampden County Registry of Deeds on April 7, 2005 in Book 14930, Page 324.

Mortgage to Chicopee Savings Bank in the original principal amount of \$1,500,000 recorded February 1, 2007 in the Hampden County Registry of Deeds in Book 16485, Page 374.

Mortgage to Chicopee Savings Bank in the original principal amount of \$1,000,000 recorded August 24, 2007 in the Hampden County Registry of Deeds in Book 16885, Page 132.

Mortgage to WLC Consultants, Inc. in the original principal amount of \$2,800,000 dated April 7, 2005 and recorded in the Hampden County Registry of Deeds on April 7, 2005 in Book 14930, Page 338, which is subject to a Subordination Agreement dated April 7, 2005 and recorded in the Hampden County Registry of Deeds in Book 14930, Page 346 and which is also subject to a Subordination Agreement recorded February 1, 2007 in the Hampden County Registry of Deeds in Book 16485, Page 372.

Easement agreement with Massachusetts Electric Company dated August 9, 2005 and recorded in the Hampden County Registry of Deeds in Book 15304, Page 191.

Easement agreement with Verizon New England Inc. dated September 23, 2005 and recorded in the Hampden County Registry of Deeds in Book 15361, Page 313.

Easement agreement with Bay State Gas Company dated October 13, 2005 and recorded in the Hampden County Registry of Deeds in Book 15422, Page 238.

Easement agreement with Verizon New England Inc. dated November 15, 2005 and recorded in the Hampden County Registry of Deeds in Book 15543, Page 467.

Order of Taking by the Commonwealth of Massachusetts Department of Highways dated May 10, 2006 and recorded in the Hampden County Registry of Deeds in Book 15904, Page 283.

Easement rights granted to New England Telephone and Telegraph Co. dated April 12, 1906 and recorded in the Hampden County Registry of Deeds in Book 701, Page 301.

Easement rights granted to New England Telephone and Telegraph Co. dated April 27, 1906 and recorded in the Hampden County Registry of Deeds in Book 701, Page 420.

Easement rights granted to New England Telephone and Telegraph Co. dated January 17, 1913 and recorded in the Hampden County Registry of Deeds in Book 857, Page 577.

Taking by the Commonwealth of Massachusetts for layout of Route 20 (Boston Road) dated March 26, 1952 and recorded in the Hampden County Registry of Deeds in Book 2166, Page 142.

Easement rights granted to Worcester County Electric Co. dated January 21, 1953 and recorded in the Hampden County Registry of Deeds in Book 2229, Page 403.

Terms and conditions of a special permit as set forth in a Notice of Decision issued by the Planning Board of the Town of Wilbraham on October 6, 2004, as modified by a Notice of Special Permit Modification dated March 16, 2005, both of which are recorded at the Hampden County Registry of Deeds in Book 14930, Page 307.

The Gardens of Wilbraham Condominium Trust recorded herewith in the Hampden County Registry of Deeds.