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## MASTER DEED

### GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM NO. 3 PHASE I

#### A. Creation of Condominium

The undersigned, AMHAD DEVELOPMENT CORP., d/b/a Greenleaves Retirement Community, a Massachusetts corporation, with a principal place of business at 32 Greenleaves Drive, Hadley, Hampshire County, Massachusetts, hereinafter referred to as the "Declarant", being the sole owner of the land with the buildings thereon at Greenleaves Drive, Amherst, Hampshire County, Massachusetts, described on Exhibit A which is attached hereto and hereby incorporated herein by this reference and made a part hereof, does hereby, by duly executing and recording this Master Deed, submit said land, together with the buildings and improvements erected or hereafter erected thereon, and all easements, rights and appurtenances belonging thereto, hereinafter called the "Subject Property", to the provisions of Massachusetts General Laws, Chapter 183A ("Condominiums"), and does hereby state its proposal to create, and does hereby create, a condominium with respect to the Subject Property, to be governed by and subject to the provisions of said Chapter 183A.

The Declarant intends this condominium be a part of a residential retirement community to be known generally as Greenleaves Retirement Community to be operated by the Declarant, its successors or nominees. The entire project will include one or more other residential condominiums located on other contiguous and proximate land of the Declarant which will include a common service unit containing a community dining room, living room, exercise room, activities rooms and other like facilities for the use and enjoyment of the residents of the overall Greenleaves Retirement Community.

#### A1. Creation of Additional Phases to the Condominium

The Condominium currently consists of Phase I, which is hereby created with the recording of this Master Deed. The Declarant hereby reserves the rights, but not the obligation, to develop additional phases of the Condominium, pursuant to the provisions in Sections E1 and J1 herein.

#### B. Name of Condominium

The condominium hereby created shall be known as "Greenleaves Retirement Community Condominium No. 3" (the Condominium.).

### **C. Description of Land**

The premises which constitute the Condominium consists of the land described on Exhibit A which is attached hereto and is hereby incorporated herein by this reference and made a part hereof, together with the buildings and improvements erected or hereafter erected thereon.

The said premises are subject to and enjoy the benefits of the easements and restrictions contained in the Declaration of Reciprocal Easements and Restrictions created by the Declarant (herein "Declaration") recorded in the Hampshire County Registry of Deeds in Book 5802, Page 80.

### **D. Reservation of Rights and Easements**

The Declarant hereby expressly reserves to itself and its successors-in-title and their nominees, the following rights and easements:

1. The easement, license, right and privilege to pass and repass and to erect buildings, and any necessary structures, utilities, walkways or otherwise, over and into the common areas of the Condominium for the purposes of completion of additional phases to the Condominium, pursuant to paragraph J1 herein.
2. The easement, license, right and privilege to pass and re-pass by vehicle and on foot in, upon, over and to the common areas and facilities of the Condominium for all purposes, including but not limited to transportation of construction materials in order to complete work (if any) on this Condominium, and/or any other condominium which it may create on its adjacent or proximate land, provided that in the exercise of the rights reserved by the Declarant in this paragraph, the Declarant will not unreasonably affect the use and enjoyment of the common areas and facilities. Nothing in this paragraph shall be deemed to create any rights in the general public.
3. The easement, license, right and privilege to connect with, make use of, maintain, repair and replace any and all utility lines, pipes, conduits, sewers and drainage lines which may from time to time be located in, and upon or under the Condominium land in order to take such action as the Declarant deems necessary or convenient in connection with the construction of any and all improvements on, to or under this Condominium, and/or any other condominium which it may create on its adjacent or proximate land.
4. The easement, license, right and privilege to grant, without consent of any Unit Owner or of any holder of a mortgage on a Unit, an easement appurtenant to any other condominium which it may create on its adjacent or proximate land for access over and the right to pass and repass over all roadways, driveways and the like (future and existing) constructed on this Condominium, and/or any other condominium which it may create on its adjacent or proximate land.

5. The easement, license, right and privilege to pass and repass over all roadways, driveways and the like (future and existing) constructed upon the Condominium land.

6. The right to grant or reserve in the future, without consent of any Unit Owner or of any holder of a mortgage on a Unit, such other easements, licenses, rights and privileges on, over, across, through and/or under the condominium land, which the Declarant deems necessary, appropriate or advisable in connection with the development of the Condominium and/or any other condominium which it may create on its adjacent or proximate land, provided that in the exercise of the rights reserved by the Declarant in this paragraph, the Declarant will not unreasonably affect the use and enjoyment of the common areas and facilities.

### **E. Description of Building**

Phase I of the Condominium includes Building 24, a three story building which contains 38 units and is described on Exhibit B which is attached hereto and is hereby incorporated herein by this reference and made a part hereof. Building 24 has a cement foundation, a wood roof and vinyl siding. Said building is hereinafter called the "Building." At such times as future phases are added to the Condominium pursuant to the provisions in Section J1 below, an amended Exhibit B shall be recorded, with a Phasing Amendment to the Master Deed, describing all buildings ("Buildings") in the Condominium. Future phases of the Condominium shall include Buildings 25, 26, 27 and 28.

### **E1. Reciprocal Easements and Restrictions / Description of Service Unit**

The creation of the Condominium is subject to the Declaration as referenced in paragraph C above. The Declaration describes a Service Unit which shall be located on the Land of the Condominium, but owned and operated by the Declarant or its nominee. Services will be provided both within the Service Unit and upon the residential condominium parcels, as described in the Declaration, to residents of the Greenleaves Retirement Community pursuant to Residential Service Agreements, a copy of which is attached hereto and made a part hereof as Exhibit E, with the residents.

In order to construct and incorporate the Service Unit into the Condominium, the Declarant shall create an additional Phase including the Service Unit only, and shall be called the Service Unit Phase. The Declarant shall have all phasing rights described as described in paragraph J1 of this Master Deed with regard to the completion of the Service Unit Phase. Upon completion of the Service Unit Phase, the Declarant, its successors and assigns shall maintain a fee interest in the Service Unit, and the Service Unit shall not be part of the common areas and facilities of the Condominium.

**F. Description of Units, Common Areas and Facilities, Parking Spaces and Unit Owners' Percentage Interests in Common Areas and Facilities**

1. Units

The unit designation of each unit in Phase I of the Condominium, and statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and its proportionate interest in the common areas and facilities of the Condominium are as set forth on Exhibit C which is attached hereto and is hereby incorporated herein by this reference and made a part hereof. The boundaries of each of the units with respect to the floors, ceilings, walls, doors and windows thereof, are as follows:

- (i) Floors: The upper surface of the subflooring;
- (ii) Ceilings: With respect to all units, the interior plane of the bottommost surface of the joists forming the lowest structural member of the roof trusses;
- (iii) Building Walls: With respect to all units, the plane of the wall studs facing the interior of the unit.
- (iv) Pipe chases or other enclosures concealing pipes, wires, or conduits within a unit are part of that unit, but the pipes, wires or conduits within such pipe chase or other enclosure which serve more than one unit are a part of the common areas and facilities.
- (v) Doors and windows which open from a unit are part of the unit from which they open.

2. Common Areas and Facilities

Except as herein specifically excepted, all areas outside of the above described units of the Condominium shall be deemed common areas and facilities. Without limiting the foregoing language in this paragraph 2, the common areas and facilities of the Condominium include:

- (i) the land described in paragraph C ("Description of Land") of this Master Deed;
- (ii) the foundation of the Building, and all portions thereof, and all structural columns, structural lintels, girders, beams, slabs, supports, and floor, ceiling and roof beams and joists and all structural members appurtenant to such floor ceiling and roof beams and joists, the exterior walls, and any interior bearing walls, the subflooring below the upper surface thereof, attics, the roof, building entrances and exits, and all structural portions of the Building;

- (iii) the entrance lobby, grand foyer, library, gathering room, halls and corridors serving more than one unit, elevator and elevator shaft and mechanical room, and stairways;
- (iv) installations of central services, if any, such as power, light, drains, sprinklers, hot and cold water, vents, heating and heating lines, but only if and to the extent that such installations serve more than one unit. Such equipment and installations located within and servicing a single unit are a part of the unit in which the same is located and which it services and is not a part of the common areas and facilities;
- (v) all conduits, pipes, ducts, plumbing, wiring, flues and other facilities for the furnishing of utility services or waste removal and vents which are contained in portions of the building outside of the units and all installations outside the units for services such as lights, power, telephone, water, and sanitary sewer drainage;
- (vi) all conduits, pipes, ducts, plumbing, wiring, flues and other facilities for the furnishing of utility services or waste removal, and vents, which are located within units including but not limited to such of same as are located below the plane of the bottommost surface of the floor beams or roof joists, and other structural members appurtenant to such floor beams or roof joists, but which service more than one unit;
- (vii) decks, provided, however, that each Unit Owner shall have a license for the exclusive use of the deck extending from the exterior wall of his Unit;
- (viii) all exterior lighting devices, wires and poles serving the property; and
- (ix) all other portions of the subject property listed as common areas in Massachusetts General Laws, Chapter 183A, except for the units described on Exhibit C hereto which is attached hereto and is hereby incorporated herein by this reference and made a part hereof. The proportionate interest of each unit of the Condominium in the common areas and facilities of the Condominium shall be as set forth on said Exhibit C.

### 3. Parking Spaces

The Trustees of the Greenleaves Retirement Community Trust No. 3 shall have the right to rent, sell or assign to unit owners the right to use such parking spaces as may now exist or may from time to time become available. Such leases, sales and assignments may be upon such terms and conditions as the Trustees shall deem fitting, and their judgment in the matter shall be final. In any case, such leases, sales and assignments shall be deemed to be of a right to use said parking spaces for the parking of passenger vehicles only, and not of trucks, trailers, buses, commercial vehicles, nor for storage of personal property other than passenger vehicles.

4. Percentage Interest in Common Areas and Facilities

The Owners of each Unit shall be entitled to an undivided interest in the Common Elements in the percentages set forth in Exhibit C hereto for such Unit. The percentage of interest of the respective Units in the Common Elements have been determined upon the basis of the approximate relation which the fair market value of each Unit on the date hereof bears to the aggregate fair market value of all Units on this date. When additional phases are added to the Condominium pursuant to Section J1 below, the percentage interest in Common Elements of each Unit together with the Unit's concomitant interest in the Condominium Trust hereafter described and liability for sharing in the common expenses of the Condominium shall be reduced as the value of each Unit will represent a smaller proportion of the revised aggregate fair value of all Units in the Condominium. An amended Exhibit C shall be recorded, with a Phasing Amendment to the Master Deed, describing all Units and adjusted percentages in common areas and facilities, in the Condominium.

**G. Plans**

A site plan exhibiting the location and layout of the Building, and a set of the floor plans of the Building showing the layout, location, unit numbers and dimensions of the units, and bearing the verified statement of a Registered Architect or licensed professional engineer certifying that the plans fully and accurately depict the layout, location, unit number and dimensions of the units as built, all pursuant to Massachusetts General Laws, Chapter 183A, are recorded herewith and made a part hereof. Said set of plans are individually entitled:

Site Plan, Greenleaves Retirement Community Condominium No. 3, Prepared for Amhad Development Corporation, by Harold L. Eaton and Associates, Inc., dated June 7, 2005.

Greenleaves Retirement Community Condominium No. 3, Building #24, prepared by Robinson Engineering, dated May 10, 2005.

Said set of plans, herein sometimes collectively called the "Master Plans" are hereby incorporated herein by this reference and made a part hereof, and are recorded with said Deeds in Plan Book No. 205, Pages 122, and 123.

**H. Use of Units**

1. All units in the Condominium shall be used for residential purposes only, except for the Service Unit, of which use is described in the Declaration;
2. No unit shall be used or maintained in a manner inconsistent with the By-Laws of the Greenleaves Retirement Community Trust No. 3 and the rules and regulations from time to time adopted pursuant thereto;

3. Notwithstanding the foregoing, until the Declarant or its successors-in-title or its nominees may have sold and conveyed all of the units, the Declarant and their successors-in-title or their nominees, may use one or more units for a sales office or model;
4. Ownership and occupancy of a unit is limited to "Qualified Buyers" [as defined in paragraph 6 of this section below] meeting the requirements of the Greenleaves Retirement Community Ownership/Residency Criteria hereto attached as Exhibit D, as the same may from time to time be amended. Said Trustees shall make an independent judgment as to whether or not each prospective owner or occupant qualifies for purchase or occupancy of each unit, and the judgment thus made in each case shall be final and binding;
5. No person shall own nor occupy a unit unless and until he/she, on behalf of him/herself, her heirs, administrators, executors and assigns, has executed and joined in the Residential Services Agreement with the Declarant, its successors and assigns, in form substantially that as attached as Exhibit E. Thereafter, such use, occupancy and/or ownership interest in the unit shall be subject to all of the terms and conditions of said Residential Services Agreement. It is intended hereby that the initial owners and occupants of each unit shall be personally bound by the provisions of said Residential Services Agreement by executing the same at or prior to purchase and that succeeding owners and occupants shall, as a condition precedent to their ownership or occupancy, do the same before taking title or occupancy;
6. No unit shall be occupied by any person under fifty-five (55) years of age; except that if two, three or four persons share occupancy of the same unit and one of them is at least fifty-five (55) years of age, the others may reside therein if he/she/they are at least thirty-five (35) years of age and join in said Residential Services Agreement;
7. No improvement or other alteration shall be made to the interior or exterior of any unit without the prior consent of the Trustees of the Greenleaves Retirement Community Trust No. 3, which consent shall not be unreasonably withheld, and, in any case, no improvement or alteration may be made to any unit which in the judgment of the said Trustees would impair the aesthetic continuity, structural integrity or the mechanical systems of the condominium or which would diminish the structural support of any portion of the land or buildings thereon;
8. No unit shall be used or occupied in a noisome, illegal or offensive manner or maintained in a manner which shall interfere with the quiet comfort, enjoyment and convenience of the occupants of the other units in the Condominium; nor shall any unit be used or maintained in a manner inconsistent with the By-Laws of the Greenleaves Retirement Community Trust No. 3 and the Rules and Regulations from time to time adopted pursuant thereto. Nothing herein shall be deemed to limit the aforesaid right of the Declarant, its successors and assigns, under sub-paragraph 3 above from using one or more units for a sales office or model.

9. Unit Owners may not keep pets in the Units other than one small dog under twenty (20) lbs; one indoor cat, no more than two small caged birds or fish. All pets must be registered with the Trustees or its designated manager, and a Pet Agreement/Rules and Regulations agreement signed. Failure to abide by the agreement will result in termination of the pet privilege. No such pets shall be permitted in any part of the Condominium (other than within the unit of the owner thereof) unless carried or on a leash. After due notice and hearing, the Trustees may require any Unit Owner to dispose of any pet which has habitually been guilty of annoying or harassing any Unit Owner or occupant.
10. Unit Owners may lease their Units provided all lease agreements are subject to this Master Deed and the Declaration of Trust of the Greenleaves Retirement Community Condominium Trust No. 3, and its by-laws and rules and regulations, and all lease agreements are for a term of at least 12 months.

#### **I. Re-sale of units**

A Unit owner must re-sell his/her unit to a Qualified Buyer (as herein defined) upon the termination of this agreement by Declarant under the provisions of Section V(B) of the Residential Services Agreement.

#### **J. Amendment of Master Deed**

Subject to the phasing provisions specified in Section J1, this Master Deed may be amended by an instrument in writing (i) signed and acknowledged in proper form for recording by the owners of units entitled to not less than seventy-five (75%) percent of the undivided interests in the common areas and facilities and (ii) signed and acknowledged in proper form for recording by not less than fifty one (51%) percent (except in cases where a higher percentage is required by Section XXXIII of the By-Laws of the Condominium Trust), of the holders of Eligible Mortgage Holders, as defined in the Declaration of Trust, Section XXXIIIA(iii) (based upon one vote for each mortgage owned), but only if such amendment would materially affect the rights of any mortgagee and (iii) signed and acknowledged in proper form for recording by a majority of the Trustees of the Greenleaves Retirement Community Trust No. 3 and (iv) duly recorded in the Hampshire County Registry of Deeds, provided, however, that:

1. The date on which any such instrument amending this Master Deed is first signed by a unit owner, or mortgagee, or Trustee of the Condominium Trust, shall be indicated thereon as the date of such instrument, and no such instrument shall be of any force or effect unless and until the same has been recorded in the Hampshire County Registry of Deeds within six (6) months after such date;
2. Pursuant to the provisions of G.L. Chapter 183A, Sect. 5(b), the percentage of the undivided interest of each unit owner in the common areas and facilities shall not be altered without the



consent of all unit owners whose percentage of the undivided interest is affected, expressed in an amended Master Deed duly recorded, unless such change in the percentage of the undivided interests in common areas and facilities is due to the addition of a phase to the Condominium, pursuant to paragraph J1 herein, in which the consent of unit owners shall not be required;

3. No instrument of amendment which alters the dimensions of any unit shall be of any force or effect unless the same has been signed and acknowledged in proper form for recording by the owner or owners and mortgagee or mortgagees of the units so altered;
4. No instrument of amendment which alters the rights of the Declarant shall be of any force or effect unless the same has been signed and acknowledged in proper form for recording by the Declarant, so long as the Declarant owns any unit in the Condominium or so long as the Initial Board, as defined in paragraph IIIA(i) of the Declaration of Trust continues to be the Trustee of the Condominium;
5. No instrument of amendment which alters this Master Deed in any manner contrary to or inconsistent with the provisions of Massachusetts General Laws, Chapter 183A, shall be of any force or effect;
6. Notwithstanding any other provisions of this Section, no amendment of this Master Deed shall be made if such amendment would be in contravention of the provisions of Section XXXIII of the By-Laws of the Condominium Trust; and
7. Notwithstanding anything to the contrary herein, so long as the Declarant owns any unit in the Condominium, the Declarant shall have the right, at any time and from time to time, to amend this Master Deed without the consent of any other Unit Owners or any of the Trustees of the Greenleaves Retirement Community Trust No. 3, to meet the requirements of any governmental or quasi-governmental body or agency, or the requirements of any insurance company or insurance underwriting office or organization, or the requirements of Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the secondary mortgage market, or any lender, or to correct typographical or clerical errors, or to cure any ambiguity, inconsistency or formal defect or omission.
8. All development rights can and will be assigned to the Lender in accordance with its Mortgage and Collateral Assignment of Rents and Leases.

**J1. Declarant's Reserved Rights to Construct and Add Additional Phases.**

Notwithstanding anything contained herein to the contrary, the Declarant and its successors in title may without the consent of any Unit Owner, amend this Master Deed so as to create not more than four (4) additional phases of the Condominium, in addition to the Service Unit Phase described in paragraph E1 herein. Each phase shall consist of at least one building containing not more than thirty-nine (39) Units per building. Any such amendment shall contain with respect to additional phases all the particulars

amendments, the Condominium shall include the Units, Common Elements and Limited Common Elements included in the additional phase. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant and its successors to vote in favor of, make, or consent to any such Amendment(s) 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 grant and acknowledgement of, and a consent to the reservation of, the power to the Declarant and its successors to vote in favor of, make, execute and record the Amendment creating additional phases. The Declarant shall retain ownership of the new buildings to be constructed until such time as the same are added to the Condominium by an Amendment to the Master Deed and such Units are sold and conveyed by the Declarant. The Declarant retains all of the rights and obligations with respect to insurance, casualty losses and condemnation except as hereinafter provided, relating to the new buildings in the later phases until the same are added to the Condominium by an Amendment to the Master Deed. For example, in the case of a casualty affecting the unfinished building, the Declarant rather than the Trustees, shall have the right to adjust, collect and retain insurance proceeds.

In creating additional phases, the Declarant may attach new buildings to existing buildings.

The rights reserved under this Section J1 are sometimes referred to as "Development Rights".

The Declarant may not amend this Master Deed to add more than one hundred and fifty-six (156) new Units to the Condominium as part of future phases, not including the Service Unit, so that the total number of Units in the Condominium shall not exceed one hundred and ninety-five (195) Units, including the Service Unit.

The Declarant shall be under no obligation to proceed beyond Phase I; nevertheless, should the Declarant choose to proceed to develop any additional phases in the Condominium, the following provisions shall define the Declarant's reserved rights and certain obligations to which the Declarant must adhere:

- (a) The Declarant's reserved rights to amend this Master Deed to add new Units to the Condominium as part of future phases shall expire seven (7) years, or the maximum number of years as permitted by FNMA guidelines, as revised from time to time, whichever is greater, after the date of the recording of this Master Deed, provided that said reserved right shall sooner expire upon the first to occur of the following events:
  - (i) The total Units then included in the Condominium by virtue of this Master Deed and subsequent amendments hereto have reached the aforesaid maximum number; or

- (ii) The Declarant shall record with the Registry of Deeds a statement specifically relinquishing its rights to amend this Master Deed to add new Units to the Condominium.
- (b) The Declarant shall have the right to locate future buildings, structures, improvements and installations wherever it determines in its discretion the same to be appropriate or desirable.
- (c) A phase shall consist of at least one building containing not more than thirty-nine (39) Units per building.
- (d) The Declarant may not amend this Master Deed so as to exceed the maximum number of Units set forth above.
- (e) The Declarant reserves the right to change the type of construction, size, layout, architectural design and principal construction materials of future buildings and the Units therein which are to be added to the Condominium as part of future phases; provided, however, that any future buildings and the Units therein shall be consistent with the quality of construction of buildings and Units in Phase I.
- (f) The Declarant reserves the right to designate certain portions of the Common Areas and Facilities as limited common areas and facilities for the exclusive use of the Units to be added to the Condominium as part of future phases. As hereinafter described, each amendment to this Master Deed adding additional phases shall specify the limited common areas and facilities appurtenant to the Units in such phases if such limited common areas and facilities are designated to Units in subsequent phases of the Condominium.
- (g) The Declarant may add future phases, and the buildings and Units therein to the Condominium by executing and recording with the Registry of Deeds amendment(s) to this Master Deed which shall contain the following information:
  - (i) An amended description of any building being added to the Condominium.
  - (ii) An amended Exhibit B and C describing the designations, locations, approximate areas, numbers of rooms, immediately accessible Common Areas and Facilities and other descriptive specifications of the Units being added to the Condominium, as well as describing any variations to the boundaries of such Units from those boundaries set forth in Exhibit C of this Master Deed.
  - (iii) If the boundaries of the Units being added to the Condominium vary from those described in said Exhibit C, the definition of the Common Areas and Facilities contained in paragraph F hereof shall be modified, as necessary, with respect to such Units.
  - (iv) An amended Exhibit C setting forth the new percentage ownership interests for all Units in the Common Areas and Facilities of the

Condominium based upon the addition of the new Units and in keeping with paragraph F(4) hereof for the determination of percentage interests.

- (v) A revised site plan of the Condominium showing the new building(s) and floor plan(s) for the new Units being added to the Condominium, which floor plan(s) shall comply with the requirements of Chapter 183A.

Upon the recording of any such amendment to the Master Deed so as to include such additional phase(s), the Units in such building(s) shall become Units in the Condominium for all purposes, including the right to vote, the obligation to pay assessments and all other rights and obligations as set forth herein for Units in the first phase of the Condominium.

- (h) The Declarant shall not amend the Master Deed so as to include any additional phase(s) until the construction of the building(s) containing the Units comprising such phase(s) have been completed sufficiently for the certification of plans as provided for in Section 8(f) of Chapter 183A of Massachusetts General Laws.
- (i) It is expressly understood and agreed that no such amendment(s) adding new phases to the Condominium shall require the consent, approval or signature in any manner by any Unit Owner, any person claiming, by, through or under any Unit Owner (including the holder of any mortgage or other encumbrance with respect to any Unit) or any other party whatsoever and the only consent, approval or signature which shall be required on any such amendment is that of the Declarant. Any such amendment, when executed by the Declarant and recorded with the Registry of Deeds, shall be conclusive evidence of all facts recited therein 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.
- (j) Each Unit Owner understands and agrees that as additional phase(s) containing additional Units are added to the Condominium by amendment to this Master Deed pursuant to the Declarant's reserved rights hereunder, the percentage ownership interest of the Unit in the Common Areas and Facilities, together with the Unit's concomitant interest in the Condominium Trust and liability for sharing in the Common expenses of the Condominium, shall be reduced, as the value of the Unit will represent a smaller proportion of the revised aggregate fair value of all Units in the Condominium. In order to compute each Unit's percentage ownership interest after the addition of a new phase, the fair value of the Unit measured as of the date of the amendment to the Master Deed shall be divided by the aggregate fair value of all Units (including the new Units being added to the Condominium), also measured as of the date of said amendment. These new percentage interests shall then be set forth in the aforesaid amended Exhibit C which is to accompany each amendment to this Master Deed which adds a new phase to the Condominium.

- (k) Every Unit Owner by the acceptance of a deed to the Unit hereby consents for themselves, their heirs, administrators, executors, successors and assigns and all other persons claiming by, through or under them to the Declarant's reserved rights under this Section J1 and expressly agrees to the alteration of their Unit's appurtenant percentage ownership interest in the Common Areas and Facilities of the Condominium when new phase(s) are added to the Condominium by amendment to this Master Deed pursuant to this paragraph.
  
- (l) In the event that notwithstanding the provisions of this paragraph to the contrary, it shall ever be determined that the signature of any Unit Owner, other than the Declarant, is required on any amendment to this Master Deed which adds new phase(s) to the Condominium, then the Declarant shall be empowered, as attorney-in-fact for the owner of each Unit in the Condominium, to execute and deliver any such amendment by and on behalf of and in the name of each such Unit Owner; and for this purpose each Unit Owner, by the acceptance of the Unit deed, whether such deed be from the Declarant as grantor or from any other party, constitutes and appoints the Declarant as their attorney-in-fact. This power of attorney is coupled with an interest, and shall be irrevocable and shall be binding upon each and every present and future Owner of a Unit in the Condominium.
  
- (m) The Declarant shall have the right and easement to construct, erect and install on the Land in such locations as the Declarant shall, in the exercise of its discretion, determine to be appropriate or desirable:
  - (i) Additional ways, parking spaces and areas, walks and paths;
  - (ii) New or additional Limited Common Areas.
  - (iii) New or additional conduits, pipes, wires, poles and other lines, equipment and installations of every character for the furnishing of utilities; and
  - (iv) All and any other buildings, structures, improvements and installations as the Declarant shall determine to be appropriate or desirable to the development of the Condominium as a phased condominium.

The Declarant also reserves the right to have appurtenant to the construction of any phase, an easement over that portion of the premises on which are or shall be located the building(s) constituting that phase, and reserves the right to sell, mortgage or otherwise assign or encumber all or part of this easement.

Ownership of each building, together with the residential units forming part thereof and all appurtenances thereto, constructed by or for the Declarant pursuant to the said reserved rights and easements shall remain vested in the Declarant; and the Declarant shall have the right to sell and convey the said residential units as Units of the Condominium without accounting to any party (other than the Declarant's mortgagees) with respect to the proceeds of such sales.

## **K. Condominium Unit Owners' Association**

The name of the Trust which has been formed and through which the unit owners will manage and regulate the Condominium hereby established is the Greenleaves Retirement Community Trust No. 3 under Declaration of Trust, dated this date, to be recorded herewith. Said Declaration of Trust establishes that all unit owners in the Condominium hereby established shall be beneficiaries of said Trust and that the beneficial interest of each unit owner in said Trust shall be the same percentage interest as his percentage of undivided interest in the common areas and facilities as established by this Master Deed. The mailing address of said Trust is:

32 Greenleaves Drive  
Hadley, MA 01035

The aforesaid mailing address of the said Trust may be changed by written notice thereof, signed by one or more of the Trustees thereof, and recorded in said Hampshire County Registry of Deeds.

The names and addresses of the initial Trustees of said Trust and their term of office are as follows:

Lawrence E. Allard, Jr., 193 Old Gilbertville Road, Ware, MA 01082

James M. Kane, 4042 Mountain Road, West Suffield, CT

F. Austin Miller, 11 Edward Avenue, Southampton, MA 01073

David Robinson, 43 Bridle Path Road, Amherst, MA 01002

who are all Directors of AMHAD Development Corp.

**Term:** The terms of office shall be as set forth in Section III of the Declaration of Trust of Greenleaves Retirement Community Trust No 3.

The Trustees have enacted By-Laws pursuant to Massachusetts General Laws, Chapter 183A, which are set forth in the said Declaration of Trust of Greenleaves Retirement Community Condominium Trust No. 3 which is recorded herewith.

## **L. Encroachments**

If any portion of the common areas and facilities now encroaches upon any unit, or if any unit now encroaches upon any other unit or upon any portion of the common areas and facilities, or if any such encroachment or encroachments shall occur at any time or from time to time hereafter as the result of: (1) settling of the building, or (2) condemnation or eminent domain proceedings, or (3) alteration or repair of the common areas and facilities or any part thereof done pursuant to the provisions of this Master Deed as the same may be from time to time

amended, or the provisions of the Declaration of Trust of the Condominium Trust as the same may be from time to time amended, or (4) repair or restoration of the building or any unit therein after damage by fire or other casualty, then and in any of the foregoing events, a valid easement shall exist for such encroachment and for the maintenance of same for so long as the building stands.

**M. Pipes, Wires, Flues, Ducts, Conduits, Plumbing Lines and Other Common Facilities Located Inside of Units**

Each unit owner shall have an easement in common with the owner of the other units to use all pipes, wires, flues, ducts, conduits, plumbing lines and other portions of the common areas and facilities located in the other units and serving his unit. Each unit shall be subject to an easement in favor of the owner of the other units to use all pipes, wires, flues, ducts, conduits, plumbing lines and other portions of the common areas and facilities serving such other units and located in such unit. The Trustees of the Condominium Trust shall have a right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair or replace any portions of the common areas and facilities contained therein or elsewhere in the building.

**N. Units Subject to the provisions of this Master Deed, the Unit Deed of each unit, and the By-Laws and Rules and Regulations of the Greenleaves Retirement Community Trust No. 3**

All present and future owners, tenants, visitors, servants and occupants of Units and parking spaces shall be subject to, and shall comply with, the provisions of this Master Deed as the same may be from time to time amended, the Unit Deed, the Greenleaves Retirement Community Trust No. 3 and the By-Laws, and the Rules and Regulations promulgated under the provisions of the Greenleaves Retirement Community Trust No. 3 as the same may be from time to time amended and the rights, easements, agreements and restrictions of record including the Declaration of Reciprocal Easements and Restrictions, and all matters set forth on said Exhibit E attached hereto insofar as the same now are, or are in the future, in force and applicable. The acceptance of a deed or conveyance or the entering into a lease or into occupancy of any unit shall constitute an agreement that the provisions of this Master Deed as the same may be from time to time amended, and the said rights, easements, agreements and restrictions, and all matters set forth on said Exhibit E attached hereto, and the Unit Deed, and the Greenleaves Retirement Community Trust No. 3 and the By-laws and rules and regulations adopted thereunder, as the same may be from time to time amended, are accepted and ratified by such owner, tenant, visitor, 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 provisions were recited or stipulated at length in each and every deed or conveyance or lease or occupancy agreement hereof.

**O. Federal Home Loan Mortgage Corporation; Federal National Mortgage Association**

Reference is hereby made to Section XXXIII of the By-Laws of the Greenleaves Retirement Community Trust No. 3 which is hereby incorporated herein by this reference and made a part hereof.

**P. Invalidity**

The invalidity of any provision of this Master Deed shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Master Deed, and, in such event, all of the provisions of this Master Deed shall continue in full force and effect as if such invalid provision had never been included herein.

**Q. 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 which may occur.

**R. Captions**

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Master Deed or the intent of any provisions hereof.

**S. Conflicts**

This Master Deed is set forth to comply with the requirements of Chapter 183A of the General Laws of the Commonwealth of Massachusetts. In case any of the provisions stated above conflict with the provisions of said statute, the provisions of said statute shall control.

**T. Liability**

Notwithstanding anything to the contrary herein, and notwithstanding any custom or usage to the contrary, it is expressly understood and agreed that only the real estate which constitutes the Greenleaves Retirement Community Condominium No. 3 shall be bound by the provisions of this Master Deed. The Declarant, and any of them, shall never be personally or individually bound or liable to anyone whomsoever with respect to any of the provisions of this Master Deed beyond the Declarant's interest in the real estate which constitutes the Greenleaves Retirement Community Condominium No. 3.



EXECUTED as a sealed instrument this 21<sup>st</sup> day of June, 2005.

AMHAD DEVELOPMENT CORP.,  
d/b/a Greenleaves Retirement Community,

Steve M. Allard  
Witness

By: [Signature]  
Lawrence E. Allard, Jr., President

Steve M. Allard  
Witness

By: [Signature]  
James M. Kane, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss

On this 21<sup>st</sup> day of June, 2005, before me, the undersigned notary public, personally appeared Lawrence E. Allard, Jr., President, and James M. Kane, Treasurer, of AMHAD DEVELOPMENT CORP., proved to me through satisfactory evidence of identification, which were Massachusetts driver's licenses, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for the stated purpose.

[Signature]  
Margaret E. Mileski  
Notary Public  
My Commission Expires: 11/3/2001

## **EXHIBIT A**

Exhibit A is hereby incorporated by reference into and made a part of the Master Deed of Greenleaves Retirement Community Condominium No. 3.

The premises which constitute the Condominium consists of the following described land and improvements located thereon in Amherst, Hampshire County, Massachusetts, bounded and described as follows:

A certain parcel of land off of Greenleaves Drive West and Greenleaves Drive, shown as Lot 2 on a plan entitled, "Plan of Land in Amherst, MA, Prepared for Amhad Development Corporation", dated June 21, 1999, prepared by Sherman and Woods, recorded in the Hampshire County Registry of Deeds, Plan Book 185, Page 248, to which plan reference may be made for a more particular description.

Containing 14.805 acres of land, more or less.

Subject to a Declaration of Reciprocal Easements and Restrictions dated September 8, 1999, recorded in said Registry in Book 5802, Page 80.

Subject to utility easement to New England Telephone and Telegraph Company d/b/a Bell Atlantic New England dated January 11, 2000, recorded in said Registry in Book 5869, Page 298.

Subject to utility easement to Western Massachusetts Electric Company and Verizon New England, Inc dated July 16, 2001 and recorded in said Registry in Book 6351, Page 222.

Subject to utility easement to Western Massachusetts Electric Company and Bell Atlantic dated September 9, 1999 and recorded in said Registry in Book 5838, Page 337.

Subject to an Order of Conditions by the Amherst Conservation Commission dated December 30, 1999, and recorded in said Registry in Book 5951, Page 240.

Subject to easements to Windfield Family Apartments, Limited Partnership, dated September 26, 2001, and recorded in said Registry in Book 6373, Page 85.

Subject to easements to Windfield Senior Estates, Limited Partnership, dated December 1, 1999, and recorded in said Registry in Book 5840, Page 334.

Subject to an easement to the Inhabitants of the Town of Amherst for water and sewer lines as shown on said Plan, and recorded in said Registry in Book 1331, Page 270.

Subject to and together with the benefit of a Notice of Special Permit dated October 10, 2004 and recorded in said registry in Book 8039, Page 197.

Together with the easement, license, right and privilege to pass and re-pass by vehicle and on foot from Greenleaves Drive and Greenleaves Drive West over Lot 3 as shown on said plan recorded in Plan Book 185, Page 248, as laid out on a plan entitled, "Site Plan, Greenleaves Retirement Community Condominium No. 2, 23 Greenleaves Drive, Amherst, Massachusetts, prepared for Amhad Development Corporation," dated May 19, 2003, prepared by Harold L. Eaton and Associates, Inc., recorded in the Hampshire County Registry of Deeds in Plan Book 196, Page 80.

Being a portion of the premises conveyed to Amhad Development Corp. by deed of Jerald H. Gates and Richard O. Johnson, dated January 18, 1996, recorded in the Hampshire County Registry of Deeds in Book 4819, Page 246.

## **EXHIBIT B**

### **DESCRIPTION OF BUILDING**

This Exhibit B is hereby incorporated by reference into and made a part of the Master Deed of Greenleaves Retirement Community Condominium No. 3, Amherst, Hampshire County, Massachusetts.

Phase I of the Condominium includes Building 24, a three story building which contains thirty eight (38) units. Building 24 is built of wood frame construction, poured concrete slab foundation, asphalt roof and vinyl siding.

All units are entered through a shared center hallway. The building offers a community room with a kitchen and bath. There is also a foyer with a gas fireplace, a sitting area, and a common room. There is one center elevator, a center staircase, plus two end staircases.

## EXHIBIT C

This Exhibit is incorporated by reference into and made a part of the Master Deed of Greenleaves Retirement Community Condominium No. 3.

The unit designation of each unit in Phase 1 of the Condominium, and statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and its proportionate interest in the common areas and facilities of the condominium, are as follows:

Key: BR=Bedroom; K=Kitchen, LR/DR= Combination Living Room/Dining Room  
B=Bathroom; D=Den

| Unit Number | Statement of Unit Location          | Approx. Area Square Feet | Number & Designation of Rooms | Immediate Common Area/Access | Interest of Unit in Common Areas & Facilities |
|-------------|-------------------------------------|--------------------------|-------------------------------|------------------------------|---|
| #401        | 1 <sup>st</sup> Floor, Back Corner  | 864 sq. ft.              | 2 BR, LR/DR, B, K<br>5 rooms  | Hall                         | 2.490%  |
| #402        | 1 <sup>st</sup> Floor, Front Corner | 841 sq. ft.              | 2 BR, LR/DR, B, K<br>5 rooms  | Hall                         | 2.448%  |
| #403        | 1 <sup>st</sup> Floor, Back         | 943 sq. ft.              | 2 BR, LR/DR, B, K<br>5 rooms  | Hall                         | 2.745%  |
| #404        | 1 <sup>st</sup> Floor Front         | 943 sq. ft.              | 2 BR, LR/DR, B, K<br>5 rooms  | Hall                         | 2.745%  |
| #405        | 1 <sup>st</sup> Floor Back          | 675 sq. ft.              | 1 BR, LR/DR, B, K<br>4 rooms  | Hall                         | 1.967%  |
| #406        | 1 <sup>st</sup> Floor Front         | 675 sq. ft.              | 1 BR, LR/DR, B, K<br>4 rooms  | Hall                         | 1.967%  |
| #408        | 1 <sup>st</sup> Floor Front         | 675 sq. ft.              | 1 BR, LR/DR, B, K<br>4 rooms  | Hall                         | 1.967%  |
| #409        | 1 <sup>st</sup> Floor Back          | 675 sq. ft.              | 1 BR, LR/DR, B, K<br>4 rooms  | Hall                         | 1.967%  |
| #410        | 1 <sup>st</sup> Floor Front         | 943 sq. ft.              | 2 BR, LR/DR, B, K<br>5 rooms  | Hall                         | 2.745%  |

| Unit Number | Statement of Unit Location         | Approx. Area Square Feet | Number & Designation of Rooms         | Immediate Common Area/Access | Interest of Unit in Common Areas & Facilities |
|-------------|------------------------------------|--------------------------|---------------------------------------|------------------------------|---|
| #411        | 1 <sup>st</sup> Floor Back         | 943 sq. ft.              | 2 BR, LR/DR<br>B, K<br>5 rooms        | Hall                         | 2.745%  |
| #412        | 1 <sup>st</sup> Floor Front Corner | 841 sq. ft.              | 2 BR, LR/DR<br>B, K<br>5 rooms        | Hall                         | 2.448%  |
| #413        | 1 <sup>st</sup> Floor Back Corner  | 864 sq. ft.              | 2 BR, LR/DR,<br>B, K<br>5 rooms       | Hall                         | 2.490%  |
| #415        | 2 <sup>nd</sup> Floor Back Corner  | 864 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.547%  |
| #416        | 2 <sup>nd</sup> Floor Front Corner | 899 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.872%  |
| #417        | 2 <sup>nd</sup> Floor Back         | 1233 sq. ft.             | 3 BR, LR/DR<br>2B, K, deck<br>7 rooms | Hall                         | 3.579%  |
| #418        | 2 <sup>nd</sup> Floor Front        | 1233 sq. ft.             | 3 BR, LR/DR<br>2B, K, deck<br>7 rooms | Hall                         | 3.579%  |
| #419        | 2 <sup>nd</sup> Floor Back         | 797 sq. ft.              | 1 BR, LR/DR<br>B, K<br>4 rooms        | Hall                         | 2.363%  |
| #420        | 2 <sup>nd</sup> Floor Front        | 1021 sq. ft.             | 2 BR, LR/DR<br>2 B, K, D<br>7 rooms   | Hall                         | 2.957%  |
| #421        | 2 <sup>nd</sup> Floor Back         | 666 sq. ft.              | 1 BR, LR/DR<br>B, K<br>4 rooms        | Hall                         | 1.967%  |
| #422        | 2 <sup>nd</sup> Floor Front        | 829 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.419%  |
| #423        | 2 <sup>nd</sup> Floor Back         | 696 sq. ft.              | 1 BR, LR/DR<br>B, K, deck<br>4 rooms  | Hall                         | 2.051%  |

| Unit Number | Statement of Unit Location         | Approx. Area Square Feet | Number & Designation of Rooms         | Immediate Common Area/Access | Interest of Unit in Common Areas & Facilities |
|-------------|------------------------------------|--------------------------|---------------------------------------|------------------------------|---|
| #424        | 2 <sup>nd</sup> Floor Front        | 943 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.801%  |
| #425        | 2 <sup>nd</sup> Floor Back         | 943 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.801%  |
| #426        | 2 <sup>nd</sup> Floor Front Corner | 899 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.872%  |
| #427        | 2 <sup>nd</sup> Floor Back Corner  | 864 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.547%  |
| #429        | 3 <sup>rd</sup> Floor Back Corner  | 864 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.547%  |
| #430        | 3 <sup>rd</sup> Floor Front Corner | 899 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.872%  |
| #431        | 3 <sup>rd</sup> Floor Back         | 1233 sq. ft.             | 3 BR, LR/DR<br>2B, K, deck<br>7 rooms | Hall                         | 3.579%  |
| #432        | 3 <sup>rd</sup> Floor Front        | 1233 sq. ft.             | 3 BR, LR/DR<br>2B, K, deck<br>7 rooms | Hall                         | 3.579%  |
| #433        | 3 <sup>rd</sup> Floor Back         | 797 sq. ft.              | 1 BR, LR/DR<br>B, K<br>4 rooms        | Hall                         | 2.363%  |
| #434        | 3 <sup>rd</sup> Floor Front        | 1017 sq. ft.             | 2 BR, LR/DR<br>2 B, K, D<br>7 rooms   | Hall                         | 2.957%  |
| #435        | 3 <sup>rd</sup> Floor Back         | 666 sq. ft.              | 1 BR, LR/DR<br>B, K<br>4 rooms        | Hall                         | 1.967%  |
| #436        | 3 <sup>rd</sup> Floor Front        | 1058 sq. ft.             | 2 BR, LR/DR<br>B, K, deck<br>5 rooms  | Hall                         | 2.985%  |

| Unit Number | Statement of Unit Location         | Approx. Area Square Feet | Number & Designation of Rooms        | Immediate Common Area/Access | Interest of Unit in Common Areas & Facilities |
|-------------|------------------------------------|--------------------------|--------------------------------------|------------------------------|---|
| #437        | 3 <sup>rd</sup> Floor Back         | 696 sq. ft.              | 1 BR, LR/DR<br>B, K, deck<br>4 rooms | Hall                         | 2.051%  |
| #438        | 3 <sup>rd</sup> Floor Front        | 943 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms | Hall                         | 2.801%  |
| #439        | 3 <sup>rd</sup> Floor Back         | 943 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms | Hall                         | 2.801%  |
| #440        | 3 <sup>rd</sup> Floor Front Corner | 899 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms | Hall                         | 2.872%  |
| #441        | 3 <sup>rd</sup> Floor Back Corner  | 864 sq. ft.              | 2 BR, LR/DR<br>B, K, deck<br>5 rooms | Hall                         | 2.547%  |



## EXHIBIT D

This Exhibit D is hereby incorporated by reference into and made a part of the Master Deed of Greenleaves Retirement Community Condominium No. 3, Amherst, Hampshire County, Massachusetts.

### OWNERSHIP/RESIDENCY CRITERIA

All prospective owners and residents must be approved in advance by Greenleaves Retirement Community. Greenleaves Retirement Community shall make an independent judgment whether each prospective owner qualifies for purchase of a unit and whether each prospective resident qualifies for residency at Greenleaves Retirement Community. Eligibility shall be based upon the following criteria:

1. Residential Services Agreement. Execution of the Residential Services Agreement, in form substantially that as attached hereto as Exhibit E.
2. Ownership/Rental. A unit need not be owned by its resident(s). All units are, however, intended for residential, as opposed to transient, use. As such, no owner may rent a unit for a term of less than one (1) year and no owner may allow a unit to be occupied, on a non-rental basis, for any period of less than one (1) year. All leases shall be in writing and shall be approved, in advance, by Greenleaves Retirement Community.
3. Special Ownership Rules. Any Unit may be held in trust of which the occupant is/are the beneficiary, provided that the Trustee thereof and all persons who occupy said Unit have signed the Residential Services Agreement. These Residency/Occupancy provisions and the Master Deed, however, shall apply to the beneficiaries of such trust and all tenants of the Trustee, but the Trustee him/herself shall not be required to meet said occupancy requirements unless said Trustee is to actually occupy the Unit.

## EXHIBIT E

### GREENLEAVES RETIREMENT COMMUNITY RESIDENTIAL SERVICES AGREEMENT

This Residential Services Agreement ("Agreement") is made between Amhad Development Corp., d/b/a Greenleaves Retirement Community ("Amhad"), a Massachusetts corporation, its successors, assigns and nominees, and ("You" or "Resident").

Amhad is a corporation which owns and operates Greenleaves Retirement Community, a retirement community located in Amherst, Massachusetts. Greenleaves Retirement Community consisting of a parcel of land containing 29.403 acres, more or less, (the "Property") upon which Amhad or its nominee has agreed to construct residential condominium units and associated common areas, to be owned mostly by residents. Amhad will also later construct and maintain a Service Unit consisting of a large condominium unit in one of the Greenleaves Retirement Community Condominiums. It will contain a dining area, common living room, exercise room, activities rooms and other rooms and facilities to be owned by Amhad. Amhad and its nominee intends to construct up to a maximum of 235 residential condominium units upon the Property and, in conjunction therewith, dedicate the Property to condominium ownership pursuant to two or more Condominium Master Deeds. Those portions of the Property dedicated to condominium ownership are referred to in this Agreement as Residential Condominium Parcels. That condominium unit to be owned by Amhad is referred to in this Agreement as the "Service Unit".

The purpose of this Residential Services Agreement is to provide a statement of your legal rights and obligations at Greenleaves Retirement Community, including the services and care that Amhad will furnish to you at Greenleaves Retirement Community.

#### I.

#### INTERESTS IN GREENLEAVES RETIREMENT COMMUNITY

##### A. Your Condominium Interest

At the time that you sign this Agreement, you will be purchasing a condominium located on one of Greenleaves Retirement Community's Condominium parcels either from Amhad or from a prior owner. Your condominium is Unit # ("your Unit" or your "Condominium") in Greenleaves Retirement Community Condominium No. 3. As a condominium owner, you will be a member of the Greenleaves Retirement Community Condominium Trust No. 3 (the "homeowners association"). Your condominium interest consists of your exclusive ownership of your Unit and your shared ownership (together with other owners of condominium units within the Greenleaves Retirement Community Condominium No. 3) of the common areas, which consist of the areas outside of your condominium and located within the boundaries of the Greenleaves Retirement Community Condominium No. 3 parcel. Together these areas have been designated as the Residential Condominium Parcel for Greenleaves Retirement Community

Condominium No. 3 (sometimes designated as Residential Condominium Parcel No.3 or as simply the Residential Condominium Parcel). The control and maintenance of the Residential Condominium Parcel is governed by other documents including the Condominium Master Deed for Greenleaves Retirement Community Condominium No. 3 ("Master Deed"), the Declaration of Trust of the Greenleaves Retirement Community Condominium Trust No. 3 (the "homeowners' association"), and the Declaration of Reciprocal Easements and Restrictions (the "Declaration of Restrictions"), as well as this agreement. The homeowners' association's rights and responsibilities affect only Residential Condominium Parcel No 2.

## II.

### GENERAL SERVICES

#### A. Condominium Maintenance.

As an owner of a Unit within Residential Condominium Parcel No. 3, and as a member of the Homeowners Association, you are subject to the payment of common expense assessments (Condominium Maintenance Fee) as provided in the Master Deed of Greenleaves Retirement Community Condominium No. 3. and Declaration of Trust of Greenleaves Retirement Community Condominium No. 3. Such Monthly Maintenance Fee shall include those costs which will be the subject of a common expenses assessment by the Homeowners Association to cover costs of maintenance, repair and replacement and insurance of the residential condominium parcel. Those services consist of the following which will be included in your Monthly Condominium Maintenance Fee to be paid to Amhad or the management company designated by it as agent for the Homeowners' Association:

1. Maintenance of the buildings and grounds at Greenleaves Retirement Community Condominium No. 3, including landscaping, snow plowing, garbage and trash removal.
2. Comprehensive fire and liability insurance. This does not include your furnishings and personal property and effects and does not include any losses within your unit.
3. Establishment of replacement reserves to pay for the replacement of roofing, exterior siding, fire and smoke detection and sprinkler systems in your unit and throughout the facility, and other common elements.

You will be responsible for your own, electricity, heat, and real estate taxes. You will also be responsible for paying for your own cable television and telephone service, and other services not expressly included in this Agreement. Your Unit will be equipped for cable television hook-up and telephone connection.

B. Access Way Services

Amhad will be responsible for the maintenance of the common roadways, and for the signs, grass, lighting, snow plowing, on and adjacent to the said common roadways and of the bike paths within the various condominium parcels. The cost thereof will be shared by each condominium owner in the Greenleaves Retirement Community. Thus your Monthly Service Fee will include a charge for one two hundred thirty-fifth of the cost thereof, whether or not the Service Unit is constructed and operational.

C. Service Unit Services

1. Standard Services- Once the Service Unit is constructed and operational, certain services will be available to you at Greenleaves Retirement Community. You may elect to avail yourself of any one or more of them. These services are included in your monthly service fee irrespective of how many of them you may elect to receive. Those services include the following:

- i. Use of all recreational facilities at Greenleaves Retirement Community;
- ii. Activities programs consisting of social, cultural, religious, educational and recreational events, which you may participate in as you wish. Some activities may involve an additional charge;
- iii. Scheduled local transportation, including transportation to nearby shopping areas.

The service fee will also include a reserve to replace the Service Unit dining facility and other furniture and equipment, heating/air conditioning systems, service unit interior maintenance and carpeting.

2. Optional Services- In addition to the foregoing services enumerated in 1. above, the Services outlined below will also be available to you. They will not be included in the monthly basic service charge but will be billed and paid for separately:

- i. Twenty-four hour telephone answering service;
- ii. Personal emergency response system in your unit;
- iii. Basic housekeeping services, laundry services or assistance in meal preparation, dressing or other activities of daily living.
- iv. Meals served in the dining area at designated times in the morning, at midday, and in the evening. Tray service in your Unit will be available at any time for an additional charge. Greenleaves Retirement Community will accommodate special diets if

authorized by the Medical Director. There may be an additional charge, depending upon the nature of the special diet.

- v. Special unscheduled local transportation which may be ordered by you at any time.

D. Payment for Services

As hereinbefore indicated, the foregoing housekeeping, special transportation, and other special services (Section II C.2. above) are available upon separate fee arrangements. The charges for these services will be billed and paid separately or with your Monthly Condominium Maintenance Fee. Charges for all services will be adjusted from time to time to reflect the costs of providing the same, including a reasonable management fee. Of course, your total Monthly Service Fees will vary depending on the number of services you elect from C.2 above.

**III.**

**FEES**

A. Condominium Unit Purchase Price

You have agreed to purchase your Unit for the sum of \$ \_\_\_\_\_ from Amhad in accordance with its Purchase and Sale Agreement or from a prior resident. This Residential Services Agreement must be signed at or before the closing of the purchase of your Unit.

B. Monthly Fees

1. **Obligation to Pay.** There are two fees which you will be required to pay each month. The first is the monthly Condominium Maintenance Fee, mentioned in II.A. above, which covers the maintenance of the common areas and facilities of the condominium. The second is the Monthly Service Fee, also mentioned above, which consists of three parts: (1) the first defrays the cost of maintaining the roadways, bike paths, signs, lights, etc., mentioned in II.B. above, (2) the second defrays the cost of the standard services available in or from the Service Unit II.(C.1. above) together with the maintenance of the Service Unit, and (3) the third defrays the cost of those services set forth in II.C.2. above which may be elected by you. However, until the Service Unit is constructed and operating there will be no assessment of fees under said Section II.C. The Monthly Service Fees resulting from the maintenance of the roadways, bike paths, lights, signs, etc. under II.B. shall be paid whether or not the Service Unit is constructed and operational and shall be based upon an annual operating budget approved by Amhad, which shall reflect the expected reasonable costs to Amhad of maintaining said roadways, bike paths, signs, lights, etc. The costs may include a reasonable management fee for the services of Amhad or its professional nominee and a reasonable amount for depreciation. In any case, said Monthly Service Fee for each condominium Unit payable under II.B. shall not exceed on two hundred thirty fifths of such cost as so determined. Once set, periodic adjustments in your Monthly Fee

may be made to reflect unexpected increases or decreases in costs and the Monthly Service Fee may forthwith be adjusted accordingly.

2. **Common Expense Assessments.** As hereinbefore stated, as an owner of a Unit with the Residential Condominium Parcel and as a member of the homeowners' association, you are also subject to the payment of common expense assessments (the Condominium Maintenance Fee) to the homeowners' association which by law the homeowners' association must assess each unit owner to cover costs of maintenance, repair, replacement and insurance of the residential condominium parcel. Amhad is Managing Agent for the homeowners' association. You will agree to pay your Monthly Condominium Maintenance and Service fees to Amhad or its designated professional management company. For so long as Amhad shall continue to serve as Managing Agent for the homeowners' association, the Condominium Maintenance Fee payment shall be accompanied by the payment of Monthly Service Fees. Amhad shall, however, send only one bill to you each month which will itemize both the Maintenance Fee and the Service Fee to produce one total to be paid to Amhad.

3. **Service Unit Costs.** When the Service Unit is constructed and operational, your Monthly Service Fee under II.C.2. shall be based upon an annual operating budget of the Service Unit approved by Amhad, which shall reflect the expected reasonable costs to Amhad of providing the aforesaid services and maintaining the Service Unit. These costs may include a reasonable management fee for the services of Amhad or its professional nominee and a reasonable sum for depreciation. In any case, said Monthly Service Fee for each condominium Unit payable under II.C. shall not exceed on two hundred thirty fifths of such cost as so determined. Once set, periodic adjustments in your Monthly Fee may be made to reflect unexpected increases or decreases in costs and the Monthly Service Fee may forthwith be adjusted accordingly.

4. **Effect of Vacancy of Unit.** Once your unit has been conveyed to you, you or your legal representative will be obligated to pay the full amount of the Monthly Service Fee then in effect, whether your Units should thereafter be occupied or unoccupied (whether temporarily or permanently) until such time as your Unit has been sold to a Qualified Buyer in accordance with this Agreement. (See Section IV below).

5. **Payment Procedures.** Amhad will bill you monthly in advance of your Monthly Service Fee. You will be obligated to make payment in advance, by the tenth (10th) day of the month for which the fee is due, to avoid a late payment charge. All delinquent Monthly Fees shall bear interest at the maximum legal rate, and all fees, late charges, and accrued interest that remain unpaid when your Unit is sold shall be payable to Amhad as provided in Section IV. C. below.

### **C. Fees for Optional Services**

You will be billed separately for all optional services not covered by the Monthly Service Fee. Amhad will give you at least ten days advance notice of any changes in its charges for services and will bill you for the optional services that it provides when they are rendered or when you are billed for your Monthly Service and Maintenance Fees. The payment procedures

shall be the same as for the Monthly Service Fee, including the imposition of late payment charges and interest on delinquent payments.

#### IV.

#### SALE OF YOUR CONDOMINIUM UNIT

A. Permitted Sale to Qualified Buyer

You or your legal representative may sell your Unit to a Qualified Buyer (defined below) at any time, provided that all other requirements specified in this Agreement are met. The price may be whatever price you or your legal representative agree upon with the Qualified Buyer, subject to the rules contained in Section IV, F. below. As used in this Agreement, the term "legal representative" shall include not only a person legally entitled to act on your behalf while you are living, but also a person representing your estate (including a trust estate) after your death. A "Qualified Buyer" is a person who is prepared to purchase your Unit at the agreed upon price and to enter into a Residential Services Agreement (as it then exists) with Amhad, and who has been approved for residency at Greenleaves Retirement Community by Amhad in accordance with its Ownership/Residency Criteria either for himself/herself or for the person or persons intending to reside therein.

B. Required Sale to a Qualified Buyer

You or your legal representative must sell your Unit to a Qualified Buyer (defined above) upon termination of this agreement by Amhad under the provisions of Section V(B) post.

C. Continuation of Monthly Fee

You or your legal representative shall pay your Monthly Maintenance and Service Fees until your Unit is sold, even if your Unit for any reason becomes unoccupied.

D. Retention of Proceeds

Upon the sale of your Unit, you or your legal representative will be entitled to proceeds of the sale, less the Transfer Fee described in Section IV, E. below and any other sums that you owe to Amhad under Section IV or any other provision of this Agreement, and less any sums you may owe to third parties such as attorneys and real estate brokers in connection with the sale.

E. Transfer Fee

When you or your legal representative sell your Unit, the purchase price paid by a Qualified Buyer will be determined by the marketplace. Upon the sale of your Unit at any time

Amhad will be entitled to receive a Transfer Fee from the sales proceeds equal to one and one-quarter percent (1.25%) of the price that a Qualified Buyer pays for your Unit.

F. Requirements for Sale

A sale of your Unit may not occur until all of the following events have occurred:

1. The Qualified Buyer and/or the proposed occupants have been approved by Amhad for residency at Greenleaves Retirement Community;
2. The Qualified Buyer and the proposed occupants have signed a Residential Services Agreement;
3. The Qualified Buyer has paid the first Monthly Fee for which Qualified Buyer is responsible under his Residential Services Agreement; and
4. Amhad has received payment of the Transfer Fee.
5. Amhad has received payment of all sums that you owe to Amhad under Section IV or any other provision of this Agreement. Amhad will issue a certificate suitable for recording, indicating that no payments are due, which certificates shall be conclusive as to the facts stated therein. Such charges shall be junior to each bona-fide mortgage to a recognized mortgage lending institution, but foreclosure of the mortgage shall not impair Amhad's power thereafter to collect such fees.

G. Gifts, Bequests and Devisees

In the event your Unit is transferred without consideration by way of a gift, bequest or devise, no Transfer Fee will be charged. Subsequent sales will, however, be subject to the payment of a Transfer Fee as herein above provided.

H. Special Ownership Rules

1. **Co-Ownerships.** If your Unit is owned by more than one person, one co-owner shall not transfer a partial interest in the Unit, but may transfer a right to receive a portion of the proceeds from the sale of the Unit. If one co-owner (the "Terminating Co-Owner") terminates his residence at Greenleaves Retirement Community by death or other means, the co-owner remaining at Greenleaves Retirement Community (the "Remaining Co-Owner") shall have all rights under this Agreement until the Remaining Co-Owner's residence terminates. As long as the Remaining Co-Owner resides in the Unit, the Terminating Co-Owner, his heirs and assigns shall have no right to residency, care, or services at Greenleaves Retirement Community, to require the sale of the Unit through partition proceedings or otherwise, or to exercise any



other rights under this Agreement. Upon the termination of the Remaining Co-Owner's residency at Greenleaves Retirement Community, the Unit may as in other cases be sold to a Qualified Buyer, and if applicable, a Transfer Fee shall be paid to Amhad before any proceeds are distributed to either co-owner, their heirs or assigns.

2. Trusts. Your Unit may be held in a trust of which you are a beneficiary, provided that you and all persons who occupy said Unit have cosigned this Agreement. The Residency/Occupancy provisions of this agreement and the Master Deed, however, shall apply to the beneficiaries of such trust and all tenants of the Trustee, but the Trustee him/herself shall not be required to meet said occupancy requirements unless said Trustee is to actually occupy the Unit. If title to your Unit is to be held in a trust, the trustee shall have the following obligations: he shall (i) cosign this Agreement; (ii) pay all sums owing but not paid by you under this Agreement from the assets of the trust; (iii) be bound by all of the terms of this Agreement pertaining to ownership, assignment, transfer, or sale of your Unit; and (iv) cooperate fully in facilitating your compliance with the terms of this Agreement. The existence of the trust shall in no way limit your individual responsibility to fulfill the terms of this Agreement. You further agree that, except for your rights as a resident under this Agreement, no trust beneficiary and no transferee of any trust beneficiary shall have any of the following rights: (i) to require sale of your Unit; (ii) to receive your rights to residence or services at Greenleaves Retirement Community; or (iii) to exercise any other rights under this Agreement (except the right to receive a portion of the net sales proceeds when the Unit is ultimately sold).

3. Distribution of Sale Proceeds. Distribution of the proceeds from the sale of your Unit may vary, depending on whether your Unit is held in joint tenancy, in tenancy in-common, or in trust. Your deed sets forth the manner in which you hold title to your Unit. You are urged to consult with your attorney or financial advisor concerning the manner of holding title and the laws regarding the disposition of ownership interests.

## V.

### TERMINATION OF AGREEMENT

#### A. Your Termination Rights

You may terminate this Agreement at any time for any reason by giving Amhad at least sixty (60) days' written notice of your intention to terminate and by selling your Unit to a Qualified Buyer. Upon your death, your obligations under this Agreement shall continue until your Unit is sold to a Qualified Buyer. You or your legal representative must comply with all terms of this Agreement governing the sale of your Unit, including the payment of the Transfer Fee.

**B. Termination Rights of Amhad**

1. Termination for Just Cause. Amhad will not terminate this Agreement unless it has just cause to do so. It may, however, do so for just cause. Amhad shall have just cause to terminate this Agreement if:

- i. Except as set forth in Section V. B. 2. below, you fail to pay your Monthly Fee or any other charges that are due, after you have received written notice from Amhad of the possibility of termination as described in Section V.B.3 below;
- ii. You fail to comply with Greenleaves Retirement Community's policies and procedures;
- iii. Your continued residence interferes with the peaceful enjoyment of other residents;
- iv. You materially breach this Agreement or make a material misrepresentation to Amhad; or
- v. You perform any other act or omission that Amhad reasonably deems to be just cause to terminate this Agreement.

2. Financial Difficulty. Amhad will not terminate this Agreement solely because you are financially unable to pay your Monthly Fee and other charges. If you encounter financial difficulty making it impossible for you to pay your Monthly Fee and other charges, you will be allowed to remain at Greenleaves Retirement Community at a reduced rate, based on your ability to pay, as long as you establish facts that justify deferral of the usual charges, and such deferral can, in the sole discretion of Amhad, be granted without impairing Amhad's ability to operate on a sound financial basis. You will not be entitled to any deferral if you have misrepresented your income or assets, or impaired your ability to meet your financial obligations by making gifts or other transfers for less than their fair market value. You agree that the amount of any Monthly Fee or other charges deferred under this Section V.B.2 shall be deemed a loan to you from Amhad, and shall be secured by a mortgage on your Unit in favor of Amhad. You further agree that all deferred charges, plus interest accrued at the maximum legal rate, shall be a charge against your estate and shall be deducted from the proceeds of the sale of your Unit. Such deduction shall be made in addition to any Transfer Fees charged pursuant to Section IV.E. above. You agree to sign all such other documents and agreements, including a mortgage, as may be reasonably required in order to document the loan and mortgage in favor of Amhad.

3. Written Notice of Termination. Before any termination of this Agreement under this Section V.B., Amhad will give you written notice of its intent to terminate this Agreement. The notice shall state the cause for such termination and shall give you thirty (30) days to correct the problem, except as provided below. If the problem is corrected within thirty (30) days, this Agreement shall not be terminated. If the problem is not corrected within thirty (30) days, this Agreement shall be terminated forty-five (45) days after the date of the original notice of termination, and you must leave Greenleaves Retirement Community and sell your Unit. Any refunds payable to you upon termination shall be made as required by law. Neither the thirty (30) day cure period nor the forty-five (45) day notice period shall be required if Amhad determines

that such period of time would be detrimental to you, or other residents, or if Amhad determines that the problem constituting just cause for termination cannot be cured.

4. Sale of Unit. Upon termination of this Agreement under this Section V.B. you must sell your Unit to a Qualified Buyer.

C. Notices

All notices required or permitted under this Agreement shall be delivered to:

Amhad Development Corp.  
32 Greenleaves Drive  
Hadley, MA 01035

or to you at your Unit (or, if appropriate, to your legal representative at the address furnished by you to Amhad). The aforesaid addresses may be re-designated by either party upon written notice thereof mailed certified mail (return receipt requested) at his/her/its then currently designated address. All other such notices shall be effective when personally delivered or when deposited in the United States mail, if they are properly addressed with postage prepaid.

**VI.**

**INTERRUPTION IN SERVICES**

An interruption in services or failure to maintain services under this Agreement shall not constitute a breach of this Agreement, if it is caused by factors beyond the reasonable control of Amhad, including but not limited to, strikes, lockouts, or other labor disturbances, government orders, embargoes, shortages of labor or materials, inclement wether, fire, flood, earthquake, or other casualty, Acts of God, or the conduct of residents. In the event of an interruption in services, Amhad shall use its best reasonable efforts to restore services or to provide substitute services.

**VII.**

**WAIVER OF ONE BREACH NOT A WAIVER OF ANY OTHER**

Amhad's failure on any occasion to insist upon your strict compliance with any term of this Agreement shall not be deemed a waiver of its right to insist upon your strict compliance with all terms of this Agreement on any other occasion.

## VIII.

### RESPECTIVE RIGHTS OF RESIDENTS AND AMHAD

#### A. Other Residents

Amhad may enter into Residential Service Agreements with other persons which contain the same terms as those contained in this Agreement herein or terms which, if different, do not confer significantly superior benefits nor impose materially lesser obligations upon the unit owners therein. Despite any such differences, this Agreement alone sets forth your rights and obligations with respect to Amhad.

#### B. Performance of Services by Third Parties

You acknowledge and accept that some services and functions to be performed by Amhad under this Agreement may be performed by third parties under contract with Amhad.

#### C. Policies and Procedures

Amhad may adopt reasonable policies, rules and regulations set forth in the Policies and Procedures to preserve the health, safety and peaceful enjoyment of all residents, to maintain the buildings and grounds in a pleasant, clean and orderly condition and for all other reasonable purposes. Amhad reserves the right to amend the Policies and Procedures from time to time, upon notice to you, and you agree to abide by the Policies and Procedures (as amended).

#### D. Lease of Unit

You may not lease your Unit for a rental term of less than twelve (12) months, without the prior express written consent of Amhad. All leases must be in writing and must be approved, in advance, by Amhad. All prospective lessees must satisfy the Greenleaves Retirement Community Ownership/Residency Criteria and must be approved, in advance, by Amhad.

#### E. Residents' Rights

Your rights under this Agreement are limited to those rights expressly granted in it, and do not include any proprietary or managerial interest in Amhad, or the service units of Greenleaves Retirement Community.

## IX.

### MISCELLANEOUS

A. Entire Agreement

This Agreement is the entire agreement between you and Amhad and may be amended only by a written instrument signed by an authorized representative of Amhad and by you or your legal representative.

B. Severability

If a court deems any provision of this Agreement invalid, the remainder of this Agreement shall remain in full force and effect, unless the invalidity of the provision has a material effect on the rights or duties of you or Amhad.

C. Liability for Injury or Damage

You agree to indemnify and hold Amhad harmless from all liability for injury or damage caused by you, your guests, licensees or invitees during the term of this Agreement.

D. Attorney's Fees

In the event that a suit or action is brought by any party under this Agreement to enforce any of its terms, or in any appeal therefrom, it is agreed that the prevailing party shall be entitled to reasonable attorneys fees to be fixed by the arbitrator, trial court, and/or appellate court.

## X.

### COMMENCEMENT DATE OF CERTAIN OBLIGATIONS UNDER THIS AGREEMENT

Notwithstanding any other provision hereof to the contrary, Amhad shall not be required to furnish you the services set forth herein under Section II.C, nor shall you be required to pay any monthly service fee therefore until the first day of the month next succeeding the completion of those portions of the Service Unit facilities which, as determined by Amhad, will be necessary to adequately furnish the services to be provided hereunder. When said facilities are completed and suitable for use as herein provided, Amhad shall give you written notice thereof. Thereafter the privileges and obligations of both you and Amhad with respect to the furnishing of said services and the payment of said service fees hereunder shall commence on the first day of the month next following said notice. Until said Service Unit facilities are available as aforesaid, nothing herein shall be interpreted as suspending the remaining rights and obligations created hereunder other than those dealing with the rendering of said services by Amhad and the payment of service fees by the owner.

EXECUTED as a sealed instrument

\_\_\_\_\_  
Resident

AMHAD DEVELOPMENT CORP.

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
Treasurer



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**DECLARATION OF TRUST AND BYLAWS**

**GREENLEAVES RETIREMENT COMMUNITY  
CONDOMINIUM TRUST NO. 3**

DECLARATION OF TRUST of GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM TRUST NO. 3, by Lawrence E. Allard, Jr., James M. Kane, F. Austin Miller, and David Robinson, (who also constitute the Board of Directors of AMHAD DEVELOPMENT CORP., sometimes herein called the Developer, a Massachusetts corporation, with a principal place of business at 32 Greenleaves Drive, Hadley, Massachusetts, 01035) hereinafter sometimes called the "Trustees" or "Declarants", which terms include their successors in trust. The term "Trustee" or "Trustees" also means the Trustee or Trustees for the time being hereunder, whenever the context so permits.

**I. NAME OF TRUST**

The trust created hereby shall be known as GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM TRUST NO. 3 and all activities carried on by the Trustees hereunder shall, insofar as legal, practical and convenient, be conducted under said name and style.

**II. PURPOSES**

A. All of the rights and powers in, to and with respect to the common areas and facilities of the GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM NO. 3 established by Master Deed of even date and recorded herewith (hereinafter called the "Condominium"), which are by virtue of the provisions of Massachusetts General Laws, Chapter 183A, (hereinafter called "Chapter 183A") conferred upon or exercisable by the organization of Unit Owners of the Condominium and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder shall vest in the Trustees of this Trust, BUT IN TRUST NEVERTHELESS, to exercise, manage, administer and dispose of the same and to receive the income thereof for the benefit of the owners of record from time to time of the units of the Condominium (hereinafter called the "Unit Owners"), according to the schedule of beneficial interest referred to in Section IV hereof, and in accordance with the provisions of said Chapter 183A. This Trust is the organization of the Unit Owners established pursuant to the provisions of said Chapter 183A for the purposes therein set forth.

B. It is hereby expressly declared that a trust, and not a partnership, has been hereby created and that the Unit Owners are beneficiaries and not partners or associates or any other relation whatever among themselves with respect to the trust property, and hold no relation to the Trustee other than as such beneficiaries, with only such rights as are conferred upon them as such beneficiaries hereunder and under and pursuant to the provisions of said Chapter 183A.

### III. TRUSTEES

#### A. Appointment of Trustees

(i) Initial Board. The Initial Board shall consist of the Trustees named in the first paragraph of this Declaration of Trust, to wit: the Board of Directors of AMHAD DEVELOPMENT CORP., namely, Lawrence E. Allard, Jr., James M. Kane, F. Austin Miller, and David Robinson, hereinafter called the "Initial Board". The term of the Initial Board shall end upon the earliest to occur of the following events: (a) after all of the units have been conveyed to unit purchasers in all Phases of the Condominium, as described in the Master Deed; or (b) upon which time as the Initial Board resigns pursuant to the provisions of paragraph D(i) herein. Notwithstanding any other term or provision of this Trust to the contrary: (a) the Unit Owners shall have no power or right to remove the Initial Board, nor to appoint any additional or successor trustees, until the term of said Initial Board shall have expired as set forth in the immediately preceding sentence, and (b) during the term of the Initial Board any vacancy in the office of a Trustee, however caused, shall be filled only by the designation of the Declarant of the Master Deed.

(ii) Subsequent Boards of Trustees. After the term of the Initial Board, there shall at all subsequent times be a Board of Trustees hereunder consisting of not less than three (3) nor more than five (5) natural persons, but in any event an odd number, as shall be determined by vote of Unit Owners entitled to not less than fifty-one (51 %) percent of the beneficial interest hereunder.

#### B. Vacancies

After the expiration of the term of the Initial Board, if and when the number of Trustees shall become less than three (3), a vacancy or vacancies in said office shall be deemed to exist. Each such vacancy shall be filled by written instrument setting forth the appointment of a natural person to act as such Trustee, signed (i) by Unit Owners entitled to not less than fifty-one (51%) percent of the beneficial interest hereunder or (ii) if the Unit Owner(s) entitled to such percentage have not made such an appointment within thirty (30) days after the occurrence of such vacancy, by the remaining Trustees; and acknowledged by one of the signatories and the acceptance of such appointment, signed and acknowledged in proper form for recording by the person so appointed. Such appointment shall become effective upon the recording with the Hampshire County Registry of Deeds of a certificate of such appointment, signed and accepted as aforesaid, and such person shall then be and become such Trustee and shall be vested with the title to the Trust property, jointly with the remaining or surviving Trustee or Trustees without the necessity of any act of transfer or conveyance. If for any reason any such vacancy in the office of Trustee shall continue for more than sixty (60) days and shall at the end of that time remain unfilled, a Trustee or Trustees to fill such vacancy or vacancies may be appointed by any court of competent jurisdiction upon the application of any Unit Owner and notice to the other Unit Owners and all Trustees and to such other parties in interest, if any, to whom the court may direct that notice be given, and such appointment shall become effective upon the recording with the Hampshire County Registry of Deeds of a certificate or order of such appointment. Notwithstanding anything to the contrary in this subsection (B) despite any vacancy in the office



of Trustee, however caused and for whatever duration, the remaining or surviving Trustee, subject to the provisions of the immediately following subsection (C), shall continue to exercise and discharge all of the powers, discretion and duties hereby conferred or imposed upon the Trustee.

C. Majority Vote

In all matters relating to the administration of the Trust hereunder and the exercise of the powers hereby conferred, the Trustee shall act by majority vote. The Trustee may so act without a meeting by instrument signed by all Trustee.

D. Resignation of Trustee

(i) Any Trustee may resign at any time by instrument in writing, signed and acknowledged in proper form for recording and such resignation shall take effect upon the recording of such document with the Hampshire County Registry of Deeds.

(ii) After reasonable notice and opportunity to be heard before the Unit Owners called pursuant to Sections VIII and XXXIV of the By-Laws hereof, a Trustee (except a member of the Initial Board) may be removed from office with or without cause, by an instrument in writing signed by vote of Unit Owners entitled to not less than fifty-one (51 %) percent of the beneficial interest hereunder, such instrument to take effect upon the recording thereof with said Hampshire County Registry of Deeds.

E. Bonds

The Trustees shall obtain and maintain fidelity bonds as set forth in Section III of the By-Laws of this Trust.

F. Good Faith

No Trustee hereinbefore named, or appointed or designated as hereinbefore provided, shall under any circumstances or in any event be held liable or accountable out of his personal assets or estate or be deprived of compensation by reason of any action taken, suffered or omitted in good faith, or be so liable, accountable or deprived for more money or other property than he actually receives, 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 or by reason of the existence of any personal interest or gain or by reason of anything except his own personal and willful malfeasance, bad faith, or fraud.

G. Conflict of Interest

No Trustee shall be disqualified by his office from contracting or dealing with the Trust or with one or more Unit Owners (whether directly or indirectly because of his interest individually or the Trust's interest or any Unit 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 in respect of this Trustee in which any Trustee shall be in any way interested, be avoided, 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 of the fiduciary relationship hereby established, provided the Trustee shall act in good faith and shall disclose to the other Trustees the nature of his interest before the dealing, contract, or arrangement is entered into.

It is understood and permissible for the Initial Board hereunder and any other Trustee designated by the Initial Board or who are employed by or affiliated or associated with the Declarants, to contract with the Declarants and any corporation, firm, trust or other organization controlled by or affiliated or associated with the Declarants without fear of being charged with self-dealing.

#### H. Compensation

The Trustees shall receive no compensation for their services as such Trustee, but with the prior written approval in each instance of the other Trustees, and upon presentation of proper vouchers, each Trustee may be reimbursed for actual out-of-pocket expenses paid or incurred by him pursuant to his duties as such Trustee, and such reimbursement shall be a Common Expense of the Condominium.

With the prior written approval in each instance of the other Trustees, each Trustee may receive reasonable compensation for any extraordinary or unusual services rendered by him in connection with this Trust, and such compensation shall be a Common Expense of the Condominium.

With the prior written approval in each instance of the other Trustees, any Trustee may be engaged to render services to this Trust, legal, accounting, or otherwise, at such compensation as shall be fixed by the Trustees, and any fees or other compensation shall be a Common Expense of the Condominium.

#### I. Indemnity

The Trustees and each of them shall be entitled to indemnity both out of the trust property, and by the Unit Owners severally in proportion to their ownership in the common areas and facilities against any liability incurred by them or any of them in the execution hereof, including, without limitation, liabilities in contract and in tort and liabilities for damages, penalties and fines. Each Unit Owner shall be personally liable for all sums lawfully assessed for his share of the Common Expenses of the Condominium and for his proportionate share of any claims involving the trust property in excess thereof.

#### **IV. BENEFICIARIES AND THEIR BENEFICIAL INTEREST**

A. The beneficiaries hereof shall be the Unit Owners of the Condominium, for the time being. The beneficial interest in the Trust hereunder shall be divided among the Unit Owners in the percentage of undivided beneficial interest appertaining to the Units of the Condominium, all as set forth on Exhibit C of the Master Deed, which is hereby incorporated herein by this reference and made a part hereof, with the same force and effect as though fully set forth in the body hereof.

B. The beneficial interest of each Unit of the Condominium shall be held and exercised as a unit and shall not be divided among several owners of any such Unit. To that end, whenever any of said Units is owned of record by more than one person, the several owners of such Unit shall: (i) determine and designate which one of such owners shall be authorized and entitled to cast votes, execute instruments, and otherwise exercise the rights appertaining to such Unit hereunder; and (ii) notify the Trustees of such designation by a notice in writing signed by all of the record owners of such Unit. Any such designation shall take effect upon receipt by the Trustees of such notice, 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 of such owners for such purposes.

#### **V. BY-LAWS**

The By-Laws of this Trust are attached hereto as Exhibit A which is hereby incorporated herein by this reference and made a part hereof with the same force and effect as though fully set forth in the body hereof.

#### **VI. RIGHTS AND OBLIGATIONS OF THIRD PARTIES DEALING WITH THE TRUST**

A. Any instrument signed and acknowledged in proper form for recording, by a majority of the Trustees as they then appear of record in the Hampshire County Registry of Deeds, and recorded in the Hampshire County Registry of Deeds may be relied on as conclusively establishing that such instrument was the free act of this Trust and shall be binding upon this Trust when so recorded.

B. No purchaser, mortgagee, lender, or other person dealing with a majority of the Trustees, as they then appear of record in the Hampshire County Registry of Deeds shall be bound to ascertain or inquire further as to the persons who are then the Trustees hereunder or be affected with any notice, implied or actual, relative thereto, other than by a certificate thereof, so recorded, and such recorded certificate shall be conclusive evidence of the personnel of said Trustees and of any changes therein. The receipts of a majority of the Trustees, for money paid or things delivered to them shall be effectual discharges therefrom to the persons paying or delivering the same, and no person from whom a majority of the Trustees 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 a majority of the Trustees, or with any real or

personal property which then is or formerly was trust property shall be bound to ascertain or inquire as to the existence or occurrence of any event or purpose in or for which a sale, mortgage, pledge or charge is herein authorized or directed, or otherwise as to the purpose or regularity of any of the acts of the Trustee(s) 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 Trustee. Any instrument of appointment of a new Trustee or resignation or discharge of a Trustee purporting to be executed by the Trustee, Unit Owners or other persons herein required to execute the same, shall be conclusive evidence in favor of any such purchaser or other person dealing with the Trustee of the matters therein recited relating to such discharge, resignation or appointment or the occasion thereof.

C. Notwithstanding anything to the contrary herein, and notwithstanding any custom or usage to the contrary, no recourse shall at any time be had under or upon any note, bond, contract, order, debt, claim, 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 note, bond, contract, order, debt, claim, instrument, certificate, undertaking, obligation, covenant, or agreement, 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 ever be personally or individually liable therefor; provided, however, that nothing herein contained shall be deemed to limit or impair the liability of the Unit Owners under the provisions of said Chapter 183A.

D. 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 be made to this instrument.

E. This Declaration of Trust and amendments hereto and any Certificate herein required or which it may be deemed desirable to record, shall be recorded with the Hampshire County Registry of Deeds and such record when executed according to the requirements of this Declaration of Trust shall be deemed conclusive evidence of the contents and effectiveness thereof according to the tenor thereof; and all persons dealing in any manner whatsoever with the Trustees, the trust property, or any beneficiary hereunder, shall be held to have notice of any alteration or amendment of this Declaration of Trust, or change of Trustee or Trustees, when the same shall be so recorded. Any certificate signed by a majority of the Trustees at the time as they then appear of record in the Hampshire County Registry of Deeds setting forth as facts any matters affecting the Trust, including statements as to who are the Trustees, as to what action has been taken by the Trustees or beneficiaries, and as to matters determining the authority of the Trustees to do any act, when duly acknowledged and recorded with said Hampshire County 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 as they then appear of record in the Hampshire County Registry of Deeds setting forth the existence of any facts, the existence of which is necessary to authorize the execution of any instrument or the taking of any action by such Trustees shall, when duly acknowledged and recorded with said Hampshire County Registry of Deeds, as to all persons acting in good faith in reliance thereon, be conclusive evidence of the truth of the statement made in such certificate and of the existence of the facts therein set forth.

## **VII. AMENDMENTS; TERMINATION**

A. Notwithstanding anything to the contrary herein, so long as the Declarant owns any unit in the Condominium, or as long as the Initial Board remain as the Trustees, whichever is later, the Declarant shall have the right, at any time and from time to time, to amend this Declaration of Trust (including but not limited to the By-Laws hereto and the Rules and Regulations hereto) without the consent of any Unit Owners, to meet the requirements of any governmental or quasi-governmental body or agency, or the requirements of any insurance company or insurance underwriting office or organization, or the requirements of Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the secondary mortgage market, or any lender, or to cure any ambiguity, inconsistency or formal defect or omission.

B. A majority of the Trustees, with the consent in writing of seventy-five (75%) per cent in interest of Unit Owners, may at any time and from time to time amend, alter, add to, or change this Declaration of Trust in any manner or to any extent, the Trustee first, however, being duly indemnified to their reasonable satisfaction against outstanding obligations and liabilities; provided, however, that no such amendment, alteration, addition or change shall be made: (i) without the prior written consent of the Amhad Development Corp. obtained in each instance, for so long as Amhad Development Corp. remains the owner of any Unit in the Condominium, or as long as the Initial Board remain as the Trustees, whichever is later; or (ii) according to the purport of which, the percentage of the beneficial interest hereunder of any Unit Owner would be altered, or in any manner or to any extent whatsoever, modified or affected so as to be different than the percentage of the individual interest of such Unit Owner in the common areas and facilities as set forth in the Master Deed other than by consent of all of the Unit Owners whose percentage of the undivided interest is affected, subject to Phasing Rights of the Declarant as in paragraph J1 of the Master Deed, or (c) which would render this Trust contrary to or inconsistent with any requirements or provisions of said Chapter 183A. Any amendment, alteration, addition or change pursuant to the foregoing provisions of this Section shall become effective upon the recording with the Hampshire County Registry of Deeds of an instrument of amendment, alteration, addition, or change, as the case may be, signed, sealed and acknowledged in proper form for recording, setting forth in full the amendment, alteration, addition, or change. 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.

C. The Trust hereby created shall terminate only upon the removal of the Condominium from the provisions of Chapter 183A in accordance with the procedure therefor set forth in said Chapter 183A. Upon the termination of this Trust, the Trustees may, subject to and in accordance with the provisions of said Chapter 183A, sell and convert into money the whole of the trust property, or any part or parts thereof, and, after paying or retiring all known liabilities and obligations of the Trustees and providing for indemnity against any other outstanding liabilities and obligations, shall divide the proceeds thereof among, and distribute in kind, at valuations made by them which shall be conclusive if made in good faith, all other property then held by them in trust hereunder to the Unit Owners according to their respective percentages of beneficial interest hereunder. In making any sale under the provisions of this subsection (C) of this Section VII, the Trustees shall have the power to sell or vary any contract of sale and to resell without being answerable for loss, and, for said purposes, to do all things, including the execution and delivery of instruments, as may by their performance thereof be shown to be in their judgment necessary or desirable in connection therewith. The powers of sale and all other powers herein given to the Trustee 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.

D. The provisions of Section XXXIII of the By-Laws hereto shall at all times take precedence over the provisions of this Section VII.

## **VIII. CONSTRUCTION: INTERPRETATION**

A. In the construction hereof, whether or not so expressed, words used in the singular or in the plural, respectively, shall include both the plural and singular; words denoting males include females; and words denoting persons include individuals, firms, associations, companies (joint stock or otherwise), partnerships, entities and quasi-entities, trusts and corporations; unless a contrary intention is to be inferred from or is required by the subject matter or context. The marginal and sectional captions and headings are inserted only for convenience of reference and are not to be taken to be any part hereof or to control or affect the meaning, construction, interpretation, or effect hereof.

B. All of the trusts, powers, and provisions herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts in general, and with respect to Massachusetts General Laws, Chapter 183A, in particular.

C. The invalidity of any provision or part of such provision hereof shall not impair or affect in any manner the remainder hereof, or the remainder of such provision or such part of such provision.

D. No restriction, condition, obligation or provision contained herein (including but not limited to the By-Laws hereof attached hereto as Exhibit A and incorporated herein by reference) shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number or frequency of violations or breaches thereof which may occur.

E. In the event of any conflict between the provisions hereof (including but not limited to the By-Laws hereof attached hereto as Exhibit A and incorporated herein by reference) and the provisions of Massachusetts General Laws, Chapter 183A, and the Master Deed, then the provisions of said Chapter 183A, or of the Master Deed, as the case may be, shall control. Words defined in said Chapter 183A shall have the same meaning herein as defined in said statute, unless the context clearly indicates otherwise.

EXECUTED as a sealed instrument this 21<sup>st</sup> day of June, 2005.

Irene M Allard  
Witness

By: [Signature]  
Lawrence E. Allard, Jr., Trustee

Irene M Allard  
Witness

By: [Signature]  
James M. Kane, Trustee

[Signature]  
Witness

By: [Signature]  
F. Austin Miller, Trustee

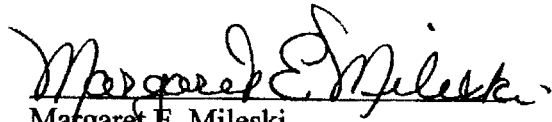
Irene M Allard  
Witness

By: [Signature]  
David Robinson, Trustee

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss

On this 21<sup>st</sup> day of June, 2005, before me, the undersigned notary public, personally appeared Lawrence E. Allard, Jr., James M. Kane, F. Austin Miller, and David Robinson, proved to me through satisfactory evidence of identification, which were Massachusetts driver's licenses, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for the stated purpose.



Margaret E. Mileski

Notary Public

My Commission Expires: 11/3/2011



## **EXHIBIT A**

Incorporated into and made a part of the Declaration of Trust of GREENLEAVES RETIREMENT COMMUNITY TRUST NO. 3.

### **BY-LAWS OF GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM TRUST NO. 3**

The provisions of this Exhibit A attached to GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM TRUST NO. 3 shall constitute the By-Laws of said GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM TRUST NO. 3, the organization of Unit Owners established by said Trust.

#### **I. Powers and Duties of the Trustees**

The Board of Trustees shall have all powers necessary for the administration of the affairs of the Condominium as set forth in Massachusetts General Laws, Chapter 183A ("Condominiums"), hereinafter called "Chapter 183A", and they may do any and all acts necessary or desirable for the administration of the affairs of the Condominium except only for such acts as may not, under law, or under the provisions of the Master Deed, or this Trust, be delegated to the Trustees by the Unit Owners. Such powers and duties of the Trustees shall include, but shall not be limited to, the following:

- A. Operation, care, upkeep and maintenance of the common areas and facilities.
- B. Determination of the Common Expenses required for the affairs of the Condominium, including, but not limited to the operation and maintenance of the common areas and facilities.
- C. Collection of the Common Expenses, from the Unit Owners.
- D. Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the common areas and facilities.
- E. Subject to the provisions of Section VII of these By-Laws, adoption, amendment, and administration (including waiver) of rules and regulations covering the details of the operation and use of the common areas and facilities.
- F. Opening of bank accounts on behalf of the Condominium, and, subject to the provisions hereof, designating the signatories required therefor.
- G. Leasing, managing and otherwise dealing with such facilities as may be provided for in the Master Deed as being common areas and facilities.

H. Owning, conveying, encumbering, leasing and otherwise dealing with units conveyed to the Trust or purchased by it as a result of enforcement of the lien for Common Expenses, or otherwise.

I. Obtaining of insurance for the Condominium, including the units, pursuant to the provisions hereof.

J. Making of repairs, additions and improvements to, or alterations or restoration of, the Condominium, in accordance with the other provisions of this Trust.

K. Enforcing obligations of the Unit Owners, allocating income and expenses, and to do anything and everything else necessary and proper for the sound management of the Condominium.

L. Subject to the provisions of Subsection (B) of Section XXIX of these By-Laws, purchasing or leasing a Unit.

M. Purchasing of units at foreclosure or other judicial sales.

N. Organizing and maintaining corporations, trusts, or other entities to act as nominee of the Condominium in acquiring title to units on behalf of all Unit Owners under the provisions hereof.

O. Conducting litigation as to any course of action involving the common areas and facilities or arising out of the enforcement of the By-Laws, rules and regulations, and Master Deed, and this Trust. Notwithstanding any provision of the Master Deed, or the Declaration of Trust of the Condominium Trust, or of these By-Laws or the Rules and Regulations to the contrary, neither the Trustees acting in their capacity as such Trustees or acting as representatives of the Unit Owners, nor any class of Unit Owners shall bring any litigation whatsoever unless a copy of the proposed complaint in such litigation has been delivered to all of the Unit Owners, and not less than eighty (80%) per cent of all Unit Owners consent in writing to the bringing of such litigation within sixty (60) days after a copy of such complaint has been delivered to the Unit Owners and specifying as a part of the written consent a specific monetary limitation to be paid as legal fees and costs and expenses to be incurred in connection therewith, which amount shall be separately assessed as a special assessment effective forthwith at the time of said affirmative consent. Notwithstanding any provisions of the Master Deed, or of the Declaration of Trust of the Condominium Trust (including but not limited to the provisions of Section VII of the Declaration of Trust of the Condominium Trust), or these By-Laws or the Rules and Regulations, the provisions of this Paragraph (O) of this Section I shall not be amended except by vote of at least eighty (80%) per cent of Unit Owners. The provisions of this paragraph (O) shall not apply to litigation by the Condominium Trust against Unit Owners with respect to the recovery of overdue Common Expenses or Special Assessments, or to foreclose the lien provided by Chapters 183A, Section 6, as amended, or to enforce any of the provisions of the Master Deed, or the Declaration of Trust of the Condominium Trust, or these By-Laws or Rules and Regulations thereto, or the unit deed, against Unit Owners.

P. Granting permits, licenses and easements over the common areas and facilities for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium project.

## **II. Common Expenses and Profits**

A. Commencing on the date of the recording of the Master Deed, each Unit Owner shall be liable for Common Expenses and shall be entitled to common profits of the Condominium in the same proportion as his beneficial interest in this Trust bears to the aggregate beneficial interest of all the other Unit Owners. The Trustees may at any time or times distribute common profits among the Unit Owners in such proportions. The Trustees shall at all times establish and maintain an adequate reserve fund for the periodic maintenance, repairs and replacement of improvements to the common areas and facilities and those limited common areas which the Trust may be obligated to maintain, and such reserve fund shall be funded by regular monthly assessments from regular assessments for Common Expenses, and such fund shall not be deemed to be common profits available for distribution.

B. In addition to the foregoing, (and not in substitution thereof) to ensure that this Trust will have the funds to meet unforeseen expenditures or to purchase any additional equipment or services, there shall be a working capital fund at least equal to two (2) months' estimated common charges for each unit. Any amounts paid into this fund shall not be considered as advance payments of regular assessments. Each unit's share of the working capital fund shall be collected at the time the sale of the unit is closed or at the time control of this Trust is transferred to the Trustees elected by Unit Owners other than the Amhad Development Corp., as set forth in Section III of this Trust, whichever occurs earlier. When control of this Trust is transferred as set forth in the immediately preceding sentence, the working capital fund shall be transferred to this Trust for deposit to a segregated fund. During the term of the Initial Board (or while a majority of the Trustees are members of the Board of Directors of Amhad Development Corp., or nominees or designees of Amhad Development Corp.) the working capital fund which is the subject of this Subsection cannot be used to defray the expenses, reserve contributions, or construction costs which are the responsibility of the Amhad Development Corp. in its role as developer of the Condominium or to make up budget deficits. Amhad Development Corp. may reimburse itself for these payments from the funds collected at closing when the unsold units are sold.

C. In addition to the foregoing, (and not in substitution thereof), the Trustees may, to such extent as they deem advisable, set aside common funds of the Condominium as additional reserves and may use the funds so set aside for reduction of indebtedness or other lawful capital purposes, and, subject to the provisions of Section IV of these By-Laws, for repair, rebuilding or restoration of the Condominium, or for improvements thereto, and for replacement of the common areas and facilities, and other proper contingencies, and the funds so set aside shall not be deemed to be common profits available for distribution.

D. At least thirty (30) days prior to the commencement of each fiscal year of this Trust, the Trustees shall estimate the Common Expenses expected to be incurred during such

fiscal year, together with reasonable provision for contingencies and reserves, and for the reserve funds mentioned in Subsection C of this Section II, and after taking into account any undistributed common profits from prior years, shall determine the assessment for Common Expenses to be made for such fiscal year. The Trustees shall promptly furnish copies of each budget on which such assessment is based to all Unit Owners, and, if requested, to their mortgagees. The Trustees shall promptly render statements to the Unit Owners for the respective shares of such assessment, and each Unit Owner thereafter shall pay one-twelfth of his share of the estimated Common Expenses monthly in advance on the first day of each month. The Trustees shall not be obligated to render monthly statements. In the event that at any time and from time to time the Trustees shall determine during any fiscal year that the assessment so made is less than the Common Expenses actually incurred, or to be incurred, including but not limited to provisions for proper reserve funds, the Trustees shall make a supplemental assessment or assessments and render statements therefor in the manner aforesaid, and such statements shall be payable and take effect as set forth in such statements. The Trustees may in their discretion provide for payments of such supplemental assessment statements in monthly or other installments. The Trustees shall have the authority and the duty to levy and enforce the collection of general and special assessments for Common Expenses.

E. The amount of each such statement, for regular or supplemental assessments, together with interest thereon, if not paid when due, at a rate of eighteen (18%) percent together with all expenses, including attorneys' fees, incurred by the Trustees in any proceeding brought to collect such unpaid Common Expenses and assessments, shall constitute a lien on the unit of the Unit Owner assessed pursuant to the provisions of Section 6 of said Chapter 183A and Sections 5 and 5A of Chapter 254, as amended, and may be collected by the Trustees pursuant to said statutes. The Trustees shall take prompt action to collect any Common Expenses and assessments due from any Unit Owner which remains unpaid for more than thirty (30) days from the due date thereof, including but not limited to, action under the provisions of Massachusetts General Laws Chapters 183A and 254, as amended. In the event that the Trustees bring an action to foreclose a lien on any unit pursuant to said statute, the Unit Owner shall pay a reasonable sum for use and occupancy of his unit from the date of foreclosure until the Unit Owner vacates the unit (the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same) but nothing in this sentence shall be deemed to grant any Unit Owner the right to remain in possession of his unit after such foreclosure. The Trustees, acting on behalf of all Unit Owners, shall have power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage (but not vote the vote appurtenant to), convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same. In the event of any suit or foreclosure by the Trustees, the Trustees shall be entitled to interest at a rate of eighteen (18%) percent per annum, and all costs of collection, suit and foreclosure, including attorney's fees. In addition to the lien in favor of the Trustees for assessments for Common Expenses and assessments, such assessments shall also be the personal obligation of the owner of the unit at the time the assessment fell due.

F. The Trustees shall promptly provide any Unit Owner, or any Unit Buyer who has a duly executed Purchase and Sale Agreement for the acquisition of a unit, or any mortgagee, or the attorney of any such party, with a written statement of all unpaid Common Expenses due with respect to such unit, signed and acknowledged in proper form for recording, upon the

written request of such Unit Owner or buyer or mortgagee or attorney. Notwithstanding anything to the contrary in this Declaration of Trust, including these By-Laws, such statements may be executed by any two (2) Trustees. Recording of such statement in the Hampshire County Registry of Deeds shall operate to discharge the unit from any lien for any other sums unpaid not enumerated as of the date of such statement to the extent provided by said Chapter 183A.

G. The Trustees shall expend common funds only for common expenses and lawful purposes permitted hereby and by the provisions of said Chapter 183A.

H. Any first mortgagee who obtains title to a condominium unit, pursuant to the remedies provided in its mortgage, or foreclosure of its mortgage, shall be liable only for such unit's unpaid dues, common charges, or assessments which accrue prior to the acquisition of title to such unit by the Mortgagee, and which such dues, common charges or assessments are a liability of a first mortgagee as required in subsection (c) of Section 6 of G.L. c. 183A, as amended. The lien for common expense 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 mortgagee shall extinguish a subordinate lien for assessments which became payable prior to such sale or transfer, provided, however, that the lien for common expense assessments shall be affected by the sale or transfer of a unit to the extent set forth in subsection (c) of Section 6 of G.L. c. 183A, as amended. Any such delinquent assessments which were extinguished pursuant to the immediately preceding sentence 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 for liability for, nor the unit from the lien of, any assessments made thereafter.

### **III. Insurance**

A. The Trustees shall be required to obtain and maintain, to the extent obtainable, the following insurance (and to pay premiums thereon as a Common Expense):

1. Fire with extended coverage (covering other perils normally covered by the standard extended coverage endorsement) insuring all portions of the building, including the common areas and facilities of the Condominium, and all of the units and all of the fixtures installed therein, but not including furniture or other personal property of the Unit Owner or occupant of a Unit, covering the interest of the Condominium, the Trustee and all Unit Owners and their mortgagees, as their interests may appear, in an amount equal to 100% of current replacement cost of the building, common areas and facilities, and units, without deduction for depreciation, with loss payable to the Trustees, as Insurance Trustees for each Unit Owner and the holder of each unit's mortgage. The named insured shall be "the Trustees of The Greenleaves Retirement Community Condominium Trust No. 3, for the use and benefit of the individual Unit Owners and unit mortgagees". Such insurance shall also cover all other perils which are customarily covered with respect to projects similar in construction, location and-use, including all perils normally covered by the standard "all risk" endorsement, where such is available;

2. Worker's compensation insurance if the Trustees shall have an employee or employees;
3. Comprehensive general liability insurance covering all common areas and facilities, all units, and any other areas under the supervision of the Trustees in such amounts and with such coverage as the Trustees shall from time to time determine, with a combined single limit for both personal injury, death and property damage, of not less than One Million (\$1,000,000.00) Dollars, but at least covering each member of the Trustees, the managing agent or the manager, if any, and each Unit Owner and with cross liability endorsement to cover liabilities of the Condominium to a Unit Owner, and a severability of interest provision precluding the insurer's denial of a Unit Owner's claim because of negligent acts by this Trust or other Unit Owners;
4. Fidelity bonds in blanket form for all officers, directors, trustees and employees of the Trust and all other persons handling or responsible for funds administered by the Trust whether or not they receive compensation for their services. The total amount of fidelity bond coverage shall not be less than the estimated maximum funds, including reserve funds, in the custody of the Trust or the management agent, as the case may be, at any given time during the term of such bond, and, in any event, the aggregate amount shall not be less than a sum equal to three (3) months' aggregate assessments on all Units plus reserve funds, or one and one-half times the insured's estimated annual operating expenses and reserves, whichever is greater. (i) The fidelity bonds shall name the Trust as an obligee; (ii) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expression; and (iii) the bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Trust and to the Mortgagees which are listed as scheduled holders of first mortgages in the insurance policy; and
5. Such other insurance as the Trustees may determine. Notwithstanding the provisions of Clause (4) of the immediately preceding sentence, the fidelity bonds set forth in said Clause (4) shall be required only if required under the provisions of subsection (E) of Section III of this Trust, and not otherwise. All such policies shall provide that adjustment of loss shall be made by the Trustees and that the net proceeds thereof shall be payable to the Trustees as Trustee for each Unit Owner and the holder of each unit's mortgage. Each Unit Owner, by accepting delivery of his unit deed, appoints the Trustees as Insurance Trustees (or any Insurance Trustee or Substitute Insurance Trustee designated by the Trustees) as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Trustees shall periodically reevaluate the amount of public liability insurance to be carried by them as set forth in Clause (3) of this Section 3 to the end that the limits of such insurance shall not be less than the

amounts specified in said Clause (3), or, not less than limits of such liability insurance as are carried by other Condominium Unit Owners' Associations in comparable condominiums in Amherst, Massachusetts, whichever is higher.

B. All such policies of physical damage insurance shall, insofar as practicable, contain waivers of subrogation as to any claim against the Trustees, their agents and employees, Unit Owners, their respective employees, agents and guests, and of any defense based on invalidity arising from the acts of the insured and shall provide that the insurance will not be prejudiced by any acts or omissions of individual Unit Owners that are not under the control of the owner's association, and shall provide that such policies may not be canceled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including all Unit Owners and mortgagees of units, and recovery thereunder shall not be affected on account of the availability of proceeds under any policies obtained by individual Unit Owners covering their own units and shall include a Special Condominium Endorsement (so called) or its equivalent. Agreed Amount, Inflation Guard and Construction Code endorsements shall be required if available. A certificate of insurance, showing the amount of insurance, shall be issued to the owners of each unit and the original or a certificate thereof shall, upon request, be delivered to the mortgagee of each unit. The Trustees shall periodically obtain an independent appraisal of the full replacement value of all portions of the building, including all of the units and all of the common areas and facilities, and additions, alterations and improvements, without deduction for depreciation, for the purposes of determining the amount of fire and extended coverage insurance to be effected pursuant to this Section, and the amount of such insurance shall in no event be less than the full replacement value so as determined.

C. Subject to the provisions of Section IV of these By-Laws, insurance proceeds received by the Trustees shall be held in trust in an identified and segregated fund for the benefit of the Unit Owners and all mortgagees of all units. If the cost of restoring the common areas and facilities, or any unit, is estimated by the Trustees to exceed the sum of One Thousand (\$1,000.00) Dollars, then the Trustees shall give written notice of such loss to all eligible Mortgage Holders and all eligible Insurers and Guarantors, as herein defined.

D. The cost of all such insurance obtained and maintained by the Trustees pursuant to the provisions of this Section III shall be a Common Expense of the Condominium.

E. Any such insurance obtained and maintained by the Trustees pursuant to the provisions of this Section III may have a deductible amount to be determined from time to time by the Trustees, (but in no event shall such deductible amount be greater than the lesser of \$10,000.00 or 1 % of the policy face amount), who shall simultaneously specify, in writing with notice to all Unit Owners, how and by whom the amount of the deductible shall be paid in the event of a loss.

F. All insurance obtained and maintained by the Trustees shall conform to applicable requirements of the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal National Mortgage Association ("FNMA") so long as FHLMC or FNMA hold one or more mortgages on units in the Condominium or any interest therein.

G. Each Unit Owner may carry insurance at his own expense for his own benefit insuring, inter alia, his drapes, furniture and other personal property, and personal liability, and loss assessment coverage, provided that all such policies shall contain waivers of subrogation, and further provided, that the liability of the carriers issuing insurance obtained by the Trustees shall not be affected or diminished by reason of any such additional insurance carried by a Unit Owner.

H. Nothing shall be done or kept in any unit or in the common areas and facilities which will increase the rate of insurance on the buildings or the contents thereof without the prior written consent of the Trustees, unless the Unit Owner responsible for such increase shall agree to pay the amount of such increase.

#### **IV. Rebuilding and Restoration**

A. In the event of damage to or destruction of the common areas and facilities as a result of fire or other casualty (unless Subsection F of this Section is applicable), or, in the event of damage to or destruction of any unit as a result of fire or other casualty, whether or not the common areas and facilities have been damaged or destroyed (unless Subsection F of this Section is applicable), the Trustees shall promptly adjust the loss, arrange for the prompt repair or restoration of the same, and disburse the proceeds of all insurance policies in payment of all costs and expenses actually incurred in connection with such repair or restoration in appropriate progress payments and with appropriate retainage. All insurance proceeds paid to the Trustees as Insurance Trustees, on account of any casualty shall be dedicated first to the repair or restoration of the loss, and any application of said proceeds by the Trustees on account thereof shall be prior to the application of such proceeds for any other purposes.

B. In the event the insurance proceeds are not sufficient to cover the cost of repairs to the common areas and facilities and the units, the proceeds will be first allocated to the cost of repairs to the common areas and facilities and the balance, if any, to the cost of repairs to the units in proportion to the cost of all repairs to the respective units as determined, by the insurer or by independent appraisal. To the extent the proceeds allocated as aforesaid are insufficient to cover the cost of repairs to the common areas and facilities, the balance of the cost of such repairs will be assessed against all Unit Owners as a Common Expense.

C. Whenever the estimated cost of repair or restoration exceeds, as to any one casualty or occurrence, on the basis of an independent appraisal, the sum of twenty-five thousand (\$25,000.00) dollars, then the Trustees shall retain a registered architect or registered engineer, who shall not be directly or indirectly, a Unit Owner or an employee or agent of any Unit Owner, or a Trustee or an employee or agent of any of the Trustees, or the manager, if any, or any employee or agent of such manager, to supervise the work of repair or restoration and no sums shall be paid by the Trustees on account of such repair or restoration except upon certification to them by such architect or engineer that the work for which payment is being made has been completed in a good and workmanlike manner in accordance with approved plans and specifications and that the estimated total cost of completion of said repair or restoration, less amounts theretofore advanced, does not exceed the undisbursed proceeds of insurance as



augmented by funds obtained by any assessment or assessments levied or chargeable to the Unit Owners as a Common Expense.

D. The Trustees may perform emergency work essential to the preservation and safety of the Condominium, including all parts of the building and the common areas and facilities and the units, or the safety of persons, or required to avoid the suspension of any essential service to the Condominium, including all parts of the building and the common areas and facilities and the units, without having first engaged an architect or engineer, adjusted the loss or obtained proceeds of insurance.

E. If there shall have been a repair or restoration pursuant to the foregoing and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds, if any, shall be added to the Condominium's reserve fund, or, at the option of the Trustees, divided among all the Unit Owners in proportion to their respective interests in the common areas and facilities. Notwithstanding the foregoing, if, as a result of fire or other casualty, the loss exceeds ten (10%) percent of the value of the Condominium, including all parts of the building and the common areas and facilities and the units prior to the casualty, and: (a) if seventy-five (75%) percent of the Unit Owners do not agree within one hundred twenty (120) days after the date of the casualty to proceed with repair or restoration, the Condominium, including all units, shall be subject to partition at the suit of any Unit Owner. Such suit shall be subject to dismissal at any time prior to entry of an order to sell if an appropriate agreement to rebuild is filed. Subject always to the prior rights of the Unit Mortgagees, the net proceeds of the partition sale together with any common funds shall be divided in proportion to the Unit Owners' respective undivided ownership in the common areas and facilities. Upon such sale, the Condominium shall be deemed removed from the provisions of Chapter 183A of the Massachusetts General Laws; (b) if seventy-five (75%) percent of the Unit Owners agree to proceed with the necessary repair or restoration, the cost of the rebuilding of the Condominium, in excess of any available common funds including the proceeds of any insurance, shall be a common expense, provided, however, that if such excess cost exceeds ten (10%) percent of the value of the Condominium including all parts of the building and the common areas and facilities and the units, prior to the casualty, any Unit Owner who did not so agree may apply to the Superior Court of Hampshire County on such notice to the Trustees and Unit Owners as the Court shall direct, for an order directing the purchase of his unit by the Trustees at the fair market value thereof as approved by the Court. The cost of any such purchase shall be a Common Expense.

## V. Condemnation

If more than ten (10%) percent in value of the Condominium is taken under the power of Eminent Domain, then the taking shall be treated as a casualty loss and the provisions of Section IV of these By-Laws and the provisions of Massachusetts General Laws, Chapter 183A, Section 17 shall apply. Where one or more units have been substantially altered or rendered uninhabitable as a result of a partial taking, and the Unit Owners vote to restore and continue the Condominium pursuant to Section 17 of said Chapter 183A, the Trustees shall have the authority to acquire the remaining portions of such units for such price as the Trustees shall determine,

provided that any Unit Owners of such remaining portion who does not agree with such determination may apply to the Superior Court of Hampshire County on such notice to the Trustees and the other Unit Owners as the Court shall direct, for an order directing the purchase of such remaining portion at the fair market value thereof as approved by the Court. Where as a result of a partial taking any unit is decreased in size or where the number of units is decreased by a partial taking, then the Trustees may make such provision for realignment of the percentage interest in the common areas and facilities as shall be just and equitable.

In the event of a total or partial taking under the powers of eminent domain, the Unit Owners shall be represented by the Condominium acting through the Trustees. In the event of a partial taking, the award shall be allocated to the respective Unit Owners according to their undivided interest in the common areas and facilities, except as to such portion or portions of the award which are attributable to direct or consequential damages suffered by particular units as determined by the Court, which shall be payable to the Owners of such Units or their mortgagees, as their interests may appear. Subject always to the prior rights of the Unit Mortgagees, in the case of a total taking of all units and the common areas and facilities, the entire award shall be payable to the Trustees to be distributed to the Unit Owners and their mortgagees in accordance with their respective percentage interests in the common areas and facilities.

## **VI. Improvements**

A. If fifty (50%) percent or more but less than seventy-five (75%) percent of the Unit Owners agree to make an improvement to the common areas and facilities, the cost of such improvement shall be borne solely by the Owners so agreeing.

B. Seventy-five (75%) percent or more of the Unit Owners may agree to make an improvement to the common areas and facilities and assess the cost thereof to all Unit Owners as a Common Expense, but if such improvement shall cost in excess of ten (10%) percent of the then value of the Condominium, including the building and the common areas and facilities and the units, any Unit Owner not so agreeing may apply to the Superior Court of Hampshire County on such notice to the Trustees and Unit Owners as the Court shall direct, for an order directing the purchase of his unit by the Trustees at fair market value thereof as approved by the Court. The cost of any such purchase shall be a Common Expense.

## **VII. Rules and Regulations**

A. The Trustees have adopted the initial Rules and Regulations set forth on Exhibit B which is annexed hereto and is hereby incorporated herein by this reference and made a part hereof, governing the details of the operation and use of the common areas and facilities, and containing such restrictions on, and requirements respecting the use and maintenance of, the common areas and facilities as are consistent with the provisions of the Master Deed, and designed to prevent unreasonable interference with the use by the Unit Owners of the common areas and facilities.

B. The Trustees shall administer such rules and regulations.

C. The Trustees may at any time and from time to time, amend, rescind and waive, any or all of such rules and regulations.

D. The Trustees may at any time and from time to time, adopt other rules and regulations governing the details of the operation and use of the common areas and facilities, and containing such restrictions on, and requirements respecting the use and maintenance of, the common areas and facilities as are consistent with the provisions of the Master Deed, and designed to prevent unreasonable interference with the use by the Unit Owners of the common areas and facilities.

E. Notwithstanding the foregoing provisions of this Section VII:

1. The Trustees shall furnish copies of any new rule or regulation, or amendment of any existing rule or regulation, to the Unit Owners prior to the time when such new rule or regulation, or amendment, as the case may be, shall become effective, and
2. The Unit Owners, by majority vote, may, at any time and from time to time, rescind, amend or waive any rule or regulation promulgated by the Trustees (including but not limited to the initial rules and regulations referred to hereinabove); and
3. Any waiver, rescission, amendment, adoption or enforcement of a rule or regulation whether by the Trustees or the Unit Owners, as hereinbefore set forth, shall be uniformly binding upon all Unit Owners.

### **VIII. Meetings**

A. The Board of Trustees shall meet annually on the date of the Annual Meeting of the Unit Owners. Other meetings may be called by any Trustee, and in such other manner as the Trustees may establish, provided, however, that written notice of each meeting, shall be given at least five (5) days before such meeting to each member of the Board of Trustees. A majority of the Trustees shall constitute a quorum at all meetings. All meetings shall be conducted in accordance with such rules as the Board of Trustees may adopt.

B. There shall be an annual meeting of the Unit Owners on the second Monday of September in each year at 8:00 P.M. on the Condominium premises or at such other reasonable place and time (not more than twenty-one (21) days before or after said date) as may be designated by the Board of Trustees by written notice given to the Unit Owners at least fourteen (14) days prior to the date so designated. Special meetings of the Unit Owners may be called by them upon the written request of any Unit Owner. Written notice of any such meeting designating the place, day and hour thereof shall be given by the Board of Trustees to the Unit Owners at least fourteen (14) days prior to the date so designated. At the annual meeting of the Unit Owners, the Board of Trustees shall submit reports of the management and finances of the Condominium. Whenever at any meeting the Board of Trustees proposes to submit to the Unit

Owners any matter with respect to which approval of or action by the Unit Owners is necessary or appropriate, the notice of such meeting shall state and reasonably specify such matter. A quorum of Unit Owners shall consist of a majority in interest of Unit Owners.

C. Any Trustee or Unit Owner may, at any time, waive notice of any meeting in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Trustee or Unit Owner without objection to lack of notice at any meeting shall constitute a waiver of notice by such Trustee or Unit Owner of notice of such meeting. If all of the Trustees are present at any meeting of the Trustees, or if all of the Unit Owners are present at any meeting of the Unit Owners, respectively, no notice shall be required and any business may be transacted at such meeting of the Trustees, or Unit Owners, respectively.

#### **IX. Notices to Unit Owners**

Every notice to any Unit Owner required under the provisions hereof, or which may be deemed by the Trustees necessary or desirable in connection with the execution of the Trust created hereby or which may be ordered in any judicial proceeding, shall be deemed sufficient and binding if a written or printed copy of such notice shall be given by one or more of the Trustees to such Unit Owner by leaving such notice with him at his residence in the Condominium or by mailing it, postage prepaid, addressed to such Unit Owner at his address as it appears upon the records of the Trustees, at least five (5) days prior to the date fixed for the happening of the matter, thing or event of which such notice is given, unless a different period for the giving of such notice is specified in these By-Laws.

#### **X. Inspection of Books; Reports to Unit Owners**

The Trustees shall keep detailed records of the actions of the Trustees, minutes of the meetings of the Trustees, minutes of the meetings of the Unit Owners, and financial records and books of account of the Condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each unit, which among other things, shall contain the amount of each assessment of Common Expenses against such unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. Copies of the Master Deed, this Trust and these By-Laws, rules and regulations, and floor plans of the building, as the same may be amended from time to time, shall be maintained at the office of the Trustees. All of the foregoing records, accounts and documents shall be available for inspection by Unit Owners, their authorized agents, and lenders, mortgagees, holders, insurers and guarantors of any mortgage on any unit at all reasonable times. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances. The Trustees shall, as soon as reasonably possible, after the close of each fiscal year, or more often, if convenient to them, submit to the Unit Owners a report of the operation of the Trustees for such year, which shall include financial statements in such summary form and in such detail as the Trustees shall deem proper. Except in the case of fraud, committed by any Trustee, any person (other than a mortgagee or mortgage insurer or guarantor) 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 within a period of sixty (60) days of the date of receipt by him, shall be deemed to have assented thereto. The holders of fifty-one (51 %) percent or more of first mortgages shall be entitled to have an audited statement prepared at their expense within a reasonable time if one is not otherwise available.

#### **XI. Checks and Notes**

Checks, 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 (2) Trustees, or by any person or persons (who may be one of the Trustees) to whom such power may at any time or from time to time be designated by not less than a majority of the Trustees. All vouchers, if any, for the payment of any common expense shall be approved by not less than two (2) Trustees in each instance.

#### **XII. Seal**

The Trustees may, at any time or from time to time, at their discretion, adopt a seal circular in form bearing the name of this Trust and the year in which this instrument was recorded in the Registry of Deeds, or a common or wafer seal, which shall be valid for all purposes.

#### **XIII. Fiscal Year**

The fiscal year of the Trust shall be the calendar year, or such other date as may from time to time be determined by the Trustees.

#### **XIV. Management; Employees**

A. The Trustees, at their discretion, may, but need not, appoint real estate management firm, or manager, to manage the Condominium, at such compensation, and upon such terms and conditions as the Trustees see fit. If such management firm, or manger, is so appointed, the Trustees may delegate to such firm or manager such duties as are customarily and usually performed by Condominium property managers in the Amherst, Massachusetts, area, or such duties as the Trustees may at any time and from time to time, expressly delegate.

B. Notwithstanding anything to the contrary herein, any agreement for professional management of the Condominium shall provide that the management contract may be terminated without cause and without payment of a termination fee or penalty on ninety (90) days' written notice, or less, and the term of any such contract shall not exceed three (3) years.

C. When professional management has been previously required by an eligible Mortgage Holder any decision to establish self management by the Trustees shall require the prior consent set forth in clause (n) of Section (D) of Section XXXIII hereof.

D. The consent of not less than two (2) Trustees shall be necessary for the hiring and dismissal of any employees of the Condominium.

#### **XV. Use of Units**

A. No unit shall be occupied for other than residential purposes nor by more than four (4) persons.

B. All Units shall be subject the use limitations set forth in Paragraph (H) of the Master Deed.

C. Notwithstanding the foregoing; until Amhad Development Corporation, has conveyed all of the units of all phases, or is no longer the Initial Trustee, it may use one or more units for a sales office or model, and may maintain "For Sale" signs on and in the building.

D. Each Unit Owner shall be obligated to maintain the interior of his or her own unit in good order and repair.

#### **XVI. Use of Common Areas and Facilities**

A. Unit Owner shall not place or cause to be placed on the common areas and facilities any furniture, packages or objects of any kind. The stairways shall be used for no purpose other than for normal transit through them.

#### **XVII. Attorneys, Accountants, Appraisers**

The Trustees may, but need not, engage the services of attorneys, accountants, appraisers, architects, engineers, and other professionals in connection with their duties as such Trustees, upon the payment of such fees and upon such other terms and conditions as the Trustees shall decide, and such fees and other expenses in connection with such employment shall be common expenses of the Condominium. The Trustees, in the absence of fraud, shall be protected in reasonably relying upon the opinion of such attorneys, accountants, appraisers, architects, engineers, or other professionals engaged by the Trustees pursuant to their duties as such Trustees.

**XVIII. Electricity, Other Utilities**

Electricity shall be supplied by the public utilities servicing the area in which the Condominium is located, directly to each unit through separate meters. Each Unit Owner shall be required to pay all bills and assessments for electricity, and other utilities (if any), consumed or used in his unit.

**XIX. Violations by Unit Owners**

The violation of any rule or regulation adopted by the Trustees, or the breach of any of these By-Laws, or the breach of any provisions of the Master Deed or of this Trust or for the offending Unit Owner's Unit Deed, shall give the Trustees the right, in addition to any other rights set forth in these By-Laws, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity (or both) the continuance of any such breach. In addition to the foregoing, and not in substitution therefor, the Trustees shall have the power to levy fines against Unit Owners for such violations. No fine may be levied for more than five (\$5.00) dollars for any one violation but for each day a violation continues after notice it shall be considered a separate violation. Collection of fines may be enforced against the Unit Owner or Unit Owners involved as if the fines were Common Expenses owed by the particular Unit Owner or Unit Owners. In the case of persistent violations by a Unit Owner, the Trustees shall have the power, after notice and a hearing pursuant to Section XXXIV hereof, to require such Unit Owners to post a bond to secure adherence to said rules and regulations, By-Laws, Master Deed, this Trust, or said Unit Deed.

**XX. Violation of Law**

No noxious or unlawful activity shall be carried on in any unit or in the common areas and facilities nor shall anything be done therein, either willfully or negligently, which may be or become unreasonably annoying to the other Unit Owners or occupants. No Unit Owner shall make or permit any disturbing noises by himself, his family, guests, agents, servants, employees, licensees, or tenants, nor do or permit anything by such persons that will unreasonably interfere with the rights, comforts or conveniences of other Unit Owners or occupants. For purposes of this Section, any noise from within a unit which can be heard within another unit shall be deemed a disturbing noise.

**XXI. Maintenance and Repairs**

A. All maintenance and replacement of and repairs to any unit, ordinary or extraordinary other than to the common areas and facilities contained therein not necessitated by the negligence, misuse or neglect of the owner of such unit and to the doors and windows, and to electrical, plumbing, and heating fixtures within the unit or belonging to the Unit Owner which are not a part of the common areas and facilities shall be done by the Unit Owner at the Unit Owner's expense, exception as otherwise specifically provided herein. Each Unit Owner shall be

responsible for all damages to any and all other units and to the common areas and facilities that his failure so to do may engender.

B. All maintenance, and replacements of and repairs to the common areas and facilities as defined in the Master Deed, and all maintenance, and replacement of and repairs to the exterior walls of the building and to structural parts of the building and the painting and decorating of the exterior doors of the building and exterior window sash, shall be made by the Trustees and shall be charged to each of the Unit Owners as a common expense, excepting to the extent that the same are necessitated by the negligence, misuse or neglect of a Unit Owner, in which case such expense shall be charged to such Unit Owner.

## **XXII. Right of Access-Pass Keys**

Subject to the provisions of said Chapter 183A, Section 4, Clause (2), the Trustees in their capacities as such Trustees, and any manager engaged by the Trustees, and any persons authorized by the Trustees or such manager shall have a right of access to all units in the Condominium, at any time in case of emergency, and at all other times during reasonable times by prior appointment with each Unit Owner, for the purpose of making inspections or repairs to either the unit to which such persons seek access, or to another unit, or any part of the common areas and facilities.

The Trustees or their designated agent shall retain a pass key to each unit, and no Unit Owner shall alter, change or install any locks without first providing the Trustees or their designated agent with a pass key with respect to any such changed, altered or new lock.

## **XXIII. Pets**

The following pets may be kept by a Unit Owner subject to conditions: One small dog under twenty (20) lbs; one indoor cat, no more than two small caged birds or fish. All pets must be registered with the Trustees or its designated manager, and a Pet Agreement/Rules and Regulations agreement signed. Failure to abide by the agreement will result in termination of the pet privilege. No such pets shall be permitted in any part of the Condominium (other than within the unit of the owner thereof) unless carried or on a leash. After due notice and hearing, the Trustees may require any Unit Owner to dispose of any pet which has habitually been guilty of annoying or harassing any Unit Owner or occupant.

## **XXIV. Structural Integrity**

Nothing shall be done or maintained in any unit or in the common areas and facilities which will impair the structural integrity of any part of the building of the Condominium.



**XXV. No Alterations**

Neither the exterior of any unit nor the common areas and facilities nor the hallways or lobby shall be altered, constructed, removed, decorated or painted in any manner except with the written consent of the Trustees. Any Unit Owner is free to decorate the interior of his unit in any manner as he sees fit without requiring the consent of the Trustees so long as such decorations do not alter the structure of the unit or the building.

**XXVI. Signs**

Except only as set forth in Subsection B of Section XV ("Use of Units") of the By-Laws of this Trust, no business, professional, commercial or other signs, whether designed for profit, altruism or otherwise shall be maintained or permitted on any part of the property nor shall any "For Sale", "For Rent", or "For Lease" sign be permitted thereon except by Amhad Development Corp. during such time as the Declarant owns one or more units in the Condominium, and except for any Mortgagee who may become the owner or Mortgagee in possession of any unit, but in no event shall any such sign be larger than two (2) square feet.

**XXVII. Combustible Materials**

No Unit Owner shall permit or suffer the keeping at any time of any flammable, combustible or explosive fluid or substance on the property of the Condominium or in his unit except only for such lighting and cleaning fluids as are customary for residential use.

**XXVIII. Safety**

Each Unit Owner assumes complete responsibility for the safety of himself, his family, guests, agents, servants, employees, licensees and tenants while such persons are in his unit, or any other unit, or on the common areas and facilities of the Condominium.

**XXIX. Sale of Units**

A. No Severance of Ownership. No Unit Owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his unit without including therein the Appurtenant Interests (as hereinafter defined); it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any unit may be sold, transferred, or otherwise disposed of, except as part of a sale, transfer, or other disposition of the unit to which such interests are appurtenant, or as part of a sale, transfer, or other disposition of such part of the Appurtenant Interest of all units. "Appurtenant Interests", as

used herein, shall include (i) the undivided interest of a Unit Owner in the common areas and facilities; and (ii) the interest of such Unit Owner in any other assets of this Trust, but the foregoing language shall not hinder or prevent any Unit Owner from conveying an easement or easements for the exclusive use of a Parking Space to another Unit Owner(s), and all easements so conveyed shall not be included in the term "Appurtenant Interests".

B. **Financing of Purchase of Units by Trustees.** With the prior written approval of at least seventy-five (75%) percent of the beneficial interests hereunder (the vote of the Unit Owner of the unit which is the subject of such vote shall not be counted), the Trustees may acquire or lease units of the Condominium. Acquisition or lease costs of units by the Trustees may be made from any funds in the hands of the Trustees; or if such funds are insufficient, the Trustees may levy an assessment against each Unit Owner in proportion to his beneficial interest as a common Expense; or the Trustees, in their discretion, may borrow money to finance the acquisition of such units, provided, however, that no financing may be secured by an encumbrance or hypothecation of any property other than the specific unit or units with Appurtenant Interests so to be acquired by the Trustees. Nothing in this Subsection (B) of this Section shall be construed as compelling any Unit Owner to sell his unit. Nothing in this Subsection (B) of this Section shall have any effect, nor limit in any manner the rights and remedies of the Trustees under the provisions of Section 6 of Chapter 183A, or under the provisions of Subsections A and B of Section II hereof.

C. **Waiver of Right of Partition.** In the event that a unit shall be acquired by the Trustees, all Unit Owners shall be deemed to have waived all rights of partition with respect to such unit or units as are acquired by the Trustees.

D. **Payment of Assessments.** No Unit Owner shall convey, mortgage, pledge, hypothecate, sell or lease his unit unless and until he shall have paid in full to the Trustees all unpaid Common Expenses, theretofore assessed by the Trustees against his unit and until he shall have satisfied all unpaid liens against such unit. This paragraph shall not apply to any first mortgagee of any unit.

### **XXX. Tenants**

A. Any Unit Owner may lease or rent his unit, provided that such lease conform to the following requirements:

1. be in writing and apply to the entire unit, and not merely a portion thereof; and
2. be for a term of not less than twelve (12) months; and
3. expressly provide that the lease, or occupancy agreement shall be subject in every respect to the Master Deed of the Condominium, the Declaration of Trust of the Greenleaves Retirement Community Condominium Trust No. 3, and the By-Laws and Rules and Regulations thereof, as the same have been amended most recently prior to the execution of the lease, or occupancy agreement;

4. all prospective lessees must satisfy the Greenleaves Retirement Community Ownership/Residency criteria and must be approved, in advance, by the Trustees of the Greenleaves Retirement Community Condominium Trust No. 3; and
5. contain the following notice, in capital letters, double spaced:

**IMPORTANT CLAUSE**

"THE CONDOMINIUM UNIT BEING LEASED (RENTED) UNDER THIS LEASE (OCCUPANCY AGREEMENT) IS LOCATED IN A CONDOMINIUM BUILDING NOT A RENTAL APARTMENT HOUSE. THE CONDOMINIUM BUILDING IS OCCUPIED BY THE INDIVIDUAL OWNERS OF EACH APARTMENT (EXCEPT FOR CERTAIN CONDOMINIUM UNITS, SUCH AS THIS ONE, WHICH ARE BEING OCCUPIED BY TENANTS). THE TENANT UNDERSTANDS THAT HIS OR HER NEIGHBORS IN THE BUILDING ARE (EXCEPT AS AFORESAID) THE OWNERS OF THE UNITS WHICH THEY OCCUPY, AND NOT TENANTS LIVING IN A RENTAL APARTMENT HOUSE. THE TENANT, BY SIGNING THIS LEASE (OCCUPANCY AGREEMENT) ACKNOWLEDGES THAT HE OR SHE HAS BEEN FURNISHED WITH A COPY OF THE MASTER DEED OF THE CONDOMINIUM, THE DECLARATION OF TRUST OF THE GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM TRUST NO. 3 AND THE BY-LAWS AND RULES AND REGULATIONS THERETO, AND THAT HE OR SHE HAS READ AND UNDERSTANDS THE SAME, AND THAT HE OR SHE WILL BE EXPECTED TO COMPLY IN ALL RESPECTS WITH THE SAME, AND THAT IN THE EVENT OF ANY NONCOMPLIANCE, THE TENANT MAY BE EVICTED BY THE TRUSTEES OF THE GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM TRUST NO. 3 (WHO ARE ELECTED BY THE UNIT OWNERS) AND IN ADDITION, THE TENANT MAY HAVE TO PAY FINES, PENALTIES AND OTHER CHARGES, AND THAT THE PROVISIONS OF THIS CLAUSE TAKE PRECEDENCE OVER ANY OTHER PROVISION OF THIS LEASE (OCCUPANCY AGREEMENT);" and

6. Any failure by the tenant to comply in all respects with the provisions of the Master Deed of the Condominium, The Declaration of Trust of the Greenleaves Retirement Community Condominium Trust No. 3 and the By-Laws and Rules and Regulations thereto, shall constitute a material default in the lease (occupancy agreement), and in the event of such default, the Trustees of the Greenleaves Retirement Community Condominium Trust No. 3 shall have the following rights and remedies against both the Unit Owner and the tenant, in addition to all other rights and remedies which the Trustees and the Unit Owners (other than the owner of the affected unit) have or may in the future have, against both the owner of the affected unit and the tenant, all rights and remedies of the Trustees and the Unit Owners (other than the owner of the affected unit) being deemed at all times to be cumulative and not exclusive:

(a) The Trustees shall have the right to give written notice of the default to both the tenant and the Unit Owner. Said notice shall be deemed properly given if left in any part of the unit addressed to the tenant, and mailed, postage prepaid, registered or

certified mail, return receipt requested, addressed to the owner of the unit as such address then appears on the records of Trustees, or by delivering said notice in hand, or by delivering said notice in any other manner permitted by law.

(b) If the default continues for five (5) days after the giving of said notice, then the Trustees shall have the right to levy fines against the owner of the affected unit in accordance with the provisions of Section XX of the By-Laws, and terminate the tenancy by giving notice in writing to quit to the tenant in any manner permitted by Massachusetts landlord/tenant law, in the name of the landlord (Unit Owner) or in the name of the Trustees, or both. A copy of such notice to quit shall be delivered or mailed to the landlord (Unit Owner) in the manner set forth hereinabove. Thereafter, the Trustees may initiate and prosecute a summary process action against the tenant under the provisions of General Laws, Chapter 239, in the name of the landlord, or in the name of the Trustees, or both.

(c) The Trustees shall be entitled to levy a fine, or fines, or give a notice, or notices to quit followed by a summary process action or actions, and the Trustee's election to pursue any of the foregoing remedies, either at the same time, or in the event of any further default.

(d) All of the expenses of the Trustees in giving notice, and notices to quit, and maintaining and pursuing summary process actions and any appeals therefrom, shall be entirely at the expense of the owner of the affected unit, and such costs and expenses may be enforced and collected against the Unit Owner and unit as if the same were Common Expenses owed by the unit or Unit Owner.

7. The Unit Owner shall make reasonable efforts, at his expense and upon his initiative to inform rental agents of the provision of this section, and shall, at his own expense, and upon his own initiative, furnish copies of the condominium documents to the tenant, and cause the lease or occupancy agreement to be prepared in conformity with the provisions of this section.

8. Any renewal or extension of any lease or occupancy agreement shall be subject to the prior written approval of the Trustees in each instance. Such approval shall not limit any rights or remedies of the Trustees or Unit Owners in the event of a subsequent default.

9. A true copy of the lease or occupancy agreement shall be delivered to the Trustees forthwith upon its execution.

10. The provisions of this section shall take precedence over any other section in the lease or occupancy agreement.

11. Notwithstanding anything to the contrary herein, and notwithstanding any custom, law, or usage to the contrary, it is expressly understood and agreed that neither the Trustees, nor the Unit Owners, shall ever bear any personal or individual responsibility with respect to said lease or occupancy agreement.

12. Every lease or occupancy agreement shall have attached thereto, and incorporated therein by reference, a copy of this section.

Notwithstanding anything to the contrary in this section, it is expressly understood and agreed that the provisions of this Section XXX shall not apply to the Amhad Development Corp., nor to any first mortgagee in possession of a unit following default by the Unit Owner in his mortgage, or holding title to a unit by virtue of a mortgage foreclosure proceeding, or deed or other agreement in lieu of foreclosure.

**XXXI. Nondiscrimination**

Notwithstanding anything to the contrary herein, no part of this Trust or By-Laws or the rules and regulations now or hereafter adopted or promulgated (including but not limited to the provisions of Section XXX) shall ever be deemed to prevent, restrict, discourage, or hinder, in fact, in any manner whatsoever the alienation, conveyance, mortgage, purchase, sale, rental, lease, license, use, or occupancy of units or any negotiations in connection therewith because of race, religion, creed, color, national origin, sex, sexual preference, ancestry, marital status, status as a veteran or member of the armed services, or any ethnic group, blindness, or receipt of public assistance, or, in addition to the foregoing by any reason whatsoever prohibited by any federal, state, country or municipal law.

**XXXII. Percentage of Unit Owners**

Whenever the term "Percentage of Unit Owners" or "Percentage of Units" is used in this instrument, said terms shall mean the owners of the specified percentage in the aggregate in interest of the undivided ownership in the common areas and facilities of the Condominium.

**XXXIII. Protection of Mortgagees; Federal Home Loan Mortgage Corporation; Federal National Mortgage Association**

**A. Certain Definitions:**

(i) The term "FHLMC" means Federal Home Mortgage Corporation.

(ii) The term "FNMA" means Federal National Mortgage Association.

(iii) The term "eligible Mortgage Holder" means a holder of a first mortgage on a unit who has requested notice of certain matters from this Trust as set forth in these By-Laws.

(iv) The term "eligible Insurer or Guarantor" means an insurer or governmental guarantor of a first mortgage who has requested notice of certain matters as set forth in these By-Laws.

(v) The term "constituent documents" means, collectively, the Master Deed, this Trust and the By-Laws and rules and regulations thereto and the Master Plans.

**B. Certain Prohibitions:**

Notwithstanding anything to the contrary in the Constituent Documents:

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

(ii) There shall be no restriction on the right of a Unit Owner to sell, transfer or otherwise convey his or her unit, except as provided in the constituent documents of Greenleaves Retirement Community Condominium No. 3. There shall be no "right of first refusal" so called or any similar restriction. The Constituent Documents shall not be amended or modified if the result of any such amendment or modification would add a "right of first refusal" so called.

(iii) There shall be no restriction on the right of any Unit Owner to mortgage or otherwise encumber his unit.

(iv) The Condominium shall not be subject to "expansion rights" or "phasing rights" of the Declarant, its successors or assigns, beyond the terms as described in E1 and J1 of the Master Deed.

(v) No agreement for professional management of the Condominium be entered into unless the agreement provides for termination by either party without cause and without payment of a termination fee on no more than ninety (90) days' notice. Any agreement for professional management with the Declarant, or any entity affiliated with the Declarant, shall be terminable by the Trustees at any time subsequent to the transfer of control to the Unit Owners.

**C. Rights of eligible Mortgage Holders and eligible Insurers or Guarantors:**

Notice of Action: Upon written request to this Trust identifying the name and address of the mortgage holder, insurer or guarantor and the unit number or address, any first mortgagee and any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of

(i) Any condemnation loss or any casualty loss that affects either a material portion of the project or any unit on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(ii) Any delinquency in the payment of assessments or charges owed, or default in the performance by the borrower of any obligation under the condominium constituent documents, by an owner of a unit subject to a first mortgage held, insured or guaranteed

by such first mortgage holder or eligible holder or eligible insurer or guarantor, which remains uncured for a period of 60 days;

(iii) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Trust;

(iv) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders.

#### D. Amendment to Documents

Where Unit Owners are considering termination of the legal status of the project after substantial destruction or condemnation, of the property the consent of owners of units to which at least seventy-five (75%) percent of the votes in this Trust are allocated and the approval of eligible mortgage holders representing at least fifty-one (51%) percent of the votes of the mortgaged units shall be required to terminate the legal status of the project as a condominium.

The consent of the owners of units to which at least seventy-five (75%) percent of the votes in this Trust are allocated, and the approval of fifty one (51%) percent of the eligible mortgage holders (based on one vote for each unit subject to a mortgage held by an eligible mortgage holder), shall be required to add or amend any material provisions of the constituent documents of the project, which establish, provide for, govern or regulate any of the following:

1. voting rights;
2. increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
3. reduction in reserves for maintenance, repair and replacement of the common areas;
4. change in hazard insurance or fidelity insurance or bond requirements;
5. rights to use of the common areas;
6. responsibility for maintenance and repairs;
7. expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project, subject to the Phasing Rights of the Declarant in paragraphs E1 and J1 of the Master Deed;
8. definitions of unit boundaries;
9. the interests in the general or limited common areas;
10. convertibility of units into common areas or of common areas into units;
11. restrictions on leasing of units;
12. reallocation of interests in the general or limited common areas, or rights to their use;
13. a decision by the Trust to establish self-management when professional management had been required previously by an eligible mortgage holder;
14. imposition of any restrictions on a Unit Owner's right to sell or transfer his or her unit;
15. restoration or repair of the project (after hazard damage or partial condemnation) in a manner other than that specified in the condominium constituent documents;
16. any action to terminate the legal status of the project after substantial destruction or condemnation occurs; or

17. any provisions which are for the express benefit of Mortgage Holders, eligible Mortgage Holders or eligible Insurers or Guarantors of mortgages on units.

An addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. An eligible Mortgage Holder who receives a written request to approve additions or amendments which are not material who does not submit a response to the requesting party within thirty (30) days after the request is made shall be deemed to have approved such request. Additionally, if specifically provided by any applicable FNMA regulation, implied approval of any addition or amendment may be assumed when an eligible mortgage holder fails to submit a response to any written proposal for an amendment within 30 days after the proper notice of the proposal is received, provided the notice has been delivered to the mortgage holder by certified or registered mail, return receipt requested. This clause (iii) shall not apply to FHLMC.

#### E. Right of Action

This Trust and any aggrieved Unit Owner shall have a right of action against Unit Owners for failure to comply with the provisions of this Trust and the By-Laws and rules and regulations thereto, the Master Deed, the Master Plans and each unit deed and unit plan, and with decisions of the Trustees of this Trust. Each Unit Owner shall have a similar right of action against this Trust. Any such action may be brought in any court of competent jurisdiction.

#### F. First Mortgagee Obtaining Title

Any first mortgagee who obtains title to a condominium unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such unit's unpaid dues or charges which accrued prior to the acquisition of title to such unit by the mortgagee except as provided for in Section 6 of Chapter 183A, as amended.

#### G. Additional Prohibitions

Except as provided by statute in case of condemnation or substantial loss to the units and/or common elements of the condominium project, the Trust shall not be entitled to:

1. by act or omission, seek to abandon or terminate the condominium project unless at least seventy five (75%) percent of the Unit Owners, and holders of all liens upon any of the units affected give their prior written approval;
2. change the pro rata interest or obligations of any individual condominium unit for the purpose of (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (b) determining the pro rata share of ownership of each condominium unit in the common elements, without the written approval of the owners and mortgage holders of such units of which said pro rata share are affected;



3. partition or subdivide any condominium unit without the written approval of the owners and mortgage holders of such units affected by said partition or subdivision;
4. by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements without obtaining consent of Unit Owners and first mortgagees as required in Section 5 of Chapter 183A. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause);
5. use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement or reconstruction of such condominium property.
6. no provisions of the constituent documents shall give any Unit Owner or Owners or any other party or parties priority over any rights of first mortgagees of condominium units pursuant to their mortgages in the case of a payment to condominium Unit Owners of insurance proceeds or condemnation awards for losses to or taking of condominium units and/or common areas and facilities.

#### H. Vote or Consent

The right of any Unit Owner to vote or grant or withhold any consent or exercise any rights pursuant to the provisions of this Trust or the Master Deed may be assigned to or restricted in favor of any mortgagee, and the Trustees shall be bound by such assignment or restriction, provided, however, that such assignment or restriction does not conflict with the provisions of said Chapter 183A and that the mortgagee has notified the Trustees of such assignment or restriction in writing.

#### I. Information.

The Trust shall promptly deliver the following information, in writing, to any mortgagee, mortgage holder, mortgage servicer, FHLMC or FNMA, requesting same, without expense to the requesting party:

1. notification of any default in the performance by the individual unit borrower of any obligation under the condominium constituent documents which is not cured within sixty (60) days;
2. a written certification as to whether or not the owner of any unit encumbered by a mortgage held or serviced, in whole or in part, by the requesting party, is more than one (1) month delinquent in the payment of condominium common area charges or assessments;

3. a written certification as to the percentage of Unit Owners who are more than one (1) month delinquent in the payment of condominium common area charges or assessments;

4. a statement to the best of the Trust's knowledge as to the percentage of units which have been sold and conveyed to bona fide purchasers (who have closed or who are legally obligated to close) and the percentage of units which are occupied by individual Unit Owners as their primary year round residence.

#### **XXXIV. Right to Notice and Hearing**

A. Whenever these By-Laws require that an action be taken after "Notice and Hearing", the following procedure shall be observed: All hearings shall be conducted by at least a majority of the Trustees. The Trustees shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing, or both, subject to reasonable rules of procedure established by the Trustees to assure a prompt and orderly resolution of the issues. The affected person shall have the right to question the Trustees and any witnesses with respect to the subject matter of the hearing. If the hearing involves an alleged breach, by the affected person, of any of the provisions of the Master Deed, the Greenleaves Retirement Community Condominium Trust No. 3, or the By-Laws and Rules and Regulations thereto, or any unit deed, the affected person shall be informed, with specificity, of the exact nature of the violation, and of the provision which he or she has allegedly violated, and the affected person shall have the right to question any witness to such alleged violation. The Trustees need not comply with the strict legal rules of evidence observed by courts, but they shall consider only such evidence as reasonable people customarily consider in making important decisions. Nothing herein shall be deemed to limit the right of the Trustees, the affected person, or any Unit Owners or occupants affected to bring legal action with respect to the subject matter of any hearing, or any decision of the Trustees.

B. When the subject matter of the hearing is Section III(D)(ii) of this Declaration of Trust, the reference to Trustees as the persons conducting the hearing shall be deemed to mean Unit Owners entitled to at least fifty-one (51 %) percent of the beneficial interest under this Trust.

#### **XXXV. Arbitration**

In the event that any Unit Owner or any Trustee is aggrieved by any decision or action or nonaction of another Unit Owner or the Trust, or in the event that any decision requiring a majority or unanimous vote does not receive a majority or unanimous vote, or it is decided contrary to the desires of any Unit Owner or Trustee, such Unit Owner or Trustee may, submit such action or vote to arbitration. Such arbitration shall be conducted by an arbitrator selected by the American Arbitration Association, (so long as such institution exists, or such similar

organization as may then be in existence) who shall arbitrate such dispute according to rules promulgated by such association.

The findings and results of such arbitration shall be binding upon the parties and may thereafter be submitted to any Court of competent jurisdiction for enforcement. Such decision, subject to Chapter 251 of the General Laws of Massachusetts, as from time to time amended, shall be final and conclusive on all persons. The findings and results of such arbitration shall include an apportionment of the costs of said arbitration. Said apportionment shall be within the discretion of the arbitrator or the organization responsible for arbitration, except that such costs shall be apportioned against any Unit Owner, or Trustee who, in the opinion of the arbitrator or organization responsible for the arbitration has acted in bad faith, regardless of whether he or she instituted the arbitration proceedings.

In the event that a court action is necessary to enforce a decision made according to this Section, said court shall have the authority to charge that Unit Owner or Trustee who has been recalcitrant in following the order of the arbitrator or the organization responsible for the arbitration, with the costs of said court action, which costs shall include, but are not limited to, attorneys fees and costs.

## EXHIBIT B

This Exhibit B is incorporated into and made a part of the By-Laws of GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM TRUST NO. 3

### RULES AND REGULATIONS OF GREENLEAVES RETIREMENT COMMUNITY CONDOMINIUM TRUST NO. 3

1. No Obstruction of Common Areas and Facilities.

No one shall unreasonably obstruct any part of the common areas and facilities, or hallways, without prior consent of the Trustees.

2. No Articles in Common Area.

No clothes, sheets, blankets, laundry or other articles shall be hung out of a unit or exposed on any part of the common areas and facilities.

3. Toys, Baby Carriages.

No baby carriages, toys, playpens, bicycles, velocipedes, benches, chairs or other articles shall be placed on any part of the common areas and facilities except when such articles are in actual use by a Unit Owner or his family or guests.

4. No Liability for Personal Property of Unit Owners.

All personal property of the Unit Owners, or any other occupant of a unit, whether in the units, or in the common areas and facilities, or in the Parking Spaces, or elsewhere on the Condominium property, shall be kept therein at the sole risk and responsibility of the respective Unit Owner or occupant, and the Trustees shall have no responsibility therefor.

5. Radios, Phonographs, Musical Instruments.

The volume of television sets, radios, phonographs, high fidelity sound reproduction devices and musical instruments and the like shall not be operated in any manner which would result in sounds emanating therefrom being heard in any other unit.

6. No Offensive Activity.

No noxious or offensive activity shall be carried on in the common areas and facilities, nor shall anything be done therein either willfully or negligently which may be or become an annoyance or nuisance to the other Unit Owners or occupants. No Unit Owner shall do or permit anything to be done by his family, servants, employees, agents, or visitors that will interfere with the rights, comforts or conveniences of other Unit Owners or occupants. No public hall shall be decorated or furnished by any Unit Owner in any manner.

7. Trash.

All garbage and trash must be placed in the proper receptacles designed for refuse collection and no garbage or trash shall be placed elsewhere upon any of the common areas and facilities.

8. Exterior Apparatus.

Under no circumstances shall any air conditioning apparatus, television or radio antennas, clothes line, clothes rack or any other such device or other items (except those initially installed by Amhad) be installed on the exterior of any unit, or on the common areas and facilities, or be permitted to be hung out of a unit.

9. Damage.

Any damage to any building, equipment or common areas and facilities cause by a Unit Owner, or such Unit Owner's family, visitor, or pet shall be repaired at the expense of the Unit Owner.

10. Doors.

Unit entry doors, shall be kept locked and secured at all times except when actually in use.

11. Smoking.

No smoking will be allowed in any common areas, including, but not limited to, the community room, foyer, sitting areas, hallways, office, model units, or community deck. Due to the presence of the smoke detectors and the extensive sprinkler system, smoking anywhere in the building is strongly discouraged.

12. Complaints.

Complaints regarding the management of the Condominium or maintenance of the common areas and facilities, or regarding actions of other Unit Owners or occupants, shall be made in writing to the Trustees. No Unit Owner shall attempt to direct, supervise, or in any manner attempt to control or request favors of any employee of the Trust.

13. Age of Occupants.

Occupants shall be at least 55 years of age, except that if two, three or four persons occupy a single unit, three of them may be less than 55 years of age but shall be at least 35 years of age so long as one is at least 55 years of age and all have signed the Residential Services Agreement.