

BY-LAWS

of

OBSERVATORY COMMONS CONDOMINIUM

Dated as of August 28, 1989

ARTICLE I

Plan of Unit Ownership

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SECTION 1.1. Unit Ownership. The property located at 243-245 Concord Avenue, Cambridge, Massachusetts (the "Property"), as more particularly described in the Master Deed (as it may be amended, the "Master Deed") dated as of August 28, 1989, and recorded in the Middlesex County South District Registry of Deeds ("Registry") immediately prior hereto, has been submitted to the provisions of Chapter 183A of Massachusetts General Laws ("Chapter 183A") by President and Fellows of Harvard College (the "Sponsor"). The Condominium thereby created shall be known as Observatory Commons Condominium (the "Condominium"). Terms defined in or by reference in said Master Deed shall have the same meanings herein as therein unless expressly otherwise defined in this Amendment.

SECTION 1.2. Applicability of By-Laws. The provisions of these By-Laws are applicable to the Property of the Condominium and to the use and occupancy thereof. The term "Property" as used herein shall include the Land, the buildings, and all other improvements thereon including the units ("Units") and common areas and facilities ("Common Elements"), and all easements, rights, and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith all of which are intended to be submitted to the provisions of said Chapter 183A. In the event that the Land is removed from the Condominium and then leased back to the Unit Owners through a ground lease, the provisions of these By-Laws shall not apply to the fee interest in the Land but shall apply to the leasehold interest of the Unit Owners. The provisions of these By-Laws shall automatically become applicable to property which may be added to the Condominium upon the recording of an amendment to the Master Deed submitting such additional property to the provisions of said Chapter 183A. [Section references in this instrument are to the Sections of these By-Laws unless otherwise stated.]

SECTION 1.3. Application. All present and future owners, mortgagees, lessees, and occupants of Units, and their

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employees, and any other persons who may from time to time use the Property in any manner, are subject to these By-Laws, the Master Deed, the Rules and Regulations, and all covenants, agreements, restrictions, easements, and declarations of record ("Title Conditions"). The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Unit, or any use of the Property as a guest or invitee of any other person entitled thereto, shall constitute an agreement that these By-Laws, the Rules and Regulations, the Provisions of the Master Deed, as they may be amended from time to time, and the Title Conditions, are accepted, ratified, and will be complied with.

## ARTICLE II

### Board of Managers

SECTION 2.1. Number and Term. The number of Managers which shall constitute the whole Board shall be five. Until succeeded by the Managers elected by the Unit Owners, Managers need not be Unit Owners. Whenever the Sponsor owns legally or beneficially one or more Units, the Sponsor shall be entitled to appoint at least two members of the Board of Managers, who need not be Unit Owners. Whenever the Sponsor owns none of the Units, the Sponsor shall have no right to appoint a Manager. Managers appointed by the Sponsor need not be Unit Owners; Managers elected shall be Unit Owners. Except as provided in Section 2.4 with respect to the first Board of Managers, Managers shall be elected for three-year terms on a staggered basis. In any event, however, each Manager shall hold office until such time as their successor has been elected and qualified.

SECTION 2.2. Powers and Duties. The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things except as by law or by the Master Deed or by these By-Laws may not be delegated to the Board of Managers by the Unit Owners. Such powers and duties of the Board of Managers shall include, but shall not be limited to, the following:

(a) Operation, care, upkeep, and maintenance of the Common Elements.

(b) Determination of the common expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.

(c) Collection of the common charges from the Unit Owners and delivery of certificates setting forth the amount of unpaid common expenses which have been assessed against a Unit Owner, which certificate need to be signed only by one of the Managers to be effective.

(d) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Common Elements and preparation and filing of tax returns.

(e) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property subject to a right of the Unit Owners to overrule the Board (see Section 6.16), and subject to the exception that Unit 23 and appurtenances may be used as provided in the Master Deed by the owner thereof without regulation by the Board of Managers or the Unit Owners.

(f) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(g) Managing and otherwise dealing with such community facilities as may be provided for in the Master Deed as being common areas and facilities (the "Common Elements").

(h) Owning, conveying, encumbering, and otherwise dealing with Units conveyed to it or purchased by it as the result of enforcement of the lien for common expenses or otherwise.

(i) Obtaining of insurance for the Property, including the Units, pursuant to the provisions of Section 6.7 hereof.

(j) Making of repairs, additions, and improvements to, or alterations of, the Property and repairs to and restoration of the Property in accordance with the other provisions of these By-Laws; provided, however, that until Unit Owners comprise a majority of the Board of Managers the Board shall not, without the consent of a majority in number and interest of the Unit Owners, undertake any repair covered by warranty except through the maker of the warranty.

(k) To enforce obligations of the Unit Owners, to allocate income and expenses, and to do anything and everything else necessary and proper for the sound management of the Condominium; to levy fines against the Unit Owners for violations of any provision of the Master Deed, these By-Laws or reasonable rules and regulations established by it to govern the conduct of the Unit Owners. No fine may be levied for more than twenty-five dollars for any one violation, but each day a violation continues after notice may be considered a separate

violation. Collection of fines may be enforced against the Unit Owner or Unit Owners involved as though such fines were common charges owed by such Unit Owner(s). In the case of persistent violation of the rules and regulations by a Unit Owner, the Board of Managers may require such Unit Owner to post a bond to secure adherence to the rules and regulations.

(1) To grant or relocate easements and other rights affecting the Property.

SECTION 2.3. Managing Agent and Manager. The Board of Managers may employ for the Condominium a managing agent or an operating manager or both (either or both of which may be an Affiliate of Sponsor) (as that term is defined in Section 4 of the Master Deed) at a compensation established by the Board of Managers, to perform such duties and services as the Board of Managers shall authorize, including, but not limited to, the duties listed in subsections (a), (c), (d), (i) and (j) of Section 2.2. The Board of Managers may delegate to the operating manager or managing agent, all of the powers granted to the Board of Managers by these By-Laws other than the powers set forth in subsections (b), (e), (f), (g), (h), (k), and (l) of Section 2.2.

SECTION 2.4. First Board of Managers. The first Board of Managers shall be designated by the Sponsor and shall consist of two Managers designated for a three-year term, two for a two-year term and one for a one-year term. At the first annual meeting of Unit Owners, the Manager holding a one-year term shall resign and be replaced by a Manager elected by the Unit Owners, including the Sponsor as owner of Units, if any. At the second annual meeting, the Managers originally designated to serve a two-year term shall resign and be replaced by two Managers elected by the Unit Owners, including the Sponsor as owner of Units, if any. At the third annual meeting, the Managers originally designated to serve a three-year term shall resign and be replaced by two Managers, appointed by the Sponsor. Any and all of said Managers shall be subject to replacement, in the event of resignation or death, in the manner set forth in Section 2.6. Notwithstanding the above, within ninety days after Sponsor no longer owns legally or beneficially a Unit in the Condominium, all of Sponsor's representatives or designees shall resign and control of the Board shall vest in the Unit Owners.

SECTION 2.5. Removal. Managers may be removed for cause by an affirmative vote of a majority of the Unit Owners. The term of any manager other than an initial Manager or a Manager appointed by Sponsor shall automatically come to an end if, during his term of office, he shall cease to be a Unit Owner.

SECTION 2.6. Vacancies. Vacancies in the Board of Managers caused by any reason other than the removal of a member thereof by a vote of the Unit Owners shall be filled by vote of a majority of the remaining members at a special meeting of the Board of Managers held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the Board of Managers for the remainder of the term of the departed member and until a successor shall be elected at the next annual meeting of the Unit Owners.

SECTION 2.7. Organization Meeting. The first meeting of the members of the Board of Managers following the first annual meeting of the Unit Owners shall be held within ten days thereafter, at such time and place as shall be fixed by the Unit Owners at the meeting at which such Board of Managers shall have been elected, and no notice shall be necessary to the newly-elected members of the Board of Managers in order legally to constitute such meeting, providing a majority of the whole Board of Managers shall be present thereat.

SECTION 2.8. Regular Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of the then fiscal year. Notice of regular meetings of the Board of Managers shall be given to each member of the Board of Managers, by mail or telegraph, at least three business days prior to the day named for such meeting.

SECTION 2.9. Special Meeting. Special meetings of the Board of Managers may be called by the President on three business days' notice to each member of the Board of Managers, given by mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Managers shall be called by the President or Clerk in like manner and on like notice on the written request of at least three members of the Board of Managers.

SECTION 2.10. Waiver of Notice. Any member of the Board of Managers may at any time waive notice of any meeting of the Board of Managers in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Managers at any meeting of the Board shall constitute a waiver by him of notice of the time and place thereof and of notice of matters to be acted on thereat. If all the members of the Board of Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

SECTION 2.11. Quorum of Board of Managers. At all meetings of the Board of Managers, a majority of the then members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Managers present at a meeting at which a quorum is present shall constitute the decision of the Board of Managers. If at any meeting of the Board of Managers there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

SECTION 2.12. Fidelity Bonds. The Board of Managers may obtain adequate fidelity bonds for all officers and employees of the Condominium handling or responsible for Condominium funds. The premium on such bonds shall constitute a common expense.

SECTION 2.13. Compensation. No member of the Board of Managers shall receive any compensation from the Condominium for acting as such.

SECTION 2.14. Liability of the Board of Managers. The members of the Board of Managers shall not be liable to the Unit Owners for any mistakes of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Managers against all contractual liability to others arising out of contracts made by the Board of Managers on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Master Deed or of these By-Laws. It is intended that the members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is understood and permissible for the original Board of Managers, some of whom are affiliated with or employed by Sponsor, to contract with the Sponsor and affiliated entities without liability for self-dealing. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Managers or out of the aforesaid indemnity in favor of the members of the Board of Managers shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interest of all the Unit Owners in the Common Elements. Every agreement made by the Board of Managers or by the manager on behalf of the Condominium shall provide that the members of the Board of Managers, or the managing agent, or the manager, as the case may be, are acting only as agent for the Unit Owners and shall

have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements.

### ARTICLE III

#### Unit Owners

SECTION 3.1. Annual Meetings. Within thirty days after 80% of all Units in the Condominium have been conveyed, or one year following the date of conveyance of the first unit, whichever is sooner, the Sponsor shall call the first annual Unit Owners meeting. Thereafter, annual meetings shall be held on the third Saturday in January of each succeeding year. At such meetings there shall be elected by ballot of the Unit Owners, a Board of Managers in accordance with the requirements of Article II of these By-Laws. The Unit Owners may also transact such other business of the Condominium as may properly come before them.

SECTION 3.2. Place of Meetings. Meetings of the Unit Owners shall be held at a suitable place in Cambridge, Massachusetts, convenient to the Unit Owners as may be designated by the Board of Managers from time to time.

SECTION 3.3. Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners as directed by the Board of Managers or upon a petition signed by Unit Owners owning at least 33% of the authorized votes having been presented to the Clerk.

SECTION 3.4. Notice of Meetings. It shall be the duty of the Clerk to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner of record, at least five days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

SECTION 3.5. Adjournment of Meetings. If any meeting of Unit Owners cannot be held because a quorum has not attended, a majority in common interest of the Unit Owners who are present at such meeting, either in person or by proxy, shall adjourn the meeting to a time not less than forty-eight hours from the time the original meeting was called.

SECTION 3.6. Order of Business. The order of business at all meetings of the Unit Owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Board of Managers.
- (f) Reports of committees.
- (g) Election of inspectors of election (when so required).
- (h) Election of members of the Board of Managers (when so required).
- (i) Unfinished business.
- (j) New business.

SECTION 3.7. Title to Units. Title to Units may be taken only as provided in Section 4 of the Master Deed.

SECTION 3.8. Voting. The Owner or Owners of each Unit, or some person designated by such Owner or Owners to act as proxy on their behalf who need not be an Owner, shall be entitled to cast the votes appurtenant to such Unit at all meetings of Unit Owners. The designation of any such proxy shall be made in writing to the Clerk, and shall be revocable at any time prior to the vote by written notice to the Clerk by the Owner or Owners so designating. The vote of a Unit owned by more than one person may not be split and shall only be counted if proxy is executed, or the vote is cast, by all owners of record unanimously. The method of arriving at such unanimity is left to such owners. Each Unit Owner (including the Sponsor, if the Sponsor shall then own one or more Units) shall be entitled to cast one vote at all meetings of the Unit Owners for each 0.1 percent (rounded off to the nearest 0.1 percent) of interest in the Common Elements applicable to his, her, or its Unit. (Accordingly, the total number of votes shall be approximately one thousand, depending on rounding.) A fiduciary shall be the voting member with respect to any Unit Owner in a fiduciary capacity. Any Unit or Units owned by the Board of Managers or its designee shall not be entitled to a vote and shall be excluded from the total of common interests when computing the



interest of all other Unit Owners for voting purposes. If the Sponsor amends the Master Deed to enlarge the Condominium by the addition of other Units or by subdivision of Unit 23, such additional Units shall be entitled to vote, and shall be chargeable with their share of common expenses, upon the date of conveyance of the first such additional Unit.

SECTION 3.9. Majority of Unit Owners. As used in these By-Laws the term "majority of Unit Owners" shall mean those Unit Owners having more than fifty percent of the total authorized votes of those Unit Owners present in person or by proxy and voting at any meeting, such voting to be determined in accordance with the provisions of Section 3.8.

SECTION 3.10. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy Unit Owners entitled to five hundred one authorized votes shall constitute a quorum of all meetings of the Unit Owners.

SECTION 3.11. Majority Vote. The vote of a majority of Unit Owners present at a meeting at which a quorum shall be present shall be binding upon all Unit Owners for all purposes except where in the Master Deed or these By-Laws, or by law, a higher percentage vote is required.

#### ARTICLE IV

##### Officers

SECTION 4.1. Designation. The principal officers of the Condominium shall be the President, the Vice President, the Clerk, and the Treasurer, each of whom shall be elected by the Board of Managers. The Board of Managers may appoint an assistant treasurer, an assistant clerk, and such other officers as in its judgment may be necessary. The President and Vice President, but no other officers, need be members of the Board of Managers.

SECTION 4.2. Election of Officers. The officers of the Condominium shall be elected annually by the Board of Managers at the organization meeting of each new Board of Managers and shall hold office at the pleasure of the Board of Managers and until their successors are elected.

SECTION 4.3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board of Managers, any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board of Managers, or at any special meeting of the Board of Managers called for such purpose.

SECTION 4.4. President. The President shall be the chief executive officer of the Condominium and shall preside at all meetings of the Unit Owner and of the Board of Managers, and shall have all of the general powers and duties which are incident to the office of President of a stock corporation organized under the Business Corporation Law of the Commonwealth of Massachusetts, including but not limited to the power to appoint committees from among the Unit Owners from time to time as the President may in the President's discretion decide are appropriate to assist in the conduct of the affairs of the Condominium.

SECTION 4.5. Vice President. The Vice President shall take the place of the President and perform the President's duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Managers shall appoint some other member of the Board of Managers to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon the Vice President by the Board of Managers or by the President.

SECTION 4.6. Clerk. The Clerk shall keep the minutes of all meetings of the Unit Owners and of the Board of Managers; shall have charge of such books and papers as the Board of Managers may direct; and shall, in general, perform all the duties incident to the office of Clerk of a stock corporation organized under the Business Corporation Law of the Commonwealth of Massachusetts.

SECTION 4.7. Treasurer. The Treasurer shall have the responsibility for Condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all moneys and other valuable effects in the name of the Board of Managers, or the managing agent, in such depositories as may from time to time be designated by the Board of Managers, and shall, in general, perform all the duties incident to the office of Treasurer of a stock corporation organized under the Business Corporation Law of the Commonwealth of Massachusetts. No payment vouchers shall be paid unless approved by the Treasurer.

SECTION 4.8. Agreements, Contracts, Deeds, Checks, etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Condominium shall be executed by any two

officers of the Condominium or by such other person or persons as may be designated in writing from time to time by the Board of Managers.

SECTION 4.9. Compensation of Officers. No officer shall receive any compensation from the Condominium for acting as such, unless such compensation is approved in advance by a majority of the Unit Owners at an annual meeting.

## ARTICLE V

### Notices

SECTION 5.1. Definition. Whenever under the provisions of the Master Deed or of these By-Laws, notice is required to be given to the Board of Managers, any manager or Unit Owner, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail, by depositing the same in a post office or letter box, in a postpaid sealed wrapper, addressed to the Board of Managers, such manager or Unit Owner at such address as appears on the books of the Condominium. Notice shall be deemed given as of the date of mailing. If no such mailing address has been provided or if in the opinion of the Board it appears incorrect, notice mailed to the Unit owned by such person shall be sufficient. Notice of revocation of a Proxy, however, shall only be effective when delivered in hand to the Clerk, as provided in Section 3.8.

SECTION 5.2. Service of Notice Waiver. Whenever any notice is required to be given under the provisions of the Master Deed, of law, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

## ARTICLE VI

### Operation of the Property

SECTION 6.1. Determination of Common Expenses and Fixing of Common Charges. The Board of Managers shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the common charges payable by the Unit Owners to meet the common expenses of the Condominium and allocate and assess such common charges among the Unit Owners according to their respective common interests. The common expenses shall include, among other things, the Condominium's proportionate share of all expenses of operation and maintenance of the common elements and facilities referred to in the Master Deed and the cost of all

insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Managers pursuant to the provisions of Section 6.7. To comply with the foregoing sentence and with Section 27.7 of the Master Deed, unless the Sponsor otherwise approves in writing, a reserve fund with a minimum balance of \$100,000 shall be established and maintained by the Board of Managers as follows: (i) Sponsor shall cause \$50,000 to be contributed to the reserve fund on or before December 31, 1989. (ii) The remaining \$50,000 shall be contributed to the reserve fund by annual installments made by the Unit Owners (including Sponsor if Sponsor is legal or beneficial owner of Units) in amounts calculated so that within sixty months after the Master Deed is recorded the \$50,000 shall have been paid into the reserve fund. (iii) Thereafter if the balance of the reserve fund shall be less than \$100,000, a minimum of \$10,000 per year shall be contributed to the reserve fund by the Unit Owners until the reserve fund's balance again equals or exceeds \$100,000. Whether the reserve fund shall have a balance greater than \$100,000 (ignoring increases required by inflation under Section 11.6 of these By-Laws) shall be a matter to be decided by the Board of Managers applying prudent management practices. The common expenses may also include such amounts as the Board of Managers may deem proper for the operation and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The common expenses may also include such amounts as may be required for the purchase by the Board of Managers, on behalf of all Unit Owners, of any Unit whose owner has elected to sell such Unit, or of any Unit which is to be sold at a foreclosure or other judicial sale. The Board of Managers shall advise all Unit Owners promptly in writing of the amount of the common charges payable by each of them, respectively, as determined by the Board of Managers, as aforesaid and shall furnish copies of each budget on which such common charges are based, to all Unit Owners and to any of their mortgagees who so request in writing.

SECTION 6.2. Payment of Common Charges. All Unit Owners shall be obligated to pay the common charges assessed by the Board of Managers pursuant to the provisions of Section 6.1 monthly in advance or at such other time or times as the Board of Managers shall determine. Assessments shall be allocated proportionately to each Unit's common element interest. No Unit Owner shall be liable for the payment of any part of the common charges assessed against their Unit subsequent to a sale, transfer or other conveyance by them (made in accordance with the provisions of Section 8.1) of such Unit, together with the Appurtenant Interests, as defined in Section 14 of the

Master Deed hereof. In addition, any Unit Owner may, subject to the terms and conditions specified in these By-Laws, provided that their Unit is free and clear of liens and encumbrances other than the statutory lien for unpaid common charges, convey their Unit, together with the Appurtenant Interests to the Board of Managers, and in such event be exempt from common charges thereafter assessed. A purchaser of a Unit shall not be liable for the payment of common charges assessed and unpaid against such Unit prior to the acquisition by them of such Unit, unless such purchaser has agreed to assume the obligation to pay unpaid common expenses. A mortgagee or other purchaser of a Unit at a foreclosure sale of such Unit shall not be liable for, and such Unit shall not be subject to, a lien for the payment of common charges assessed prior to the foreclosure sale. A foreclosure sale will extinguish the lien for any assessments payable before the foreclosure sale, but will not relieve any subsequent Unit Owner from paying further assessments.

SECTION 6.3. Collection of Assessments. The Board of Managers shall assess common charges against the Unit Owners from time to time (at least annually) and shall take prompt action to collect any common charges due from any Unit Owner which remains unpaid for more than thirty days from the due date for payment thereof. Assessments shall commence on the date the Master Deed creating the Condominium is recorded. A reasonable reduced assessment may be allocated to unsold Units if they are not occupied. In any event, all Units shall be allocated full assessments no later than sixty days after the first Unit is conveyed.

SECTION 6.4. Default in Payment of Common Charges. In the event of default by any Unit Owner in paying to the Board of Managers the common charges as determined by the Board of Managers, such Unit Owner shall be obligated to pay interest at the rate of eighteen percent per year on such common charges from the due date thereof, together with all expenses, including attorney's fees, incurred by the Board of Managers in any proceeding brought to collect such unpaid common charges. Overdue assessments together with interest and expenses shall be a lien upon the Unit to which they relate. The Board of Managers shall have the right and duty to attempt to recover such unpaid common charges, together with interest thereon, and the expenses of the proceeding, including attorneys' fees, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit as provided in Section 6 of Chapter 183A. The Board of Managers may (after sixty days notice to the Unit Owner) suspend the defaulting Unit Owner's right to use the road system servicing the Condominium and to suspend such Unit Owner's voting rights

under Section 3.8 until such time that the Unit Owner is no longer in default.

SECTION 6.5. Foreclosure of Liens for Unpaid Common Charges. The Board of Managers, acting on behalf of all Unit Owners, shall have the power to foreclose a lien on a Unit because of unpaid common charges, but must then convey and otherwise deal with the same pursuant to Section 7 of the Master Deed. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

SECTION 6.6. Statement of Common Charges. The Board of Managers shall promptly provide any Unit Owner so requesting the same in writing, with a written statement of all unpaid common charges due from such Unit Owner.

SECTION 6.7. Insurance. (a) The Board of Managers shall be required to obtain and maintain, to the extent reasonable obtainable and maintainable, the following insurance:

(i) Casualty Insurance. Physical hazard insurance on an "all risks" basis insuring the Property (including the Units and fixtures, equipment and other personal property within the Units, whether or not the same is part of the Common Elements, but excluding furniture and other personal property belonging to Unit Owners or occupants not customarily considered to be a part of the Unit or the Common Elements for mortgage purposes), in an amount equal to 100% of the current replacement value of the Property, excluding only the reasonable value of land, footings and foundations. The insurer may deny liability for loss or damage to fixtures, equipment, or personal property installed in the Unit if the same are not typically found in other Units in the Condominium, unless the Unit Owner has previously given notice to the insurer of the existence of such fixtures, equipment, or personal property and has paid any excess premium attributable thereto. The policy or policies shall contain an Agreed Amount and Inflation Guard Endorsement and a Construction Code Endorsement, if the same can be obtained without additional cost to the Unit Owners, and the policy shall provide that (A) any Insurance Trust Agreement will be recognized, (B) the right of subrogation against Unit Owners will be waived, (C) the insurance will not be prejudiced by any acts or omissions of individual Unit Owners that are not under the control of the Board of Managers, and (D) the policy will be primary, even if a Unit Owner has other insurance that covers the same loss.

(ii) Liability Insurance. A policy of comprehensive general liability insurance issued by a good and solvent insurance company licensed to do business in the Commonwealth of Massachusetts, rated A or better by Best's insuring against bodily injury (including death) and property damage resulting from the operation, maintenance, or use of the Common Elements and legal liability resulting from employment contracts to which the Board of Managers is a party, in an amount not less than \$1,000,000 with respect to injury or death to any one person and \$2,000,000 with respect to injury or death to more than one person in any one accident or other occurrence and \$500,000 with respect to damage to property.

(iii) Fidelity Bonds. Blanket fidelity bonds for any person handling or responsible for funds held or administered by the Board of Managers, whether or not such persons receive compensation for services, naming the Board of Managers as an obligee and covering the maximum amount in the custody of the Board of Managers or its management agent at any time while the bond is in force, and an amount equal to the sum of three months' assessments on all Units in the Condominium, including the Board of Manager's reserve funds, if any.

(b) The Board of Managers shall evaluate at least annually, the amount of casualty insurance coverage, and, if necessary, shall increase the amount of coverage on the master insurance policy accordingly. In no event shall the amount of such insurance be less than the full replacement value of the property which is required to be insured by the Board of Managers hereunder.

(c) All such insurance policies shall be "Master" or "Blanket" policies, shall name the Board of Managers for the use and benefit of the individual Unit Owners as the named insured, shall contain a standard mortgage clause and shall name each mortgagee holding a mortgage on a Unit in the condominium and its successors and assigns as a mortgagee and/or a loss payee. The policy shall also require the insurer to notify in writing the Board of Managers and each first mortgage holder named in the mortgage clause at least ten days before it cancels or substantially changes the insurance coverage. All policies shall provide that adjustment of losses shall be made by the Board of Managers and that the net proceeds thereof shall be payable to the Board of Managers for the benefit of the individual Unit Owners.

(d) The Board of Managers shall cause each Unit Owner to report to the Board of Managers any improvements made to his or her Unit having a value in excess of \$1,000.00. Unit Owners are advised, but not required hereby, to carry insurance for their own benefit insuring their flooring, carpeting, dry-wall, studs, insulation, wall-covering, fixtures, furniture, furnishings, and other personal property. All such policies shall contain waivers of subrogation. The liability of the carriers issuing insurance obtained by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

(e) All insurance obtained by the Board of Managers for the benefit of Unit Owners shall comply with the requirements of Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal National Mortgage Association ("FNMA") guidelines, as the same may be issued from time to time.

SECTION 6.8. Repair or Reconstruction After Fire or Other Casualty. (a) In the event of damage to or destruction of the Building or Buildings containing the Units as a result of fire or other casualty, the Board of Managers shall arrange for the prompt repair and restoration of the Building containing the Units (including any damaged Units, and any flooring, carpeting and kitchen or bathroom fixtures initially installed therein by the Sponsor, but not including any decorations or coverings or flooring, carpeting, drapes, wall-covering, fixtures, furniture, furnishings, or other personal property supplied to or installed by Unit Owners), and the Board of Managers shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the Board of Managers may assess all the Unit Owners for such deficit and for a completion bond for such deficit as part of the common charges.

(b) If there shall have been a repair or restoration pursuant to the first paragraph of this Section 6.8, 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 Board of Managers, divided among all the Unit Owners in proportion to their respective common interests after first paying out of the share due each Unit Owner such amounts as may be required to reduce unpaid liens on such Unit in the order of priority of such liens.



(c) Notwithstanding the foregoing if as a result of fire or other casualty the loss exceeds ten percent of the value of the Condominium prior to the casualty, and

(i) If seventy-five percent of the Unit Owners do not agree within one hundred twenty 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. The net proceeds of the partition sale together with any insurance proceeds and common funds shall be first paid to any unit mortgagees to the extent required by and to the then unpaid principal and interest outstanding under any such unit mortgages. The remaining proceeds, if any, shall be paid to the Unit Owners, divided in proportion to the Unit Owners' respective undivided ownership in the Common Elements. Upon such sale the Condominium shall be deemed removed from the provisions of Chapter 183A.

(ii) If seventy-five 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 percent of the value of the Condominium prior to the casualty, any Unit Owner who did not so agree may apply to the Superior Court of Middlesex County on such notice to the Board of Managers as the Court shall direct, for an order directing the purchase of his Unit by the Board of Managers at the fair market value thereof as approved by the Court. The cost of any such purchase shall be a common expense.

SECTION 6.9. Maintenance and Repairs.

(a) All maintenance and replacement of and repairs to any Unit, whether structural or non-structural, ordinary or extraordinary (other than to the Common Elements contained therein), and to the doors and windows (including exterior washing thereof), electrical, plumbing, heating and air conditioning fixtures within the Unit or belonging to the Unit Owner shall be done by the Unit Owner at the Unit Owner's expense, excepting as otherwise specifically provided herein.

(b) All maintenance, repairs and replacements to the Common Elements as defined in the Master Deed, the painting and decorating of the exterior and exterior window sash shall be made by the Board of Managers and shall be charged to all 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. Unit Yards and plants therein are the responsibility of the Unit Owner that has the exclusive right to use the Unit Yard.

(c) The Board of Managers or its employees or assigns, shall have a right to enter any Unit at reasonable times and upon reasonable notice to perform emergency repairs or to do other work reasonably necessary for the proper maintenance of the Condominium. In addition, the Board of Managers shall have the right to grant permits, licenses, and easements over the common areas for utilities, road, and other purposes appropriate or necessary for the proper operation of the Condominium.

(d) The Board of Managers shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the common elements. The reserve fund shall be maintained from regular assessments for common charges.

SECTION 6.10. Limited Access Common Areas. A Unit Yard, Entrance, deck, or balcony to which there is direct access from the interior of a Unit shall be for the exclusive use of the owner of such Unit, except as otherwise provided in the Master Deed. Any such Unit Yard, Entrance, deck, or balcony shall be kept free and clean of snow, ice, and any other accumulation by the owner of such Unit who shall also make all repairs thereto, except as otherwise provided in the Master Deed. All other repairs and maintenance in, to, or with respect to such Unit Yard, Entrance, deck, or balcony not made by the Unit Owner may be made by the Board of Managers, and the cost thereof shall be a common expense.

SECTION 6.11. Restrictions on Use of Units. In order to accomplish the goal of providing faculty housing, to provide for congenial occupancy of the Property and to protect the values of the Units, the use of the Property shall be restricted as provided in Section 5 of the Master Deed, and:

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

(b) No nuisances shall be allowed on the Property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the

peaceful possession or proper use of the Property by its residents.

(c) No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed by the respective Unit Owners. Violations of laws, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be eliminated by and at the sole expense of the Unit Owners or the Board of Managers, whichever shall have the obligation to maintain or repair such portion of the Property.

(d) No Unit or portion of a Unit may be rented, licensed, occupied or used by a person other than the Unit Owner and the Unit Owner's family (and one other non-related person) without the express, prior written consent of Sponsor (so long as Sponsor owns at least one Unit) or the prior written consent of the Board of Managers if no Unit is owned by the Sponsor. Units owned by persons other than Sponsor may be rented only to persons who are employees, students, so-called "visiting scholars", so-called "fellows", or so-called "visiting faculty", as visiting scholars, fellows, and faculty are defined by the relevant Harvard University faculty, of Harvard University.

(e) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance of any of the Buildings, or contents thereof, applicable for residential use, without the prior written consent of the Board of Managers. No Unit Owner shall permit anything to be done, or kept in their Unit or in the Common Elements which will result in the cancellation of insurance on any of the Buildings, or contents thereof, or which would be a violation of any law. No waste shall be placed in or on the Common Elements except where directed by the Board of Managers from time to time.

(f) No animals of any kind shall be raised, bred, or kept in any Unit or in the Common Elements, without the approval of the Board of Managers in each instance, but subject to the rules and regulations adopted by the Board of Managers, provided that they are not kept, bred or maintained for any commercial purposes; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon three days' written notice from the Board of Managers. In no event shall any dog or other animal be permitted in any portion of

the Common Elements unless carried or on a leash, or in any grass or garden plot under any circumstances.

(g) No noxious or offensive activity shall be carried on in any Unit or in the Common Elements, 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 occupant. No Unit Owner shall make or permit any disturbing noises by their family, servants, employees, agents, visitors, and permitted occupants and guests, nor do or permit anything by such persons that will interfere with the rights, comfort or convenience of other Unit Owners. No Unit Owner shall play upon, or suffer to be played upon, any musical instrument or operate or suffer to be operated a phonograph, television set, or radio in their Unit if the same shall disturb or annoy other occupants of any Building.

The Board of Managers may enforce the foregoing provisions by levying fines in accordance with Section 2.2 (k) of these By-Laws, or by appropriate legal proceedings including injunctive relief.

SECTION 6.12. Improvements.

(a) If fifty percent or more but less than seventy-five percent of the Unit Owners agree to make an improvement to the Common Elements, the cost of such improvement shall be borne solely by the Unit Owners so agreeing.

(b) Seventy-five percent or more of the Unit Owners may agree to make an improvement to the Common Elements and assess the cost thereof to all Unit Owners as a common expense, any Unit Owner not so agreeing may apply to the Middlesex County Superior Court, on such notice to the Board of Managers as the Court shall direct, for an order directing the purchase of his Unit by the Board of Managers at fair market value thereof as approved by the Court. The cost of any such purchase shall be a common expense.

(c) An improvement to Common Elements (which includes Limited Access Common Areas) not exceeding in total cost \$15,000.00 shall be deemed to be in the nature of a repair or of maintenance and shall not require the approval of the Unit Owners.

SECTION 6.13. Additions, Alterations or Improvements by Unit Owners. No Unit Owner, other than the owner of Unit 23, shall make any structural addition, alteration, or improvement in or to his Unit, without the prior written consent thereto of

the Board of Managers. The Board of Managers and the Sponsor shall have the obligation to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit, within thirty days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Managers to the proposed addition, alteration or improvement. Any application to any department of the City of Cambridge or to any other governmental authority for a permit to make an addition, alteration or improvement in or to any Unit shall be executed by the Board of Managers only without, however, incurring any liability on the part of the Board of Managers or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom. The provisions of this Section 6.13 shall not apply to Units owned by the Sponsor.

SECTION 6.14. Use of Common Elements and Facilities. A Unit Owner shall not place or cause to be placed in the public areas or other Common Elements (other than a patio to which such Unit Owner has direct access or storage area in which such Unit Owner has exclusive rights), any furniture, packages or objects of any kind. The public areas shall be used for no purpose other than for normal transit and recreation, and are hereby designated private open space, not for the use of the general public. No inoperable or unlicensed vehicles, no commercial vehicles, no boats, no trailers, and no campers may be parked in any of the parking spaces or garages of the Condominium.

SECTION 6.15. Right of Access. A Unit Owner shall grant a right of access to their Unit to the operating manager, the managing agent, or any other person authorized by the Board of Managers, the operating manager, or the managing agent, for the purpose of making inspections or for the purpose of correcting any conditions originating in their Unit and threatening another Unit or a Common Element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements in their Unit or elsewhere in the Building in which the Unit is located, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency such right of entry shall be immediate and without need of prior request, whether the Unit Owner is present at the time or not. In the event of the exercise of the right of access provided in this Section 6.15, any costs for repairs shall be borne in accordance with the provisions of Section 6.9.

SECTION 6.16. Rules of Conduct. Rules and Regulations not inconsistent with these By-Laws or the Master Deed concerning the use of the Units and the Common Elements may be promulgated and amended by the Board of Managers from time to time. A majority vote of Unit Owners at a meeting may revise or revoke any Rule or Regulation. Copies of such Rules and Regulations shall be furnished by the Board of Managers to each Unit Owner prior to the time when the same shall become effective. Initial Rules and Regulations, which shall be effective until amended by the Board of Managers, are annexed hereto and made a part hereof as Exhibit A.

SECTION 6.17. Water Charges. Water shall be supplied to each of the Units individually through its own water meter, and the Unit Owners will pay their own respective water charges. The Board of Managers shall pay, as a common expense, all charges for water consumed on the Property, excluding the Units, promptly after the bill for the same shall have been rendered. In the event of a proposed sale of a Unit by the owner thereof, such selling Unit Owner shall execute and deliver to the purchaser of such Unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water affecting the Property as of the date of closing of title to such Unit promptly after such charges shall have been billed.

SECTION 6.18. Electricity. Electricity shall be supplied by the public utility company serving the area directly to each Unit through a separate meter and each Unit Owner shall be required to pay the bills for electricity consumed or used in his Unit. The electricity serving the Common Elements shall be separately metered, and the Board of Managers shall pay all bills for electricity consumed in such portions of the Common Elements, as a common expense.

SECTION 6.19. Abatement and Enjoining of Violations by Unit Owners. The violation of any Rule or Regulation adopted by the Board of Managers or Unit Owners or the breach of any of these By-Laws, or the breach of any provisions of the Master Deed shall give the Board 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, the continuance of any such breach.

## ARTICLE VII

### Mortgages

SECTION 7.1. Notice to Board of Managers. Unit Owners who mortgage their Unit shall notify the Board of Managers of the

name and address of their mortgagee and shall file a conformed copy of the note and mortgage and any subsequent amendments thereto with the Board of Managers; the Board of Managers shall maintain such information in a book entitled "Mortgages of Units." Failure to file such copy or failure to maintain such book shall not effect the validity of the mortgage or note secured thereby.

SECTION 7.2. Notice of Unpaid Common Charges. The Board of Managers, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges due from, or any other default by, the owner of the mortgaged Unit.

SECTION 7.3. Notice of Default. The Board of Managers, when giving notice to a Unit Owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board of Managers under Section 7.1.

SECTION 7.4. Examination of Books. Each Unit Owner and each mortgagee of a Unit shall be permitted to examine the books of account of the Condominium at reasonable times on business days.

## ARTICLE VIII

### Sales and Mortgages of Units

SECTION 8.1. Sales. (a) No Unit Owner, specifically including the Board of Managers, if it has acquired a unit, and any Unit Mortgagee which has acquired a unit through foreclosure or deed in lieu of foreclosure, but specifically excluding the Sponsor, may sell their Unit or any interest therein except by complying with Sections 6 and 7 of the Master Deed.

(b) Any purported sale of a Unit in violation of this Section 8.1 shall be voidable at the election of Sponsor.

(c) The Sponsor or any Affiliate of Sponsor may sell any Unit without compliance with this Section 8.1.

SECTION 8.2. No Severance of Ownership. No Unit Owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to their Unit without including therein the Appurtenant Interests, as defined in Section 14 of the Master Deed, 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 Interests of all Units.

SECTION 8.3. Financing of Purchase of Units by Board of Managers. Acquisition of Units by the Board of Managers may be made from the working capital and common charges in the hands of the Board of Managers, or if such funds are insufficient the Board of Managers may levy an assessment against each Unit Owner in proportion to the Unit Owner's ownership in the Common Elements, as a common charge, which assessment shall be enforceable in the same manner as provided in Sections 6.4 and 6.5, or the Board of Managers, in its discretion, may borrow money to finance the acquisition of such Unit, provided, however, that no financing may be secured by an encumbrance or hypothecation of any property other than the Unit, together with the Appurtenant Interests, so to be acquired by the Board of Managers.

SECTION 8.4. Waiver of Right of Partition with Respect to Such Units as are Acquired by the Board of Managers. If a Unit shall be acquired by the Board of Managers, then all Unit Owners shall be deemed to have waived all rights of partition with respect to such Unit.

SECTION 8.5. Payment of Assessments. No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate, sell, or lease their Unit unless and until they shall have paid in full to the Board of Managers all unpaid common charges theretofore assessed by the Board of Managers against their Unit and until they shall have satisfied all unpaid liens against such Unit, except the lien of a mortgage permitted by Section 8.6.

SECTION 8.6. Mortgage of Units. Without the written permission of the Board of Managers or Sponsor, no Unit Owner shall mortgage their Unit except by a first mortgage made to Sponsor, a bank, trust company, insurance company, federal savings and loan association, or other institutional lender, or to a pension fund of which the trustees are an institutional lender.



ARTICLE IX

Condemnation

SECTION 9.1. Condemnation. If more than ten percent of the value of the Condominium is taken under the power of eminent domain, the taking shall be treated as a "casualty loss" and the provisions of Section 17 of Chapter 183A 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 the provisions of Section 17 of said Chapter 183A, the Board of Managers shall have the authority to acquire the remaining portions of such Units for such price as the Board of Managers shall determine, provided that any Unit Owner of such remaining portion who does not agree with such determination may apply to the Superior Court of Middlesex County (or the appropriate court if such court should not have jurisdiction), on such notice to the Board of Managers 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 Board of Managers may make such provision for realignment of the percentage interests in the Common Elements as shall be just and equitable.

SECTION 9.2. Awards. 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 Board of Managers. 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 Elements, except as to such portion or portions of the award which are attributable to direct or consequential damages suffered by particular Units, which shall be payable to the owners of such Units or their mortgagees, as their interests may appear. In the case of a total taking of all Units and the Common Elements, the entire award shall be payable to the Board of Managers to be distributed to the Unit Owners in accordance with their respective percentage interests in the Common Elements.

ARTICLE X

Records

SECTION 10.1. Records and Audits. The Board of Managers, operating manager, or the managing agent shall keep detailed records of the actions of the Board of Managers, operating manager, and the managing agent, minutes of the meetings of the

Board of Managers, 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 charges against such Unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. An annual report of the receipts and expenditures of the Condominium shall be rendered by the Board of Managers to all Unit Owners promptly after the end of each fiscal year. In addition, the Board of Managers shall provide an annual report to any holder or insurer of any first mortgage on a Unit in the Condominium that has submitted a written request for such report. If requested by seventy-five percent of the Unit Owners, the Board of Managers shall have the annual report of receipt and expenditures for that fiscal year certified by an independent certified public accountant. The cost of such certification shall be a common expense. Copies of the Master Deed, these By-Laws, Rules and Regulations and Floor Plans of the Buildings and Units, as the same may be amended from time to time, shall be maintained at the office of the Board of Managers and shall be available for inspection during reasonable business hours by Unit Owners, their authorized agents and holders and insurers of first mortgages secured by Units in the Condominium during reasonable business hours.

## ARTICLE XI

### Miscellaneous

SECTION 11.1. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

SECTION 11.2. 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 these By-Laws, or the intent of any provisions thereof.

SECTION 11.3. Number and Gender. The pronouns "them," "they," and "their" are used with a singular antecedent that is indefinite or that does not specify gender, in lieu of the masculine singular and feminine singular pronouns "he," "she," "him," "her," "his," and "hers." Accordingly, "they," "them," and "their" may be singular or plural depending on their antecedents and context.

SECTION 11.4. Waiver. No restriction, condition, obligation or provision contained in these By-Laws 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 thereof which may occur.

SECTION 11.5. Signs. No sign, plaque, or communication of any description shall be placed on the exterior of any Unit or Common Element by either a Unit Owner or the Board of Managers, nor shall any "For Sale," "For Rent" or "For Lease" signs or other window displays or advertising be maintained or permitted on any part of the Property or in any Unit therein, as long as the Sponsor owns any Unit in the Condominium. After the Sponsor has parted with all interest in the subject property, no Unit Owner shall place any sign or other communication on the exterior of any Unit or Common Element except with the prior written approval of the Board of Managers (and the managing agent, if any).

SECTION 11.6. Inflation. Dollar amounts in Sections 6.1, 6.12(c) and 2.2(k) shall be increased five percent per year unless the Unit Owners by majority vote from time to time change the rate of increase.

SECTION 11.7. Typographical Error Corrections. If Sponsor or the Board of Managers determine that a typographical or misnomer error has been made in the within document or any amendment thereto, Sponsor hereby reserves the right exercisable by Sponsor acting alone to correct such error by an instrument executed by the Sponsor making reference to this Section 11.7, and upon such instrument being recorded with the Registry, such error shall be deemed to have been corrected as fully and with the same force and effect as if such error were not ever made. No such amendment, however, shall effect any substantive rights or interest of any Unit Owner in the Common Elements.

SECTION 11.8 FHLMC Provisions. Notwithstanding any other provisions of these By-Laws, the following provisions shall apply and govern to facilitate and qualify mortgages of Units for sale to the Federal Home Loan Mortgage Corporation ("FHLMC"). The Sponsor shall have the absolute right to amend these By-Laws from time to time to facilitate the financing of the purchase of a Unit, as requested by FHLMC or any first mortgage, but only so far as necessary to conform the Condominium or the provisions of these By-Laws to FHLMC rules, regulations, and guidelines, such amendment to become effective when signed and acknowledged by the Sponsor and recorded with the Registry. The Sponsor shall have the same right to amendment with regard to rules, regulations, and guidelines of

the Federal National Mortgage Association ("FNMA"), Federal Housing Administration ("FHA") and of Veterans Administration. This right to amend shall expire after the Sponsor owns no Units and thereafter this right to amend shall be exercisable by the Board of Managers.

SECTION 11.9. Sponsor's Ownership. Wherever in the By-Laws, Master Deed, or related documents there is a reference to ownership by the Sponsor of a Unit or Units, the Sponsor shall be deemed to own a Unit if the Sponsor legally owns the Unit according to the records of the Registry or if the Sponsor is the beneficial owner of a Unit, whether or not such beneficial ownership is reflected in the records of the Registry.

## ARTICLE XII

### Amendments to By-Laws

SECTION 12.1. Amendments to By-Laws. These By-Laws may be modified or amended as provided in the Master Deed. As long as Sponsor remains the owner of any Unit in the Condominium expressly including Unit 23, these By-Laws may not be amended so as to adversely affect Sponsor without Sponsor's prior written consent.

## ARTICLE XIII

### Conflicts

SECTION 13.1. Conflicts. These By-Laws are set forth to comply with the requirements of Chapter 183A. If any of these By-Laws conflict with the provisions of said statute or the Master Deed, the provisions of said statute or the Master Deed, as the case may be, shall control.

EXECUTED under seal as of the date first above written.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE

By: 

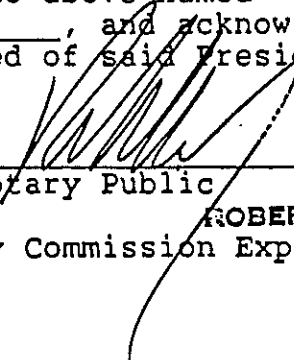
By: 

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Dated August 28 1989

Then personally appeared the above named Sally Zeckhauser, and acknowledged the foregoing to be the free act and deed of said President and Fellows of Harvard College,

  
\_\_\_\_\_  
Notary Public

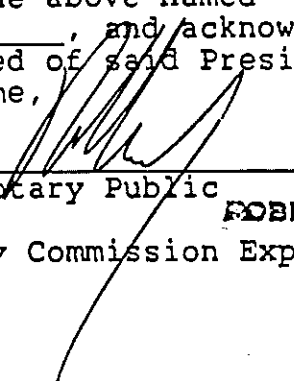
**ROBERT E. MCGAW, JR.**  
My Commission Expires 2-23-1990

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Dated August 28 1989

Then personally appeared the above named Kristin S. Demong, and acknowledged the foregoing to be the free act and deed of said President and Fellows of Harvard College, before me,

  
\_\_\_\_\_  
Notary Public

**ROBERT E. MCGAW, JR.**  
My Commission Expires 2-23-1990

EXHIBIT A TO BY-LAWS

OBSERVATORY COMMONS CONDOMINIUM  
CAMBRIDGE, MASSACHUSETTS

These Rules and Regulations may be amended, or supplemented, and additional rules and regulations added from time to time, by the Board of Managers.

1. There shall be no obstruction of the Common Elements nor shall any personal property of the Unit Owners or Unit occupants or their agents, employees, licensees or visitors be stored or left in any part of the Common Elements, without prior consent of the Board of Managers except as expressly provided herein, in the By-Laws or in the Master Deed.

2. The Common Elements shall be kept free and clear of rubbish, debris, and other unsightly materials.

3. Nothing shall be done or kept in or on the Common Elements which will increase the rate of insurance of the Condominium, or contents thereof, applicable for residential or accessory use, without the prior written consent of the Board of Managers. No Unit Owner shall permit anything to be done or kept in or on the Common Elements which will result in the cancellation of insurance on the Condominium or contents thereof or which would be in violation of any law.

4. No noxious, offensive or unlawful activity shall be carried on in or on the Common Elements nor shall anything be done therein, either willfully or negligently, which is or may become a nuisance to the other Unit Owners or occupants, and all valid laws, ordinances, codes, regulations, rules, and orders of any authority having jurisdiction thereover shall be observed.

5. Nothing shall be done in or to the Common Elements which would impair the structural integrity of any Building or structurally change any Building or endanger the safety of the other Unit Owners or occupants.

6. Except as otherwise provided in the Master Deed or the By-Laws, no portion of the Common Elements shall be decorated or furnished by any Unit Owner in any manner without the mutual agreement thereto of all Unit Owners, and no awning, screen, antenna, sign, banner, or other device, and no exterior change, addition, structure, projection, decoration or other feature shall be erected or placed upon or attached to the Common Elements or any part thereof.

7. Use of common areas for parties, social gatherings, "cook-outs", and the like shall be held only with the prior written permission of any one of the Board of Managers.

8. The roofs shall not be coated, painted, covered, or otherwise treated without the prior written consent of the Board of Managers, and then only in accordance with the specifications of the manufacturer and installer of the roof covering.

9. All trash, garbage, and debris shall be placed only in receptacles designated by the Board of Managers.

DP-2189/q  
CR.004

AMENDMENT TO BY-LAWS

Dated as of August 28, 1989

AMENDMENT by Sally Zeckhauser, Kristin S. Demong, and Sheldon G. Tandler, Trustees (collectively, the "Trustees") of OBSERVATORY COMMONS GROUND LESSEE NOMINEE TRUST, a Massachusetts nominee trust under a Declaration of Trust dated as of August 9, 1989 and to be recorded with Middlesex County South District Registry of Deeds (the "Registry") herewith and prior hereto, having an office c/o Harvard Real Estate, Inc., Holyoke Center, Suite 1017, Cambridge, Massachusetts 02138-3826, being the owner of all the Units in Observatory Commons Condominium (the "Condominium"), created by Master Deed of even date herewith (the "Master Deed") and governed by a set of by-laws (the "By-Laws") of even date herewith, both of which were recorded with the Registry herewith and prior hereto. Terms defined in or by reference in said By-Laws shall have the same meanings herein as therein unless expressly otherwise defined in this Amendment.

1. The Trustees hold one hundred percent of the Beneficial Interest under the Master Deed.

2. Pursuant to Section 19 of Chapter 183A of the Massachusetts General Laws ("Chapter 183A"), the Trustees have removed the land described in Exhibit A to the Master Deed ("Land") from the Condominium by a certificate of removal of even date herewith, recorded with the Registry herewith and prior hereto (the "Certificate of Removal").

3. The Trustees have conveyed the Land to President and Fellows of Harvard College ("Harvard") by deed of even date herewith, recorded with the Registry.

4. The Trustees, as lessee, have entered into a ground lease of the Land of even date herewith with Harvard, as lessor (the "Ground Lease"), notice of which is recorded immediately prior hereto with the Registry.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the undersigned hereby amend the By-Laws in the manner hereinafter set forth.

The By-Laws are amended as follows:

A. The following sentence is hereby added at the end of the first paragraph of Section 6.8 of the By-Laws:

"Before any repair or restoration is commenced, the Board of Managers must submit the plans and specifications for such repair or restoration to the Lessor



under the Ground Lease, for its consent pursuant to Sections 7.03 and 15.05 of the Ground Lease."

B. The following paragraph is hereby added at the end of Section 6.8 of the By-Laws:

"A partition of the Condominium, as described above, shall cause a termination under the Ground Lease, as more specifically provided in Sections 15.02 and 15.04 of the Ground Lease."

C. The following paragraph is added at the end of Section 6.12 of the By-Laws:

"(d) Before any improvement, other than a non-structural alteration or interior change, can be commenced, the Unit Owners or Board of Managers must submit the plans and specifications for such proposed improvement to the Lessor under the Ground Lease, for its consent pursuant to Section 7.03 of the Ground Lease."

D. The first paragraph of Section 8.1 of the By-Laws is hereby deleted and replaced with the following:

"SECTION 8.1. SALES. No Unit Owner, specifically including the Board of Managers, if it has acquired a Unit, and any Unit Mortgagee which has acquired a Unit through foreclosure or deed in lieu of foreclosure, but specifically excluding the Sponsor, may sell their Unit or any interest therein except by complying with Sections 6 and 7 of the Master Deed and with Section 11.02 of the Ground Lease."

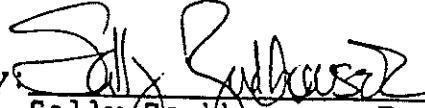
E. The following sentence shall be added to Section 13.1 of the By-Laws:


"In case any of these By-Laws conflict with the provisions of the Ground Lease, the provisions of the Ground Lease shall control."

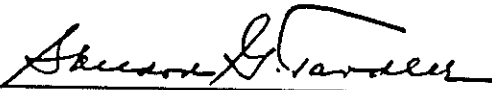
The Trustees, by recording this Amendment, hereby agree that their ownership of Units in the Condominium is subject to the amendments contained herein.

Executed as an instrument under seal of the date first above written.

OBSERVATORY COMMONS GROUND  
LESSEE NOMINEE TRUST

By:   
Sally Zeckhauser, Trustee  
of Observatory Commons  
Ground Lessee Nominee Trust  
as aforesaid, and not  
individually

By:   
Kristin S. Demong, Trustee  
of Observatory Commons  
Ground Lessee Nominee Trust  
as aforesaid, and not  
individually

By:   
Sheldon G. Tandler, Trustee  
of Observatory Commons  
Ground Lessee Nominee Trust  
as aforesaid, and not  
individually

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August 28, 1989

Then personally appeared the above-named Sally Zeckhauser, Trustee of Observatory Commons Ground Lessee Nominee Trust, and acknowledged the foregoing to be her free act and deed as aforesaid, before me,

  
Notary Public

**ROBERT E. MCGAW, JR.**

My Commission Expires: 2-23-1990

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August 28, 1989

Then personally appeared the above-named Kristin S. Demong, Trustee of Observatory Commons Ground Lessee Nominee Trust, and acknowledged the foregoing to be her free act and deed as aforesaid, before me,

  
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Notary Public

**ROBERT E. MCGAW, JR.**

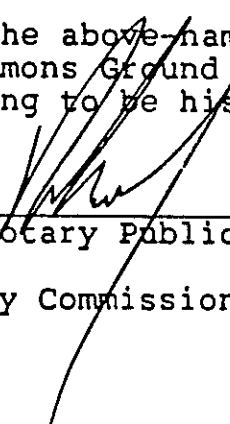
My Commission Expires: 2-23-1990

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August 28, 1989

Then personally appeared the above-named Sheldon G. Tandler, Trustee of Observatory Commons Ground Lessee Nominee Trust, and acknowledged the foregoing to be his free act and deed as aforesaid, before me,

  
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Notary Public

**ROBERT E. MCGAW, JR.**

My Commission Expires: 2-23-1990

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