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**SOMERSET HILLS CONDOMINIUM TRUST**

**DECLARATION OF TRUST**

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**SOMERSET HILLS CONDOMINIUM TRUST**

THIS DECLARATION OF TRUST made this 7<sup>th</sup> day of December, 2005 by George Morrill of the Town of Sherborn, County of Middlesex, Massachusetts and Peter Azonian of the Town of Andover, Essex County, Massachusetts (herein, together with his successor(s) as trustee(s) hereunder, called the "Trustees").

**ARTICLE I**

Name of Trust

The Trust hereby created shall be known as the SOMERSET HILLS CONDOMINIUM TRUST (this "Trust"), and under that name, so far as legal, convenient and practicable, shall all business carried on by the Trustees be conducted and shall all instruments in writing by the Trustees be executed.

**ARTICLE II**

The Trust and Its Purpose

Section 2.1 General Purpose.

The Somerset Hills Condominium (the "Condominium") has been established by Somerset Hills Limited Partnership (the "Declarant") pursuant to a Master Deed of even date and record herewith. All of the rights and powers in and with respect to the "Common Areas and Facilities" (as defined in the Master Deed) of the Condominium which are, by virtue of provisions of Chapter 183A of the Massachusetts General Laws (the "Condominium Law"), conferred upon or exercisable by the organization of unit owners of the Condominium and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder shall vest in the Trustees as joint tenants with right of survivorship as Trustees of this Trust, in trust to exercise, manage, administer and dispose of the same and to receive the income thereof for the benefit of the owners (the "Unit Owners") of record from time to time of the units (the "Units") of the Condominium according to their undivided beneficial interest in the Common Areas and Facilities (the "Beneficial Interest") set forth in Section 4.1 hereof and in accordance with the provisions of the Condominium Law, this Trust being the organization of the Unit Owners established pursuant to the provisions of Section 10 of the Condominium Law for the purposes therein set forth.

Section 2.2 Trust Only.

It is hereby expressly declared that a trust and not a partnership has been created and that the Unit Owners are beneficiaries of this Trust and not partners or associates nor in any other relation whatever between themselves with respect to the trust property, and hold no relation to the Trustees other than that of beneficiaries of this Trust, with only such rights as are conferred upon them as such beneficiaries hereunder and under and pursuant to the provisions of the Condominium Law.



## ARTICLE III

### The Trustees

#### Section 3.1 Number and Vacancy.

There shall initially be two (2) Trustees, said trustee to be designated by the Declarant. The term of said Trustees shall expire upon the earlier of (i) one hundred twenty (120) days after such time as the Declarant (or its designee) owns less than twenty-five percent (25%) of the Units and is no longer entitled to add additional Phases to the Condominium pursuant to the Master Deed, or (ii) five (5) years from the date of the conveyance of the first Unit, at which time the number of Trustees shall be increased to no less than three (3) nor more than five (5), as shall be determined from time to time by vote of the Unit Owners entitled to not less than fifty-one percent (51%) of the Beneficial Interest. Whenever the number of such Trustees shall become less than the number determined by the Trustees from time to time as set forth above, a vacancy shall be deemed to exist. Subject to the rights of the Declarant set forth above, each such vacancy shall be filled by the designation of a natural person to act as Trustee by the vote of Unit Owners entitled to not less than fifty-one percent (51%) of the Beneficial Interest or, if the Unit Owners entitled to such percentage have not within thirty (30) days after the occurrence of any such vacancy made such designation, by the vote of a majority of the then remaining Trustees or by the sole remaining Trustee if only one. The designation of any new trustee shall become effective upon the recording in the Middlesex County Registry of Deeds (the "Registry") of a certificate of such designation signed by a majority of the Trustees, or, if there be only one, by the sole remaining Trustee holding such office immediately prior to the time of recording, or if there shall be no remaining Trustee, by three (3) Unit Owners, together with the acceptance of such designation, signed and acknowledged by the person so designated, and such person shall then be and become a Trustee and shall be vested with the title to the trust property jointly with the Trustees or Trustee then holding such office without the necessity of any act of transfer or conveyance. If for any reason any vacancy in the office of Trustee shall continue for more than one hundred twenty (120) 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 or Trustee and notice to all Unit Owners and Trustees and to such other parties in interest, if any, to whom the court may direct that notice be given. The foregoing provisions of this Section to the contrary notwithstanding, despite any vacancy in the office of Trustee, however caused and for whatever duration, the remaining Trustees, subject to the provisions of Section 3.3 hereof, shall continue to exercise and discharge all of the powers, discretions and duties hereby conferred or imposed upon Trustees.

#### Section 3.2 Term of Office.

The term of any Trustee designated prior to the date of the expiration of the Declarant's right to designate a majority of Trustees pursuant to Section 3.1 shall expire on such date (except that any such Trustee shall hold office until his or her successor is elected and qualified). Thereafter the first three Trustees elected by the Unit Owners as provided in Section 3.1 shall serve for the following terms: the term of office of one such Trustee shall be fixed at one (1) year; the term of office of one such Trustee shall be fixed at two (2) years; and the term of office of one such Trustee shall be fixed at three (3) years. The respective successors to such Trustees,



and any additional Trustees designated pursuant to Section 3.1, shall serve a fixed term of three (3) years; provided however, that each such Trustee shall hold office until his or her successor is elected and qualified, and that the term of any Trustee appointed to fill a vacancy in an unexpired term shall end when his or her predecessor's term would, but for the vacancy, have ended.

Section 3.3 Manner of Acting.

In any matters relating to the administration of this Trust hereunder and the exercise of the powers hereby conferred, the Trustees may act by majority vote at any duly called meeting at which a quorum is present. Except for such period as there is only one initial Trustee, in no event shall a majority consist of fewer than two (2) Trustees hereunder. Except for such period as there is only one initial Trustee, if and whenever the number of Trustees hereunder shall be or become fewer than two (2), the then sole Trustee (or sole remaining Trustee, if any) shall have no power or authority whatsoever to act with respect to the administration of this Trust or to exercise any of the powers hereby conferred except as provided in Section 3.1. The Trustees may also act without a meeting by instrument signed by a majority of their number.

Section 3.4 Resignation and Removal.

Any Trustee may resign at any time by instrument in writing, signed and acknowledged, and such resignation shall take effect upon the recording of such instrument in the Registry. By vote of Unit Owners entitled to not less than fifty-one percent (51%) of the Beneficial Interest, but subject to the right of the Declarant recited in Section 3.1 to designate a majority of Trustees of its choice, any Trustee may be removed with or without cause and the vacancy among the Trustees caused by such removal shall be filled in the manner above provided. Such removal shall become effective upon the recording in the Registry of a certificate of removal signed by a majority of the remaining Trustees in office.

Section 3.5 Compensation.

No Trustee may receive remuneration for his services solely as a Trustee, but, with the approval of a majority of the Trustees, may receive reasonable remuneration for his costs and extraordinary or unusual services, legal, managerial or otherwise, rendered by him in connection with this Trust, all as shall be from time to time fixed and determined by the Trustees, and such remuneration shall be a common expense of the Condominium.

Section 3.6 No Personal Liability.

No Trustee shall under any circumstances or in any event be held liable or accountable out of such Trustee's personal assets for, or be deprived of compensation by reason of any action taken, suffered or omitted in good faith or be so liable or accountable for more money or other property than such Trustee 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 of law or for any other reason except such Trustee's own personal and willful malfeasance.



Section 3.7 Self-dealing.

No Trustee shall be disqualified by reason of being a Trustee hereunder from contracting or dealing with the Declarant or an affiliate of the Declarant, the Trustees or one or more Unit Owners (whether directly or indirectly because of such Trustee's interest individually or the Trustee'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 Trust 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 relation hereby established, provided the Trustee shall act in good faith and shall disclose the nature of such Trustee's interest before the dealing, contract or arrangement is entered into. Without limiting the generality of all of the foregoing, the initial sole Trustee shall be authorized to enter into a maintenance or management contract with Wellesley Management Company or other affiliate of the Declarant under the Master Deed, said management contract to contain terms and conditions similar to those that would be found in a commercially reasonable, arms-length contract between unaffiliated entities.

Section 3.8 Indemnity.

The Trustees and each of them shall be entitled to indemnity both out of the trust property and by the Unit Owners against any liability incurred by them or any of them in the execution hereof, including without limiting the generality of the foregoing, liabilities in contract and in tort and liabilities for damages, penalties and fines, except no Trustee shall be entitled to indemnity in connection with any matter where a judge or jury has made a specific finding of fraud by the trustee(s), or the trustee(s) is (are) convicted of a crime of dishonesty, and all rights to appeal have been exhausted or waived. The trustee(s) shall be entitled to hire counsel of their choice and the Unit Owners, through the Trust, shall pay for the cost of any such defense; provided, however, that in the event one or more trustee(s) is (are) found conclusively and finally liable for fraud or guilty of a crime of dishonesty, then the Unit Owners shall be entitled to recoup any and all such legal fees. 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, all as provided in Sections 6 and 13 of the Condominium Law.

ARTICLE IV

Beneficiaries and the Beneficial Interest in the Trust

Section 4.1 Percentage Interest.

The beneficiaries of this Trust shall be the Unit Owners of the Condominium from time to time. The Beneficial Interest in this Trust shall be divided among the Unit Owners in the same percentages as the percentage interest of the Units in the Common Areas and Facilities as set forth in the Master Deed as modified from time to time.



Section 4.2 Vote as Unit.

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 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 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 and may be changed at any time and from time to time by notice as aforesaid. In the absence of any such notice of designation, the Trustees may designate any one such owner for such purposes.

Section 4.3 Proxies.

Any person (who need not be a Unit Owner) designated by a Unit Owner in writing filed with the Trustees to act as proxy on his behalf shall be entitled to act for the Unit Owner in all matters concerning the Trust and the Condominium within the authority granted by the proxy and until the proxy expires or is revoked in writing filed with the Trustees (unless the proxy by its terms is irrevocable), including without limitation casting any vote appertaining to the Unit at any meeting of the Unit Owners. Any proxy granted hereunder may, if given to another Unit Owner, provide by its terms that it is irrevocable for a period not exceeding three years. If a Unit is owned of record by more than one person, all such record owners must execute any proxy granted with respect to such Unit.

ARTICLE V

By-Laws

The Provisions of this Article V shall constitute the By-Laws of this Trust and the organization of Unit Owners established hereby to wit:

Section 5.1 Powers of the Trustees.

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

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

(b) To sell, assign, convey, transfer, exchange and otherwise deal with or dispose of portions of the trust property (but with respect to the Common Areas and Facilities only to grant easements, licenses and permits for public utilities or for other purposes consistent with the intended use therefor), but not the whole thereof, free and discharged of any and all trusts, at public or private sale, to any person or persons, for cash or on credit, and in such manner, on such restrictions, stipulations, agreements and reservations as they shall deem proper, including the power to take back mortgages to secure the whole or part of the purchase price of any of the trust property sold or transferred by them, and to execute and deliver any deed or other instrument in connection with the foregoing;

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

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

(e) To enter into any arrangement for the use or occupation of the Trust property or any part, or parts thereof, including, without thereby limiting the generality of the foregoing, leases, subleases, licenses or concessions, upon such terms and conditions and with such stipulations and agreements as they shall deem desirable even if the same extend beyond the possible duration of this Trust;

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

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

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

(i) To vote in such manner as they shall think fit any or all shares in any corporation or trust which shall be held as trust property, and for that purpose to give



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

(j) To deposit any funds of this Trust in any bank or trust company, and to delegate to any one or more of their number or to any other person or persons the power to deposit, withdraw and draw checks on any funds of this Trust;

(k) To maintain such offices and other places of business as they shall deem necessary or proper and to engage in business in Massachusetts or elsewhere;

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

(m) To levy fines against Unit Owners as a result of the violation of the provisions of the Master Deed, this Trust or any rule or regulation now or hereafter adopted by the Trustees. Such fines shall not exceed \$100.00 per violation but each day a violation continues shall constitute a separate violation. All fines shall be a personal obligation of such Unit Owner and shall be a lien against the Unit of such Unit Owner enforceable in accordance with the provisions of Section 5 of Chapter 254 of the General Laws of Massachusetts;

(n) To employ, appoint and remove such agents, managers, officers, board of managers, brokers, engineers, architects, employees, servants, assistants and counsel (which counsel may be a firm of which one or more of the Trustees are members) as they shall deem proper for the purchase, sale or management of the trust property, or any part or parts thereof, or for conducting the business of this Trust, and to define their respective duties and fix and pay their compensation, and the Trustees shall not be answerable for the acts and defaults of any such person. The Trustees may delegate to any such agent, manager, officer, board, broker, engineer, architect, employee, servant, assistant or counsel any or all of their powers (including discretionary powers, except that the power to join in amending, altering, adding to, terminating or changing this Declaration of Trust and the trust hereby created shall not be delegated) all for such times and purposes as they shall deem proper. Without hereby limiting the generality of the foregoing, the Trustees may designate from their number a Chairman, a Treasurer, a Secretary, and such other officers as they may deem fit, and may from time to time designate one or more of their own number to be the Managing Trustee or Managing Trustees for the management and administration of the trust property and the business of this Trust, or any part or parts thereof; and

(o) Generally, in all matters not herein otherwise specified, to control, to do each and every thing necessary, suitable, convenient or proper for the accomplishment of any of the purposes of this Trust or incidental to the powers granted herein or in the Condominium Law, to manage and dispose of the trust property as if the Trustees were the absolute owners thereof and to do any and all acts, including the execution of any instruments, which by their performance thereof shall be shown to be in their judgment for the best interest of the Unit Owners.



## Section 5.2 Maintenance and Repair of Units.

Except as provided in Sections 5.3 and 5.5, each Unit Owner shall be responsible for the proper maintenance, repair and replacement of his or her Unit and appurtenances which are a part thereof as set forth in the Master Deed. Such responsibility shall include normal and routine (*i.e.*, non- structural) maintenance and repair of such Unit including, without limitation, walls, ceilings and floors; windows, window frames and window trim (excluding exterior window frames and window trim); doors and door frames (excluding the exterior of doors and door frames leading to the Common Areas and Facilities or public sidewalks); plumbing and sanitary waste fixtures; electric fixtures and outlets; and all wires, pipes, drains, ducts and conduits for water, sewerage, electric power and light, telephone, heat, air conditioning and any other utility services which are contained in and exclusively serve such Unit. Notwithstanding the provisions of Sections 5.3, 5.4 and 5.5, the cost, in excess of available insurance proceeds, of restoring or repairing any damage to any Unit or the Common Areas and Facilities which is caused by the failure of a Unit Owner to so maintain his Unit shall be assessed solely to such Unit Owner, shall be a lien on such Unit enforceable in accordance with the provisions of Section 6 of said Chapter 183A and the Unit Owner thereof shall be personally liable therefor. If the Trustees shall at any time in their reasonable judgment determine that (i) a Unit (including, for purposes hereof, any exclusive use areas with respect to which the Unit Owner is responsible for maintenance and repair) is in such need of maintenance or repair that the market value of one or more other Units is being adversely affected, (ii) the condition of a Unit (including, for purposes hereof, any exclusive use areas with respect to which the Unit Owner is responsible for maintenance and repair), or any fixtures, furnishings, facility or equipment therein is hazardous to any Unit or the occupants thereof, or (iii) any exterior portion of a Unit (including, for purposes hereof, any exclusive use areas with respect to which the Unit Owner is responsible for maintenance and repair) is in such condition that the appearance of the Condominium is being adversely affected, the Trustees shall in writing request the Unit Owner to perform the needed maintenance, repair or replacement or to correct the hazardous condition, and in case such work shall not have been commenced within fifteen days (or such reasonably shorter period in case of emergency as the Trustees shall determine) of such request and thereafter diligently brought to completion, the Trustees shall be entitled to have the work performed for the account of such Unit Owner whose Unit, is in need of work and the cost of such work as is reasonably necessary therefor shall be assessed solely to such Unit Owner, shall constitute a lien upon such Unit enforceable in accordance with the provisions of Section 6 of said Chapter 183A, and the Unit Owner thereof shall be personally liable therefor.

## Section 5.3 Maintenance and Repair of Common Areas and Expense Thereof.

The Trustees shall be responsible for the proper operation, maintenance, repair and replacement of the Common Areas and Facilities (except to the extent Unit Owners are responsible therefor as provided in Section 5.2), and of all exterior window frames and window trim, the exterior of doors and door frames leading to the Common Areas and Facilities or public sidewalks and any exterior building walls or interior brick walls which are part of a Unit (except for routine maintenance or repair of damage not caused by the Trustees or any other Unit Owner which shall remain the responsibility of the Unit Owner), and such may be done through my managing agent appointed pursuant to Section 5.9, and any Trustee or such managing agent, or any others who may be so designated by the Trustees, may approve payment of vouchers for



such work, and the expenses of such operation, maintenance, repair and replacement shall be assessed to the Unit Owners as common expenses of the Condominium at such times and in such amounts as provided in Section 5.4.

Section 5.4 Common Expenses, Profits and Funds.

A. Each Unit Owner shall be personally liable for such Unit Owner's share, as hereinafter determined, of common expenses of the Condominium (including, for the purposes hereof, any assessment against a Unit Owner pursuant to Section 5.2, 5.5 or 5.7) together with the costs of collection thereof (including attorneys' fees) and shall be entitled to such Unit Owner's share (as hereinafter determined) of common profits of the Condominium. The Trustees may, to such extent as they deem advisable, set aside common funds of the Condominium as reserve or contingent funds and may use the funds so set aside for reduction of indebtedness or other lawful capital purpose or, subject to the provisions of Section 5.5 and 5.6, for repair, rebuilding or restoration of the Trust property or for improvements thereto, and the funds so set aside shall be deemed to be common profits available for distribution. The Trustees shall establish and maintain as a common expense an adequate reserve fund for maintenance, repairs and replacement of the elements of the Common Areas and Facilities that must be replaced on a periodic basis, and such common expense shall be assessed against the Unit Owners and payable in regular installments, rather than by special assessments, pursuant to paragraph B of this Section 5.4. In addition, the Declarant shall establish a working capital fund equal to two (2) months assessments for each Unit at the time of the sale thereof (but in no event later than the time the Declarant surrenders control), and the Trustees shall at all times have control of such funds. Each Unit Owner's share of expenses and profits shall be based on their respective percentage of Beneficial Interest.

B. Prior to the commencement of each fiscal year of this Trust (or on or before the formation hereof with respect to the initial partial fiscal year) the Trustees shall estimate the common expenses expected to be incurred during such fiscal year, together with a reasonable provision for contingencies and reserves and, after taking into account any undistributed common profits from prior years and anticipated receipts (including receipts from the Declarant under this Section), shall determine the assessment to be made for such fiscal year. The Trustees shall promptly render statements to the Unit Owners for their respective shares of such assessments and such statement shall, unless otherwise provided therein, be due and payable in equal monthly installments on the first day of each month during such year. In the event that the Trustees shall determine during any fiscal year that the assessment so made is less than the common expenses actually incurred, or in the reasonable opinion of the Trustees likely to be incurred, the Trustees shall make a supplemental assessment or assessments and render statements therefor, specifying the manner in which such assessment is to be paid. The Trustees may in their discretion provide for payments of statements in one payment or in installments other than monthly. The amount of each assessment shall be a personal liability of the Unit Owner and if not paid when due shall, if the Trustees so elect, carry a late charge at a rate equal to three percent (3%) per annum over the prime interest rate in effect in major Boston banks at the time such payment was due. All such charges (and costs of collection thereof) shall constitute a lien on the Unit of the Unit Owner assessed, enforceable in accordance with the provisions of Section 6 of the Condominium Law.



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

D. All costs directly attributable to the Building shall be assessed as a common expense in proportion to the respective percentages of Beneficial Interest held by the Unit Owners. Such costs shall include, but shall not be limited to (i) the costs of operating, maintaining and replacing all mechanical, electrical, plumbing and other utility systems, (ii) the costs of operating, maintaining and replacing all hallways, stairways and lobbies, (iii) the costs of operating, maintaining and replacing all structural elements, including the roof, (iv) the cost of casualty and other insurance, (v) any costs relating to any repair or replacement arising from a casualty, (vi) management fees or costs; and (vii) any other operating or management costs of the Condominium.

Section 5.5 Rebuilding and Restoration.

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

B. In the event of any casualty loss solely to one or more Units in the Condominium, the Trustees shall forthwith proceed with the necessary repairs to restore such Units to their



condition prior to such casualty (including any permanent improvements made by the Unit Owners but excluding any wall, ceiling or floor covering or decorations, drapes, furniture, furnishings, equipment or other personal property of the Unit Owners) using the proceeds of any insurance for that purpose and the cost of repair and restoration of the damaged Unit or Units in excess of any available insurance proceeds shall be a common expense and shall be assessed to all Unit Owners in accordance with their Beneficial Interest; provided, however, that to the extent such cost in excess of insurance proceeds is the result of a lack of insurance coverage caused by the failure of a Unit Owner promptly and accurately to report improvements made by him to his Unit pursuant to Section 5.6 below, the excess cost resulting from such failure shall be assessed solely to the Unit Owner so failing to report the same, shall constitute a lien upon such Unit enforceable in accordance with the provisions of Section 6 of the Condominium Law and the Unit Owner thereof shall be personally liable therefor. The extent to which the cost in excess of insurance proceeds is attributable to a Unit Owner failing to report improvements as aforesaid shall be as determined by the Trustees.

C. In the event of any casualty loss to the Common Areas and Facilities and to one or more Units, the Trustees shall, in the manner set forth in paragraph A of this Section 5.5, determine whether the Common Areas and Facilities are to be repaired and restored and if it is determined to so repair and restore, the Trustees shall proceed with the necessary repairs and restoration of the Common Areas and Facilities and of the Units, and assess the costs thereof, in accordance with the provisions of said paragraphs A and B of this Section 5.5. If such loss to the Common Areas and Facilities is determined to exceed ten percent (10%) of the value of the Condominium and at least seventy-five percent (75%) of Unit Owners do not agree (by signing the Restoration Agreement and returning the same to the Trustees within one hundred twenty (120) days after the date of casualty) to proceed with repairs and restoration of the Common Areas and Facilities, then the Trustees shall not proceed with repairs to the Common Areas and Facilities or to the Units and the Condominium shall be subject to partition at the suit of any Unit Owner. Any such suit for partition shall be subject to dismissal at any time prior to entry of an order to sell if an appropriate agreement is filed and the Trustees shall thereafter proceed with the necessary repairs and restoration in accordance with paragraphs A and B of this Section 5.5. Upon such sale the Condominium shall be deemed removed from the Condominium Law. The net proceeds of a partition sale together with any common funds (including the proceeds of any insurance) shall be distributed to the Unit Owners in accordance with their then Beneficial Interest.

D. Notwithstanding anything to the contrary in the preceding paragraphs, in the event that any Unit Owners shall dissent from any determination of the Trustees with respect to the value of the Condominium or any other determination or action of the Trustees under this Section 5.5 by notice in writing to the Trustees within ten (10) days after such determination or action, and such dispute shall not have been resolved within thirty (30) days after such notice, then either the Trustees or the dissenting Unit Owners may submit the matter to arbitration, and for that purpose, one arbitrator shall be designated by the Trustees, one by the dissenting Unit Owners and a third by the two arbitrators so designated, and such arbitration shall be conducted in accordance with the commercial arbitration rules and procedures of the American Arbitration Association.

E. Notwithstanding anything to the contrary in the preceding paragraphs, the Trustees shall not (i) be obliged to proceed with any repair, rebuilding or restoration unless and until they have received funds in an amount equal to the estimate of the Trustees of all costs thereof, or (ii) use the proceeds of any casualty insurance except as provided in this Section 5.5.

Section 5.6 Improvements to Common Areas and Facilities.

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

B. Notwithstanding anything to the contrary in the preceding paragraph, (i) in the event that any Unit Owner or Owners shall dissent from any determination of the Trustees with respect to the value of the Condominium or any other determination or action of the Trustees under this Section 5.6 by notice in writing to the Trustees within ten (10) days after such determination or action, and such dispute shall not be resolved within thirty (30) days after such notice, then either the Trustees or the dissenting Unit Owner or Owners may submit the matter to a court of competent jurisdiction, (ii) the Trustees shall not in any event be obligated to proceed with any improvement unless and until they have received funds in an amount equal to the estimate of the Trustees of all costs thereof, and (iii) the Declarant may, at its sole cost and expense, make such improvements to the Common Areas and Facilities as it deems appropriate.

C. Notwithstanding anything to the contrary in the preceding paragraphs, each Unit Owner shall have the right to upgrade the electrical systems to its Unit in accordance with the terms of the Master Deed after obtaining approval from the Trustees for any work proposed in, on or through the Common Areas and Facilities. Said approval of the Trustees shall be



conditioned on said work occurring at a time, in a location, and in a manner that minimizes disruption to the other Unit owners in the reasonable judgment of the Trustees.

Section 5.7 Additions, Alterations or Improvements by Unit Owners.

A. No Unit Owner shall make any addition, alteration or improvement in or to his Unit which may affect the structure, or mechanical, electrical or security systems of the Condominium without the prior written consent thereto of the Trustees. The Trustees shall have the obligation to answer any written request by a Unit Owner for approval of a proposed addition, alteration or improvement in such Unit Owner's Unit which is accompanied by plans or other documents in reasonable detail describing such addition, alteration or improvement within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Trustees to the proposed addition, alteration or improvement. The consent of the Trustees may contain such conditions as they deem appropriate including restrictions on the time and manner of performing such work and requirements for builders' risk and liability insurance. The provisions of this Section 5.7.A shall not apply to Units owned by the Declarant prior to the initial sale thereof.

B. All additions, alterations or improvements to any Unit (whether or not affecting the structure or mechanical, electrical or security systems of the Condominium) shall be performed in compliance with all applicable laws, regulations and codes, and when required thereby, by licensed contractors. All such work shall be performed between the hours of 8:00 a.m. and 5:00 p.m. on weekdays (other than holidays), unless otherwise permitted by the Trustees. Each Unit Owner and his contractors shall cooperate with the Trustees and other Unit Owners so as not to unduly inconvenience or disturb the occupants of the Condominium. Notwithstanding the provisions of Sections 5.3, 5.4 and 5.5, the cost, in excess of available insurance proceeds, of repairing or restoring any damage to the Common Areas and Facilities or to any Unit which is caused by any work being performed by or for a Unit Owner shall be assessed solely to such Unit Owner, shall constitute a lien upon such Unit enforceable in accordance with the provisions of Section 6 of the Condominium Law, and the Unit Owner thereof shall be personally liable therefor.

C. Each Unit Owner shall promptly notify the Trustees of all additions, alterations or improvements made by him to his Unit, the insurable replacement cost of which exceeds one thousand dollars (\$1,000.00).

Section 5.8 Rules, Regulations, Restrictions and Requirements.

The Trustees may at any time and from time to time adopt, amend and rescind administrative rules and regulations governing the details of the operation and use of the Common Areas and Facilities as are consistent with provisions of the Master Deed and this Trust. The operation and use of the Common Areas and Facilities shall initially be governed by the rules and regulations set forth in Exhibit A hereto.

Section 5.9 Managing Agent.

A. The Trustees may, at their discretion, appoint a manager or managing agent to administer the Condominium, who shall perform such duties in the administration, management



and operation of the Condominium, including the incurring of expenses, the making of disbursements and the keeping of accounts, as the Trustees shall from time to time determine. The Trustees or such manager or managing agent may appoint, employ and remove such additional agents, attorneys, accountants or employees as the Trustees shall from time to time determine.

B. Any agreement or contract entered into by the Trustees with respect to management of the Condominium shall be terminable by the Trustees without cause or payment of a termination fee upon not more than ninety (90) days' notice. The term of any agreement for the professional management of the Condominium, or any other contract providing for services of the Declarant to the Condominium, may not exceed three (3) years. Any such agreement must provide for termination by either party, upon written notice of ninety (90) days or less, without cause and without payment of a termination fee.

#### Section 5.10 Insurance.

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

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

B. Comprehensive public liability insurance in such amounts and forms as shall be determined by the Trustees, covering this Trust, the Trustees, and all of the Unit Owners and any manager or managing agent of the Condominium, with limits of not less than a combined single limit of \$1,000,000 for claims for bodily injury or property damage arising out of one occurrence in any Common Area and Facility, public way or any other area under the supervision of the Trust (even if leased to others), with cross liability endorsement to cover liability of any insured to other insureds. Any such policy shall provide for at least ten (10) days' prior written notice to



the Trust prior to cancellation or substantial modification, copies of which notice shall also be sent by the insured to each holder of a first mortgage on any Unit.

C. Workmen's compensation and employer's liability insurance covering any employees or uninsured workmen of this Trust.

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

The cost of such insurance shall be deemed a common expense, and shall be assessable and payable as provided in paragraphs A and B of Section 5.4. All policies of casualty or physical damage insurance shall provide that all casualty loss proceeds payable thereunder shall be paid to the Trustees as insurance trustees under these By-Laws. The sole duty of the Trustees as the insurance trustees shall be to hold, use and disburse any amounts so paid for the purposes stated in Section 5.5. In the event that the amount of loss proceeds exceeds the cost of all repairs and restoration pursuant to Section 5.5, such excess shall, at the discretion of the Trustees, either be deposited in the reserve fund or distributed to the Unit Owners in accordance with their Beneficial Interest at the time of such loss. All policies of casualty and liability insurance shall contain (1) waivers of subrogation as to any claims against this Trust, the Trustees and their agents and employees, and against the Unit Owners and their respective employees, agents and guests, (2) waivers of any defense based on the conduct of any insured, and (3) provisions to the effect that the insurer shall not be entitled to contribution as against casualty insurance which may be purchased by individual Unit Owners as hereinafter permitted. Each Unit Owner or his mortgagee may obtain additional insurance at his own expense, provided that such insurance shall contain provisions similar to those required to be contained in this Trust's casualty or physical damage policies waiving the insurer's rights to subrogation and contribution. If the proceeds from such policies on account of any casualty loss are reduced due to proration with insurance individually purchased by a Unit Owner, such Unit Owner agrees to assign the proceeds of such individual insurance, to the extent of the amount of such reduction, to the Trustees to be applied as herein provided.

No Unit Owner shall do or permit anything to be done in or upon his Unit, or bring in anything or keep anything therein, which shall increase the rate of liability insurance maintained by the Trustees as provided in this Section 5.10; provided, however, that the Trustees may make certain exceptions with respect to the foregoing, provided the Unit Owner requesting such exception shall agree to promptly pay any increase in insurance premiums resulting therefrom.

#### Section 5.11 Meetings.

A. The Trustees shall meet annually on the date of the annual meeting of the Unit Owners and at such meeting may elect the Chairman, Treasurer, Secretary and any other officers they deem expedient. 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 stating the place, day and hour thereof shall be given at least two days before such meeting to each Trustee. A majority of the number of Trustees then in office shall constitute a quorum at all meetings, and such meetings shall be conducted in accordance with such rules as the Trustees may adopt.



B. There shall be an annual meeting of the Unit Owners at such reasonable time and place as may be designated by the Trustees by written notice given to the Unit Owners at least seven days prior to the date so designated. Special meetings (including a meeting in lieu of a passed annual meeting) of the Unit Owners may be called at any time by the Trustees and shall be called by them upon the written request of Unit Owners owning at least twenty percent (20%) of the Beneficial Interest. Notice of any special meeting designating the place, day and hour thereof shall be given by the Trustees to the Unit Owners at least seven days prior to the date so designated. The Unit Owners representing a majority of Beneficial Interest represented at such meeting shall decide any matter except where a larger vote is required by law or by this Declaration of Trust.

Section 5.12 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 this Trust or which may be ordered in any judicial proceeding shall be deemed sufficient and binding if a written copy of such notice shall be given by one or more of the Trustees to such Unit Owner by mailing it, postage prepaid and addressed to such Unit Owner at his address as it appears upon the records of the Trustees if other than at his Unit or by delivering or mailing the same to such Unit, if no address appears or if such Unit appears as the Unit Owner's address, in any case, at least seven days prior to the date fixed for the happening of the matter, thing or event of which such notice is given.

Section 5.13 Inspection of Books; Reports to Unit Owners.

Books, financial statements, and records of the Trust (including current copies of the Master Deed, this Trust and any rules and regulations) shall be maintained by the Trustees and be available for inspection to any one or more of the Trustees, the Unit Owners and holders, insurers and guarantors of first mortgages on any of the Units at all reasonable times. The Trustees shall, as soon as reasonably possible after the close of each fiscal year, and after preparing and filing all tax returns, if necessary, submit to the Unit Owners a report of the operations of the Trust for such year which shall include financial statements in such summary form and in only such detail as the Trustees shall deem proper. Any person who has been furnished with such report and shall have failed to object thereto by notice in writing to the Trustees given by registered mail within a period of thirty (30) days of the date of the receipt by him of such report shall be deemed to have assented thereto.

Section 5.14 Checks, Notes, Drafts and Other Instruments.

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

Section 5.15 Seal.

The Trustees may sign any instrument under seal without being required to affix a formal, common or wafer seal.



Section 5.16 Fiscal Year.

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

Section 5.17 Pets.

No animals or reptiles of any kind shall be raised, bred, or kept in any Unit without the prior consent of the Trustees, provided that no such prior consent shall be required for the keeping of up to two small customary house pets in any Unit. With respect to any and all pets entitled or permitted hereunder to be kept within the Condominium, no such pet shall be kept, bred or maintained for any commercial purposes, and in no event shall any pet be permitted in any portion of the Common Areas and Facilities unless carried or on a leash or be permitted, under any circumstances, in any grass or garden plot. Unit Owners shall promptly remove and dispose of any fecal matter deposited by their pets on the Common Areas and Facilities.

Section 5.18 Right of Access.

Each Unit Owner shall grant a right of access to his Unit to the Trustees, or any person authorized by the Trustees, for the purpose of making inspections or correcting any conditions originating in his Unit and threatening another Unit or the Common Areas and Facilities, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Areas and Facilities, provided that requests for entry are made in advance and such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency such right of entry shall be immediate, whether or not the Unit Owner is present. To facilitate access to the Units pursuant to this Section 5.18, each Unit Owner shall provide the Trustees with all keys necessary to afford access to his Unit, provided, however, that the Trustees shall not be liable for injury, loss or damage directly or indirectly resulting therefrom.

Section 5.19 Leases.

Units may be leased by their respective Unit Owners, provided no Unit may be leased for periods of less than six (6) months, and no lease shall have less than a thirty (30) day termination right, unless the terms of said lease are approved by the Trustees. No tenant under any lease shall have the right of subletting or assignment. All leases shall be terminable by the lessor or, upon the lessor's failure so to terminate, by the Trustees, in the event of material violation of the provisions of the Master Deed, this Declaration of Trust or any rules or regulations promulgated thereunder. No Unit may be used for transient rentals or rented on a nightly basis.

Section 5.20 Disturbance and Illegal Use.

No Unit Owner shall cause or permit any unlawful, immoral, or improper use of his or her Unit, nor any nuisance thereon, nor any noisy or otherwise offensive use thereof which is a source of unreasonable annoyance to other Unit Owners, including, without limitation, the playing or use of musical instruments, stereos, amplifiers, televisions and radios at such times or in such manner as to disturb other Unit Owners. Between the hours of 11:00 p.m. and the following 8:00 a.m., no Unit Owner shall cause or permit the playing or use of any musical instrument, stereo, amplifier, television or radio at such volume that may be heard outside such



Unit. With respect to any Unit having a wood floor, if, in the sole judgment of the Trustees, the use thereof is creating an annoyance to other Unit Owners, the Trustees shall have the right to require that the Owner of such unit cover, at such Owner's expense, up to 80% of the wooden floor area with carpeting.

Section 5.21 Security.

Each Unit Owner shall be responsible for the safety and security of persons and property within his or her Unit and its appurtenant areas, and the Declarant and Trustees shall have no responsibility or liability therefor.

Section 5.22 Unit Owner's Insurance.

Each Unit Owner shall obtain at his or her own expense casualty or physical damage insurance on the personal property within his or her Unit (including any wall, ceiling or floor covering or decorations, drapes, furniture, furnishings and equipment) in the amount of its full insurable value. All such insurance shall contain provisions similar to those required by Section 5.10 to be contained in the Trust's casualty or physical damage policies waiving the insurer's rights to subrogation and contribution. Any Unit Owner shall be obligated to make a claim of property loss under his or her own policy before making any claim against any other Unit Owner or the Trust based on negligence or any other theory of liability.

Section 5.23 Rights of Action.

Each Unit Owner and the Trust shall have a right of action against any Unit Owner who shall fail to comply with the provisions of the Master Deed, this Trust or any rules and regulations adopted hereunder. Any Unit Owner shall have a right of action against the Trust as a result of its failure to comply with its obligations under the Master Deed or the provisions hereof.

Section 5.24 Condemnation.

A. Any damage caused by a condemnation of any Common Areas and Facilities (except any portion thereof with respect to which exclusive use rights have been granted) shall be treated as a casualty and the provisions of Section 5.5A shall be applicable thereto. The Trustees shall represent the Unit Owners in all proceedings, negotiations, settlements or agreements with the taking authority regarding any such taking. Any proceeds received from any such taking shall be applied in the manner provided in Section 5.5A and any excess shall be distributed to the Unit Owners in accordance with their Beneficial Interest.

B. Any proceeds received from any taking relating to a Unit (including any exclusive use area or rights appurtenant to a Unit) shall be the sole property of the Owner of the Unit (or appurtenant right) so taken.

## ARTICLE VI

### Rights and Obligations of Third Parties Dealing with the Trustees

#### Section 6.1 Manner of Dealing.

No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear of record in the Registry shall be bound to ascertain or inquire further as to the persons who are then Trustees hereunder, or be affected by any notice, implied or actual, otherwise than by a recorded certificate, and such record or certificate shall be conclusive evidence of the personnel of said Trustees and of any changes therein. The receipts of the Trustees, or any one or more of them, for monies or things paid or delivered to them or him shall be effectual discharges therefrom to the persons paying or delivering the same and no person from whom the Trustees, or any one or more of them, shall receive any money, property or other credit shall be required to see the application thereof. No purchaser, mortgagee, lender or other person dealing with the Trustees or with any real or personal property which then is or formerly was Trust property shall be bound to ascertain or inquire as to the existence or occurrence of any event or purpose in or for which a sale, mortgage, pledge or charge is herein authorized or directed, or otherwise as to the purpose or regularity of any of the acts of the Trustees, or any one or more of them, purporting to be done in pursuance of any of the provisions or powers herein contained, or as to the regularity of the resignation or appointment of any Trustee, and any recorded instrument of appointment of a new Trustee or resignation of an old Trustee purporting to be executed by the Trustees, Unit Owners or other persons herein required to execute the same, shall be conclusive evidence in favor of any such purchaser or other person dealing with the Trustees of the matters therein recited relating to such discharge, resignation or appointment or the occasion thereof.

#### Section 6.2 No Recourse.

No recourse shall at any time be had under or upon any note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustees or by any agent or employee of the Trustees, or by reason of anything done or omitted to be done by or on behalf of them or any of them, against the Trustees individually, or against any such agent or employee, or against any Unit Owner either directly or indirectly, by legal or equitable proceedings, or by virtue of any suit or otherwise, and all persons extending credit to, contracting with or having any claim against the Trustees, shall look only to the trust property for payment under such contract or claim, or for the payment of any debt, damage, judgment or decree, or of any money that may otherwise become due or payable to them from the Trustees, so that neither the Trustees nor the Unit Owners, present or future, shall be personally liable therefor; provided, however, that nothing herein contained shall be deemed to limit or impair the liability of Unit Owners under the provisions of Section 3.9 hereof or under the provisions of the Condominium Law.

#### Section 6.3 Instruments Subject to Trust Terms.

Every note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustees or by



any agent or employee of the Trustees, shall be deemed to have been entered into subject to the terms, conditions, provisions and restrictions hereof, whether or not express reference shall have been made to this Declaration of Trust.

Section 6.4 Recording of Certificates, Etc.

This Declaration of Trust and any amendments hereto and any certificate herein required to be recorded and any other certificate or paper signed by the Trustees or any of them which it may be deemed desirable to record shall be recorded in the Registry and such recording shall be deemed conclusive evidence of the contents and effectiveness thereof according to the tenor thereof; and all persons dealing in any manner whatsoever with the Trustees, 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 recorded in the Registry. Any certificate signed by any two (2) Trustees in office at the time (or only one Trustee if there is only one at the time), setting forth as facts any matters affecting this Trust, including statements as to whether common charges assessed hereunder have been paid, as to who are the beneficiaries, as to what action has been taken by the beneficiaries, and as to matters determining the authority of the Trustees to do any act, when duly acknowledged and recorded in the Registry 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 any two (2) Trustees hereunder (or only one Trustee if there is only one at the time), 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 or majority, as the case may be, shall be, as to all persons acting in good faith in reliance thereon, conclusive evidence of the truth of the statements made in such certificate and of the existence of the facts therein set forth.

ARTICLE VII

Mortgages

Section 7.1 Notice to Trustees.

A Unit Owner who mortgages his Unit shall notify the Trustees in writing of the name and address of the mortgagee. The Trustees shall maintain a current list of such information.

Section 7.2 Unpaid Common Expenses.

The Trustees, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges due from, or any other failure to comply with the provisions of the Master Deed or this Trust by, the Unit Owner of the mortgaged Unit.

Section 7.3 Notice of Default.

The Trustees, when giving notice to a Unit Owner of a default in paying common expenses or of any other such failure to comply, shall, if requested by a mortgagee (a "Listed Mortgagee"), shall promptly report (i) any then unpaid common expenses due from, or any other default by, the Unit Owner of the mortgaged Unit, (ii) any other default in the performance by the Unit Owner of the mortgaged Unit of any obligation under the Master Deed, this Declaration

of trust or the Rules and Regulation which is not cured within sixty (60) days after notice to the Unit Owner; (iii) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a mortgage held, insured, or guaranteed by a mortgage holder or insurer or guarantor, as applicable; (iv) any lapse, cancellation or material modification of any insurance policy or fidelity insurance maintained by the Trustees; (v) any proposed action which requires the consent of a specified percentage of Listed Mortgagees as specified in the Master Deed or this Declaration of Trust; and (vi) any proposed material amendment to this Trust which may affect such Listed Mortgagee's interest or rights.

Section 7.4 Examination of Books.

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

Section 7.5 Procedure for Notice.

Any notice required or permitted by this Article VII or Section 8.2 to be given to a mortgagee or to an eligible mortgage holder, insurer or guarantor shall be in writing and shall be deemed duly given or made when deposited in the United States mails within the continental United States, by registered or certified mail, postage prepaid, return receipt requested, addressed to such party at its address appearing in the records of the Trustees. An eligible mortgage holder which receives a written request for approval pursuant to Section 8.2 or 8.3 and which does not mail to the requesting party, in the manner set forth in the preceding sentence, a negative response within thirty (30) days after such request is received shall be deemed to have approved such request.

## ARTICLE VIII

### Amendments and Termination

Section 8.1 Amendment.

The Trustees, with the consent in writing of Unit Owners entitled to not less than sixty seven percent (67%) of the Beneficial Interest, 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; provided, however, that no such amendment, alteration or addition which would impair or diminish the rights of the Declarant set forth in Section 3.1 shall be valid or effective without the written consent of the Declarant. Any amendment, alteration, addition or change pursuant to the foregoing provisions of this paragraph shall become effective upon the recording in the Registry of an instrument of amendment, alteration, addition or change, as the case may be, signed and acknowledged by any two (2) Trustees setting forth in full the amendment, alteration, addition or change and reciting the consent of the Unit Owners or mortgage holders herein required to consent thereto. Such instrument, so executed and recorded, shall be conclusive evidence of the existence of all facts and of compliance with all prerequisites to the validity of such amendment, alteration, addition or change, whether stated in such instrument or not, upon all questions as to title or affecting the rights of third persons and for all other purposes. Nothing in this paragraph



contained shall be construed as making it obligatory upon the Trustees to amend, alter, add to or change the Declaration of Trust upon obtaining the necessary consent as hereinbefore provided.

Section 8.2 Termination.

This Trust shall terminate only upon the removal of the Condominium from the provisions of the Condominium Law in accordance with the procedure therefor set forth therein.

Section 8.3 Sale Upon Termination.

Upon the termination of this Trust, the Trustees may, subject to and in accordance with the provisions of said Chapter 183A, sell, liquidate and convert into money the whole of the Trust property, or any part or parts thereof, and, after paying or retiring all known liabilities and obligations of the Trustees and providing for indemnity against any other outstanding liabilities and obligations, shall divide the proceeds thereof among, and distribute in kind, at valuations made by them which shall be conclusive, all other property then held by them in trust hereunder, to the Unit Owners according to their respective percentages of Beneficial Interest. In making any sale under this provision, the Trustees shall have power to sell by public auction or private contract and to buy in or rescind or vary any contract of sale and to resell without being answerable for loss and, for said purposes, to do all things, including the execution and delivery of instruments, as may by their performance thereof be shown to be in their judgment necessary or desirable in connection therewith. The powers of sale and all other powers herein given to the Trustees shall continue as to all property at any time remaining in their hands or ownership even though all times herein fixed for distribution of Trust property may have passed.

ARTICLE IX

Construction and Interpretation

In the construction hereof, whether or not so expressed, words used in the singular or in the plural respectively include both the plural and singular, words denoting males includes females and words denoting persons include individuals, firms, associations, companies (joint stock or otherwise), trusts and corporations unless a contrary intention is to be inferred from or required by the subject matter or context. The cover, title, headings of different parts hereof and the table of contents are inserted only for convenience of reference and are not to be taken to be any part hereof or to control or affect the meaning, construction, interpretation or effect hereof. All the trusts, powers, and provisions herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts. Unless otherwise defined herein, as defined in the Condominium Law shall have the same meaning herein.

[Signature on following page]

IN WITNESS WHEREOF, the undersigned have hereunto set their hand and seal on the day and year first set forth above.

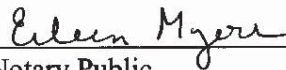
  
George Morrill, as Trustee and not individually

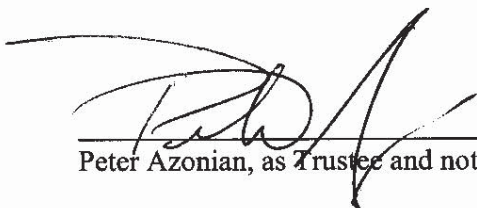
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this 7<sup>th</sup> day of December, 2005, before me, the undersigned notary public, personally appeared George Morrill, proved to me through satisfactory evidence of identification which was MA Driver's License, to be the person whose name is signed on the preceding document and acknowledged to me that he signed it voluntarily for its stated purpose.



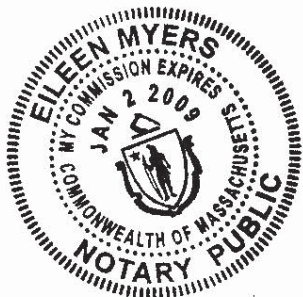
  
Notary Public  
Printed Name: Eileen Myers  
My commission expires: 1-2-2009

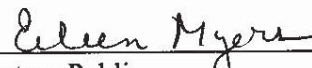
  
Peter Azonian, as Trustee and not individually

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this 7<sup>th</sup> day of December, 2005, before me, the undersigned notary public, personally appeared Peter Azonian, proved to me through satisfactory evidence of identification which was MA Driver's License, to be the person whose name is signed on the preceding document and acknowledged to me that he signed it voluntarily for its stated purpose.



  
Notary Public  
Printed Name: Eileen Myers  
My commission expires: 1-2-2009



## EXHIBIT A

### Rules and Regulations

A. The following Rules and Regulations apply to all Units generally:

1. There shall be no obstruction of the Common Areas and Facilities nor shall anything be stored in the Common Areas or Facilities without the prior consent of the Trustees, except as herein or in the Declaration of Trust expressly provided. Each Unit Owner shall be obligated to maintain and keep in good order and repair his own Unit in accordance with the provisions of the Declaration of Trust.

2. Nothing shall be done or kept in any Unit or in the Common Areas or Facilities which will increase the cost of insurance for the Condominium, or for the contents thereof, without the prior consent of the Trustees provided that the Unit Owner requesting such exception shall agree to promptly pay any increase in insurance premiums resulting therefrom. No Unit Owner shall permit anything to be done, or kept in his Unit, or in the Common Areas or Facilities which could result in the cancellation of insurance for the Condominium, or for the contents thereof, or which would be in violation of any law. No Unit Owner or occupant of a Unit, or any agent, servant, employee, licensee, lessee, or visitor of either, shall at any time bring into or keep in his Unit any flammable, combustible, or explosive fluid, material, chemical, or substance, except such lighting and cleaning fluids as are customary for residential use.

3. The Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls or doors of the Condominium, and no sign, air conditioner, awning, canopy, shutter, or radio or television antenna (except for the master antenna system) or other items referred to in the Master Deed or Declaration of Trust shall be affixed to or placed upon the exterior walls or doors, roof or any part thereof, or exposed on or at any window, without the consent of the Trustees, except as expressly provided in the Master Deed. The Unit Owners will not be allowed to put their names in any entry passageway, vestibule, hail, or stairway of the Condominium except in the proper place, if any, designated by the Trustees or on the mailbox provided for the use of the Unit.

4. No animals or reptiles of any kind shall be raised, bred, or kept in any Unit without the prior consent of the Trustees, provided that no such prior consent shall be required for the keeping of up to two small customary house pets in any Unit. With respect to any and all pets entitled or permitted hereunder to be kept within the Condominium: (a) no such pet shall be kept, bred or maintained for any commercial purposes, and (b) in no event shall any cat, dog or other pet be permitted in any portion of the Common Areas and Facilities unless carried or on a leash, or be permitted in any grass or garden plot under any circumstances.

5. No Unit Owner shall cause or permit any unlawful, immoral, or improper use of his or her Unit, nor any nuisance thereon, nor any noisy or otherwise offensive use thereof which is a source of unreasonable annoyance to other Unit Owners, including, without limitation, the playing or use of musical instruments, stereos, amplifiers, televisions and radios at such times or in such manner as to disturb other Unit Owners. Between the hours of 11:00 p.m. and the

following 8:00 a.m., no Unit Owner shall cause or permit the playing or use of any musical instrument, stereo, amplifiers, television or radio at such volume that the same may be heard outside such Unit. With respect to any Unit having a wood floor, if, in the sole judgment of the Trustees, the use thereof is creating an annoyance to other Unit Owners, the Trustees shall have the right to require that the Owner of such unit cover, at such Owner's expense, up to 80% of the wooden floor area with carpeting.

6. Nothing shall be done in any Unit or in, on or to the Common Areas or Facilities will impair the structural integrity of the Condominium.

7. No clothes, sheets, blankets, laundry, towels, or any other kind of articles shall be hung from the windows or sundecks, patios or balconies or placed upon the window sills of any Unit of the condominium; nor shall any rugs or mops be shaken or hung from or of f any of the windows, doors, sundecks, patios or balconies of any Unit of the Condominium. The Common Areas and Facilities shall be kept free and clear of all rubbish, debris, and other unsightly materials. No garbage or trash cans shall be designated for that purpose by the Trustees.

8. There shall be no playing or lounging, parking of baby carriages, playpens, bicycles, wagons, toys or vehicles, or placing of benches or chairs, on any part of the Common Areas or Facilities other than those areas, if any, specifically designated for such purposes by the Trustees, except that, unless otherwise provided herein, sundecks, patios, balconies or porches may be used for their usual purposes.

9. Except as may be permitted by the Master Deed, no industry, business, trade or occupation of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, or otherwise, shall be conducted, maintained or permitted in any part of the Condominium. Further, except as may be permitted by the Master Deed or Declaration of Trust, or specifically authorized by the Trustees, no "For Sale," "For Rent," "For Lease" signs or other window displays or advertising shall be maintained or permitted in any part of the Condominium or in any Unit, nor shall any Unit be used or rented for transient, hotel or motel purposes.

10. Except as provided in Section 17 of the Master Deed, there shall be no alteration or construction in, or removal of, any part of the Common Areas, Facilities or elements, except with the consent of the Trustees.

11. Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom, from the doors, or windows thereof, any dirt or other substance. The toilets and other water drains shall not be used for any purpose other than that for which they were constructed, and no sweepings, rubbish, rags, paper, ashes, or other substances shall be thrown therein, Any damage resulting from such misuse shall be paid for by the Unit Owner from whose Unit such materials were introduced into the toilets and other water drains.

12. The Trustees, and their agents (including any managing agent appointed by the Trustees), and any contractor or workman authorized by the Trustees or the managing agent, may enter any room or Unit in the Condominium at any reasonable hour after forty-eight (48) hours prior notification (except that no notification shall be required in case of emergency, whether the



Unit Owner is present or not) in order to inspect such Unit and for the purpose of taking such measures as may be necessary to make repairs to such Unit or the Common Areas and Facilities, or to control or exterminate vermin, insects or other pests.

13. To facilitate such right of access, each Unit Owner shall furnish the Trustees or managing agent with keys to locked entrances to his or her Unit, and shall promptly furnish new keys when and if such locks are supplemented or changed. No entrances to a Unit shall be barred by a sliding bolt or other device which renders access by such keys difficult or impossible. Any Unit Owner failing to comply with such requirements shall be fully liable for any damage resulting to the Common Areas or Facilities of the Condominium and/or to the Unit Owner's Unit or any other Unit as a result of the inability of the Trustees or their agents or the management agent or his agents to gain access to the Unit of such Unit Owner in order to make emergency repairs or take other corrective actions as may be provided for in the Master Deed, the Declaration of Trust or these Rules and Regulations.

14. If any key or keys are entrusted by a Unit Owner or occupant or by his agent, servant, employee, licensee or visitor to the Trustees, any agent of the Trustees, or the managing agent except pursuant to the provisions of this paragraph, whether for such Unit or an automobile or other item of personal property, the delivery of the key shall be at the sole risk of such Unit Owner or occupant, and neither the Trustees nor the managing agent shall be liable for injury, loss or damage of any nature whatsoever directly or indirectly resulting therefrom.

15. No sundeck, patio, porch, terrace, or balcony shall be decorated, or covered by any awning or otherwise without the approval of the Trustees.

16. All personal property of the Unit Owners, or any other occupant of a Unit, shall be kept in the Unit or elsewhere in the Condominium at the sole risk and responsibility of the respective Unit Owner, or occupant, and the Trustees shall not bear any responsibility therefor.

17. Supplies, goods and packages of every kind are to be delivered to any Unit Owner in such manner as the Trustees or the managing agent may prescribe and neither the Trustees nor the managing agent shall be responsible for the loss or damage of any such property.

18. Any consent or approval of the Trustees required by these Rules and Regulations shall not be effective unless given in writing.

19. These Rules and Regulations may be amended from time to time as provided in the Declaration of Trust.

20. Capitalized terms used and not defined herein shall have the respective meanings set forth in the Master Deed of even date with the Declaration of Trust.

Doc 01404970

Southern Middlesex LAND COURT  
REGISTRY DISTRICT  
RECEIVED FOR REGISTRATION

On: Mar 14, 2006 at 11:34A

Document Fee 225.00 Rec Total \$875.00

NOTED ON: CERT C 715 BK 00033 PG 45