RETURN TO:
MARY SHINE
4295-4297 WASHINGTON
Roslindale MA
02131

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**DECLARATION OF TRUST**
**FOR THE**
**4295-4297 WASHINGTON STREET CONDOMINIUM TRUST**

# CONDOMINIUM TRUST

THIS DECLARATION OF TRUST is made this 22nd day of July, 2005 by Ashling Fingleton (the "Trustee") which term and any pronoun referring thereto shall be deemed to include her successors in trust hereunder and to mean the Trustee or the Trustees for the time being hereunder, wherever the context so permits.

## ARTICLE I

## NAME OF TRUST

The Trust hereby created shall be known as the 4295-4297 Washington Street Condominium Trust (the "Trust").

## ARTICLE II

## THE TRUST AND ITS PURPOSES

Section 2.1 Basic Trust Assets and Benefits All of the rights in and to the common areas and facilities (the "Common Areas and Facilities") of the 4295-4297 Washington Street Condominium (the "Condominium") established by a Master Deed (the "Master Deed") of even date and recorded herewith, which are under the provisions of M.G.L.A. c. 183A as amended and as it may be from time to time amended in the future ("Chapter 183A"), exercisable by the organization of unit owners of the Condominium and all property, real and personal, tangible and intangible, conveyed to or held by the Trustees hereunder shall, subject to the provisions of the Master Deed and all instruments referred to thereby, vest in the Trustees, in trust, to exercise, manage, administer and dispose of the same and to receive the income thereof (a) 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 the schedule of undivided beneficial interest (the "beneficial interest") in the Common Areas and Facilities set forth in Article IV hereof, and (b) in accordance with the provisions of Chapter 183A. This Trust is the organization of Unit Owners established pursuant to the provisions of Section 10 of Chapter 183A for the purposes therein set forth.

Section 2.2 Nature of Trust. It is hereby expressly declared that a trust and not a partnership has been created, and that the Unit Owners are beneficiaries of the trust and not partners or associates between themselves with respect to the trust property, and hold no relation to the Trustees other than as beneficiaries of the trust, with only such rights as are conferred upon them as such beneficiaries of the trust hereunder and under and pursuant to the provisions of Chapter 183A.

ARTICLE III

Section 3.1 Number and Appointment Ashling Fingleton is the initial Trustee hereunder until the earlier of (1) one year from the date hereof, or (2) the sale of all units. Thereafter, there shall at all times be three (3) Trustees, one each as designated by the owners of units 2, 3 and 4.

Any Trustee hereunder from time to time may resign by written instrument signed and acknowledged by such Trustee and such resignation shall be recorded with the Suffolk Registry of Deeds (the "Registry").

The appointment and resignation of a Trustee shall be reflected by a Certificate reciting such appointment or resignation, executed and acknowledged by any Trustee then in or succeeding to such office, and recorded with the Registry.

Any person appointed or succeeding to the office of Trustee hereunder, pursuant to written appointment by the Unit Owners as aforesaid, shall become a Trustee upon acceptance of such appointment by a written instrument to that effect signed and acknowledged by such person and duly recorded with the Registry. A statement by such successor or additional Trustee in any such written instrument of acceptance that he has been duly appointed as Trustee, pursuant to the provisions of this paragraph, and that he accepts such appointment shall be conclusive evidence of his appointment as Trustee hereunder and of the facts upon which such appointment was predicated.

Upon the appointment of any additional or successor Trustee, the title to the trust estate shall thereupon and without the necessity of any conveyance be vested in said additional or successor Trustee jointly with the remaining Trustees. Each succeeding Trustee shall have all the rights, powers, authority and privileges of a Trustee hereunder.

Section 3.2 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 all as provided in Chapter 183A. Nothing in this paragraph contained shall be deemed, however, to limit in any respect the powers granted to the Trustees in this instrument.

## ARTICLE IV

## Beneficiaries and the Beneficial Interest in the Trust

The beneficiaries of the trust shall be the Unit Owners of the Condominium. The beneficial interest in the Trust hereunder shall be divided among the Unit Owners in the percentage of undivided beneficial interest appertaining to the Units as follows:

| | |
|---|---|
| Unit 1 | 10.4% |
| Unit 2 | 30.3% |
| Unit 3 | 29.0% |
| Unit 4 | 30.3% |

## ARTICLE V

## Bylaws

The provisions of this Article V shall constitute the Bylaws (the "Bylaws") of this Trust and the organization of Unit Owners established hereby, to wit:

### Section 5.1 Powers of Trustees

The Trustees by vote of 2 of 3 Trustees shall, subject to the provisions of Chapter 183A, have the following powers, all of which shall be in addition to all statutory powers (including without limitation those set forth in Section 10 of Chapter 183A) and each of which may be exercisable from time to time without the necessity of any approval or license of any court:

(i) To retain the trust property in the same form of investment in which received.

(ii) To sell and exchange trust property or any interest therein for such consideration and upon such terms as they deem advisable.

(iii) To purchase and otherwise acquire any real or personal property.

(iv) To borrow money and mortgage or pledge all or any part of the trust property and issue bonds, notes, or other evidences of indebtedness.

(v) To invest any of the trust property in such manner as they may deem advisable without being limited as to the kind or amount of any investment.

(vi) To incur obligations and to pay, compromise or adjust all obligations incurred and rights acquired in the administration of the Trust.

(vii) To determine whether their receipts shall be accounted for as principal or as income, and as to all obligations paid by them whether the same shall be charged against principal or income.

(viii) To execute leases (as Lessor or Lessee), including leases for terms expiring after the expiration of the Trust.

(ix) To deposit any funds of the trust in any bank or trust company, and to delegate to any one of their number, or to any other person the power to deposit, withdraw, and draw checks on any funds of the trust.

(x) To improve any property owned by the Trust.

(xi) To manage, maintain, repair, restore and improve common areas and facilities, and, when they shall deem necessary, the Units.

(xii) To determine the common expenses required for the affairs of the Condominium.

(xiii) To collect the common charges from the Unit Owners.

(xiv) To adopt and amend Rules and Regulations covering the details of the operation and use of the common areas and facilities.

(xv) To obtain insurance covering the Condominium (including the common areas and facilities and the Units) pursuant to Article V Section 5.12 hereof.

(xvi) To obtain advice of counsel and to rely thereon, and to employ, appoint and remove such other persons, agents, manager, officers, brokers, engineers, architects, employees, servants and assistants as they shall deem advisable, and to define their respective duties and fix their pay and compensation; but no Trustee shall be held personally liable for the act or default of any such person.

(xvii) To enforce obligations of the Unit Owners and have the power to levy fines against the Unit Owners for violations of reasonable Rules and Regulations established by the Trustees to govern the conduct of the Unit Owners. No fine may be levied for not less than $10 for any one violation but for each day a violation continues after notice it shall be considered a separate violation. Collection of fines may be enforced against the Unit Owner or Unit Owners involved as if the fines were common charges owed by the particular Unit Owner or Unit Owners. In the case of persistent violation of the Rules and Regulations by a Unit Owner, the Trustees shall have the power to require such Unit Owner to post a bond to secure adherence to the rules and regulations.

(xviii) To do anything and everything else necessary and proper for the sound management and administration of the Condominium and this Trust, including all such acts and things, except as by law or by the Master Deed or by these Bylaws may not be delegated to the Trustees by the Unit Owners.

(xix) To execute any and all instruments incidental or necessary to carry out any of the foregoing powers.

Section 5.2 Maintenance and Repair of Units. The Unit Owners shall be responsible for the proper maintenance and repair of their respective Units as defined in the Master Deed. If the Trustees shall at any time in their reasonable judgment determine that any Unit is in such need of maintenance or repair that the market value of one or more other Unit is being adversely affected or that the condition of any Unit or any fixtures, furnishing, facility or equipment therein is hazardous to any Unit or the occupants thereof, the Trustees shall in writing request the Unit Owner in question to perform the needed maintenance, repair or replacement or to correct the hazardous condition. In case such work shall not have been commenced within 15 days (or such reasonable shorter period in case of emergency as the Trustees 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 and to enter upon and have access to such Unit for that purpose. The cost of such work as is reasonably necessary therefor shall be charged to the Unit Owner thereof.

Section 5.3 Maintenance and Repair of Common Areas and Facilities and Assessment of Common Expenses thereof.

The Trustees shall be responsible for arranging for the proper maintenance and repair of the common areas and facilities. The Trustees may approve payment of vouchers for such work, and the expenses of such maintenance and repair shall be assessed to the Unit Owners as common expenses of the Condominium at such time and in such amounts as provided in Section 5.4.

Section 5.4 Common Expenses, Profits and Funds.

A. The Unit Owners shall be (1) liable for common expenses of the Condominium, and (2) entitled to common profits of the Condominium in proportion to their respective percentages of the beneficial interest in the Condominium as set forth in Article IV hereof. The Trustees may at any time or times distribute common profits among the Unit Owners in such proportions. 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 the provisions of the following paragraphs B and C of this Section 5.4, and subject to the provisions of Section 17 and Section 18 of Chapter 183A, for repairs, rebuilding or restoration of the common areas and facilities or for improvements thereto, and the funds so set aside shall not be deemed to be common profits available for distribution. The fund shall be maintained out of regular assessments for common expenses in a separate, segregated account.

Additionally, a working capital fund shall be established equal to at least two (2) months estimated common area charge for each Unit. Each Unit's share of the working capital fund must be collected and transferred to the Trust at the time of closing of the first sale of a Unit and maintained in a segregated account for the use and the benefit of the Trust. Amounts paid into the working capital fund shall not be considered as advance payment of regular assessments. The purpose of the working capital fund is to insure that there will be cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Trustees. While the Declarant is in control of the owner's association, the working capital funds can not be used to defray Declarant's expenses, reserve contributions, or construction costs, or to make up any budget deficits.

The contribution to the working capital fund for each unsold unit estate shall be paid to the trustees at the time when the first unit is sold.

At least thirty (30) days prior to the commencement of each fiscal year of this Trust (or in the case of the first fiscal year of this Trust, retroactively, as soon as possible after the commencement of that 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, shall determine the assessment to be made for such fiscal year. The Trustees shall promptly render statements to the Unit Owners for their percentages of interest in common areas and facilities, and such statements shall, unless otherwise provided therein, be payable monthly in substantially equal installments. In the event an annual assessment is not made as above required, an assessment shall be presumed to have been made in the amount of the last prior assessment. 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 in the manner aforesaid, and such statements shall be payable and take effect as aforesaid. The amount of each such statement, together with (at the option of the Trustees) interest on that amount, if that amount is not paid when due, at a rate equal to Citizen's Bank of Massachusetts or its successor's prime rate at the time such payment was due, plus six (6%) percent per annum, and in the absence of such prime rate, at a rate equal to twelve (12%) percent per annum, shall constitute a lien on the Unit of the Unit Owner assessed, together with the cost and expense to collect such amount, including reasonable attorney's fees, all pursuant to the provisions of Section 6 of Chapter 183A.

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

Section 5.5 Rebuilding and Restoration.

A. In the event of any casualty loss solely to the common areas and facilities which does not exceed ten (10%) percent of the value of the condominium prior to the casualty, the Trustees shall proceed with restoration in the manner provided in Section 17 of Chapter 183A.

B. If such loss, as so determined, exceeds 10% of such value, the Trustees shall submit to all Unit Owners a form of agreement (the Restoration Agreement), which may be in several counterparts, specifying the estimated value of such loss, the amount of available common funds, including the proceeds of any insurance for that purpose to the extent they are determinable and authorizing the Trustees to proceed with the necessary repairs and restoration. Upon receipt by the Trustees of the Restoration Agreement signed by all of the Unit Owners, the Trustees shall proceed with the necessary repairs and restoration. The cost of repairs and restoration in excess of any available common funds, including the proceeds of any insurance, shall be a common expense.

If the Restoration Agreement is not signed by all of the Unit Owners, the Trustees shall proceed in accordance with the provisions of Section 17 of Chapter 183A.

Section 5.6 Improvements to Units.

Each Unit Owner shall promptly notify the Trustees of any and all improvements to be made by him to his Unit, the insurable value of which exceeds $500. Such notice shall state in reasonable detail the nature of the improvements and the value thereof. Each Unit Owner shall, upon request by the Trustees, also submit to the Trustees such further information relating to said improvements as the Trustees shall reasonably require.

Section 5.7 Improvements to Common Areas and Facilities.

If and whenever the Trustees shall propose to make any improvement to the common areas and facilities, such improvements shall be subject to the provisions of Chapter 183A, Section 18.

Section 5.8 General Repairs.

Each Unit Owner shall be individually responsible to repair, at such Owner's sole cost and expense, any general appurtenance which particularly services the Unit of such Owner, even if the same be outside the boundaries of the Unit, e.g. doorbell, mail box, utility lines and matters of similar sort.

Section 5.9 Leasing Restrictions.

Any lease or rental agreement shall be in writing and be subject to the requirements of the Owners' Association. No unit may be leased or rented for less than 6 months. There shall be no other restrictions relating to the term of any lease or rental agreement. A copy of such lease or rental agreement shall be provided promptly to the Owners' Association.

Section 5.10 Pets.

Dogs (which shall be kept on leashes and shall be maintained under constant control), cats or other pet animals or birds shall not be kept in any Unit in such number or such type and under any such circumstances as to be noisome or offensive to occupants of other Units. At the sole judgment of the Trustees, exercised in such manner as they may determine, upon complaint made by any Unit Owner as to the noisomeness or offensiveness of any pet, such pet may not be, upon notice by the Trustees to that effect to such Unit Owner, kept in the Unit of such Unit Owner. The owner of each unit having a pet shall be responsible for removal of any waste from common areas.

Section 5.11 Rules, Regulations, Restrictions and Requirements.

The Trustees shall have the right (which right shall not be delegated) at any time and from time to time to adopt, amend and rescind administrative Rules and Regulations governing the details of the operation and use of the common areas and facilities, and such restrictions on and requirements respecting the use and maintenance of the Units and the use of the common areas and facilities, as are consistent with provisions of Master Deed and are designed to prevent unreasonable interference with the use by the Unit Owners of their Units and the common areas and facilities.

Section 5.12 Insurance.

A. (1) The Trustees shall obtain and maintain to the extent available, master policies of multi-peril type insurance, including casualty and physical damage insurance naming "Trustees of 4295-4297 Washington Street Condominium Trust as Insurance Trustees for the benefit of 4295-4297 Washington Street Condominium, of the several Unit Owners and of their respective mortgagees" as the named insureds and covering the buildings and all other insurable improvements forming part of the Condominium, including the common areas and facilities, all of the Units (but not including the furniture, furnishings and other personal property of the Unit Owners therein) together with the service machinery, apparatus, equipment and installations located in the Condominium and existing for the provision of central services for common use in an amount not less than 100% of the current replacement cost of the premises.

A. (2) The insurance policy shall require the insurer to notify, in writing, the Owners' Association or insurance trustee and each first mortgage holder named in the mortgage clause at least 10 days before it cancels or substantially changes the Condominium's coverage.

A. (3) The Trustees shall reappraise, at least annually, the value of the buildings and all other insurable improvements forming part of the Condominium and, if necessary, shall increase the amount of coverage in the aforementioned master policy accordingly.

A. (4) The Trustees at their discretion may obtain such other types or forms of casualty insurance which may or may not include damage to improvements to the units provided, however, that all such insurance shall fully insure the common elements as provided herein.

B. The Trustees shall also obtain and maintain master policies of insurance of the following kinds naming "Trustees of 4295-4297 Washington Street Condominium Trust as Insurance Trustees for the benefit of 4295-4297 Washington Street Condominium and the several Unit Owners" as the Named Insureds: comprehensive public liability insurance in such amounts and forms as shall be determined by the Trustees with not less than a single limit one million dollars for claims for bodily injury or property damage arising out of one occurrence and with cross liability endorsement to cover liability of any insured to other insureds, boiler insurance and such other insurance as the Trustees deem appropriate.

C. The cost of such insurance to be obtained and maintained by the Trustees pursuant to this Section 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 above. However, the cost of additional insurance (the "additional cost") for improvements to Units shall be paid to the Trustees by the Unit Owners making such improvements promptly upon receipt of statements from the Trustees who shall allocate the additional costs in such manner as they determine to be equitable.

D. Each Unit Owner or his mortgagee shall obtain additional insurance at his own expense provided that all such insurance shall contain provisions similar to those contained in the Trust's master policy waiving the insurer's right to subrogation and contribution. If the proceeds from the master policies on account of any casualty loss shall be 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 distributed as above provided.

E. Fidelity coverage against dishonest acts on the part of Trustees, Managers or Managing Agents, Employees or Volunteers responsible for handling funds belonging to or administered for the Trust by the Trustees. Said fidelity bond or insurance must name the Trust as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the Insured's estimated annual operating expenses and reserve. If said policy would not otherwise cover persons who serve without compensation, appropriate endorsements to cover said Volunteers shall be added to the policy.

Section 5.13 Inspection of Books; Reports to Unit Owners.

Books, accounts and records of the Trustees shall be open to inspection by any one or more of the Trustees and the Unit Owners or by holders, insurers or guarantors of first mortgages that are secured by units in the Condominium, at all reasonable times. The Trustees shall, as soon as reasonably possible after the close of each fiscal year, or more often if convenient to them, submit to the Unit Owners a report of the operations of the Trustees 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 one (1) month of the date of the receipt by him shall be deemed to have assented thereto.

Section 5.14 Checks, Notes, Drafts and Other Instruments

Checks, notes, drafts and other instruments drawn or endorsed in the names of the Trustees or of the Trust shall be signed by the two (2) Trustees or by one (1) Trustee if there is only one (1), or by such other person as may be designated by the Trustees.

Section 5.15 Fiscal Year.

The fiscal year of the trust shall be the year ending with the last day of December.

## ARTICLE VI

Rights and Obligations of Third Parties Dealing with the Trustees

Section 6.1 Reliance on Trustees No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear of record in the Registry of Deeds shall be bound to ascertain or inquire further as to the identity of said Trustees or of any changes thereto. The receipts of the Trustees, or any one or more of them, for moneys or things paid or delivered to them or him shall be effectual discharges therefrom of the person paying or delivering the same and no person from whom the Trustees, or any one or more of them shall receive any money, property, or other credit shall be required to see to the application thereof. No purchaser, mortgagee, lender or other person dealing with the Trustees or with any real or personal property which then is or formerly was trust property shall be bound to ascertain or inquire as to the existence or occurrence of any event or purpose in or for which a sale, mortgage, pledge or charge is herein authorized or 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 of powers herein contained, or as to the regularity of the resignation or appointment of any Trustee.

Section 6.2 Nonliability of Beneficiaries. No recourse shall at any time be had under or upon any note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant, or agreement, whether oral or written, made, issued, or executed by the Trustees or by any agent or employee of the Trustees, or by reason of anything done or omitted to be done by or on behalf of them or any of them, against the Trustees individually, or against any such agent or employee, or against any beneficiary, either directly or indirectly, by legal or equitable proceeding, or by virtue of any suit or otherwise, and all persons extending credit to, contracting with or having any claims against the Trustees, shall look only to the trust property for payment under such contract or claim, or for the payment of any debt, damage, judgment or decree, or of any money that may otherwise become due or payable to them from the Trustees, so that neither the Trustees nor the beneficiaries, present or future, shall be personally liable therefor; provided, however, that nothing herein contained shall be deemed to limit or impair the liability of Unit Owners under the provisions of Chapter 183A.

Section 6.3 Legal Effect of Instrument. Every note, bond, contract, order, instrument, certificate, undertaking, obligations, 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 instrument.

Section 6.4 Trustees' Authority. Any certificate signed by two (2) of the Trustees, setting forth as facts any matters affecting the trust, including statements as to who are the beneficiaries, as to who are the Trustees, as to what action has been taken by the beneficiaries or the Trustees and as to matters determining or relating to the authority of the Trustees to do any act or as to any other matter germane to the affairs of the Trust, when duly acknowledged and recorded with the Registry of Deeds shall be conclusive evidence as to the existence of such alleged facts in favor of all third persons, including the Trustees, acting in reliance thereon.

## ARTICLE VII

## Amendments and Termination

Section 7.1 Amendments. The Trustees, with the consent of 75% of all Unit Owners, may at any time and from time to time, amend, alter, add to, or change this Declaration of Trust in any manner or to any extent the Trustees first, however, being duly indemnified to their reasonable satisfaction against outstanding obligations and liabilities. Any amendment, alteration, addition or change pursuant to the foregoing provisions of this paragraph shall become effective upon the recording with the Registry of Deeds of an instrument of amendment, alteration, addition or change, as the case may be, signed, sealed and acknowledged by the three (3) Trustees, setting forth in full the amendment, alteration, addition or change and reciting the consent of the Unit Owners herein required to consent thereto. Such instrument, so executed and recorded, shall be conclusive evidence of the existence of all facts and of compliance with all prerequisites to the validity of such amendment, alteration, addition or change, whether stated in such instrument or not, upon all questions as to title or affecting the rights of third persons and for all other purposes.

Section 7.2 Termination

The Trust hereby created shall terminate only upon the removal of the 4295-4297 Washington Street Condominium from the provisions of said Chapter 183A in accordance with the procedure therefor set forth in Section 19 of said Chapter.

Section 7.3 Effect of Termination Upon the termination of this Trust, the Trustees may, subject to and in accordance with provisions of Chapter 183A, sell and convert into money the whole of the trust property or any part or parts thereof, and, after paying or satisfying 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, all other property then held by them in trust hereunder, to the Unit Owners as tenants in common, according to their respective percentages of beneficial interest hereunder. All valuations made by the Trustees shall be conclusive. 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 been passed.

## ARTICLE VIII

## FHLMC/FNMA Provisions

Notwithstanding anything to the contrary elsewhere in this Declaration of Trust contained, the following provisions shall govern and be applicable insofar and for so long as the same are required in order to qualify mortgages of Units in the Condominium for sale to the Federal Home Loan Mortgage Corporation (FHLMC) and/or the Federal National Mortgage Association (FNMA) under laws and regulations applicable thereto, to wit:

1. Any first mortgagee who obtains title to a condominium unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such unit's unpaid dues or charges which accrue prior to the acquisition of title to such unit by the mortgagee, except as is provided for by statute.

2. Except as provided by statute in case of condemnation or substantial loss to the units and/or common elements of the condominium project, unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned), or owners (other than the sponsor, developer, or builder) of the individual condominium units have given their prior written approval, the Trustees of this Condominium Trust shall not be entitled to:

(a) by act or omission, seek to abandon or terminate the condominium project;

(b) change the pro rata interest or obligation of any individual condominium unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each condominium unit in the common elements;

(c) partition or subdivide any condominium unit;

(d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause);

(e) use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement or reconstruction of such condominium property.

3. No provision of said Master Deed or this Condominium Trust shall give a condominium unit owner, or any other party, priority over any rights of the first mortgagee of the condominium unit pursuant to its mortgage in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or common elements.

4. Condominium dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those common elements that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

5. (a) A first mortgagee, upon request, will be entitled to written notification from the Trustees of this Condominium Trust of any default in the

performance by the individual unit owner of any obligation under the condominium documents which is not cured within sixty (60) days.

(b) The holder, insurer or guarantor of the mortgage on any unit in the Condominium shall be entitled to timely written notice of:

i. any condemnation or casualty loss that affects either a material portion of the Condominium or the unit securing its mortgage;

ii. a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association; and

iii. any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.

6. Any agreement for professional management of the condominium, or any other contract providing for services of the developer, sponsor, or builder, may not exceed 3 years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

7. A reserve equal to two months' common charges shall be established for each unit at the time each unit is first conveyed by Declarant of the Master Deed.

8. Any "right of first refusal" contained in the Condominium Constituent Documents shall not impair the rights of a first mortgagee to:

a. Foreclose or take title to a condominium unit pursuant to the remedies provided in the mortgage, or

b. accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or

c. sell or lease a unit acquired by the mortgagee.

## ARTICLE IX

Resolution of Disputes

In the event that there is a dispute between the parties, either condominium and/owners or condominium Trustees, any controversy or claim arising out of or relating to Condominium documents or enforcement thereof, the dispute shall be resolved by Arbitration administered by the Dispute Resolution Division of the Real Estate Bar Association of Massachusetts referred to as DRREBA. There shall be one Arbitrator, regardless of the amount in controversy. In order to be eligible to serve, the Arbitrator shall be an attorney and have at least five (5) years experience with condominium litigation. In the event the Parties cannot agree on a mutually acceptable single arbitrator from the list provided from DRREBA, then DRREBA shall appoint an arbitrator who shall meet the foregoing criteria. The arbitrator shall reach a decision on the merits of the basis of applicable legal principles as embodied in the law of the Commonwealth of Massachusetts. The arbitration hearing shall take place in Boston unless the parties agree in writing to a different location. During the thirty (30) day period following appointment of the arbitrator, either party may serve on the other a request for limited numbers of documents directly related to the dispute. Each party shall pay for its own attorney's fees, costs and expenses in any arbitration proceeding however, the fees of the DRREBA and the arbitrator shall be shared equally by the Parties.

The decision of the Arbitrator shall be binding upon the Parties.

## ARTICLE X

Construction and Interpretation

In the construction hereof, whether or not so expressed, unless a contrary intention is to be inferred from or required by the subject matter or context, words used in the singular or in the plural respectively include both the plural and singular; words denoting males include females; words denoting persons include individuals, firms, associations, companies (the captions hereof or of different parts hereof, 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 law of the Commonwealth of Massachusetts. Unless the context otherwise indicates words defined in Chapter 183A shall have the same meaning herein.

IN WITNESS WHEREOF, the said undersigned has hereunto set her/his hand and seal on the day and year first above written.

A. Fingleton

Ashling Fingleton

J:\mwk\4295-4297 Washington St Condo Fingleton

COMMONWEALTH OF MASSACHUSETTS

NoRULK: SS. JUL/22, 2005

Then personally appeared the above-named Ashling Fingleton and acknowledged the foregoing instrument to be her free act and deed before me.

Stacey Antimone
Notary Public
My Commission Expires:

STACEY A. ANTIMONE
MY COMM. EXPIRES
OCT. 2, 200[illegible]
COMMONWEALTH OF MASSACHUSETTS
NOTARY PUBLIC

J:\mwk\4295-4297 Washington St Condo Fingleton