

48
49
50
COP
COP

11233 307

280

③

SUFFOLK REGISTRY OF DEEDS
REC'D INTO EXAM ATTEST

DECLARATION OF TRUST

OF

NOV 1 1 01 PM '84

37 BEACON ST. CONDOMINIUM TRUST

Wm. H. Murray

THIS DECLARATION OF TRUST made this 31 day of October, 1984, by the following:

John R. Giles
Unit 1
107 Chestnut Street
Boston, Mass.

and

Sarah H. Giles
Unit 1
107 Chestnut Street
Boston, Mass.

(such persons, so long as they shall continue in office in accordance with the terms of this Declaration of Trust, and all other persons who at the time in question have been duly elected or designated as trustees in accordance with this Declaration of Trust and are then in office are hereinafter together called the "Trustees").

ARTICLE I

The Trust, Its Purpose, By-laws and Name

Section 1.1 Declaration of Trust and Purpose. The Trustees hereby declare that they hold all of the rights and power in and with respect to the common areas and facilities of the condominium established by the Master Deed, as hereinafter defined, which are by virtue of provisions of Chapter 183A of the Massachusetts General laws conferred upon or exercisable by the organization of unit owners of said condominium, and all other rights, interests, powers, duties, and responsibilities granted to them as Trustees hereunder or under the Master Deed, as joint tenants with right of survivorship (if more than one), in trust to exercise, manage, administer and dispose of the same and to receive the income thereof for the benefit of the owners of record from time to time of the units of said condominium, according to their respective undivided beneficial interest in the common areas and facilities (hereinafter referred to as the Beneficial Interests) described in Section 4.1 hereof and in accordance with the provisions of said Chapter 183A, this trust being the Organization of the Unit Owners established pursuant to the provisions of Section 10 of said Chapter 183A for the purposes therein set forth. The trust created by this Declaration of Trust is hereinafter referred to as the "Trust".

Amal
1158
302

Appt.
12493
075

Reign
17493
076

CTF
1529
213
1577
210
1577
210
CTF
16492
2

CTFs
17038
0248 0272026
4029
Appt.
0254 208

CTF
17519

Appt.
17927

059
(Boston)
Wm

D17

Appt.
18274

CTF
19828
162

087
(Cleary, M.P.)

CTF
1656
08
Appt.
1650
08
CTF
2425
177

Section 1.2 Trust Relationship. It is hereby expressly declared that the Trust is not intended to be, shall not be deemed to be, and shall not be treated as, a general partnership, limited partnership, joint venture, corporation or joint stock company and that the Unit Owners are cestuis que trustent, and not partners or associates nor in any other relation whatever between themselves with respect to the trust estate, and hold no relation to the Trustees other than of cestuis que trustent, with only such rights and liabilities as are conferred upon them as such cestuis que trustent hereunder and under and pursuant to the provisions of said Chapter 183A.

Section 1.3 Name of Trust. The name of the Trust shall be 37 BEACON ST. CONDOMINIUM TRUST and under that name, so far as legal, convenient, practicable, all business shall be carried on by the Trustees and all instruments shall be executed by the Trustees. Said name (and the word "Trust" whenever used in this Declaration of Trust except where the context otherwise requires) shall refer to the Trustees in their capacity as trustees, and not individually or personally, and shall not refer to the officers, agents, or employees of the Trust or to the Unit Owners.

ARTICLE II

Definitions

As used in this Declaration of Trust, the following terms shall have the following meanings, unless the context hereof otherwise requires.

Section 2.1 "Beneficial Interests" shall have the meanings set forth in Section 1.1 and 4.1.

Section 2.2 "By-Laws" shall mean the provisions of ARTICLE V of this Trust as the same may be amended from time to time.

Section 2.3 "Chapter 183A" shall refer to Chapter 183A of the General Laws of Massachusetts as from time to time amended.

Section 2.4 "Common Expenses" shall mean the expenses of administration, operation, maintenance, repair or replacement of the Common Elements, expenses declared Common Expenses herein or by Chapter 183A, and betterment and other assessments referred to in Chapter 183A which are assessed to the Trustees.

Section 2.5 "Common Charges" shall mean all charges hereinafter made by this Trust to the Unit Owners.

Section 2.6 "Common Funds" shall mean all funds held by the Trustees.

Section 2.7 "Declaration of Trust" shall mean this declaration of trust, as amended, restated or modified from time to time. References in this Declaration of Trust to "hereof", "herein", and "hereunder" shall be deemed to refer to the Declaration of Trust and shall not be limited to the particular text, article, or section in which such words appear.

Section 2.8 "Declarant" shall mean John R. Giles and Sarah H. Giles, Trustees of Realty Trust, under Declaration of Trust dated , 1984, and recorded with the Registry of Deeds, the creator of the Condominium.

Section 2.9 "Insurance Trustees" shall have the meanings set forth in Section 3.6, Section 5.8.1 and Section 5.8.2 hereof.

Section 2.10 "Manager" or "Managing Agent" shall have the meaning set forth in Section 5.7 hereof.

Section 2.11 "Managing Trustee" shall have the meaning set forth in Section 5.1 (xii) hereof.

Section 2.12 "Master Deed" shall mean the master deed of the Condominium executed by the Declarant as of the date hereof and recorded contemporaneously herewith, which subjects the Condominium to Chapter 183A.

Section 2.13 "Operating Event" shall have the meaning set forth in Section 3.1 hereof.

Section 2.14 "Organization of Unit Owners" shall have the meaning set forth in Section 1.1 hereof.

Section 2.15 "Registry of Deeds" shall mean the Suffolk County Registry of Deeds.

Section 2.16 "Rules and Regulations" shall mean any rules and regulations for the operation of the Condominium adopted pursuant to Section 5.6 hereof.

Section 2.17 "Surplus Accumulations" shall have the meaning set forth in Section 5.4.1. hereof.

Section 2.18 "Trust" shall have the meaning set forth in Section 1.1 hereof.

Section 2.19 "Trustees" shall have the meaning set forth in the beginning of this Declaration of Trust.

Capitalized terms used herein which are defined in the Master Deed and which are not specifically defined herein shall have the meaning given to them in the Master Deed.

ARTICLE III

The Trustees

Section 3.1 Number. Until Declarant and his successors or assigns own less than seventy-five (75%) percent of the Units or until three (3) years from the date the deed to the first Unit from the Declarant is recorded with Registry of Deeds, whichever first occurs (hereinafter the "Operating Event"), the number of Trustees shall be two (2) persons consisting of the original Trustees or successor Trustees as designated by Declarant. After the Operating Event there shall be not less than three (3) nor more than seven (7) Trustees as the majority of Unit Owners may determine at the annual meeting.

Section 3.2 Term. Upon the occurrence of the Operating Event the office of the original Trustees or their successors designated by the Declarant shall be deemed vacant so as to permit such vacancies to be filled in the manner hereinafter set forth. Until such vacancies have been filled or until the expiration of a period of sixty (60) days after the occurrence of the Operating Event, whichever shall first occur, the Trustees may continue to act hereunder. The term of office of the Trustees elected or appointed to fill the vacancies of the original Trustees or of the successors to the original Trustees designated by the Declarant shall be for the period until the annual meeting of the Unit Owners immediately succeeding their election or appointment and until their successors have been elected or appointed and qualified. Thereafter, the term of office of the Trustees shall be for a period of one (1) year and until their successors have been elected or appointed and qualified.

Section 3.3 Vacancies; Election; Appointment and Acceptance of Trustees. If and whenever any Trustee's term is to expire or for any other reason, including without limitation, removal, resignation or death of a Trustee, the number of Trustees shall be less than the number established under Section 3.1, a vacancy or vacancies shall be deemed to exist.

Such vacancy shall be filled by (a) an appointment of a natural person to act as such Trustee (i) if prior to the Operating Event, by an instrument signed by the Declarant, or (ii) if after the Operating Event, by the vote of Unit Owners holding more than fifty (50%) percent of the Beneficial Interests, or (iii) if, after the Operating Event, Unit Owners holding such percentage have not within thirty (30) days after the occurrence of any such vacancy made such appointment, by a majority of the then remaining Trustees, or by the remaining

Trustees or Trustee, if only one, and (b) the acceptance of such appointment, signed and acknowledged by the person so appointed.

Such appointment shall become effective upon the filing with the Registry of Deeds of a certificate of such appointment signed (1) by the Declarant, or (2) if after the Operating Event, by a majority of the then remaining Trustees, or by the sole remaining Trustee, if only one, setting forth the fact and basis of compliance with the provisions of this Section 3.3., together with such acceptance; and such person shall then be and become such Trustee and be vested with the title to the Trust property jointly with the remaining or surviving Trustee or Trustees without the necessity of any act of transfer or conveyance.

If there shall be no remaining Trustee and a vacancy in the office of Trustee shall continue for more than sixty (60) days and shall at the end of that time remain unfilled, a Trustee or Trustees to fill such vacancy or vacancies may be appointed by any court of competent jurisdiction upon the application of any Unit Owner and notice to any Unit Owners and to such other, if any, parties in interest to whom the court may direct that notice be given.

The foregoing provisions of this Section notwithstanding, despite any vacancy in the office of Trustee, however caused and for whatever duration, the remaining or surviving Trustee(s) shall continue to exercise and discharge all of the powers, discretions and duties hereby conferred or imposed upon the Trustees.

Section 3.4 Trustee Action. In any matter relating to the administration of the Trust hereunder and the exercise of the powers hereby conferred, the Trustees shall act by majority vote at any duly called meeting at which a quorum, as defined in Section 5.9.1, is present. The Trustees may act without a meeting in any case by unanimous written consent and in cases requiring, in their sole judgment, response to an emergency by majority written consent.

Notwithstanding the preceding language, any instrument signed by a majority of those Trustees appearing from the records of the Registry of Deeds to be such, shall be conclusive evidence in favor of every person relying thereon or claiming thereunder, that at the time of delivery thereof the execution and delivery of that instrument was duly authorized by all Trustees; and any instrument signed by any one or more Trustees which contains or is accompanied by a certification that such Trustee or Trustees were, by appropriate vote of the Trustees, authorized to execute and deliver the same, shall, in like manner be conclusive evidence in favor of every person relying thereon or claiming thereunder.

Section 3.5 Resignation; Removal. Any Trustee may resign at any time by instrument in writing signed and duly acknowledged by that Trustee. Resignations shall take effect upon the recording of such instrument with the Registry of Deeds. Subject to the rights of Declarant to designate Trustees of his own choice, any Trustee may be removed with or without cause by vote of Unit Owners entitled to more than sixty (60%) percent of the Beneficial Interests. The vacancy resulting from such removal shall become effective upon the recording with the Registry of Deeds of a certificate of removal signed by a majority of the remaining Trustees in office, or by three (3) Unit Owners, who certify under oath that Unit Owners holding more than sixty (60%) percent of the Beneficial Interests have voted such removal. By instrument recorded with the Registry of Deeds, Declarant may remove, with or without cause, any Trustee he is entitled to designate and appoint a successor Trustee as provided in the second paragraph of Section 3.3.

Section 3.6 Bond or Surety. All Trustees, employees of the Trust, and volunteers responsible for handling funds belonging to or administered by the Trust shall be bonded against dishonest acts on their part in an amount not less than one and one-half times the estimated annual operating budget of the Trust, including reserves, which bonds shall name as the named insured, and provide for loss proceeds payable to, the Trustees of the Trust, as Insurance Trustees for all of the Unit Owners. Such bonds shall include a provision that calls for ten (10) days' written notice to the Trustees and the holder of each first mortgage on an individual Unit before the bond can be cancelled or substantially modified for any reason. All expenses incident to any such bonds shall be charged as a Common Expense of the Condominium.

Section 3.7 Compensation of Trustees. No Trustee shall receive compensation for his services unless so provided by a vote of Unit Owners holding more than fifty (50%) percent of the Beneficial Interests, and any compensation so provided shall be from time to time fixed by the Unit Owners and shall be a Common Expense of the Condominium. No compensation to a Trustee may be voted during such time as the Declarant shall be entitled to more than fifty (50%) percent of the Beneficial Interests.

Section 3.8 No Personal Liability. No Trustee shall be held liable or accountable out of his personal assets or be deprived of compensation, if any, by reason of any action taken, suffered or omitted in good faith or be so liable, accountable or deprived by reason of honest errors of judgment or mistakes of fact or law or by reason of the existence of any personal or adverse interest or by reason of anything except his own personal and willful malfeasance and defaults.

Section 3.9 Trustees May Deal with Condominium. No Trustee shall be disqualified by his office from contracting or dealing with the Trustees or with one or more Unit Owners (whether directly or indirectly because of his interest individually or the Trustees' 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 interested in any way 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 his interest before entering into the dealing, contract or arrangement and that such contract is fair and reasonable in its terms.

Section 3.10 Indemnity of Trustees. 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 by reason of any action taken, suffered or omitted in good faith or by reason of the existence of any personal or adverse interest or by reason of anything except his own personal and willful malfeasance and defaults, 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, and, acting by majority, may purchase such insurance against such liability as they shall determine is reasonable and necessary, the cost of such insurance to be a Common Expense of the Condominium. 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 Chapter 183A. Nothing in this paragraph shall be deemed to limit in any respect the powers granted to the Trustees in this Declaration of Trust.

ARTICLE IV

Beneficiaries and the Beneficial Interest in the Trust

Section 4.1 Beneficial Interest. The beneficiaries of this Trust shall be the Unit Owners from time to time. The total Beneficial Interests in the Trust shall be divided among the Unit Owners according to the Beneficial Interests appertaining to the Units as set forth in Exhibit 1 annexed hereto and incorporated herein.

Section 4.2 Each Unit to Vote by One Person. The Beneficial Interest of each Unit shall be exercised by one person and shall not be divided among several owners of any Unit. To that end, whenever any Unit is owned of record by more than one person, the several owners of such Unit shall (a) 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 (b) 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 owners for such purposes.

ARTICLE V

By-laws

The provisions of this Article V shall constitute the By-laws of this Trust ("By-laws") and the Organization of Unit Owners established hereby:

Section 5.1 Powers of the Trustees. The Trustees shall have all the powers and duties necessary for the administration of the offices of the Condominium and may do all things, subject to and in accordance with all applicable provisions of said Chapter 183A and the Master Deed, and, without limiting the generality of the foregoing the Trustees shall have the right, with full power and uncontrolled discretion, at any time and from time to time without the necessity of obtaining any approval or license of any court for leave to do so:

(i) 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;

(ii) to sell to the extent permitted by Chapter 183A, assign, convey, transfer, exchange and otherwise deal with or dispose of the Trust property, 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 and on such restrictions, stipulations, agreements and reservations as they shall deem proper, including the power to take back mortgages to secure the whole or any part of the purchase price of any of the Trust property sold or transferred by them, and execute and deliver any deed or other instrument in connection with the foregoing;

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

(iv) to borrow or in any manner raise such sum or sums of money or other property as they shall deem advisable in any manner and on any terms, and 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 execute and deliver any mortgage, pledge or other instrument to secure any such borrowing;

(v) 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, easement, 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;

(vi) to invest and reinvest the Trust property, or any part or parts thereof, and from time to time, as often as they shall see fit, change investments, including investment 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;

(vii) to incur such liabilities, obligations and expenses and 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;

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

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

(x) to deposit any funds of the Trust in any bank or trust company, and 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 the Trust;

(xi) 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;

(xii) 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 the Trust, and may 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 Condominium 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 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 the Trust, or any part or parts thereof;

(xiii) to improve any property owned by the Trust;

(xiv) to manage, maintain, repair, restore, and replace Common Elements, and when they shall deem necessary, the Units;

(xv) to determine the Common Expenses required for the affairs of the Condominium;

(xvi) to collect the Common Expenses from the Unit Owners;

(xvii) to adopt and amend rules and regulations covering the details of the operation and use of the Common Elements;

(xviii) to obtain insurance covering the Condominium (including the Common Elements and the Units);

(xix) to enforce obligations of the Unit Owners and have the power to levy fines against the Unit Owners for violations of any of the terms and conditions of the Master Deed or of this Trust, including but not limited to the By-Laws and its Rules and Regulations established by the Trustees to govern the conduct of the Unit Owners. No fine may be levied for more

than \$20 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;

(xx) Generally, in all matters not herein otherwise specified, to control and do each and every thing necessary, suitable, convenient, or proper for the accomplishment of any of the purposes of the Trust or incidental to the powers herein or in said Chapter 183A, 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 and to take such steps and expend such funds to protect and preserve the Common Elements.

Section 5.2 Maintenance and Repair of Units. Each Unit Owner shall be responsible for the proper maintenance and repair of his respective Unit and the maintenance, repair and replacement of utility fixtures therein serving the same, including, without limitation, interior finish walls, ceilings, and floors; windows, and interior window trim; doors; door frames and interior door trim; plumbing and sanitary waste fixtures and fixtures for water and other utilities; electrical fixtures and outlets; and all wires, pipes, drains and conduits for water, sewerage, electric power and light, telephone and any other utility services which are contained in and serve such Unit. Each Unit Owner shall be responsible for all damages to any and all other Units caused by his failure to satisfy his maintenance, repair and/or replacement obligations hereunder.

If the Trustees shall at any time in their reasonable judgment determine that the interior of any Unit is in such need of maintenance or repair that the market value of one or more other Units is being substantially and adversely affected or that the condition of a Unit or fixtures, furnishings, facility or equipment therein is hazardous to any Unit or the occupants thereof, 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 (15) days (or such reasonable 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 and to enter upon and have access to such Unit for that purpose. The reasonable cost of such work shall constitute a lien upon such Unit and the Unit Owner shall be personally liable therefor.

Repair of uninsured casualty loss or damage to Units caused by events in or the condition of the Common Elements may, in the Trustees' sole discretion, but need not be, paid from Common Funds.

Section 5.3 Maintenance Repair and Replacement of Common Elements; Assessment of Common Expenses Therefor. The Trustees shall be responsible for the proper maintenance, repair and replacement of the Common Elements which may be done through the Managing Agent, as hereinafter provided, and any two Trustees or the Managing Agent or any others who may be so designated by the Trustees may approve payment of vouchers for such work. The expenses of such maintenance, repair and replacement shall be assessed to the Unit Owners as Common Expenses at such times and in such amounts as provided in Section 5.4; provided, however, that if such maintenance, repair and/or replacement is required by the negligence or misuse of a Unit Owner, such expense may be assessed to said Unit Owner by the Trustees and the Unit Owner shall be personally liable therefor.

Section 5.4 Common Funds; Expenses and Profits.

Section 5.4.1 Reserve Funds. The Unit Owners shall be liable for Common Expenses and, subject to the Trustees' judgment as to reserve and contingent liability funds stated below, shall be entitled to Surplus Accumulations (common profits), if any, of the Condominium in proportion to their respective Beneficial Interests. The Trustees may from time to time distribute Surplus Accumulations, if any, among the Unit Owners in such proportions. The Trustees may, to the extent they deem advisable, set aside Common Funds for reserve or contingent liabilities, and may use the funds so set aside for reduction of indebtedness or other lawful capital purpose, or, subject to the provisions of the following Sections 5.4.2 and 5.4.3, for repair, rebuilding or restoration of the Trust property or for replacements thereto, and the funds so set aside shall not be deemed to be common profits available for distribution.

Common Expenses shall include an adequate reserve fund for maintenance, repair and replacement of those portions of the Common Elements that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assignments. In addition, a working capital fund shall be established equal to at least a two (2) month's estimated Common Elements for each Unit and shall be maintained in a

segregated account. The purpose of the working capital fund is to insure that there will be funds available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Trustees. Amounts paid into the fund are not to be considered as advance payments or regular Common Expenses.

Section 5.4.2 Estimates of Common Expenses and Common Charges. At least thirty (30) days prior to the commencement of each fiscal year of this Trust, the Trustees shall estimate the Common Expenses expected to be incurred during the next fiscal year together with a reasonable provision for contingencies and reserves, and after taking into account any undistributed Surplus Accumulations from prior years, shall determine the Common Charges to be made for the next fiscal year. The Trustees shall promptly render statements to the Unit Owners for their respective shares of the Common Charges, according to their Beneficial Interests and such statements shall, unless otherwise provided therein, be due and payable within thirty (30) days after the same are rendered. Initially, one-twelfth (1/12) of said annual Common Expenses shall be due and payable monthly in advance on the first day of each month. In the event an annual assessment to fix Common Charges is not made as above required, the Common Charges shall be presumed to have been made in the amount of the last prior assessment of Common Charges.

In the event that the Trustees shall determine during any fiscal year that the assessment of Common Charges 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 for Common Charges and render statements therefor in the manner as aforesaid to be paid in installments, monthly or otherwise. The amount of each such statement shall be a personal liability of each Unit Owner (jointly and severally among the owners of each Unit) and, if not paid when due, or upon the expiration of such grace period as the Trustees may (but need not) designate, shall carry a late charge in such amount or at such rate (which amount or rate need not be in proportion to the Beneficial Interests) as the Trustees shall determine and, together with any such late charge and attorneys' fees for collection as hereinafter provided, shall constitute a lien on the Unit pursuant to the provisions of Section 6 of Chapter 183A. Each Unit Owner, by acceptance of a Unit Deed, agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by the Trustees in collection of Common Charges and the enforcement of said lien.

Section 5.4.3 Application of Common Funds. The Trustees shall expend Common Funds only for the purposes permitted by this Trust and by Chapter 183A.

Section 5.4.4 Rights of Mortgagees. Any holder of a mortgage on any Unit upon written request to the Trustees will be entitled to:

- (a) written notification from the Trustees of any default by its borrower who is an owner of a Unit with respect to any obligation of such borrower under this Master Deed or the provisions of the Condominium Trust which is not cured within sixty (60) days;
- (b) inspect the books and records of the Condominium Trust during normal business hours;
- (c) receive an audited annual financial statement of the Condominium Trust within ninety (90) days following the end of any fiscal year of the Condominium Trust;
- (d) written notice of all meetings of the Condominium Trust, and be permitted to designate a representative to attend all such meetings; and
- (e) prompt written notification from the Trustees of any damage by fire or other casualty to or proposed or actual taking by condemnation or eminent domain of the Common Elements or any portion thereof.
- (f) Prompt written notification from the Trustees of any damage by fire or other casualty to the Unit upon which the mortgagee holds a mortgage and of any proposed or actual taking by condemnation or eminent domain of said Unit.

Section 5.5 Rebuilding and Restoration, Improvements.

Section 5.5.1 Determination of Scope of Loss. In the event of any casualty loss to the Trust property, the Trustees shall determine in their reasonable discretion whether or not such loss exceeds ten (10%) percent 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 percent of such value, the Trustees shall proceed with the necessary repairs, rebuilding or restoration in the manner provided in paragraph (a) of Section 17 of Chapter 183A. If such loss as so determined exceeds ten (10%) percent of such value, the Trustees shall forthwith submit to all Unit Owners (a) a form of agreement (which may be in several counterparts) among the Unit Owners authorizing the Trustees to proceed with the necessary repair, rebuilding or restoration, and (b) a copy of the provisions of Section 17; and the Trustees shall thereafter proceed in accordance with, and take such further action as they may in

their discretion deem advisable in order to implement the provisions of paragraph (b) of said Section 17.

Section 5.5.2 Submission to Unit Owners of Proposed Improvements. If and whenever the Trustees shall propose to make any improvements to the Common Elements or shall be requested in writing by the Unit Owners holding twenty-five (25%) percent or more of the Beneficial Interests to make any such improvement, the Trustees shall submit to all Unit Owners (a) a form of agreement (which may be in several counterparts) specifying the improvement or improvements proposed to be made and the estimated cost thereof, and authorizing the Trustees to proceed to make the same, and (b) a copy of the provisions of Section 18 of Chapter 183A. Upon the receipt by the Trustees of such agreement signed by the Unit Owners holding seventy-five (75%) percent or more of the Beneficial Interests or the expiration of ninety (90) days 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 Beneficial Interests held by Unit Owners who have then signed such agreement. If such percentage exceeds seventy-five (75%) percent, the Trustees shall proceed to make the improvement or improvements specified in such agreement and, in accordance with section 18 (b) of Chapter 183A, shall charge the cost of improvement to all the Unit Owners. The agreement so circulated may also provide for separate agreement by the Unit Owners that if more than fifty (50%) percent, but less than seventy-five (75%) percent of the Beneficial Interests so consent, the Trustees shall proceed to make such improvement of improvements and shall charge the same to the Unit Owners so consenting in accordance with Section 18 (a) of Chapter 183A.

Section 5.5.3 Arbitration of Disputed Trustee Action. Notwithstanding anything in Sections 5.5.1 and 5.5.2, (a) In the event that any Unit Owner(s), by written notice to the Trustees 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, and such dispute shall not be resolved within thirty (30) days after such notice, then either the Trustees or the dissenting Unit Owner(s) shall submit the matter to arbitration. For that purpose, one arbitrator shall be designated by the Trustees, one by the dissenting Unit Owner(s) and a third by the two arbitrators so designated. Such arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association and shall be binding upon all parties. The Trustees' decision that work constitutes a repair, rebuilding or restoration other than an improvement shall be conclusive unless shown to have been made in bad faith. The Trustees shall in no event be obliged to proceed with any

repair, rebuilding or restoration, or any improvement, unless and until they have received funds in an amount equal to the Trustees' estimate of all costs thereof

Section 5.6 Administrative Rules and Regulations. Without the consent of the Unit Owners, the Trustees may from time to time adopt, amend and rescind administrative rules and regulations governing the operation and use of the Common Elements, as are consistent with the Master Deed and are designed to prevent unreasonable interference with the use by the Unit Owners of their Units and of the Common Elements. The Trustees do hereby adopt the initial Rules and Regulations annexed to this Declaration of Trust. The Trustees may enforce the Rules and Regulations by imposition of fines previously established or in any other manner permitted by law, including without limitation by court action for injunctive relief and damages.

Section 5.7 Managing Agent. The Trustees may, at their discretion, appoint a Manager or Managing Agent to administer the management and operation of the Condominium, including the incurring of expenses, and 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 determine.

Section 5.8 Insurance.

Section 5.8.1 Basic Insurance. The Trustees shall obtain and maintain, to the extent available at reasonable cost, master policies of insurance of the following kinds, insuring the interests of the Trust, and Trustees, all Unit Owners and their mortgagees as their interests may appear with the loss proceeds payable to the Trustees hereunder as Insurance Trustees for all of the Unit Owners collectively and their respective mortgagees as their interests may appear:

A. Casualty or physical damage insurance on the buildings and all other insurable improvements forming part of the Condominium (including all of the Units but not including furniture, furnishings and other personal property of the Unit Owners therein), now existing or as they may from time to time be increased by amendment to the Master Deed, together with the service machinery, apparatus, equipment and installations located in the Condominium and existing for the provision of central services or for common use, in an amount not less than one hundred (100%) percent of their full replacement value (exclusive of foundations) as determined by the Trustees in their judgment, who shall review such value at least as often as annually, against (1) 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 (2) 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, malicious mischief, windstorm and water damage, federal flood hazards so-called, boiler and machinery explosion or damage and plate glass damage.

B. All policies of casualty or physical damage insurance shall provide (to the extent such clauses are so obtainable) (1) that such policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including each Unit mortgagee (2) that the coverage thereof shall not be terminated for nonpayment of premiums without thirty (30) days' notice to all of the 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 Unit Owners and their mortgagees upon request at least ten (10) days prior to the expiration of the then current policies.

C. Comprehensive public liability insurance in such amounts and forms as shall be determined by the Trustees, covering the Trust, the Trustees, the Unit Owners and any Manager or Managing Agent of the Condominium, with limits of not less than a single limit of \$1,000,000 for claims for bodily injury or property damage arising out of one occurrence, a limit of \$50,000 for each occurrence for water damage and legal liability endorsement to cover liability of any insured to other insureds. The policy shall provide that the policy may not be cancelled or substantially modified without at least ten (10) days' prior notice to all of the insureds including each Unit mortgagee.

D. Workman's compensation and employer's liability insurance covering any employees of the Trust.

The Trustees may, in their sole discretion, purchase such other insurance as they shall determine.

Section 5.8.2 Payment to Trustees in Case of Loss. Such master policies shall provide that all casualty loss proceeds thereunder shall be paid to the Trustees as Insurance Trustees under these By-Laws. The duty of the Trustees as such Insurance Trustees shall be to receive such proceeds as are paid and to hold, use and disburse the same for the purposes stated in this Section and Section 5.5. If repair or restoration of the damaged portions of the Condominium is to be made, all insurance loss proceeds shall be held in shares for the Trust and the owners of damaged Units in proportion to the respective costs of repair or restoration of the Common Elements and damaged Units, with each share to be disbursed to

defray the respective costs of repair or restoration of the damaged Common Elements and damaged Units, and with any excess of any such share of proceeds above such costs of repair or restoration to be paid to the Trust or Unit Owners for whom held upon completion of restoration or repair; but if pursuant to Section 5.5 restoration or repair is not to be made, all insurance loss proceeds shall be held as Common Funds of the Trust and applied for the benefit of Unit Owners in proportion to their Beneficial Interests if the Condominium is totally destroyed, and, in the event of a partial destruction, after payment for such restoration of the Common Elements as the Trustees may determine, to those Unit Owners who have suffered damage in proportion to the damage suffered by them. Such application for the benefit of Unit Owners shall include payment directly to a Unit Owner's mortgagee if the mortgage with respect to such Unit so requires.

Section 5.8.3 Other Provisions. In addition to the coverage and provisions set forth in Section 5.8.1, the Trustees shall, in their discretion, see that all policies of physical damage insurance: (1) shall contain waivers of subrogation by the insurer as to claims against the Condominium, the Trustees, their employees, Unit Owners and members of the family of any Unit Owner who reside with said Unit Owner, except in cases of arson and fraud; (2) shall contain a waiver of defense of invalidity on account of the conduct of any of the Unit Owners over which the Trustees have "no control"; (3) shall provide that in no event shall the insurance under said policies be brought into contribution with insurance purchased individually by Unit Owners or their mortgagees; and (4) shall exclude policies obtained by individual Unit Owners from consideration under any "no other insurance" clause. The Trustees may include a deductible provision, up to \$1,000, in their own discretion and in such greater amounts as the owners of all Units may authorize in writing, in any of such insurance policies.

Section 5.8.4 Owner's Insurance and Responsibility for Increase in Premiums of Master Policy. Each Unit Owner may obtain additional insurance for his or her own benefit at his or her own expense. No such policy shall be written so as to decrease the coverage under any of the policies obtained by the Trustees pursuant to Section 5.8.1 above, and each Unit Owner hereby assigns to the Trustees the proceeds of any such policy to the extent that any such policy does in fact result in a decrease in such coverage, said proceeds to be applied pursuant to the terms of this Section 5.8 as if produced by such coverage. Copies of all such policies (except policies covering only personal property of individual Unit Owners) shall be filed with the Trustees.

Section 5.8.5 Notice of Owner's Improvements. Each Unit Owner shall notify the Trustees of all improvements including, but not limited to, combining units, to his or her Unit (except personal property other than fixtures) which exceed a total value of One Thousand Dollars (\$1,000.00) within twenty (20) days after the commencement of construction of such improvements and upon receipt of such notice, the Trustees shall notify the insurer under any policy obtained pursuant to Section 5.8.1 hereof of any such improvements.

Section 5.8.6 Insurance a Common Expense. The cost of the insurance purchased pursuant to Section 5.8 shall be a Common Expense assessable and payable as provided in Section 5.4.

Section 5.9 Meetings.

Section 5.9.1 Meetings of Trustees. The Trustees shall meet annually on the date of the annual meeting of the Unit Owners and at such meeting may elect a Chairman, Treasurer, Secretary and any other officers they deem expedient. Other meetings may be called by any Trustee (if there be no more than three then in office) or by any two Trustees (if there be more than three then in office) 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 (2) days before such meeting to each Trustee. A majority of the Trustees then in office shall constitute a quorum at all meetings. Such meetings shall be conducted in accordance with such rules as the Trustees may adopt.

Section 5.9.2 Meetings of Unit Owners. There shall be an annual meeting of the Unit Owners on the first Wednesday of September in each year at 7:00 p.m. at such reasonable place as may be designated by the Trustees by written notice given by the Trustees to the Unit Owners at least seven (7) 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 entitled to more than fifty (50%) percent of the Beneficial Interests. Written 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 (7) days prior to the date so designated.

Section 5.9.3 Notice of Certain Matters; Quorum; Majority Vote. Whenever at any meeting the Trustees propose to submit to the Unit Owners any matter with respect to which specific approval of, or action by, the Unit Owners is required by law or this Trust, the notice of such meeting shall so state and reasonably specify such matter. Unit Owners entitled to more

than fifty (50%) percent of the Beneficial Interests shall constitute a quorum at all meetings. Any action voted at such a meeting shall require the vote of more than fifty (50%) percent of the Beneficial Interests of those in attendance in person or by proxy at said meeting, except where the other provisions of this Trust or Chapter 183A requires a larger percentage.

Section 5.10 Notices to Unit Owners. Every notice to any Unit Owner required under the provisions of this Trust which may be deemed by the Trustees necessary or desirable in connection with the execution of the Trust created hereby or which may be ordered in any judicial proceeding shall be deemed sufficient and binding if in writing addressed to the Owner of such Unit last appearing on the Trustees' records, postage prepaid, to such person at his address last appearing on the Trustees' records if other than the Unit or else mailed or delivered to the Unit at least seven (7) days prior to the date fixed for the happening of the matter, thing or event of which such notice is given. The owner or owners of such Unit shall have the responsibility of providing the Trustees with the correct name of the present owners of the Unit and any address other than the Unit to which they desire notices to be mailed as to which matters the Trustees shall have no duty of inquiring beyond their records.

Section 5.11 Inspection of Books, Reports to Unit Owners. Books, accounts and records of the Trustees shall be open to inspection to any one or more of the Trustees and the Unit Owner and any mortgagee of any Unit 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 Trust for such year. If the Trustees so determine or if any Unit Owner so requests in writing to the Trustees, the report shall include financial statements by a certified public accountant which may, but need not be certified, as the Trustees shall determine, and shall be 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 his or her receipt of the report shall be deemed to have assented thereto.

Section 5.12 Checks, Notes, Drafts, and Other Instruments. Checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the names of the Trustees or of the Trust may be signed by any two 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 have been delegated by not less than a majority of the Trustees.

Section 5.13 Fiscal Year. The fiscal year of the Trust shall be the year ending with the last day of June or such other date as may from time to time be determined by the Trustees.

ARTICLE VI

Rights and Obligations of Third Parties

Dealing with the Trustees

Section 6.1 Reliance on Identity of Trustees. No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear on record in the Registry of Deeds shall be bound to ascertain or inquire further as to the persons who are then Trustees under this Trust, or be affected by any notice, implied or actual, otherwise than by a certificate thereof, and such record or certificate shall be conclusive evidence of the personnel of the Trustees and of any changes therein. 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 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 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, and any instrument of appointment of a new Trustee or resignation or removal of an old Trustee purporting to be executed by the Trustees, Unit Owners or other persons required by this Trust to execute the same, shall be conclusive in favor of any such purchaser or other person dealing with the Trustees of the matters therein recited relating to such discharge, resignation, removal or appointment or the occasion thereof.

Section 6.2 Personal Liability Excluded. 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 proceedings, or by virtue of

any suit or otherwise, and all persons extending credit shall look only to the Trust property for 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 thereof; provided, however, that nothing herein contained shall be deemed to limit or impair the liability of Unit Owners under the provisions of this Trust or under the provisions of Chapter 183A.

Section 6.3 All Obligations Subject to This Trust. 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 of restrictions of this Trust, whether or not express reference shall have been made to this instrument.

Section 6.4 Further Matters of Reliance. This Declaration of Trust and any amendments to this Trust and any certificate required by the terms of this Trust 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 with the Registry of Deeds and such record 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 thereunder 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 with said Registry of Deeds. Any certificate signed by two Trustees in office at the time (only one Trustee if there is only one at the time), setting forth as facts any matters affecting the Trust, including statements 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, or any one of them to do any act, 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.

Section 6.5 Common Expense in Event of Unit Mortgage Foreclosure. Any first mortgagee, in the event of foreclosure of its mortgage, shall take such Unit free of any claims for unpaid Common Expenses or Common Charges against such Unit to the extent provided by law.

Section 6.6 6(d) Certificate. Notwithstanding any other provision of this Article VI, any certificate setting forth the amount of unpaid Common Charges assessed against any Unit Owner

as provided by Section 6(d) of Chapter 183A shall be conclusive evidence of the facts stated therein if signed by any one Trustee then in office.

ARTICLE VII

Amendments and Termination

Section 7.1 Amendments. The Trustees, with the consent in writing of Unit Owners entitled to not less than sixty-seven (67%) percent of the Beneficial Interests, 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; provided always, however, that no such amendment, alteration, addition or change (a) according to the purport of which the percentage of the Beneficial Interest of any Unit Owner would be altered in any manner or to any extent whatsoever modified or affected, so as to be different from the percentage of the individual interest of such Unit Owner in the Common Elements as set forth in the Master Deed, and any amendment thereto, or (b) which would render this Trust contrary to or inconsistent with any requirements or provisions of Chapter 183A, shall be valid or effective. 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 in the manner required in Massachusetts for the acknowledgment of deeds by any two Trustees, if there be at least two then in office (or one Trustee if there be only one in office), setting forth in full the amendment, alteration, addition or change, and reciting the consent of the Unit Owners required by this Trust 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 the questions as to title or affecting the rights of third persons and for all other purposes. Nothing in this paragraph 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 7.2 Termination. The Trust hereby created shall terminate only upon the removal of the Condominium from the provisions of Chapter 183A in accordance with the procedure thereafter set forth in Section 19 thereof and in the Master Deed.

Section 7.3 Disposition of Trust Property Upon Termination. Upon the termination of this Trust, the Trustees may, subject to and in accordance with the provisions of Chapter 183A, sell and convert into money the whole of the Trust property, or any part thereof, and, after paying or retiring all known liabilities and obligations of the Trustees and providing for indemnify 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 Beneficial Interests. In making any sale under this section, the Trustees shall have power to sell by public auction or private sale or 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 VIII

Construction and Interpretation

Section 8.1 Terms. In the construction hereof, whether or not so expressed, words used in the singular or in the plural respectively include individuals, firms, associations, companies, (joint stock or otherwise), trusts and corporations unless a contrary intention is reasonably required by the subject matter or context. The title headings 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 laws of the Commonwealth of Massachusetts. Unless the context otherwise indicates, words defined in Chapter 183A shall have the same meaning here.

Section 8.2 Captions. The herein captions are inserted only as a matter of convenience and for reference, and in no way define, limit or described the scope of this Trust, nor the intent of any provision hereof.

Section 8.3 Waiver. No provision contained herein shall be deemed to have been abrogated or waived by reason of any

failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 8.4 Conflicts. If any provision of this Trust shall be invalid or shall conflict with Chapter 183A or if any provision of this Trust conflicts with any provision of the Master Deed, then the following rules of construction shall apply:

- a. In the event of a conflict between this Trust and Chapter 183A, the provisions of Chapter 183A shall control.
- b. The invalidity of any provision of the Trust shall not impair or affect the validity or enforceability of the other provisions of this Trust.
- c. In the event of any conflict between the Master Deed, and any provision of this Trust, the Master Deed shall control.

Section 8.5 All documents and instruments required to be recorded hereunder shall be so recorded with the Registry of Deeds.

IN WITNESS WHEREOF the undersigned Trustees have set their respective hands and seals as of the date first written above.

John R. Giles
John R. Giles, Trustee
as aforesaid, AND NOT
INDIVIDUALLY

Sarah H. Giles
Sarah H. Giles, Trustee as
aforesaid AND NOT
INDIVIDUALLY

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK

October 31, 1984

Then personally appeared the above-named JOHN R. GILES and SARAH H. GILES and acknowledged the foregoing instrument to be their respective free acts and deeds, as Trustees as aforesaid, before me,

Sandra C. Steele
Notary Public
My commission expires: May 27, 1987

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
I	The Trust, Its Purpose, By-laws and Name	1
II	Definitions	2
III	The Trustees	4
IV	Beneficiaries and the Beneficial Interest in the Trust	7
V	By-Laws	8
VI	Rights and Obligations of Third Parties Dealing with the Trustees	21
VII	Amendments and Termination	23
VIII	Construction and Interpretation	24

11233 333

EXHIBIT 1
TO
DECLARATION OF TRUST
OF
37 BEACON ST. CONDOMINIUM

<u>UNIT NO.</u>	<u>BENEFICIAL INTEREST</u>
1	2.29
2	1.08
3	1.75
4	2.15
5	2.29
6	2.15
21	3.16
22	2.85
23	3.50
24	2.56
25	2.76
26	2.56
31	3.16
32	2.85
33	3.50
34	2.56
35	2.76
36	2.56
41	3.16
42	2.85
43	3.50
44	2.56
45	2.76
46	2.56
51	3.16
52	2.85
53	3.50
54	2.56
55	2.76
56	2.56
61	3.16
62	2.85
63	3.84
64	2.89
65	3.10
66	2.89

0727j

37 BEACON ST. CONDOMINIUM TRUSTRULES AND REGULATIONS

37 BEACON ST. CONDOMINIUM, (the "Condominium") in Boston, Massachusetts, has been created with the objective of providing congenial, enjoyable, and dignified residential living. In order to accomplish this objective, the Trustees of 37 BEACON ST. CONDOMINIUM TRUST (the "Trustees") responsible for the administration, operation and maintenance of the Condominium Association, have adopted the Rules and Regulations set forth below.

In order for the Unit Owners to better understand the Rules and Regulations, the defined terms used in the Master Deed of the Condominium and the Condominium Trust are used herein with the same meanings as used in said documents except that whenever these rules and regulations impose a duty or obligation upon a Unit Owner or a rule which a Unit Owner is to observe, obey, and comply with, the term "Unit Owner" as defined in the Master Deed, and in addition, (when the concept permits), shall include all family members, guests and invitees thereof, and any occupants of Units in the Condominium.

The Rules and Regulations may not please everyone, as it is impossible to satisfy each and every individual. The Trustees, however, feel that the Rules and Regulations will not only satisfy the great majority of the occupants of the Condominium, but will enhance the experience of all persons living in the Condominium.

(1) No Obstruction of Common Areas. Unit Owners shall not cause obstruction to the Common Elements except for storage in any assigned storage bins or for parking in specific parking space(s) by those so entitled or as the Trustees may in specific instances expressly authorize and permit.

(2) Effect on Insurance. No Unit Owner shall use his Unit in such fashion as to result in the cancellation of insurance maintained by the Trustees on the Condominium or in any increase in the cost of such insurance, except that uses resulting in increase in premiums may be made by specific arrangement with the Trustees, providing for the payment of such increased insurance costs by the Unit Owner concerned.

(3) Nameplates. Unit Owners may place their names only in such places outside the Unit as may be provided for by the Trustees.

(4) Radios, Phonographs, Musical Instruments. The volume of television sets, radios, phonographs, musical instruments, and the like shall be turned down between 11 P.M. and 8 A.M. the next morning, and shall, at all times, be kept at a sound level which will not disturb or annoy the occupants of neighboring Units.

(5) Laundry. No Unit Owner shall hang laundry, clothes, sheets, rugs, drapes, or the like out of a Unit or window or door at any such Unit.

(6) Signs. Unit Owners may not display "For Sale" or "For Rent" signs in windows of their Unit, nor may the Unit place window displays or advertising in windows of such Units.

(7) Abuse of Mechanical System. The Trustees may charge to a Unit Owner any damage to the mechanical, electrical, or other building service system of the Condominium caused by such Unit Owner by misuse of those systems.

(8) No Offensive Activity. No noxious or offensive activity shall be carried on in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants. No Unit Owner shall make or permit any disturbing noises by himself, his family, servants, employees, agents, visitors, and licensees, nor do or permit anything by such persons that will interfere with the rights, comforts, or convenience of other Unit Owners.

(9) Pets. Common household pets, such as dogs and cats, may be kept in the Units unless prohibited by the Trustees as hereinafter described. The owner of a pet assumes full liability for all damage to all persons or property, and to the Condominium Trust, caused by such pet. In no event shall dogs be permitted in any part of the Common Elements unless under leash. All dogs must be licensed by the proper authorities, and the owner is responsible for getting pet dogs properly and fully inoculated. The Unit Owner shall indemnify the Condominium Trust and hold it harmless against any loss or liabilities of any kind or character whatsoever arising from or growing out of having any pet or animal in a Unit or other portions of the Condominium. Upon written complaint of any Unit Owner to the Trustees that a pet kept in any Unit or within the Condominium is a nuisance, the Trustees may prohibit the presence of said pet within the Condominium. No such

action of the Trustees shall be taken without a meeting of which at least three days' written notice thereof has been given to the Unit Owner responsible for said pet, and the opportunity at the Trustees' meeting for the Unit Owner responsible for the pet to be heard.

(10) Storage. All items of Unit Owners and personal property, effects, and other items of Unit Owners and personnel claiming by, through, or under said owner may be kept and stored at the sole risk and hazard of said owner, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leaking or bursting of water pipes, steam pipes, or other pipes, by theft or from other causes, no part of said loss or damage in excess of the amounts, if any, covered by its insurance policies, is to be charged or to be borne by the Condominium Trust, except that the Condominium Trust shall in no event be exonerated or held harmless from liability caused by its negligence.

(11) Repair and Condition. Each Unit Owner shall keep those portions of the Common Elements of which he has the exclusive use in a good state of preservation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.

(12) Equipment Compliance. All radio, television, or other electrical equipment of any kind or nature installed by Unit Owners or used in each Unit shall fully comply with all rules, regulations, requirements, or recommendations of the Board of Fire Underwriters, or similar board, and the public authorities having jurisdiction, and the Unit Owner alone shall be liable for any damage or injury caused by any radio, television, or other electrical equipment in such Unit.

(13) Flammable Materials, etc. No Unit Owner or any of his agents, servants, employees, licensees, or visitors shall, at any time, bring into or keep in his Unit or any portion of the Common Elements or the buildings any gasoline, kerosene, or other flammable, combustible or explosive fluid, material, chemical, or substance, except such lighting, cleaning and other fluids, materials, chemicals and substances as are customarily incidental to residential use.

(14) Real Estate Taxes. For so long as the Condominium is assessed as a single property rather than as separate condominium units, Unit Owners will be billed by the Trustees for their respective portions thereof (each Condominium Unit's percentage in the Common Elements of the total tax bill) during each October and April, which bill shall enclose a copy of the

11233.337

tax bill issued by the (the "Municipality").
Each Unit Owner will forward payment of his percentage interest
in the total tax bill to the Trustees by check made payable to
the Municipality no later than then (10) days prior to the date
on which payment may be made without incurring a penalty or
interest thereon. Late payments by a Unit Owner must be made
payable as directed by the Trustees, and will include interest
and penalties as charged by the Municipality for late payment,
together with costs of collection therefor incurred by the
Trustees, including reasonable attorney's fees. If taxes are
collected by holders of mortgages on Units, each Unit Owner
shall be responsible for causing the mortgage holders to
forward payment as above-required.

07273
