

**DECLARATION OF TRUST**

**EASTSIDE PLACE CONDOMINIUM**

DECLARATION OF TRUST made this \_\_\_\_ day of March, 2022 by 60 Cross Street Investment, LLC and its Manager, Young H. Lee, (hereinafter called the Trustee, which term and any pronoun referring thereto shall be deemed to include his successors in trust hereunder and to mean the Trustee or the Trustees for the time being hereunder wherever the context so permits) and to be recorded with the Middlesex South District Registry of Deeds (the “Registry of Deeds”). All Trustees and the Trust hereby created have a business address at 109 School Street, Watertown, Massachusetts 02472.

ARTICLE I

NAME OF TRUST

The Trust hereby created shall be known as **Eastside Place Condominium Trust**. The Trustees shall conduct all business and shall execute all instruments in writing under that name, so far as legal, convenient and practicable.

ARTICLE II

THE TRUST PURPOSES

Section 2.1 Unit Owners Organization. All of the rights and powers in and with respect to the Common Areas and Facilities of the **Eastside Place Condominium** (the “Condominium”) established by a Master Deed to be recorded herewith (the “Master Deed”) which are, by virtue of Massachusetts General Laws, Chapter 183A (“Chapter 183A”), conferred upon or exercisable by the organization of Unit Owners of the Condominium, and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder shall vest in the Trustees as joint tenants with right of survivorship as Trustees of this Trust, in trust, to exercise, manage, administer and dispose of the same exclusive of the common areas and to receive the income thereof for the benefit of the owners of record from time to time of the Units of the Condominium (hereinafter referred to as the beneficial interest) set forth in Article IV hereof and in accordance with the provisions of section 10 of Chapter 183A for the purposes therein set forth. A Unit Owner is any person holding any legal or beneficial interest in the fee of a Unit.

Section 2.2 No Partnership. It is hereby declared that a trust and not a partnership has been created and that the Unit Owners are beneficiaries, and not partners or associates nor in any other relation whatever between themselves with respect to the Trust property and hold no relation to the Trustees other than of beneficiaries, with only such rights as are conferred upon them as such beneficiaries hereunder and under and pursuant to the provisions of Chapter 183A.

## ARTICLE III

### THE TRUSTEES

Section 3.1 Number of Trustees – Declarant’s Right to Designate Trustees. The initial Trustee is as stated in this Trust. From and after the expiration of the Declarant’s right (stated below) to designate Trustees, there shall at all times be five (5) Trustees, elected by a majority vote of all the Unit owners and designated (or removed) from time to time by recorded instrument.

Notwithstanding anything to the contrary in this Trust, until (i) thirty (30) days after the Declarant of the Condominium or any successor to the Declarant’s interest in the Condominium (the “Declarant”), no longer owns any Units, or (ii) two (2) years from the date hereof, whichever first occurs, there shall be not more than one Trustee and the Declarant (and not the other Unit Owners) shall be entitled to designate, remove and re-designate that Trustee. Notwithstanding anything to the contrary in this Trust, during the time the Declarant is entitled to designate the Trustee, any vacancy resulting from expiration of term, resignation, removal or death of a Trustee designated by the Declarant may be filled by an instrument executed by Declarant and recorded at the Registry of Deeds stating the new Trustee’s name and business address and that such Trustee is being so designated, and containing the Trustee’s acceptance of designation duly acknowledged. The Declarant’s rights under this Section 3.1 shall inure to the benefit of any successor to the Declarant’s interest in the Condominium.

Section 3.1.1 Trustees Term in Office. Unless otherwise established by majority vote of the Unit Owners with reference to specific Trustees and except as stated below, the term of each Trustee shall be until his or her successor is appointed.

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

Section 3.2 Trustee and/or Unit Owner Action Arbitration. 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 of the Trustees. In the event of a deadlock, such that Trustee action and/or Unit Owner action on a given issue is not presently possible, said matter shall be referred to and resolved by binding arbitration before the American Arbitration Association or other mutually agreeable tribunal.

Moreover, each Unit Owner shall have the right to a non-binding mediation, to be held in or within thirty (30) days of the date of written notice from one Unit Owner to the other calling for such mediation. In the event that the Unit Owners cannot agree on a mediator, within five (5) business days of the date of such written request, each Unit Owner shall name a proposed mediator within five (5) calendar days and the two proposed mediators shall agree on a mediator within five (5) calendar days thereafter. The cost of the mediator shall be borne equally by each

Unit Owner, regardless of the outcome. Such mediation efforts may run concurrently with the binding arbitration provisions described in the immediate preceding paragraph.

Section 3.3 Resignation and Removal. Any Trustee may resign at any time by instrument in writing signed and duly acknowledged by that Trustee. Resignations shall take effect upon recording with the Registry of Deeds. Any Trustee may be removed with or without cause by a vote of the Unit Owners entitled to not less than fifty-one (51%) percent of the beneficial interest hereunder. Such removal shall become effective when a certificate to that effect is recorded with the Southern Middlesex District Registry of Deeds. The vacancy resulting from such resignation or removal shall be filled in the manner provided in Section 3.1.

Section 3.4 Bond or Surety. No Trustee, whether an original or successor Trustee, shall be obliged to give any bond or surety or other security for the performance of any of his or her duties hereunder, provided, however, that the Unit Owners by majority vote may at any time upon written notice to the Trustee(s) affected require that any one or more of the Trustees shall give bond in such amount and with such sureties as shall be specified in such instrument. All expenses incident to any such bond shall be charged as a common expense of the Condominium.

Section 3.5 Compensation of Trustees. With the approval of a majority of the disinterested Trustees, a Trustee may receive such reasonable remuneration for extraordinary or unusual services, legal or otherwise, rendered by him or her in connection with this Trust, all as shall be from time to time fixed and determined by the Trustees, and such remuneration shall be a common expense of the Condominium. No compensation may be voted for any Trustees designated by a Unit owned by the Declarant.

Section 3.6 No Personal Liability. No Trustee shall under any circumstances or in any event be held liable or accountable out of his or her personal assets or be deprived of compensation by reason of any action taken, suffered or omitted in good faith in the reasonable belief that the action was in the best interests of this Trust. Actions taken by an outgoing or successor Trustee after appointment and prior to recording of the written instrument required under Section 3.1 for the benefit of persons relying on the records of the Registry of Deeds shall not create any liability for such person beyond that which he or she would have had as a Trustee.

Section 3.7 Trustees May Deal with the Condominium. No Trustee shall be disqualified by his or her office from contracting or dealing with the Trustees or with one or more Unit Owners (whether directly or indirectly because of his or her 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 that Trustee shall act in good faith and shall disclose the nature of his or her interest before entering into the dealing, contract or arrangement.

Section 3.8 Indemnity of Trustees. Each Trustee and, to the extent stated in Section 3.6, any outgoing and successor Trustee as to actions taken as a Trustee before the person became entitled or after the person ceased to be entitled to exercise the rights and powers of a Trustee, shall be entitled to indemnity both out of the Trust property and by the Unit Owners against any liability including, without limitation, liabilities in contract and in tort and liabilities for damages, penalties and fines incurred by them or any of them in the execution hereof and performance of their obligations hereunder unless the Trustee shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that the action was in the best interests of this Trust; and the Trustees may purchase as a common expense of the Condominium such insurance against such liability as they shall be personally and jointly and severally liable for all sums lawfully assessed for their proportionate share of the common expenses of the Condominium and for their proportionate share (according to beneficial interest) 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 limit in any respect the powers granted to the Trustees in this Declaration of Trust.

#### ARTICLE IV

##### THE BENEFICIARIES

Section 4.1 The Beneficiaries and Their Beneficial Interest. The Beneficiaries of this Trust shall be the Unit Owners of the Condominium from time to time. The beneficial interest in this Trust shall be divided among the Unit Owners in the percentage of undivided beneficial interest appertaining to the Units of the Condominium as stated in the Master Deed of the Condominium as it may be amended from time to time.

Section 4.2 Each Unit to Vote by One Person: Proxies: Unit Owner Defined. The beneficial interest of each Unit of the Condominium shall be held and exercised as a unit. Whenever any Unit is owned of record by more than one person, the several owners of the 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 the Unit under this Trust, 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 owner for such purposes.

All rights of a Unit Owner under this Trust may be exercised by written proxy. The Trustees shall make any necessary determinations in their sole discretion as to the validity of proxies.

## ARTICLE V

### THE BY-LAWS

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

Section 5.1 Powers of the Trustees. The Trustees shall have all the powers necessary for the administration of the Condominium and, acting as set forth in Section 3.2, may do all things, subject to and in accordance with all applicable provisions of Chapter 183A, including, without limitation, the provisions of Section 10(b) of Chapter 183A, and the Master Deed, necessary and convenient thereto. Without limiting the generality of the foregoing, the Trustees may, with full power and uncontrolled discretion, at any time and from time to time and without the necessity of applying to any court or to the Unit Owners for leave so to do:

- (i) 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) Sell, assign, convey, transfer, exchange and otherwise deal with or dispose of the Trust property, but not the whole thereof, free and discharged of any and all trust, 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) 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 rights;
- (iv) Borrow or in any other manner raise such sum or sums of money or other property as they shall deem advisable in any manner and on any terms, and evidence the same by notes, bonds, securities or other evidence 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) 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, easements, 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) 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) 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) Determine whether receipt by them constitutes principal or income and designate as capital or surplus any of the funds of the Trust;
- (ix) 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 person, persons or to one or more of their number, vote, waive any notice or otherwise act in respect of any such shares;
- (x) 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) Engage in such litigation in the name of and on behalf of the Trust as they deem necessary and proper to further the purposes of this Trust;
- (xii) Maintain such offices and other places of business as they shall deem necessary or proper and engage in business in Massachusetts or elsewhere;
- (xiii) 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 appoint Trustees, join in amending, altering, adding to, terminating or changing this Declaration of Trust and the trust hereby created shall not be delegated) all for such times and purposes as they shall deem proper. Without hereby limiting the generality of the foregoing, the Trustees may designate from their number a President, 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;

- (xiv) Generally, in all matters not herein otherwise specified, 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, 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 Unit Owners.

Section 5.2 Maintenance and Repair of Units and Common Areas by Unit Owners. The Unit Owners shall be responsible for the proper maintenance and repair of their respective Units (and any exclusive use areas and limited common areas, as described in the Master Deed) and the maintenance, repair and replacement of utility fixtures therein serving the same, including, without limitation (and except as stated in the Master Deed), interior finish walls, ceilings, and floors; windows, plumbing and sanitary waste fixtures and fixtures for water and other utilities; gas furnaces; air conditioning equipment in the Unit and any air conditioning compressor which serves the Unit of the Unit Owner; 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 only such Unit. Moreover, each Unit Owner shall be exclusively responsible for the proper repair, maintenance and replacement of their Unit and the exclusive use areas to which they have access, including all mechanical and structural elements, interior walls, porches, steps, decks, bulkheads, interior and exterior stairs and walkways. Notwithstanding the foregoing, no material change in a Building's exterior color, type or style of siding or roofing, and/or the architectural appearance or structural components of the Building will be carried out without the advance written consent of a majority of the Trustees, which consent will not be unreasonably withheld.

If a majority of the Trustees shall at any time in his or her reasonable judgment determine that the interior or exterior of any Unit or Building is in such need of maintenance or repair that the market value or reasonable enjoyment of one or more other Units is being adversely affected, or that the condition of a Unit or fixtures, furnishings, facility or equipment therein is hazardous to any Unit or the occupants, he or she 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 the Owner(s) of such Unit and to enter upon and have access to such Unit for that purpose. The reasonable cost thereof shall constitute a lien upon that Unit and the Owners thereof shall be personally, jointly and severally liable therefor.

Any dispute relating to the foregoing shall be referred to arbitration, as per Section 3.2 above.

Section 5.3 Maintenance, Repair and Replacement of Common Areas and Facilities by Trustees: Trustee Access to Units. Except for exclusive use areas and limited common areas as described above and in the Master Deed, and except as otherwise provided in Section 5.2 above, the Trustees shall be responsible to arrange for the maintenance, repair and replacement of the common areas and facilities of the Condominium, when the need for same has been brought to their attention, exercising ordinary due care and reasonable business judgment with respect to the scope, extent and timing of same (see Section 5.5 for specific provisions dealing with repairs and replacement necessitated because of casualty loss or condemnation), which may be done through any Trustee(s). The expenses of such maintenance, repair and replacement shall be assessed to the Unit Owners as common expenses of the Condominium at such times and in such amounts as provided in Section 5.4. The Trustee's decision that work on the common areas and facilities is maintenance, repair or replacement, and not improvement, thereof shall be conclusive and binding on all Unit Owners unless shown to have been made in bad faith.

Any Trustees and his/her/their agents shall have access to each Unit from time to time during reasonable hours for the maintenance, repair or replacement of any other Unit or of the common areas and facilities therein or accessible therefrom or for making any repairs therein necessary, in the Trustee's judgment, to prevent damage to the common areas and facilities or to another Unit or Units.

#### Section 5.4 Common Expense Funds

Section 5.4.1 Common Profits, Determination of Common Expenses and Fixing of Common Charges. The Unit Owners shall be liable for Common Expenses and entitled to Common Profits in proportion to their respective Beneficial Interests. The Trustees may, at any time, distribute the Common Profits among the Unit Owners in such proportions. The Trustees shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the Common Charges payable by the Unit Owners to meet the Common Expenses expected to be incurred during the year, after taking into account any undistributed common profits from prior years, shall allocate and assess such common charges among the Unit Owners according to their respective Beneficial Interests. The Common Expenses shall include any amounts which the Trustees deem proper for the operation and maintenance of the property, including, without limitation, amounts required to indemnify the Trustees and/or officers under this Trust, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Trustees, utility charges and amounts for working capital of the Condominium, for general operating reserves, for a reserve for maintenance, repairs and replacements for those portions of the Common Elements which must be replaced on a periodic basis and to make up any deficit in the Common Expenses for any prior year. The Common Expenses may also include any amounts which may be required for the purchase or lease of any Unit by the Trustees, with the consent of the Unit Owners, on behalf of all Unit Owners, pursuant to the provisions hereof, or to pay any other obligation of the Trust. The Trustees shall give timely written notice to each Unit Owner of the amount of the Common Charges payable by him, and shall furnish copies of each budget on which Common Charges are based to all Unit Owners and to the Holder of a mortgage of a Unit or any proposed mortgagee thereof so requesting the same in writing. . It is expected that initial Unit conveyances, completion of Units, and initial occupancy of Units will not take place simultaneously. Notwithstanding anything to

the contrary in these By-Laws or in the Master Deed, the Initial Trustee may promulgate a budget or budgets under the provisions of this Section for the initial months of operation of the Condominium pursuant to which assessments will be minimal, reflective of the circumstance that during such period, few Units may be occupied and the cost of services will be correspondingly low.

Section 5.4.2 Payment of Common Charges. All Unit Owners shall be obligated to pay the Common Charges assessed by the Trustees pursuant to the provisions of Section 5.4.1 monthly in advance or at such other time or times as the Trustees shall determine. The Trustees shall be under no obligation to furnish Unit Owners with monthly billing statements, notices, or the like. No Unit Owner shall be liable for the payment of any part of the Common Charges, which are assessed against his Unit after his sale, transfer or other conveyance of the Unit. Unless waived in writing by the Trustees, a purchaser of a Unit shall be liable for the payment of unpaid common charges assessed against the Unit before the acquisition by him of the Unit. Any first mortgagee who obtains title to a Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage shall, in accordance with Section 6 of Chapter 183A be liable for (and such Unit shall not be subject to) a lien for the payment of Common Charges assessed against the Unit prior to the acquisition of title to such Unit by such first mortgagee.

Section 5.4.3 Real Estate Tax Assessment and Charges—Effect of Liens. All taxes, assessments and charges that may become liens prior to the First Mortgage under local law, shall relate only to the individual Condominium Unit and not the condominium project as a whole.

Section 5.4.4 Capital Reserve Fund. A working capital fund shall be established during the initial months of the condominium project by the payment into the said fund of a sum of money equal to two months estimated common charges to be held in trust on behalf of the Condominium Association and maintained in a segregated account for the use and benefit of the Condominium Association in funding any unforeseen or unbudgeted expenses. Each Unit's share of the working capital fund shall be collected at the time the initial sale of the Unit from the Declarant is closed or at the time control of this Trust is transferred to the Trustees elected by Unit Owners other than the Declarant, as set forth in Section 3 of this Trust, whichever occurs earlier. The working capital contribution shall not be considered a pre-payment of a new Condominium Unit Buyer's normal assessment responsibilities. During the term while a majority of the Trustees are the Declarant, or nominees or designees of the Declarant, the working capital fund which is the subject of this Subsection shall not be used to defray the expenses, reserve contributions, or construction costs which are the responsibility of the Declarant in its role as developer of the Condominium or to make up budget deficits. The Trustees, on behalf of the Condominium Association, shall be required to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and those Limited Common Areas, which the Condominium Trust may be obligated to maintain. Those funds shall be maintained out of the regular assessment for Common Expenses.

Section 5.4.5 Collection of Assessments. The Trustees shall assess Common Charges against the Unit Owners from time to time (at least annually) and shall take prompt action to collect any Common Charge due from any Unit Owner that remains unpaid for more than thirty (30) days from the due date for payment thereof.

Section 5.4.6 Default in Payment of Common Charges. If any Unit Owner fails to make payment of a monthly Common Charge or a charge relating to his exclusive use area(s) by the tenth of any given month, the Trustee may assess a late fee in the amount of Thirty-five Dollars (\$35.00) per each late payment. In the event of default by any Unit Owner in paying to the Trustees the Common Charges, the defaulting Unit Owner shall be obligated to pay same, together with late charges, interest, and all expenses, including reasonable attorneys' fees, incurred by the Trustees in any proceeding brought to collect the unpaid Common Charges. The Trustees shall have the right and duty to attempt to recover the unpaid Common Charges, interest thereon and the expenses of the proceeding in an action brought against the Unit Owner by foreclosure of the lien on the Unit as provided in Section 6 of Chapter 183A. Any such lien by reason of any fee, late charge, fine or interest that may be properly levied by the Trustees in connection with any unpaid fee as set forth herein, and which shall become due and payable on or after the date of recording of a First Mortgage on any Unit, shall be subordinate to the said First Mortgage except as provided in Chapter 183A, Section 6. A lien for such common assessments shall not be affected by any sale or transfer of a Unit, except that a sale or transfer pursuant to a foreclosure of First Mortgage shall extinguish such a subordinate lien for assessments which became payable prior to such sale or transfer. Any such sale or transfer following a foreclosure shall not relieve the purchaser or transferee of a Unit estate from liability for, nor the Unit from the lien of, any assessment made thereafter.

Section 5.4.7 Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Trustees to foreclose a lien on a Unit because of unpaid Common Charges, the Unit Owner shall be required to pay a reasonable sum commencing at the time of institution of foreclosure action for the use and occupancy of his Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Trustees, acting on behalf of all Unit Owners, shall have the power to purchase the Unit at the foreclosure sale and to acquire, hold, lease, mortgage, convey or otherwise deal with (but not to vote the Beneficial Interest appurtenant to) the Unit, provided however, that if the purchase price for the Unit is more than the amount of the outstanding Common Charges due for the Unit, prior to such purchase, the Trustees shall obtain the written consent of all Unit Owners, other than the Owner of the Unit being foreclosed. The existence of the right to foreclose the lien for unpaid Common Charges or for the failure to maintain, build, repair and/or modify, or in any way deal with a roof deck, roof deck easement, or roof deck structure, shall not preclude the Trustees from suing a Unit Owner personally to recover a money judgment for unpaid Common Charges.

Section 5.4.8 Statement of Common Charges. The Trustees shall promptly provide any Unit Owner, the Holder of any mortgage of a Unit or any proposed mortgagee thereof so requesting the same in writing, with a written statement in recordable form of all unpaid Common Charges assessed to the Unit.

#### Section 5.5 Rebuilding and Restoration after Casualty: Improvements

Section 5.5.1 Casualty Loss. In the event of any casualty loss to the Condominium, the Trustees shall determine in their reasonable discretion whether or not such loss exceeds ten 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 as provided in paragraph (a) of Section 17 of Chapter 183A, as amended, if such loss as so determined exceeds ten percent of such value, the Trustees shall forthwith submit to all Unit Owners (a) a form of agreement (which may be in several counterparts) authorizing the Trustees to proceed with the necessary repair, rebuilding or restoration, and (b) a copy of the provisions of Section 17 of Chapter 183A; 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 Section 17 of Chapter 183A.

Section 5.5.2 Proposed Improvements. If and whenever either a Trustee and/or Unit Owner shall propose to make any improvement to the common areas and/or facilities of the Condominium, the said Trustee shall submit to the other Trustees and/or Unit Owners a form of agreement specifying the improvement(s) proposed to be made and the estimated cost thereof, and authorizing the Trustees to proceed to make the same. Upon receipt by the Trustees of such agreement signed by the Unit Owners holding seventy-five percent of the beneficial interest, the Trustees shall be authorized to make said improvements.

Section 5.5.3 Arbitration of Disputed Trustee Action. Notwithstanding anything in Sections 5.5.1 and 5.5.2, 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 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 Commercial Arbitration Rules 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 and binding on all Unit Owners 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 cost thereof.

Section 5.5.4 Condemnation. In the event of any condemnation of the Trust property, the Trustees shall estimate the cost of restoring what remains of the Trust property and shall notify all Unit Owners of such estimate. Until the Unit Owners instruct the Trustees otherwise by majority vote, the Trustees in their discretion shall proceed with rebuilding and restoration of the remaining Trust property as far as practical to the condition and standards existing before the taking and the cost thereof shall be a Common Expense. Any award concerning condemnation of Trust property shall be common funds and the Trustees shall have all power and authority to deal with all persons, including without limitation the taking authority, in connection therewith.

The Condominium Trustees shall represent the Unit Owners in all proceedings, negotiations, settlements or agreements with the taking authority and any proceeds received from said authority shall be paid to the Condominium Trustees for the benefit of the Unit Owners and their mortgagees.

From and after any condemnation which includes one or more Units or parts thereof, (i) the beneficial interests of the remaining Units, and the corresponding percentage interest of each as stated in the Master Deed, shall be in proportion to their original beneficial interests, with equitable adjustments based on diminution in fair market value as to any Unit partially taken, and (ii) those Units entirely taken shall have no beneficial interest hereunder nor any percentage interest under the Master Deed. Any award or portion thereof for taking of any Unit or portion thereof paid by the taking authority to the Trustees shall be paid to the Unit Owners, mortgagees and other lien holders of such Unit as their interests may appear.

Section 5.6 Rules and Regulations. The Trustees may from time to time adopt, amend and rescind rules and regulations governing 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 the Master Deed and are designed to prevent unreasonable interference with the use by the Unit Owners of their Units and of the common areas and facilities. After written Notice and Hearing the Trustees may implement such uniform remedies, including but not limited to fines, as the Trustees shall determine. The initial Rule and Regulations are attached hereto as Exhibit A.

Section 5.7 Trustees Actions: Right to Notice and Hearing. Whenever these By-Laws require that an action be taken after "Notice and Hearing", the following procedure shall be observed: All hearings shall be conducted by at least a majority of the Trustees. The Trustees shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing, or both, subject to reasonable rules of procedure established by the Trustees to assure a prompt and orderly resolution of the issues. The affected person shall have the right to question the Trustees and any witnesses with respect to the subject matter of the hearing. If the hearing involves an alleged breach, by the affected person, of any of the provisions of the Master Deed, the Declaration of the Trust, or the By-Laws and Rules and Regulations thereto, or any Unit deed, the affected person shall be informed, with specificity, of the exact nature of the violation, and of the provision which he or she has allegedly violated, and the affected person shall have the right to question any witness to such alleged violation. The Trustees need not comply with the strict legal rules of evidence observed by courts, but they shall consider only such evidence as reasonable people customarily consider in making important decisions. Nothing herein shall be deemed to limit the right of the Trustees, the affected person, or any Unit Owners or occupants affected to bring legal action with respect to the subject matter of any hearing, or any decision of the Trustees.

#### Section 5.8. Insurance

Section 5.8.1 Coverage. The Trustees shall obtain and maintain, to the extent available at reasonable cost, in their name as insurance Trustees for the Unit Owners, insurance master policies of the following kinds insuring the interests of the Trust, the Trustees, all Unit Owners and their mortgagees as their interests may appear:

A. Casualty Insurance. Casualty and physical damage insurance on the buildings and all other insurable improvements and betterments forming part of the Condominium (including all of the common areas and facilities and all of the Units and excluding only personal property of the Unit Owners therein), now existing or as they may from time to time be altered by amendment to the Master Deed, together with the service machinery, apparatus, equipment, personal property and supplies of the Condominium Trust, and installations located in the Condominium and existing for the provision of central services or for common use, in an amount not less than 100% of their full replacement value (exclusive of land, footings, excavations, foundations and such other like items as are normally excluded from coverage), against (1) loss or damage by fire and other hazards covered by the standard extended coverage endorsement and the standard “all risk” endorsement, 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 sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage and plate glass damage. All policies of casualty and physical damage insurance shall also include standard so-called “construction code endorsements” including, if available, a Demolition Cost Endorsement, Contingent Liability from Operation of Building Laws Endorsement, and Increased Cost of Construction Endorsement, or their equivalent and Replacement Cost and Agreed Amount endorsements or their equivalents. All policies of casualty and physical damage insurance shall provide (to the extent such clauses are reasonably obtainable) (1) that such policies may not be canceled or substantially modified without at least thirty days prior written notice to all of the insured and each Unit mortgagee, and (2) that the coverage thereof shall not be terminated for nonpayment of premiums without thirty days notice to all of the insured and 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 days prior to the expiration of the then current policies.

B. Public Liability Insurance. Comprehensive public liability insurance including so-called “Broadening Endorsement” with Severability of Interest Endorsement or equivalent coverage covering all of the common areas and facilities and including protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, liability arising out of lawsuits relating to employment contracts to which the Trust is a party, elevator collision and such other risks as are customarily covered in similar projects, in each instance to the extent applicable to the Condominium, in such amounts 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 and with an endorsement to cover liability of any insured to other insured. Each such policy shall provide for at least 20 days prior written notice to all of the insured and each holder of a first mortgage covering a Unit before any cancellation or substantial modification thereof by the insurer.

C. Workmen’s Compensation and Employer’s Liability Insurance. Workmen’s Compensation and employer’s liability insurance covering employees, if any, of the Trust.

D. Directors and Officers Liability Insurance. In the Trustees sole direction, Directors and Officers Liability Insurance covering the Trustees and other Unit Owners participating in the governance of the Condominium.

E. Other Insurance. In the Trustees sole discretion, such other insurance coverage as they shall deem desirable. If the Federal Home Loan Mortgage Corporation (“FHLMC”) or the Federal National Mortgage Association (“FNMA”) holds any interest in one or more first mortgages of Units in the Condominium, upon the written request of FHLMC, FNMA or the holder of record of a first mortgage on a Unit, the Trustees shall purchase, to the extent available, such other insurance coverage as may be required from time to time by FHLMC or FNMA as applicable.

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 Sections 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 areas and facilities and the damaged Units, in proportion to the respective costs of repair or restoration of the common areas and facilities and the damaged Units, and with any excess of any such share of the proceeds above such costs of repair or restoration to be paid to the Trust or Unit Owners for whom held upon completion of repair or restoration; 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 in the Trust if the Condominium is totally destroyed, and, in the event of partial destruction, after payment for such restoration of the common areas and facilities as the Trustees may determine, to those Unit Owners who have suffered damage in proportion to damages 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 of Insurance Policies. 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) 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 the Unit Owner, except in cases of arson and fraud; (2) 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) provide that the policies shall be primary and that in no event shall the insurance under the policies be brought into contribution with insurance purchased individually by Unit Owners or their mortgagees; and (4) exclude policies obtained by individual Unit Owners from consideration under any “no other insurance” clause. The Trustees may include a deductible provision up to \$5,000 in their discretion and in such greater amounts as may be authorized by the owners of all Units in writing or by majority vote at any Unit Owners meeting.

Section 5.8.4 Unit Owners Insurance and Responsibility for Increase in Premiums of Master Policy. Each Unit Owner may (and is solely responsible to) obtain additional insurance for his or her own benefit, including without limitation personal property, public liability and loss assessment insurance, at his or her own expense. No policy may be written so as to decrease the coverage under any of the master policies obtained by the Trustees 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 5.8ff. 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 Insurance a Common Expense. The cost of the insurance purchased in accord with this Sections 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 President, Treasurer, Secretary and any other officers they deem expedient. Other meetings may be called by any Trustee and in such other manner as the Trustees may establish, provided however, that written notice of each meeting stating the place, day and hour thereof shall be given at least two days before such meeting to each Trustee. If the Trustees fix a schedule of regular meetings, no notice of such meetings is required. Attendance by two (2) 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 5.9.1.1 Trustees Votes. Each Trustee shall have one vote.

Section 5.9.2 Meetings of Unit Owners. There shall be an annual meeting of the Unit Owners on the third Sunday in September in each year at 8:00 P.M. (or on such other day and time at least once each calendar year as may be designated by the Trustees). 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 for any purpose upon the written request of any two (2) Unit Owners. Written notice of any meeting designating a reasonable place and the day and hour thereof shall be given by the Trustees to the Unit Owners at least seven days prior to the date so designated. Whenever at any meeting the Trustees propose to raise any matter requiring approval by the Unit Owners, the notice of the meeting shall identify such matter and the fact that Unit Owner approval therefor will be sought. Presence in person or by proxy of two Unit Owners shall constitute a quorum.

Section 5.9.3 Unit Owner Action by Consent in Lieu of Meetings. The Unit Owners may take any action requiring a vote without a meeting only by unanimous written consent. At all meetings of the Unit Owners and concerning all consent to meetings, each Unit Owner shall have one vote. Each Unit shall only be entitled to one vote.

Section 5.10 Trustees Records of Unit Owners and Unit Mortgagees Deemed Conclusive. On each transfer of an ownership interest in or the grant of any mortgage on a Unit, the person or persons acquiring the interest or mortgage shall have the duty to give the Trustees written notice of their interest or mortgage in the Unit and, in the case of persons acquiring an ownership interest, of the correct name of all the owners of the Unit and, of any mortgagee thereof. Unless otherwise required by law, records of owners and mortgagees maintained by the Trustees shall be conclusive for all purposes, including without limitation, for all notices to Unit Owners, for owners meetings and all owner votes and for amendments to the Master Deed and this Condominium Trust; and the Trustees may, but shall have no obligation to, examine the records of the Registry of Deeds to determine ownership of Units. Unless otherwise required by law, all actions, including without limitation amendments to this Trust or to the Master Deed of the Condominium, shall be valid if taken by the requisite number of Unit Owners as they appear on the Trustees records of ownership; provided, as to the actions recorded with the Registry of Deeds, that the Trustees so certify under oath and such certificate is recorded with the Registry of Deeds.

Section 5.10.1 Notices to Unit Owners. Every notice to any Unit Owner required under the provisions of this Trust or which may be deemed by the Trustees necessary or desirable in connection with the execution of the trust created hereby or which may be ordered in any judicial proceeding shall be deemed sufficient and binding if given in writing by one or more of the Trustees to such Unit Owner by mailing it, postage prepaid, addressed to such Unit Owner at his or her address as it appears upon the records of the Trustees if other than at his or her Unit or by mailing or delivering it to the Unit if such Unit appears as the Unit Owners address or if no address appears, at least seven days prior to the date fixed for the happening of the matter, thing or event of which such notice is given. The Owner(s) of each Unit shall have the responsibility of providing the Trustees with any address other than the Unit to which the Owner(s) desire notices to be mailed.

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.

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, the Unit Owner(s) and first mortgagee of any Unit and insurers and guarantors of said mortgage 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 only such detail as the Trustees shall deem proper; provided, however, that at the written request of any first mortgagee, the Trustees shall cause audited financial statements to be prepared. 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 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 majority vote as set forth in Section 3.2 of the Trust.

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

## 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, constructive or actual, otherwise than by a certificate thereof signed by one or more of the persons appearing of record in the Registry of Deeds as Trustees, 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 for monies or things paid or delivered to any one or more of them, 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 No Personal Liability In Trustees. 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 to, contracting with or having any claim against the Trustees 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 therefor; provided, however, that nothing herein contained shall be deemed to

limit or impair the liability of Unit Owners or the indemnity of the Trustees under provisions of Section 3.8 of this Trust or under 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 and 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 the 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. Any certificate executed by one or more of the Trustees hereunder setting forth the existence of any facts, the existence of which is necessary to authorize the execution of any instrument or the taking of any action by such Trustee or Trustees, as the case may be, shall, as to all persons acting in good faith in reliance thereon be conclusive evidence of the truth of the statements made in such certificate, the existence of the facts therein set forth and the existence of the authority of such Trustee(s) to execute and deliver the designated instrument on behalf of the Trust.

Section 6.5 Common Expenses in Event of Unit Mortgage Foreclosure. Except as provided in Chapter 183A, Section 6, (including without limitation the Common Area charges “Super-lien” effectuated by Chapter 400 of the Acts of 1992) any first mortgagee who comes into possession of a Unit pursuant to the remedies provided in its mortgage, by foreclosure of such mortgage or by deed in lieu of foreclosure shall take such Unit free of any claims for unpaid common expenses or assessments against such Unit which accrue prior to the time such mortgagee comes into possession of such Unit and after the date such mortgage was recorded in the Registry of Deeds (except for a *pro rata* share of such assessments or charges resulting from a *pro rata* reallocation of such assessments or charges to all Units including the mortgaged Unit).

Section 6.6 Common Expenses Certificates. Notwithstanding any other provision of this Article VI, any certificate setting forth the amount of unpaid common expenses assessed as a lien against any Unit as provided by subsection (d) of Section 6 of Chapter 183A shall be conclusive evidence of the facts stated therein if signed by any two Trustees then in office (or one if there be only one in office).

Section 6.7 Federal Home Loan Mortgage Corporation and Federal National Mortgage Association Compliance.

To the extent required to qualify mortgages of Units in the Condominium for sale to the Federal National Mortgage Association (“FNMA”) and the Federal Home Loan Mortgage Corporation (“FHLMC”) under prevailing rules and regulations, the following provisions shall apply notwithstanding any other provision of this Condominium Trust or the Master Deed.

(a) Except as provided herein or in the Master Deed with regard to the connection, regrouping, alteration, subdivision, or modification of Units, or by statute, in case of condemnation or substantial loss to the Units and/or common areas and facilities of the Condominium, unless at least 75% of the first mortgage lenders holding mortgages on individual Units in the Condominium (based upon one vote for each first mortgage owned) and representing at least 75% in percentage interest of the mortgaged units in the Condominium, have given their prior written approval, neither the Unit Owners nor the Trustees of the Condominium Trust, by amendment to this Condominium Trust or otherwise, shall:

- (i) by act or omission, seek to abandon or terminate the Condominium;
- (ii) change the pro-rata interest or obligations of any individual Unit for the purposes of: (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (b) determining the pro-rata share of ownership of each Unit in the common areas and facilities;
- (iii) partition or subdivide any Unit;
- (iv) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common areas and facilities, provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the common areas and facilities by the Condominium shall not be deemed an action for which any prior approval of a mortgagee shall be required under this subsection; and
- (iv) use hazard insurance proceeds for losses to any property of the Condominium (whether to Units or to common areas and facilities) for other than the repair, replacement or reconstruction of such property of the condominium.

(b) Except as provided in 183A, Section 6, all as amended (including without limitation Chapter 400 of the Acts of 1992) any first mortgagee who obtains title to a Unit by foreclosure or pursuant to any other remedies provided in the mortgage or by law will not be liable for such Unit’s unpaid common charges or dues which accrued subsequent to the recording of such mortgage and prior to such acquisition of title to such Unit by the mortgagee.

(c) No provision of this Condominium Trust shall be construed to give a Unit Owner or any other party priority over any rights of the first mortgagee of a 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 such Unit and/or the common areas and facilities of the Condominium.

(d) No agreement for professional management of the Condominium or any other contract with Declarant may exceed a term of three years, and any such agreement shall provide for termination by either party without cause and without payment of a termination fee on up to ninety days written notice.

(e) Any holder, insurer and guarantor of a first mortgage on a Unit, upon written request to the Trustees of the Condominium Trust, which includes its name and address and the Unit against which the mortgage in question has been placed, will 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 on which it holds the mortgage;
- (ii) any 60-day delinquency in the payment of assessments or charges owed by the owner of the Unit on which it holds the mortgage;
- (iii) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Condominium Trust; and
- (iv) any proposed action that requires the consent of a specified percentage of “Eligible Mortgage Holders”, as hereinafter defined.

(f) Unless Unit Owners representing at least 75 percent of all allocated percentage interest in the common elements, and at least 75 percent (by allocated percentage interest) of the “Eligible Mortgage Holders”, as hereinafter defined, have given their prior approval, no amendment to the Master Deed or the Condominium Trust shall be adopted which would make any material change (i.e. other than amendments by way of correcting technical error or clarification) with respect to any of the following matters:

- (i) voting rights;
- (ii) assessments, assessment liens or subordination of assessment liens;
- (iii) reserves for maintenance, repair and replacement of common areas;
- (iv) responsibility for maintenance and repairs;
- (v) reallocation of interest in the general or limited common areas, or right to their use;
- (vi) convertibility of Units into common areas or vice versa;
- (vii) expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium;

- (viii) insurance or fidelity bonds;
- (ix) leasing of Units;
- (x) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- (xi) a decision by the Condominium Trust to establish self management when professional management had been required previously by an Eligible Mortgage Holder;
- (xii) restoration or repair of the Condominium property (after a casualty loss or partial condemnation) in a manner other than that specified in the Master Deed and the Condominium Trust;
- (xiii) any action to terminate the Condominium after substantial destruction or condemnation; and
- (xiv) any provisions that expressly benefit mortgage holders, insurers or guarantors.

An "Eligible Mortgage Holder" is any holder of a first mortgage on a Unit who has requested in writing that the Condominium Trust notify it of any proposed action that requires the approval of a specified percentage of Eligible Mortgage Holders or first mortgagees, in accordance with FNMA regulations. Any Eligible Mortgage Holder that does not deliver or post to the Condominium Trust a negative response within sixty (60) days of a written request from the Trustees provided by 1<sup>st</sup> class mail and certified mail, return receipt requested, for approval of any non-material addition or amendment pursuant to this subsection (f), shall be deemed to have consented to the addition or change set forth in such request. An affidavit by the Trustees referring to this section, when recorded at the Registry of Deeds shall be conclusive against all persons as to the facts set forth therein.

The Trustees intend that the provisions of this Section 6.7 and all other provisions of this Condominium Trust, including Sections 5.4.2 and 5.8.1, comply with the requirements of FHLMC and FNMA with respect to condominium mortgage loans and, except as otherwise required by the provisions of General Laws Chapter 183A, all questions with respect thereto shall be resolved consistent with that intention. In the event of any conflict between the percentage requirements of FNMA, FHLMC, other sections of the Master Deed and Condominium Trust and General Laws Chapter 183A with respect to any action or non-action to be taken or omitted by the Unit Owners or the Trustees, or with respect to any other matter, the greater percentage requirement shall control. The provisions of this Section 6.7 and Sections 5.4.2 and 5.8.1 may not be amended without the prior written approval of first mortgage lenders representing at least 75 percent in number and percentage interest of the mortgaged Units in the Condominium, and 75 percent in percentage interest of the Owners of Units in the Condominium.

## ARTICLE VII

### AMENDMENTS AND TERMINATION

Section 7.1 Amendments. Except as stated in Section 6.7, the Trustees, with the consent in writing of Unit Owners entitled to not less than 75% of the beneficial interest in this Trust, 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 hereunder of any Unit Owner would be altered or in any manner or to any extent whatsoever modified or affected so as to be different from the percentage of the individual interest of such Unit Owner in the common areas and facilities as set forth in the Master Deed, and any amendment thereto, or which would render this Trust contrary to or inconsistent with any requirements or provisions of Chapter 183A, shall be valid or effective; and (b) according to the purport of which would eliminate, impair or otherwise adversely affect any rights special to the Declarant (i.e. not appertaining generally to all Unit Owners) shall be of any force or effect unless assented to in writing by the Declarant. 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 acknowledgement 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 all 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 herein provided.

Notwithstanding the aforesaid, the reserves for itself and any successors to the Declarant's interest in the Condominium during such time as the Declarant is entitled to appoint a majority of the Trustees of the Condominium Trust the right, without the consent or signature of any other Unit Owner, to amend this Condominium Trust to: (1) conform it with the requirements of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association as they may apply to the Condominium or (2) correct clerical or scrivener's errors.

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 therefor set forth in Section 19 thereof.

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 indemnity against any other outstanding liabilities and obligations, shall divide the proceeds thereof among, and distribute in kind, at valuations made by them which shall be conclusive, all other property then held by them in trust hereunder, to the Unit Owners according to their respective beneficial interest stated in this Trust. 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 distributions of Trust property may have passed.

ARTICLE VIII

MISCELLANEOUS

Section 8.1 Construction. In the constructions 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 Waiver. The provisions of this Trust shall be waived only in writing by the party charged therewith, and not by conduct, no matter how often repeated.

Section 8.3 Partial Invalidity. The invalidity of any provision of this Trust shall not impair or affect the validity of the remainder of this Trust and all valid provisions shall remain enforceable and in effect notwithstanding such invalidity.

IN WITNESS WHEREOF, the undersigned executes this declaration of trust under seal as of the day and year first herein set forth.

EXECUTED UNDER SEAL on this      day of March, 2022.

60 CROSS STREET INVESTMENT, LLC

By: \_\_\_\_\_  
Young H. Lee, its Manager

THE COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

On this the    day of March, 2022, before me, the undersigned notary public, personally appeared Young H. Lee, Manager as aforesaid, proved to me through satisfactory evidence of identification, which was a Massachusetts drivers license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of 60 Cross Street Investment, LLC.

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Notary Public:  
My Commission Expires:

## EXHIBIT A

### **EASTSIDE PLACE CONDOMINIUM**

#### INTRODUCTION TO RULES, REGULATIONS AND PROCEDURES

##### THE NEED FOR RULES

The degree to which Residents respect each other's rights will ultimately shape the quality of life at any condominium. Condominium rules, regulations and restrictions are necessary to preserve your right to the quiet enjoyment of your community. The attached Rules and Regulations will clarify the policy and procedures in place at the Condominium. In this regard, it is incumbent upon the Trustee(s) to invoke all measures necessary to enforce such rules and regulations. The cooperation of all Residents is requested.

##### ORGANIZATIONAL STRUCTURE

The organizational structure of the complex revolves around a Trustee initially selected by the Declarant, and then a Board of Trustees elected or appointed by the Unit Owners. Unit Owners have empowered the Trustees with the responsibility of managing the maintenance and administrative activities. The Trustees have the right, but not the obligation, to retain the services of a Management Agent.

##### MEETINGS

Once elected, the Trustees will meet periodically to review condominium business. Should you wish to address the Trustees on a particular issue you may request to be placed on the agenda by contacting the Trustee(s) or Manager in writing.

##### REQUESTS AND COMPLAINTS

Questions, suggestions, comments or complaints should be communicated in writing to the Board.

##### PARKING RESTRICTIONS

Except with the written consent of the Board, no unregistered, uninsured or inoperable vehicles shall be on the property. All vehicles shall be parked in spaces and areas designated by the Declarant or the Trustees as provided in the Master Deed. All vehicles that park in violation of this rule will be subject to towing and storage at the vehicle owner's expense. Due to insurance and fire restrictions, the parking areas cannot be used to store vehicles. The ability of the Trust or Owners to tow vehicles is subject to certain requirements of the state law in conjunction with the Police. Parking is for the use of residents only and is not open to public use.

### RESIDENTIAL USE ONLY

The Condominium property is for residential purposes only, as well as home office use as long as same is permissible under the Zoning Ordinance of the City of Somerville. No unit may be used, in whole or in part, for business purposes. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, maintained or permitted on any part of the property.

### COMMON AREAS

Nothing shall be altered or constructed in, or removed from, the common areas and facilities except upon the prior written consent of the Board of Trustees.

### FIRE HAZARDS

All radios, televisions or other electrical equipment of any kind or nature installed or used in each unit must comply with all the rules, regulations, requirements, or recommendations of the Board of Fire Underwriters and the public authorities having jurisdiction. The Unit Owner or his/her Resident alone shall be liable for any damage or injury caused by any radio, television, or other electrical equipment in such unit. No Unit Owner or Resident or any of his agents, servants, employees, licensees, or visitors shall at any time bring into or keep in his unit any flammable, combustible or explosive fluid, material, chemical, or substance, except such lighting and cleaning fluids as are customary for residential use.

### NO OFFENSIVE ACTIVITY

Unit Owners and Residents are prohibited from engaging in any activities that would be considered offensive to your neighbors. Generally, noise of any kind should be kept to a minimum between 11:00 P.M. and 8:00 A.M. This includes noise from guests or invitees of a Resident or Unit Owner. Please refer to the Rules and Regulations for detailed restrictions regarding offensive activity. Your cooperation is essential if the Condominium is to be a pleasant place to live. Should violations of these Rules occur, the Unit Owner will be subject to fines, legal action and/or suspension of membership and voting rights.

### PETS

Ordinary domestic pets and animals may be kept by any Unit Owner. No pets shall be kept by any Unit Owner for commercial or breeding purposes. No such pets shall be permitted in any part of the Condominium (other than within the Unit of the owner thereof) unless carried or on a leash. The Unit Owner or person walking such pet or animal shall immediately clean up any and all droppings for which his pet or animal is responsible in or about the Condominium, including, without limitation, the sidewalks, and exterior landscapes. Any Unit Owner keeping a pet or animal in violation of the foregoing, or which causes any damage to or requires cleanup of any Unit (other than the Unit of the owner of such pet or animal) or the common areas and facilities or which is offensive or causes or creates any nuisance or unreasonable disturbance or noise,

shall be personally liable for the cost and expense of any repair of such repair, cleanup and/or elimination of such disturbance or nuisance. After due notice and hearing in accordance with Section 5.7 of the Trust, the Trustees may require any Unit Owner to permanently remove any pet that has habitually been guilty of annoying or harassing any Unit Owner or occupant. The Trustees shall assess to such Unit Owner all costs of enforcement and until paid the same shall constitute a lien against the Unit of such Unit Owner pursuant to the provisions hereof and Section 6 of the Act.

### **RULES AND REGULATIONS**

1. Each Unit Owner or Resident shall keep his Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors and windows thereof, any dirt or other substance. Nothing shall be attached to the exterior building walls or to the balcony railings, if any, except as otherwise provided in the Master Deed, Trust or By-Laws.
2. All radios, televisions or other electrical equipment of any kind or nature installed or used in each unit must comply with all the rules, regulations, requirements, or recommendations of the Board of Fire Underwriters and the public authorities having jurisdiction. The Unit Owner or his/her Resident alone shall be liable for any damage or injury caused by any radio, television, or other electrical equipment in such unit.
3. No Unit Owner or Resident or any of his agents, servants, employees, licensees, or visitors shall at any time bring into or keep in the unit any flammable, combustible or explosive fluid, material, chemical, or substance except such lighting and cleaning fluids as are customary for residential use.
4. Nothing shall be hung from the windows or placed upon the window sills. The foregoing shall not, however, interfere with the right of the Unit Owners to install window-air conditioning units or select draperies, curtains or shades for their units.
5. Unit Owners and Residents shall not engage in noxious or offensive activities in any unit, or in the common areas and facilities, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants. No Unit Owner or Resident 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 or Residents. No Unit Owner or Resident shall play upon or allow those in their unit to play upon any musical instrument or operate a sound system, television set or radio in his unit between the hours of eleven o'clock P.M. and the following eight o'clock A.M. if such sound shall disturb or annoy other occupants of any building.
6. No clothes, clotheslines, sheets, blankets, laundry or any kind of other articles shall be hung out of a unit or exposed on any part of the common areas or facilities. The common

areas and facilities shall be kept free and clear of all rubbish, debris and other unsightly materials.

7. Rugs or mops shall not be shaken or hung from or on any of the windows or doors. Garbage cans, carriages, clothing and other personal property shall not be placed in front of any unit. Garbage and refuse from the units shall be stored in proper receptacles located in the basement until the scheduled pick-up;
8. No Unit Owner or Resident may dispose of furniture, water heaters or similar material by leaving such in the common areas without the written permission of the Board of Trustees and upon such terms as they may require.
9. Pets may be kept in any unit, provided such pets do not create a nuisance and all pets are on a leash when in or about the common area. Breeding or keeping of pets for commercial purposes of pets is not permitted.
10. No unit may be used or rented for transient hotel or motel purposes.
11. Nothing shall be done or kept in any Units or in the common areas and facilities, which will increase the rate of insurance of the Condominium without the prior written consent of the Board of Trustees. No Unit Owner or Resident shall permit anything to be done, or kept in his Unit, or in the common areas and facilities, which will result in the cancellation of insurance on the Condominium, or contents thereof, or which would be in violation of any law. No waste shall be committed in the common areas and facilities.
12. The use of the units, the common areas and facilities, and the parking spaces by Unit Owners, as well as the safety and maintenance of all personal property of the Unit Owners and Residents kept in such areas and in the units themselves, shall be the responsibility and at the sole risk of the respective Unit Owners and Residents, and neither the Trustees, the Declarant, nor their respective agents, servants, employees, successors or assigns, shall bear any responsibility thereof.
13. Each Unit Owner or Resident assumes responsibility for his own safety and that of his family, guests, agents, servants, employees, licensees and lessees.
14. Any consent or approval given under these Rules and Regulations may be added to, amended, or repealed at any time by the Board of Trustees but only for good cause shown.
15. These Rules and Regulations may be amended from time to time as provided for in the Trust. The Board of Trustees shall have authority to enforce these regulations through the use of fines, legal action, etc.
16. In the event of a conflict between these Rules and Regulations and Chapter 183A, the Master Deed, Trust or By-Laws, the provisions of Chapter 183A, the Master Deed, Trust or By-Laws shall control and prevail.