

**MASTER DEED OF
228 WEST FIFTH STREET CONDOMINIUM**

Owen Kiernan of 540 East Broadway, South Boston, Suffolk County, Boston, MA (hereinafter "Declarant"), and owner of the land at 228 West Fifth Street, South Boston, Suffolk County, Massachusetts, more particularly described herein below, by duly executing and recording this Master Deed, does hereby submit said land, together with the buildings and improvements thereon, and all easements, rights and appurtenances belonging thereto (collectively called the "Premises") to the provisions of Massachusetts General Laws, Chapter 183A, as amended ("Chapter 183A"); and proposes to create and does hereby create a condominium with respect to said Premises to be governed by and subject to the provisions of Chapter 183A; and to that end, declares and provides the following:

1. Name. The name of the condominium shall be 228 West Fifth Street Condominium (the "Condominium"). The mailing address of the Condominium is 228 West Fifth Street, South Boston, Massachusetts.

2. Description of Land. The Condominium shall consist of the land with the buildings and improvements thereon more fully described in Exhibit "A" attached hereto and made a part hereof.

3. Trust. The organization through which the owners of the units (the "Unit Owners") will manage and regulate the Condominium established hereby is the 228 West Fifth Street Condominium Trust, under Declaration of Trust of even date to be recorded herewith (the "Trust" or the "Condominium Trust").

Said Declaration of Trust establishes an organization of which all Unit Owners shall be members and in which such owners shall have an interest in proportion to the percentage of undivided interest in the common areas and facilities to which they are entitled hereunder. The name and address of the original and present Condominium Trustee (the "Trustee" or the "Condominium Trustee") of the Trust is:

Owen Kiernan
540 East Broadway
South Boston, MA 02127

Said Trustee has enacted By-Laws (the "By-Laws"), which are set forth in the Declaration of Trust, pursuant to and in accordance with the provisions of Chapter 183A.

RECORD AND RETURN TO:

BRODERICK & MURRAY, P.C.
470 West Broadway, Suite 201
P.O. Box 376
South Boston, MA 02127-0003

4. Description of the Building. The Condominium shall be those Two (2) Units and the appurtenant interests thereto in the Building (the "Building"), located as shown on the Master Floor Plans, as hereinafter defined and recorded herewith. The Building is a three (3) story, plus basement, wood framed structure with a crushed stone / granite foundation, an asphalt shingled pitched roof with vinyl and wood shingled siding. The Building is serviced by 100 AMPS electrical service and each Unit is has a gas fired forced hot water / HVAC system.

5. Description of the Units:

- a) The designation of each Unit (individually, the "Unit", or collectively, the "Units"), a statement of its location, approximate area, number of rooms, immediate common area to which it has access, and its proportionate interest in the Common Elements are set forth in Exhibit "B" attached hereto and made a part hereof and shown on the Master Plans to be recorded herewith.
- b) The boundaries of the Units with respect to the floors, ceilings, walls, doors and windows thereof are as follows:
 - (i) Floors: The plane of the uppermost surface of the floor joists;
 - (ii) Ceilings: With respect to all Units, except the top floor unit, the plane of the bottommost surface of the floor joists and all other structural members appurtenant to such floor joists of the floor above; with respect to the top floor unit, the plane of the bottommost surface of the roof joists and other structural members appurtenant to such roof joists;
 - (iii) Walls: As to the interior building walls, the plane of the inner surface of the wall studs facing such Unit, and as to the exterior building walls, the plane of the inner surface of the wall studs facing such Unit; and,
 - (iv) Doors and Windows: As to the doors, the exterior surface and framing thereof, as to the windows, the exterior surface of the glass and window frames and storm windows, if any.

Each Unit shall be conveyed together with the right to hang and affix through the finished facings of the walls and into the wall studs all the usual wall

ornaments, including without limitation, clocks, pictures, paintings and other similar accessories.

Each Unit includes all utility lines, heating, air conditioners, plumbing, electrical, bathroom and kitchen equipment, apparatus and fixtures which exclusively serve such Unit.

- c) There is appurtenant to Unit Number One (1) the exclusive right and easement to use the yard area as set forth on the Master Plans filed herewith subject to the rights of the owner of Unit No. Two (2) to pass over the yard for purposes of a second means of egress, to access the common storage area and to access the condenser unit(s) located therein. Unit No. One (1) shall be responsible for any planting, landscaping, maintenance and upkeep of the back yard area and shall pay all costs and expenses thereof – however, the maintenance and upkeep of the rear stairs from the decks appurtenant to Unit Number Two (2), including pile footings, and the side alleyway, if any, shall remain a common expense.
- d) There is appurtenant to Unit Number Two (2) the exclusive right and easement to use the deck located off the kitchen on the second floor. The maintenance and repair of the deck shall be the responsibility and at the expense of the owner of Unit Number Two (2) and the use of such deck area shall be subject to the By-Laws and Rules and Regulations as recorded herewith and as may be amended from time to time by the Trustees of the Trust.
- e) There is appurtenant to Unit Number Two (2) the exclusive right and easement to use the Building's roof to construct a roof deck of good quality materials and workmanship and in accordance with applicable building and zoning ordinances, codes and regulations, provided that the owner of Unit Number Two (2) shall be responsible for the construction (including, without limitation, the issuance of all necessary permits), maintenance and repair of the roof deck and all costs associated therewith (including, without limitation, the cost of removing and restoring the roof deck to permit access to the Building's roof for repair and maintenance) and any repairs to the roof or other common areas or facilities of damage caused by the use or maintenance of the roof deck. The maintenance and repair of the roof deck shall be the responsibility and at the expense of the owner of Unit Number Two (2) and the use of such roof deck area shall be subject to the By-Laws and Rules and Regulations as recorded herewith and as may be amended from time to time by

the Trustees of the Trust.. Notwithstanding any provision herein to the contrary, this exclusive right and easement to use the roof shall always be subject to the rights of the Trustees and the other unit owners to have access to any systems and components located on the roof for purposes of maintenance, repair, replacement and other related activities.

- f) Each Unit shall be subject to and have the benefit of the provisions of this Master Deed and all amendments thereto, the Condominium Trust, the By-Laws, the rules and regulations promulgated pursuant thereto (the "Rules and Regulations"), and of Massachusetts General Laws Chapter 183A, as amended.

6. Description of Common Areas and Facilities and the Proportionate Interest of Each Unit Therein

The common areas and facilities of the Condominium (the "Common Elements") consist of the entire Premises, other than the Units, including without limitation, the following portions of the Premises as may exist from time to time:

- i) The land subject to and together with the benefit of these matters set forth or referred to in Exhibit "A" and Exhibit "B" attached hereto and made a part hereof, insofar as the same are from time to time in force and applicable.
- ii) The foundations, structural columns, girders, beams, supports, party walls, and those portions of exterior and interior walls, floors, ceilings, roofs, entrances and exits not specifically included as part of the Units.
- iii) All utility lines and installations for central services such as power, light, telephone, water, heating and waste disposal including all equipment attendant thereto but excluding that equipment and those lines and installations which exclusively serve an individual Unit and are located wholly within that Unit.
- iv) All other parts of the Premises not defined as part of the Units and not included within the items listed above and all apparatus and installations (including any replacement thereof) on the Premises for common use or necessary or convenient to the existence, maintenance, safety or enjoyment of the Buildings and the Condominium.

- v) All other items listed as such in Section 1 of Chapter 183A but only if the same have not been made a part of a Unit by the express terms of this Master Deed.

Each Unit shall have an undivided interest in the Common Elements in the percentages set forth opposite each Unit on Exhibit "B" attached hereto. The aforesaid percentages have been determined on the basis of the approximate relation which the fair value of each Unit on the date hereof bears to the aggregate fair value of all the Units on this date. The Common Elements shall be subject to the provisions of the Master Deed and all amendments thereto, the Condominium Trust, the By-Laws and the Rules and Regulations with respect to the use and management thereof.

7. Plans. Simultaneously with the recording hereof, there shall be recorded a set of floor plans of the Building (the "Master Plans" or s/k/a "floor plans" or "Master Floor Plans") all in compliance with the provisions of Chapter 183A.

8. Pipes, Wires, Ducts, Cables, Conduits, Public Utility Lines, and other Common Elements Located Inside of Units. Each Unit Owner shall have an easement in common with the Owners of all Units to use all pipes, master television antennas, wires, ducts, cables, conduits, public utility lines and other Common Elements located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Trustees of the Condominium Trust shall have a right of access to each Unit to inspect the same, to remove violations therefrom, and to maintain, repair or replace the Common Elements contained therein or elsewhere in the Buildings.

9. Encroachments. If any portion of the Common Elements shall hereafter encroach upon any Unit, or if any Unit shall hereafter encroach upon any other Unit or upon any portion of the Common Elements as a result of (a) settling of the Building, or (b) alteration or repair of the Common Elements made by or with the consent of the Condominium Trustees, or (c) as a result of repair or restoration of the Building or any Unit after damage by fire or other casualty, or (d) as a result of condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as any such Building stands.

10. Purposes. The purposes for which the Building and the Units and other facilities therein are intended to be used are as follows:

Each of the Units is intended to be used solely for residential purposes subject to the restrictions set forth in the following section.

The Declarant may, until all of said Units have been sold or transferred:

- (a) lease Units which have not been sold, subject to the restriction set forth in the following section;
- (b) use any Units owned by Declarant as models for display purposes for the sale or leasing of Units; and
- (c) use any one Unit owned by Declarant for office work purposes.

Use of the Building and Common Elements may also be restricted pursuant to provisions of the Condominium Trust and By-Laws and the Rules and Regulations.

11. Restrictions on Use. The Units, the Building and the Common Elements shall not be used (a) for any purpose other than a purpose permitted under Section 10 above or (b) in a manner contrary to or inconsistent with the provisions of the Master Deed and all amendments thereto, the Condominium Trust, the By-Laws, or the Rules and Regulations promulgated pursuant thereto, or Chapter 183A.

All leases or rental agreements for Units shall be in writing and shall be specifically subject to the Master Deed, Declaration of Trust, By-Laws and Rules and Regulations of the Condominium as they may be amended. Except as to leases and/or occupancy agreements made pursuant to Section 10 hereto, any lease and/or occupancy agreement of a Unit must be for a minimum initial term of not less than six (6) months.

The architectural and structural integrity of the Building and the Units shall be preserved without modification, and to that end, no awning, screen, sign, banner or other device, no interior or exterior change, addition, structure, projection, decoration or other feature, shall be erected or placed upon or attached to the Building, any Unit, or any part thereof. This paragraph shall not restrict the right of Unit Owners to decorate the interior of their Unit as they may desire.

The foregoing restrictions are imposed for the benefit of the Unit Owners and the Condominium Trustees and shall, insofar as permitted by law, be perpetual; and to that end may be extended by the Unit Owners or the Condominium Trustees at such time or times and in such manner as permitted or required by law for the continued enforceability thereof. These restrictions may be waived in particular respects and compliance therewith acknowledged only by an instrument in writing signed by the Unit Owners at the time entitled to seventy-five percent (75%) or more of the undivided interest in the Common Elements

and a majority of the Condominium Trustees, and such instrument, duly recorded with the Suffolk County Registry of Deeds, shall be binding on all present and succeeding Unit Owners and on the Condominium Trustees then in office. No Unit Owner shall be liable for any breach of the provisions of this Section, except such as occur during his or her ownership thereof. Notwithstanding the foregoing, no Unit Owner shall make a structural change to the interior of his or her Unit without the prior written approval of the Condominium Trustees. The Condominium Trustee(s) may reasonably require a Unit Owner seeking to make such a structural change to engage a qualified structural engineer reasonably satisfactory to the Condominium Trustee(s) to analyze the proposed structural change and the Condominium Trustee(s) may consider the results of such analysis in approving or disapproving such structural change.

12. Right of First Refusal. No Unit shall be subject to a right of first refusal with respect to its sale. In the event this Master Deed is amended to grant a right of first refusal, it shall not affect the rights of first mortgage holders.

13. Unit Owners' Rights, Duties and Restrictions.

- (a) Each Unit Owner shall be a member of the Condominium Trust;
- (b) Each Unit Owner, including Declarant, shall be required to pay a proportionate share of the common expenses of the Condominium upon being assessed therefor by the Trustees. Each Unit Owner's share shall be proportionate to his or her Unit's undivided interest in the Common Elements. Initial assessments shall occur upon the conveyance of the first Unit;
- (c) Each Unit Owner's voting rights shall be proportionate to his or her undivided interest in the Common Elements;
- (d) Each Unit Owner shall have a perpetual right of ingress and egress to his or her Unit, which right shall be appurtenant to the Unit. Notwithstanding anything herein to the contrary, there shall be no restriction upon any Unit Owner's right of ingress and egress to his or her Unit;
- (e) All present and future Unit Owners, their employees, tenants, occupants and visitors shall be subject to, and shall comply with, the provisions of the Master Deed and all amendments thereto, the Unit Deed, the Condominium Trust, the By-Laws and the Rules and Regulations as they may be amended from time to time, and the items affecting the title to the Premises as set forth in Section 2. The

acceptance of a deed of conveyance or the entering into possession of any Unit shall constitute an agreement that:

- (i) the provisions of this Master Deed and all amendments thereto, the Unit Deed, the Condominium Trust, the By-Laws and the Rules and Regulations as they may be amended from time to time, and the said items affecting title to the Premises, are accepted and ratified by such owner, tenant, visitor, employee or occupant;
 - (ii) all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof; and
 - (iii) a violation of the provisions of this Master Deed and all amendments thereto, the Unit Deed, the Condominium Trust, the By-Laws or the Rules and Regulations by any such person shall be deemed a substantial violation of the duties of the Owner of a Unit.
- (f) The failure of any Unit Owner to comply with any of the provisions of this Master Deed and all amendments thereto, the Condominium Trust, the Rules and Regulations and Chapter 183A shall give rise to a cause of action in the Trustee(s) of said Trust and any aggrieved Unit Owner which may then be enforced in any manner permitted by law or in equity.

14. Amendments. This Master Deed may be amended by an instrument in writing (a) signed by the Unit Owners of Units at the time entitled to seventy-five (75%) percent or more of the beneficial interest in the Common Elements, (b) signed by a majority of the Condominium Trustees then in office, and (c) duly recorded with the Suffolk County Registry of Deeds; PROVIDED, HOWEVER, that:

- (a) the date on which any such instrument or amendment is first signed by the Unit Owner shall be indicated thereon as the date thereof, and no such instrument or amendment shall be of any force or effect unless so recorded within six (6) months after such date;

- (b) no instrument or amendment which alters the dimensions of any Unit shall be of any force or effect unless signed by the Unit Owner of the Unit so altered;
- (c) no instrument or amendment which (i) alters the percentage of the beneficial interest to which any Unit is entitled in the Common Elements; and/or (ii) alters the exclusive rights of an Unit Owner or the license or easement rights appurtenant to a Unit, shall be of any force or effect unless signed by all of the Unit Owners;
- (d) no instrument or amendment which alters this Master Deed in any manner which would render it contrary to or inconsistent with any requirements or provisions of Chapter 183A shall be of any force or effect;
- (e) no instrument or amendment affecting any Unit in any manner which impairs the security of a first mortgagee of record shall be of any force or effect unless the same has been assented to by the holder of such mortgage;
- (f) no instrument or amendment which purports to affect any rights reserved to or granted to the Declarant shall be of any force or effect before Declarant has conveyed title to all Units unless the Declarant executes the instrument or amendment;
- (g) no instrument or amendment which disqualifies mortgages of Units in the Condominium for sale to Federal Home Loan Mortgage Corporation (FHLMC) or Federal National Mortgage Association (FNMA) shall be of any force or effect;
- (h) Special Amendment. Notwithstanding anything herein to the contrary, the Declarant reserves the right and power to make, execute and record reasonable special amendments ("Special Amendment") to this Master Deed or the Trust:
 - (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future

perform) functions similar to those currently performed by such entities;

- (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Unit ownership;
- (iii) to bring this Master Deed or the Trust into compliance with Chapter 183A of the General Laws of the Commonwealth of Massachusetts; or
- (iv) to correct clerical or typographical errors in this Master Deed or any exhibit thereto or any supplement or amendment thereto or the Trust.

In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, making, or consenting to, any such Special Amendment(s) on behalf of each Unit Owner. Each deed, mortgage, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof, shall be deemed to be grant and acknowledgment of, and a consent to the reservation of the power to the Declarant to vote in favor of, making, executing and recording Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section 14 shall terminate at the earlier of (A) the date the Declarant no longer holds or controls title to a Unit; or (B) one (1) year from the date of recordation of the initial Unit Deed.

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

- (a) Except as provided by statute, any first mortgagee who obtains title to a Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage, will not be liable for such Unit's unpaid dues or charges which accrue prior to the acquisition of title to such Unit by the mortgagee.
- (b) Except as provided by statute, in the case of condemnation or substantial loss to the Units and/or Common Elements of

the condominium project, unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each first mortgage owned), and at least seventy-five percent (75%) of the Unit Owners (other than the Declarant, developer or builder) of the individual Units have given their prior written approval, the Trustees shall not be entitled to:

- (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 purpose 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 Elements;
 - (iii) partition or subdivide any Unit;
 - (iv) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements in the Condominium shall not be deemed a transfer within the meaning of this clause); and
 - (v) use hazard insurance proceeds for losses to any Condominium property (whether to Units or to the Common Elements) for other than the repair, replacement or reconstruction of such Condominium property.
- (c) No provisions of this Master Deed or the Condominium Trust shall give a Unit Owner, or any other party, priority over any rights of the first mortgagee of the 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 Unit(s) and/or Common Elements.
- (d) Condominium dues or charges 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 assessments. In addition, a working capital fund shall be established equal to at least a

two (2) months' estimated common area charges for each Unit and shall be maintained by the Trustees in a segregated account. The contribution to such working capital fund for each sold and unsold Unit shall be paid to the Trust within sixty (60) days after the date of conveyance of the first Unit. The purpose of the working capital fund is to insure that there will be cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Trustees. Amounts paid into the working capital fund are not to be considered as advance payment of regular assessments.

- (e) Upon written request to the Trustees of the Condominium Trust identifying the name and address of the holder, insurer or governmental guarantor and the Unit number or address, any first mortgage holder or insurer or governmental guarantor of said first mortgage (hereafter referred to as "eligible mortgage holders" and "eligible insurers or guarantors"), as the case may be, will be entitled to timely written notice of:
 - (i) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;
 - (ii) any delinquency in the payment of assessments or charges owned by an Unit Owner subject to a first mortgage held, insured or guaranteed by such eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;
 - (iii) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the 228 West Fifth Street Condominium Trust;
 - (iv) any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in this Section; and
- (f) To the extent permitted by applicable law, eligible mortgage holders shall also be afforded the following rights:
 - (i) any restoration or repair of the Condominium, after a partial condemnation or damage due to an insurable

- hazard, shall be performed substantially in accordance with the Master Deed and the original plans and specifications, unless other action is approved by eligible mortgage holders which have at least fifty-one percent (51%) of the votes of Units subject to first mortgages.
- (ii) any election to terminate the legal status of the Condominium after substantial destruction or a substantial taking in condemnation of the Condominium property must be approved in writing by eligible mortgage holders which have at least fifty-one percent (51%) of the votes of Units subject to first mortgages.
 - (iii) except as otherwise provided herein, no reallocation of interests in the Common Elements resulting from a partial condemnation or partial destruction of the Condominium may be affected without the prior approval of eligible mortgage holders holding first mortgages on all remaining Units (whether existing in whole or in part) and which have at least fifty-one percent (51%) of the votes of such remaining Units subject to first mortgages.
 - (iv) when professional management has been previously required by any eligible mortgage holder or eligible insurer or guarantor, whether such entity became an eligible mortgage holder or eligible insurer or guarantor at that time or later, any decision to establish self management by the Trust shall require the prior consent of Unit Owners that have at least seventy-five percent (75%) of the votes in the Trust and the approval of eligible mortgage holders which have at least fifty-one percent (51%) of the votes of Units subject to first mortgages.
- (g) Any agreement for professional management of the Condominium, or any other contract providing for services of the developer, Declarant, or builder or any lease may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

- (h) The Trustees shall make available to the Unit Owners, eligible mortgage holders, and eligible insurers or guarantors current copies of the Master Deed, Declaration of Trust, By-Laws, other rules concerning the Condominium and the books, records and financial statements (if applicable) of the Condominium Trust. "Available" means available for inspection upon request, during normal business hours or under other reasonable circumstances.
- (i) Any eligible mortgage holder shall be entitled upon written request to a financial statement for the immediately preceding fiscal year. Any financial statement so requested shall be furnished within a reasonable period of time.
- (j) Except for amendments to the Condominium documents or termination of the Condominium made as a result of destruction, damage or condemnation as above set forth:
 - (i) the consent of Unit Owners to which at least seventy-five percent (75%) of the votes of Units subject to first mortgages, shall be required to terminate the legal status of the Condominium; and
 - (ii) the consent of the Unit Owners to which at least seventy-five percent (75%) of the votes in the Trust are allocated and the approval of eligible mortgage holders which have at least fifty-one percent (51%) of the votes of Units subject to first mortgages, shall be required to add or amend any material provisions of the Condominium documents of the Condominium, which establish, provide for, govern or regulate any of the following:
 - a. Voting;
 - b. Assessments, liens or subordination of such liens;
 - c. Reserves for maintenance, repair and replacement of the Common Elements (or Units if applicable);
 - d. Insurance or fidelity bonds;
 - e. Rights to use Common Elements;
 - f. Responsibility for maintenance and repair of the several portions of the Condominium;
 - g. Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the project;

- h. Boundaries of any unit;
- i. The percentage interest in the Common Elements;
- j. Convertibility of Units into Common Elements or of Common Elements into Units;
- k. Leasing of any Unit;
- l. Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders and/or eligible insurers or guarantors.

Any first mortgage holder that does not deliver or post to the Trustees of the Condominium Trust a negative response within thirty (30) days of a written request by the Trustees for approval of any addition or change set forth in such request shall be deemed to have approved the same. Any such request shall expressly inform the first mortgage holder that the request is deemed to have been approved by such first mortgage holder if no response is made, as set forth above. An affidavit by the Trustees making reference to this Section, when recorded at the Suffolk County Registry of Deeds, shall be conclusive as to the facts therein set forth as to all parties and may be relied upon pursuant to the provisions of Article VI of the Condominium Trust.

The Declarant intends that the provisions of this Section shall comply with the requirements of FHLMC and FNMA with respect to condominium mortgage loans, and all questions with respect thereto shall be resolved consistent with that intention. All provisions of this Master Deed and the Condominium Trust shall be construed so as to qualify any such mortgages for sale to FHLMC and FNMA.

16. Conflicts. If any provision of this Master Deed shall be invalid or shall conflict with Chapter 183A, as amended, of the General Laws of Massachusetts, or if any provision of this Master Deed conflict with any other provisions thereof or with any provision of the Condominium Trust, then the following rules of construction shall be used;

- (a) To the extent permitted by applicable law, any lien of the Trust for common expenses, assessments or other charges becoming payable on or after the date of recordation of the first mortgage on any Unit shall be subordinate to said mortgage. In addition, any fees, late charges, fines or interest that may be levied by the Trust in connection with unpaid assessments shall be subordinate to said mortgage.

- (b) A lien for common expense assessments shall not be affected by any sale or transfer of a Unit, except that a sale or transfer pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for assessments which became payable prior to such sale or transfer. Any such delinquent assessments which are so extinguished may be reallocated and assessed to all Units as a common expense. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for, nor the Unit from the lien of, or any assessment made thereafter.

17. Waiver. No provision contained in this Master Deed 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.

18. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Master Deed nor the intent of any provision hereof.

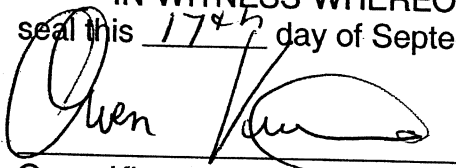
19. Definitions. All terms and expressions used in this Master Deed which are defined in Massachusetts General Laws Chapter 183A shall have the same meanings here unless the context otherwise requires.

20. Declarant's Additional Rights; Assignment of Declarant's Rights. In addition to all other rights of Declarant hereunder, Declarant reserves unto itself, its workmen, servants, contractors and work crews, the following rights to be in full force and effect until the last unit is sold: access, ingress and egress over and upon the Common Elements, including that deemed by the Declarant to be necessary for marketing purposes; the roof as necessary to facilitate the work of reconstruction, rehabilitation, improvement and other work in progress or contemplated by Declarant during reasonable working hours; to store construction materials, equipment and supplies in the portions of the basement and/or ground floor of the Buildings not subject to rights of exclusive use appurtenant to any Unit; to restrict (for periods of not more than six (6) hours at any time during any one day) the use by Unit Owners of Common Elements to facilitate construction or for purposes of safety (provided, of course, no Unit Owner shall be denied at least one means of access to his Unit during such periods of restriction); to leave debris resulting from construction in the Common Elements, but only during reasonable working hours, provided the same do not endanger the health or safety of the Unit Owners and provided the Declarant removes all such debris as soon as reasonably practicable; to interrupt for brief intervals of time not exceeding three (3) hours during daylight hours, water, electric and other utilities necessary to facilitate construction or the installment of appliances or fixtures in the Units and/or Common Elements under construction and to park vehicles used in connection with the construction work or incident

thereto in parking areas, if any, which have not been assigned to any specific unit by designation of the Declarant.

21. Assignability. Declarant, by deed or separate assignment, shall be entitled to assign any and all of its rights and reserved rights hereunder and in the By-Laws at any time, and from time to time, to any person, trust, firm or entity as may be determined by the Declarant, or to the Condominium Trust.

IN WITNESS WHEREOF, Owen Kiernan, has hereunto set his hand and seal this 17th day of September 2003.


Owen Kiernan

COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss.

¹⁷
September 2003

Then personally appeared the above-named Owen Kiernan who acknowledged the foregoing instrument to be his free act and deed, before me,

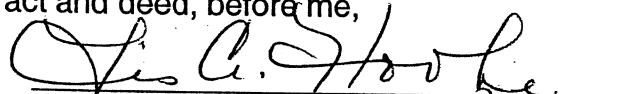

Notary Public: Lisa A. Hootce
My Commission Expires: 03/12/04

EXHIBIT "A"

A certain parcel of land with the buildings thereon situated in that part of said Boston called South Boston, bounded as follows:

- SOUTHWESTERLY by Fifth Street, twenty-eight (28) feet;
- SOUTHEASTERLY by land now or late of Sargent, sixty-four feet and 6 inches;
- NORTHEASTERLY by land now or late of Clark, twenty-eight (28) feet;
- NORTHWESTERLY by land now or late of Safford, sixty-four feet and 6 inches.

The above-described premises are those conveyed to the Declarant by Deed dated January 15th 2003 and recorded with the Suffolk County Registry of Deeds in Book _____, Page _____.

EXHIBIT "B"

Description of Units

<u>Unit</u>	<u>Location</u>	<u>No. Rooms (1)</u>	<u>Approx. Sq. Feet (4)</u>
1	First Floor	4 (2)	650
2	First, Second & Third Floor	8 (3)	1,355

- (1) Description does not include closets, hallways or decks.
- (2) Unit is comprised of two (2) bedrooms, living room / kitchen and bathroom.
- (3) Unit is comprised of kitchen, living room, one (1) bathroom, laundry room and four (4) bedrooms.
- (4) Square foot area does not include Common Elements.

The immediate common area to which each Unit has access is the Common Storage Area, the Basement and the Front Entranceway & Porch.

Percentage Interest in Common Areas

<u>Unit</u>	<u>Percentage Interest</u>
1	33.00%
2	67.00%
Total	100.00%

**228 WEST FIFTH STREET CONDOMINIUM
PROPOSED BUDGET**

Expenses

Master Insurance		\$1,600.00
Water & Sewer		\$ 900.00
Common Electric		<u>\$ 200.00</u>
	TOTAL EXPENSES:	\$2,700.00

Income

Unit No. 1	\$89.00/mo.	\$1,068.00
Unit No. 2	\$179.00/mo.	<u>\$2,148.00</u>
	TOTAL INCOME:	\$3,216.00

Projected Reserves

\$ 500.00/yr.

**DECLARATION OF TRUST
OF
228 WEST FIFTH STREET CONDOMINIUM TRUST**

DECLARATION OF TRUST made this 17th day of September 2003, by Owen Kiernan (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 Trustees for the time being hereunder wherever the context so permits.

ARTICLE I

Name of Trust

The Trust hereby created shall be known as 228 West Fifth Street Condominium Trust (the "Trust"). Under that name, so far as legal, convenient, and practicable, all business shall be conducted by the Trustees, and all instruments in writing shall be executed by the Trustees.

ARTICLE II

The Trust Purposes

Section 2.1. Unit Owner's Organization. All of the rights and powers in and with respect to the common areas and facilities (the "Common Elements") of the 228 West Fifth Street Condominium (the "Condominium") established by Master Deed recorded herewith (the "Master Deed") with the Suffolk County Registry of Deeds (the "Registry of Deeds") which are by virtue of the Massachusetts General Laws, Chapter 183A, as amended ("Chapter 183A"), conferred upon or exercisable by the organization of the Unit Owners of said Condominium, and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder shall vest in the Trustees 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 the Condominium according to the percentages of undivided beneficial interest in the Common Elements set forth in Article IV hereof (the "Beneficial Interest") and in accordance with the provisions of Section 10 of Chapter 183A for the purposes therein set forth.

This Trust is the organization of Unit Owners established pursuant to the provisions of Chapter 183A for the purposes therein set forth.

RECORD AND RETURN TO:

BRODERICK & MURRAY, P.C.
470 West Broadway, Suite 201
P.O. Box 376
South Boston, MA 02127-0003

Section 2.2. Not a 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 whatsoever 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 pursuant to the provisions of Chapter 183A.

ARTICLE III

The Trustees

Section 3.1. Number. The initial Trustees shall consist of the Trustees named in the first paragraph of this Declaration of Trust. After the Operating Event, as hereinafter described, there shall at all times be Trustees consisting of such number, not less than one (1) nor more than three (3) natural persons, as shall be determined by vote of Unit Owners entitled to not less than sixty-eight percent (68%) of the beneficial interest hereunder. However, every Unit Owner shall be entitled to become a Trustee in the event he or she so desires notwithstanding the fact that he or she is unable to obtain the aforementioned percentage vote.

The initial Trustees' term shall end upon the earliest to occur of the following "Operating Events":

- (a) one hundred and twenty (120) days after 75% of the total number of Units in the Condominium have been conveyed to Unit purchasers; or
- (b) one (1) year following the conveyance of the first Unit in the Condominium.

Notwithstanding any other term or provision of this Trust to the contrary:

- (a) the Unit Owners shall have no power or right to remove the initial Trustees nor to appoint any additional or Successor Trustees, until the expiration of the term in accordance with the Operating Event, as set forth above; and
- (b) during the term of the initial Trustees, any vacancy in the office of Trustees, however caused, shall be filled only by designation of the Declarant of the Master Deed.

The purpose of the foregoing provision is to comply with the requirement imposed by the Federal National Mortgage Association ("FNMA") necessitating the transfer of control of the Condominium to the Unit Owners as above provided. For this purpose "control" means the right of the Declarant to control the Unit Owners Association or its Trustees, the Condominium itself or the Unit Owners in

any manner except through votes allocated to Units owned by the Declarant on the same basis as votes pertaining to sold Units.

Within thirty (30) days after the occurrence of the Operating Event, or within the time limits set forth in Section 3.1(a) and (b) (as the case may be) whichever first occurs the Trustees designated by the Declarant shall tender their respective resignations, and their respective offices shall be deemed vacant so as to permit such vacancies to be filled in the manner hereinafter provided. In the event that said resignations are not tendered pursuant to the preceding sentence, then said offices shall automatically be deemed vacant on the seventy-fifty (75th) day after the Operating Event, or on the date set forth in Section 3.1 (a) or (b) (as the case may be) whichever first occurs, and such vacancies shall be filled in the manner hereinafter provided.

Section 3.2. Term. The term of each Trustee shall be one (1) year from the annual meeting of Unit Owners (or special meeting in lieu thereof), at which such Trustee is appointed until the next such annual or special meeting, at which such Trustee's successor is due to be appointed; except that the term of any Trustee appointed to fill a vacancy in an unexpired term shall end when his or her predecessor's term would, but for the vacancy, have ended.

The term of the original Trustees shall end pursuant to the provisions of Section 3.1, or until successors are elected pursuant to the terms hereof.

Section 3.3. Vacancies; 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 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 an appointment of a natural person to act as such Trustee (i) by an instrument signed by the Declarant, or (ii) if after the Operating Event, by designation of the Unit Owners holding at least sixty-eight percent (68%) of the beneficial interest hereunder.

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 at least one of the then remaining Trustees setting forth the fact and basis of compliance with the provisions of this Section 3.3, together with such acceptance; and the title to the trust property shall be held jointly with the remaining or surviving Trustee or Trustees without the necessity of any act of transfer of 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 then remaining or surviving Trustee(s) shall continue to exercise and discharge all of the powers, discretion 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 5.11.3, 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 Trustees, 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. Resignation shall take effect upon the recording of such instrument with the Registry of Deeds. Subject to the rights of the Declarant to designate Trustees of its own choice and notwithstanding the provisions of Section 3.1, any Trustee may be removed with or without cause by vote of Unit Owners entitled to more than sixty-eight (68%) of the beneficial interest hereunder. The vacancy resulting from such removal shall be filled in the manner provided in Section 3.3. Any 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, who certify the beneficial interest hereunder have voted for such removal. By instrument recorded with the Registry of Deeds, the Declarant may remove, with or without cause, any Trustee it is entitled to designate and appoint a successor Trustee as provided in the second paragraph of Section 3.3.

Section 3.6. Compensation of Trustees. Excluding any Trustee appointed by the Declarant prior to the Operating Event and with the approval of a majority of the Unit Owners, each Trustee may receive such reasonable compensation for

his services and also additional reasonable compensation for extraordinary or unusual services, legal or otherwise, rendered by him or her in connection with the Trust hereto, all as shall be from time to time fixed and determined by the Trustees, and such compensation shall be a common expense of the Condominium.

ARTICLE IV

Beneficiaries and the Beneficial Interest in the Trust

Section 4.1. Beneficial Interest. The beneficiaries of this Trust shall be the owners of record of Units in the Condominium as they may be 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. Voting rights shall be proportionate to the beneficial interest of each Unit Owner in the Trust. The beneficial interest of each Unit of the Condominium shall be held and exercised as a Unit and shall not be divided among several owners of any such Unit. To that end, whenever any 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 owner for such purpose.

ARTICLE V

By-Laws

The provisions of this Article V shall constitute the By-Laws of this Trust (the "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 may, 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;

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

(b) Sell, 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;

(c) 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;

(d) 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, evidence the same by notes, bonds, securities or other evidences of indebtedness, which may mature at a time or times, even deliver any mortgage, pledge or other instrument to secure any such borrowing;

(e) 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;

(f) 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;

(g) 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;

(h) 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;

(i) 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;

(j) 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;

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

(l) employ, appoint and remove such agents, managers, officers, 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 power to join in amending, altering, adding to, terminating or changing this Declaration of Trust and the trust hereby created shall not be delegated) all for such times and purposes as they shall deem proper. Without hereby limiting the generality of the foregoing, the Trustees may designate from their number a chairman, a Treasurer, a Secretary, and such other officers as they 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;

(m) improve any property owned by the Trust;

(n) manage, maintain, repair, restore, and improve Common Areas and Facilities, and when they shall deem necessary, the Units, including the right to enter upon any Unit to make emergency repairs;

(o) determine the common expenses required for the affairs of the Condominium;

(p) levy and collect the common expenses from the Unit Owners;

(q) adopt and amend rules and regulations covering the details of the operation and use of the Common Areas and Facilities;

(r) obtain insurance covering the Condominium (including the Common Areas and Facilities and the Unit(s));

(s) enforce obligations of the Unit Owners and have the power to levy fines against the Unit Owners for violations of reasonable rules and regulations established by the Trustees to govern the conduct of the Unit Owners. No fine may be levied for more than \$25.00 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; and

(t) generally, in all matters not herein otherwise specified, control and do each and everything 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 shall be shown to be in their judgment for the best interest of their Unit Owners.

Section 5.2. Maintenance and Repair of Units. The Unit Owners shall be responsible for the property maintenance and repair of their respective Units; 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 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 exclusively. 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 Owners 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.

Section 5.3. Maintenance, Repair and Replacement of Common Elements; Assessment of Common Expenses. The Trustees shall be responsible for the proper maintenance, repair and replacement of all Common Elements of the Condominium unless provided otherwise herein or in the Master Deed. The above may be performed by the managing agent, as hereinafter provided, and any two (2) Trustees, or if there is only one (1) Trustee, one (1) Trustee, or the managing agent or any others who may be so designated by the Trustees to approve payment of vouchers for such work. The expenses of all 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.

Section 5.3.1. Maintenance and Repair of Exclusive Use Areas. Section Five (5) of the Master Deed provides that certain Units have the exclusive right to use a certain portion of the common areas of the Condominium, e.g. deck(s), roof area(s), storage area(s) and yard areas, indicated and as shown as the plan recorded with the Master Deed. Each Unit Owner shall be responsible for the proper care, maintenance and repair of his exclusive use areas and shall pay all costs and expenses therefor. Except for the provisions contained in Section 6 of the Master Deed, such expenses shall not be a common expense of the Condominium.

However, if the Trustee(s) shall at any time in their reasonable judgment determine that any exclusive use area is in such need of maintenance or repair, or that the market value of any Unit is or may be adversely affected, that the condition of such exclusive use area is hazardous to or may cause damage to such exclusive use area or any other portion of the Common Areas and Facilities or any Unit or the occupants thereof, the Trustees shall in writing request the Unit Owner who has the benefit of such exclusive use area to perform the needed maintenance and repair or to correct the hazardous condition. In case such work shall not have been commenced within fifteen (15) days of such request (or such reasonable shorter period in case of emergency as the Trustees shall determine) or shall not thereafter diligently be brought to completion, the Trustees may have the work performed for the account of such Unit Owner and may enter upon and have access to the exclusive use area and, where necessary, to the Unit which has the benefit of such exclusive area for that purpose. The cost of all work reasonably necessary therefor shall be charged to the Unit Owner for whose account the work was done.

Section 5.4. Common Expense Funds.

Section 5.4.1. Condominium Dues or Charges. The Unit Owners shall be liable for common expenses and shall be entitled to common profits of the Condominium in proportion to their respective beneficial interest in the Common Elements as set forth in the Master Deed. The Trustees may at any time or times distribute common profits among the Unit Owners in such proportions.

Section 5.4.2. Reserve Funds. Condominium dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those Common Elements that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments. In addition, the Trustees may to such extent as they deem advisable set aside common funds of the condominium reserve fund for reduction of indebtedness or other lawful capital purposes, and such funds shall not be deemed to be common profits available for distribution.

Section 5.4.3. Estimates of Common Expenses and Assessments. 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 assessment to be made for the next fiscal year; provided, however, that the initial assessment shall occur upon the conveyance of the first Unit of the Condominium. The Trustees shall promptly render statements to the Unit Owners for their respective shares of such assessment, according to their beneficial interest in the Common Elements. In the event an annual assessment is not made as above required, an assessment shall be presumed to have been made in the amount of the last prior assessment.

In the event that the Trustees shall determine during any fiscal year that the assessment so made is less than the common expenses actually incurred, or in the reasonable opinion of the Trustees likely to be incurred, the Trustees shall make a supplemental assessment or assessments and render statements therefore in the manner aforesaid, and such statements shall be payable and take effect as aforesaid. The Trustees may in their discretion provide payments of statements in monthly or other installments. 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 interest in this Trust) as the Trustees shall determine. Such amount together with any such late amount or charge, interest, and attorneys' fees for collection as hereinafter provided, shall constitute a lien on the

Unit if not paid when due in accordance with the Master Deed, the By-Laws or Massachusetts law. The 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 said assessments for common expenses and enforcement of said lien. The personal liability of each Unit Owner as described in this Section 5.4.3 shall not pass to such Unit Owner's successors in title unless assumed by them or required by applicable law.

Section 5.4.4. Application of Common Funds. The Trustees shall expend common funds only for the purposes permitted by this Trust and by Chapter 183A.

Section 5.4.5. Notice of Default to Mortgagees. Upon written request addressed to the Trustees by a First Mortgagee of any Unit, the Trustees shall notify such Mortgagee of any default by the Mortgagor of such Unit in the performance of the Mortgagor's obligations under the Master Deed or this Declaration of Trust.

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 percent (10%) of the value of the Condominium immediately prior to the casualty, and shall notify all Unit Owners of such determination. If such loss as so determined does not exceed ten percent (10%) 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 percent (10%) 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 improvement to the Common Elements of the Condominium, or shall be requested in writing by the Unit Owners holding twenty-five percent (25%) or more of the beneficial interest in this Trust 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 percent (75%) or more of the beneficial interest or the expiration of ninety (90) days after such agreement was first submitted to the Owners, whichever shall first occur, the Trustees shall notify all Unit Owners of the aggregate percentage of beneficial interest held by Unit Owners who have then signed such agreement. If such percentage exceeds seventy-five percent (75%), the Trustees shall proceed to make the improvement or improvements and shall charge the same to all the Unit Owners. The agreement so circulated may also provide for separate agreement by the Unit Owners that if more than fifty percent (50%), but less than seventy-five percent (75%) of the beneficial interest so consent, the Trustees shall proceed to make such improvement or improvements and shall charge the same to the Unit Owners so consenting.

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 Owner(s) and a third party 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 rather 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 repairs, 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. Submission of Disputes to Arbitration.

Section 5.6.1. If at any time a dispute arises between the Trustees or if any Unit Owner is aggrieved by any action of the Trustees involving any matter connected with the operation and maintenance of 228 West Fifth Street Condominium, then either of the Trustees or any Unit Owner may, upon written notice to each of the Trustees, appoint an arbitrator and submit the dispute or action to arbitrators in the manner set forth in Section 5.5.3 above. The decision of the arbitrators shall be final and conclusive as to all parties.

Section 5.7. Administrative Rules and Regulations.

Section 5.7.1. The Trustees may from time to time adopt, amend and rescind administrative rules and regulations governing the operation and use of the Common Elements, 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. 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 5.8. Managing Agent.

Section 5.8.1. 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 5.9. Insurance.

Section 5.9.1 Basic Insurance

A. The Trustees shall be required to obtain and maintain, to the extent obtainable, the following insurance (and to pay premiums thereon as a Common Expense):

- (1) fire insurance with extended coverage (covering other perils normally covered by the standard extended coverage endorsement) insuring all portions of the buildings, including the common areas and facilities of the Condominium, and fixtures, building service equipment, and common personal property and supplies belonging to the Condominium Trust, and all of the units and all of the fixtures installed therein on the date of recording of the Master Deed, but not including carpeting, drapes, fixtures, furniture, furnishings, or other personal property supplied to or installed by Unit Owners, covering the interests of the Condominium, the Trustees and all Unit Owners and their mortgagees, as their interest may appear, in an amount equal to one hundred percent (100%) of current replacement cost of the buildings, common areas and facilities, and units, without deduction for depreciation, with loss payable to the Trustees, as Insurance Trustees for each Unit Owner and the holder of each unit's mortgage. The named insured shall be "the Trustees of the 228 West Fifth Street Condominium Trust, for the use and benefit of the individual Unit Owners and Unit Mortgagees". Such insurance shall also cover all other perils that are customarily covered with respect to projects similar in construction, location and use, including all

perils normally covered by the standard "all risk" endorsement, where such is available;

- (2) workers' compensation insurance if the Trustees shall have an employee or employees;
- (3) comprehensive general liability insurance covering all common areas and facilities, public ways, and any other areas under the supervision of the Trustees in such amounts and with such coverage as the Trustees shall from time to time determine, with a combined single limit for both personal injury, death and property damage, of not less than one million dollars (\$1,000,000.00), but at least covering each member of the Trustees, the managing agent or the manager, if any, and each Unit Owner and with cross-liability endorsement to cover liabilities of the Condominium to a Unit Owner, and a severability of interest provision precluding the insurer's denial of a Unit Owner's claim because of negligent acts by this Trust or other Unit Owners;
- (4) fidelity bonds in blanket form for all officers, directors, Trustees and employees of the Trust and all persons handling or responsible for funds administered by the Trust, whether or not they receive compensation for their services. The total amount of fidelity bond coverage shall not be less than the estimated maximum funds, including reserve funds, in the custody of the Trust or the management agent, as the case may be, at any given time during the term of such bond and, in any event, the aggregate amount shall not be less than a sum equal to three (3) months' aggregate assessments on all Units plus reserve funds, or one and one-half times the insured's estimated annual operating expenses and reserves, whichever is greater.
 - (i) The fidelity bonds shall name the Trust as an obligee;
 - (ii) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expression; and
 - (iii) The bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Trust and to the Mortgagees that are listed as scheduled holders of first mortgages in the insurance policy; and

- (5) such other insurance as the Trustees may determine.

All such policies shall provide that adjustment of loss shall be made by the Trustees and that the net proceeds thereby shall be payable to the Trustees as Trustee for each Unit Owner and the holder of each unit's mortgage. Each Unit Owner, by accepting delivery of his or her unit deed, appoints the Trustees as Insurance Trustee (or any Insurance Trustee or substitute Insurance Trustee designated by the Trustees) as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including (i) the collection and appropriate disposition of the proceeds thereof; (ii) the negotiation of losses and execution of releases of liability; (iii) the execution of all documents; and (iv) the performance of all other acts necessary to accomplish such purpose. The Trustees shall periodically reevaluate the amount of public liability insurance to be carried by them as set forth in Clause (3) of this Section 3 to the end that the limits of such insurance shall not be less than the amounts specified in said Clause (3), or not less than limits of such liability insurance as are carried by other Condominium Unit Owners' Associations in comparable condominiums in the greater Boston (MA) metropolitan area, whichever is higher.

- B. All such policies of physical damage insurance shall, insofar as practicable, contain waivers of subrogation as to any claim against the Trustees, their agents and employees, Unit Owners, their respective employees, agents and guests, and of any defense based on invalidity arising from the acts of the insured, and shall provide that the insurance will not be prejudiced by any acts or omissions of individual Unit Owners that are not under the control of the Owner's Association, and shall provide that such policies may not be canceled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including all Unit Owners and mortgagees of units, and recovering thereunder shall not be affected on account of the availability or proceeds under any policies obtained by individual Unit Owners covering their own units and shall include a Special Condominium Endorsement (so-called) or its equivalent. Agreed Amount, Inflation Guard and Construction Code endorsements shall be required if available. A steam boiler and machinery coverage endorsement shall also be required, which provides that the insurer's minimum liability per accident at least equals the lesser of \$2,000,000.00 or the insurance value of the buildings housing the boiler or machinery. A certificate of insurance, showing the amount of insurance, shall be issued to the owners of each unit, and the original or a certificate thereof, upon request, shall be delivered to the mortgagee of each unit. The Trustees shall periodically obtain an independent appraisal of the full replacement value of all portions of the buildings, including all the units and all of the common areas and facilities, and additions, alterations and improvements, without deduction for depreciation, for the purposes of determining the amount of fire and extended coverage insurance to be affected pursuant to this Section, and the amount of such

insurance shall in no event be less than the full replacement value as so determined.

- C. Subject to the provisions of Section 5.9.2 of these Bylaws, insurance proceeds received by the Trustees shall be held in trust in an identified and segregated fund for the benefit of the Unit Owners and all mortgagees of all units. If the cost of restoring the common areas and facilities, or any unit, is estimated by the Trustees to exceed the sum of one thousand dollars (\$1,000.00), then the Trustees shall give written notice of such loss to all eligible Mortgage Holders and all eligible Insurers and Guarantors, as herein defined.
- D. The cost of all such insurance obtained and maintained by the Trustees pursuant to the provisions of this Section 5.9.1 shall be a Common Expense of the Condominium.
- E. Any such insurance obtained and maintained by the Trustees pursuant to the provisions of this Section 5 may have a deductible amount to be determined from time to time by the Trustees, but in no event shall such deductible amount be greater than the lesser of ten thousand dollars (\$10,000.00) or one percent (1%) of the policy face amount. Funds to cover these deductible amounts shall be included in the Trust's operating reserve account.
- F. All insurance obtained and maintained by the Trustees shall conform to applicable requirements of the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal National Mortgage Association ("FNMA"), so long as FHLMC or FNMA hold one or more mortgages on units in the Condominium or any interest therein.
- G. Each Unit Owner may carry insurance at his or her own expense for his or her own benefit insuring, inter alia, his or her carpeting, drapes, fixtures, furniture, furnishings and other personal property, and personal liability, and loss assessment coverage, provided that all such policies shall contain waivers of subrogation, and further provided that the liability of the carriers issuing insurance obtained by the Trustees shall not be affected or diminished by reason of any such additional insurance carried by a Unit Owner. Each Unit Owner shall promptly notify the Trustees of all improvements made by him or her to his or her unit the insurable replacement cost of which exceeds one thousand dollars (\$1,000.00), and such Unit Owner shall pay to the Trustees as an addition to his or her share of the Common Expenses of the Condominium otherwise payable by such owner any increase in insurance premium incurred by this Trust that results from such improvement.

- H. Nothing shall be done or kept in any Unit, storage area or other exclusive use area, if any, or in the common areas and facilities that will increase the rate of insurance on the buildings or the contents thereof without the prior written consent of the Trustees unless the Unit Owner responsible for such increase shall agree to pay the amount of such increase.

Section 5.10. Condemnation.

In the event that any of the Units or the Common Areas and Facilities of the Condominium are affected by eminent domain proceedings, the following shall apply:

A. If a Unit is acquired by eminent domain, or if a part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Master Deed, the award shall compensate the Unit Owner for his Unit and its undivided percentage interest in the Common Areas and Facilities whether or not any of the Common Areas and Facilities have been acquired. Upon acquisition, unless the decree otherwise provides, that Unit's entire undivided interest in the Common Areas and Facilities and the beneficial interest under the Trust shall automatically be reallocated to the remaining Units of the Condominium in proportion to the respective undivided interest of the remaining Units in the Common Areas and Facilities prior to the taking, and the Trustees shall promptly prepare, execute and record an amendment to the Master Deed and the Trust reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this subsection shall thereafter be a part of the Common Areas and Facilities.

B. Except as provided in Subsection A, if a part of a Unit is acquired by eminent domain, the award shall compensate the Unit Owner for the reduction in value of the Unit and its undivided percentage interest in the Common Areas and Facilities. Upon acquisition, (1) that Unit's undivided interest in the Common Areas and Facilities shall be reduced on the basis of the reduction of the fair value of the Unit as at the date of such taking bears to the fair value of the remaining Units in the Condominium as at such date, and (2) the reduction to interest in the Common Areas and Facilities of such Unit shall be divested from the Unit so acquired and shall automatically be reallocated to the remaining Units in proportion to the respective undivided interest of the remaining Units in the Common Areas and Facilities prior to the date of such taking.

C. If the Common Areas and Facilities or any part thereof are acquired by eminent domain, the Trustees shall be the party in interest to receive any such award and to pursue any additional awards due to such taking. Any such award or any action taken by the Trustees pursuant hereto shall be brought or paid to the Trustees naming the "Trustees of 228 West Fifth Street Condominium Trust as Condemnation Trustees for the benefit of Condominium, of the several Unit Owners and their respective mortgagees". The Trustees shall divide any portion

of the award not used for restoration or repair of the remaining Common Areas and Facilities among the Unit Owners in proportion to their respective undivided percentage interest before the taking but any portion of the award attributable to the acquisition of a portion of the Common Areas and Facilities which had been exclusively reserved to any Unit pursuant to the terms of the Master Deed shall be paid to the Owner of such Unit or his mortgagee. Each Unit Owner hereby appoints the Trustees of 228 West Fifth Street Condominium Trust as his attorney-in-fact for the foregoing purposes.

Section 5.11. Meetings.

Section 5.11.1. 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 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 5.11.2. Meetings of Unit Owners. There shall be an annual meeting of the Unit Owners on the second Thursday of January in each year at 8:00 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 no less than **thirty-three percent (33%)** of the beneficial interest of the Trust. 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 5.11.3. 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 sixty eight percent (68%) of the beneficial interest of this Trust shall constitute a quorum at all meetings. Any action voted at a meeting shall require the vote of more than sixty eight percent (68%) of the beneficial interest in the Trust, except where the other provisions of this Trust or Chapter 183A require a larger percentage.

Section 5.12. Notices to Unit Owners.

Section 5.12.1. 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 Trustee's 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 to the Trustees shall have no duty of inquiring beyond their records.

Section 5.13. Inspection of Books; Reports to Unit Owners.

Section 5.13.1. 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 first 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 to 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 month of the date of his or her receipt of the report shall be deemed to have assented thereto.

Section 5.14. Checks, Notes, Drafts and Other Instruments. Checks, notes, drafts, payment vouchers 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 5.15. 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.

Section 5.16. Right of Action. The Trustees on behalf of the Trust and any aggrieved Unit Owner shall have an appropriate right of action against Unit Owners for failure to comply with the provisions of the Master Deed, Declaration of Trust and By-Laws or with decisions of the Trustees of the Trust which are made pursuant thereto. Unit Owners shall have similar rights of action against 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 Trust and of any changes therein. The receipts of the Trustees, or any one or more of them, for monies or things paid to 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 Trustee 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 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 thereof, provided, however, that nothing herein contained shall be deemed to limit or impair the liability of Trustees 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 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 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. Any certificate executed by any sole Trustee hereunder, or by a majority 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 majority, 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 one or more Trustees to execute and deliver the designated instrument on behalf of the Trust.

Section 6.5. Common Expenses 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 assessments against such Unit to the extent permitted by law.

Section 6.6. Common Expense Certificates. Notwithstanding any other provision of this Article VI, any certificate setting forth the amount of unpaid common expenses assessed against any Unit Owner as provided by Subsection (d) of Section 6 of Chapter 183A shall be conclusive evidence of the facts stated therein if signed by the majority of the Trustees 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 seventy-five percent (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, shall be duly indemnified to their reasonable satisfaction against outstanding obligations and liabilities; provided always, however, that no such amendment, alterations, 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 beneficial 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, or the Master Deed shall be invalid and of no effect. 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 or 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 the Trustees (or one Trustee if there be only one in the 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 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 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 providing for indemnity against any other outstanding liabilities and obligations, shall divide the proceeds thereof among, and distribute 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 the 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.

Section 7.4. Notwithstanding the foregoing provisions of this Article VII, unless at least seventy-five percent (75%) of the first mortgagees (based on one vote for each mortgage owned) of Units have given their prior written approval, neither Trustees nor the Unit Owners shall (1) by any act or omission, seek to abandon or terminate the Condominium, (2) change the pro rata interest or obligations of any individual Unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata interest of ownership of each Unit in the Common Elements; (3) partition or subdivide any Unit; or (4) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed an action for which prior consent of the First Mortgagee shall be required pursuant to this clause; or (5) use hazard insurance proceeds on account of losses to either the Units or the Common Elements for other than the repair, replacement or reconstruction thereof, except as otherwise provided by statute in case of a taking of or substantial loss to the Units and/or Common Elements.

ARTICLE VIII

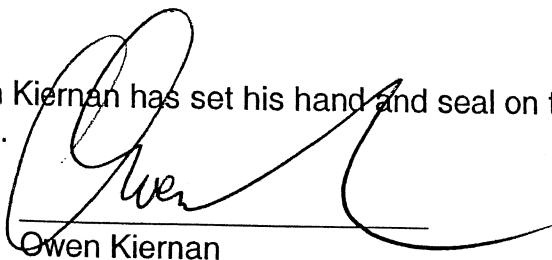
Construction and Interpretation

Section 8.1. Construction. In the construction hereof, whether or not so expressed, words used in the singular or in the plural, respectively include individuals, firms, associates, 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. Conflicts. If any provision of this Trust shall be invalid or shall conflict with Chapter 183A, as amended, of the General Laws of Massachusetts, or if any provision of this Trust conflicts with any provision of the Master Deed, then the following rules of construction shall be used:

- A. In the event of a conflict between the Trust and said Chapter 183A, as amended, 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 a conflict between any numerical voting requirements for action set forth in the Master Deed and any such requirements set forth herein, the provisions requiring the greater percentage or fraction for action to be taken or avoided shall control;
- D. In the event of any conflict other than set forth in Subparagraph C of this Section between the provisions of the Master Deed and any other provision hereof, the provisions of the Master Deed shall control.

IN WITNESS WHEREOF, Owen Kiernan has set his hand and seal on the day and year first hereinabove set forth.



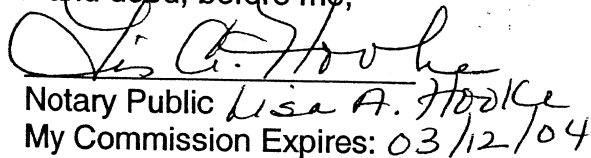
Owen Kiernan

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

September 17, 2003

Then personally appeared the above-named Owen Kiernan and acknowledged the foregoing instrument to be his free act and deed, before me,



Notary Public Lisa A. Hodge
My Commission Expires: 03/12/04

228 WEST FIFTH STREET CONDOMINIUM RULES AND REGULATIONS

228 West Fifth Street Condominium (the "Condominium") at 228 West Fifth Street, South Boston, Suffolk County, Massachusetts, has been created with the objective of providing congenial, enjoyable and dignified residential living. In order to accomplish this objective, the Trustees of the 228 West Fifth Street Condominium Trust (the "Condominium Trustees" or "Trustees"), responsible for the administration, operation and maintenance of the Condominium, 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 herein shall have the same meaning ascribed to them as in the Master Deed of the Condominium and/or the Declaration of Trust, 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 employees, 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 Elements. Unit Owners shall not cause, nor shall they suffer obstruction of, the Common Elements except for storage in any assigned storage area in the basement, if any, or placement of customary lawn or deck furniture or the like in or on areas designated as exclusive use areas, or except as Trustees may in specific instances expressly permit. The Common Elements shall be kept free and clear of all rubbish, debris and other unsightly materials.

(2) Effect of Insurance. Nothing shall be done or kept in the Common Elements which increases the rate of insurance of the Condominium, or contents thereof, applicable for residential use, without the prior written consent of the Trustees. No Unit Owner shall permit anything to be done, or kept in the Common Elements, which will result in the cancellation of insurance on the Condominium, or contents thereof, or which would be in violation of any law

(3) Nameplates. Unit Owners may place their names only in the space designated on the mailboxes and in such places outside the Unit as may be provided for in writing by the Trustees.

RECORD AND RETURN TO:

BRODERICK & MURRAY, P.C.
470 West Broadway, Suite 201
P.O. Box 376
South Boston, MA 02127-0003

(4) Radios, Phonographs, Musical Instruments. The volumes of television sets, radios, phonographs, musical instruments and the like shall be turned down between 10:00 p.m. and 8:00 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 the neighboring Units.

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

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

(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.

(8) No Offensive Activity. No noxious or offensive activity shall be carried on in any Unit, or in the Common Elements, nor shall anything be done therein either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or 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. Ordinary and usual domestic pets may be kept by any Unit Owner during such time as such Unit Owner occupies his or her Unit as a primary residence, but no such pets shall be permitted in any part of the Condominium (other than within the Unit of the Owner of such pet, on the deck appurtenant to such Unit or, in the case of Unit Number One (1), in the yard area) unless carried or on a leash. After reasonable notice, the Trustees may require any Unit Owner to remove any pet that has habitually been guilty of annoying or harassing any Unit Owner.

(10) Storage. No Unit Owner shall store anything (including, without limitation, baby carriages or playpens, bicycles, wagons, toys, vehicles or benches, chairs) in the Common Elements without the prior written consent of the Trustees, except that each Unit Owner shall be expressly permitted to (a) place patio and lawn furniture and the like on the deck appurtenant to such Unit Owner's Unit and, in the case of Unit Number One (1) in / on the yard area; and (b) store items of personal property in the storage area located in the basement, if any, appurtenant to such Unit. All of the furnishings, items of personal property, effects and other items of a Unit Owner and persons claiming by, through, or under said Unit Owner, may be kept and stored at the sole risk and hazard of said Unit Owner in such Unit Owner's Unit or in the areas expressly

permitted in clauses (a) and (b) above, 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 or by theft or from other cause, no part of said loss or damage in excess of the amounts, if any, covered by its insurance policies, is to be charged to 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 own negligence.

The use of the Common Elements by a Unit Owner or occupant shall be the responsibility and sole risk of such Unit Owner or occupant and the Condominium Trust shall not be liable for injury, loss or damage of any nature whatsoever directly or indirectly resulting therefrom or connected therewith, except that the Condominium Trust shall in no event be exonerated or held harmless from liability caused by its own negligence.

(11) Repair and Condition. Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.

(12) Equipment Compliance. All radio, televisions, 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 each Unit Owner alone shall be liable for any damage or injury caused by any radio, television, or other electrical equipment in his Unit.

(13) Flammable Materials, etc. No Unit Owner or any of his agents, servants, employees, licensees, occupants or visitors shall, at any time, bring into or keep in his Unit or any portion of the Common Element of the Building 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 in reasonable quantities for residential use and as are customarily incidental in residential use.

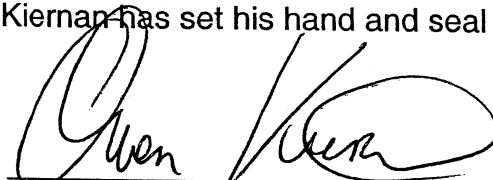
(14) Television Satellite Dishes. Each Unit Owner is permitted to install or cause to be installed one (1) television satellite dish on the roof of the Building, provided, however, that each Unit Owner is solely responsible for the repair and maintenance of the same unless such satellite dish is damaged as the result of the negligence of a different Unit Owner, his agents, servants, employees, licensees, occupants or visitors. Each Television Satellite Dish so installed shall be located on a portion of the roof so as to not interfere with the use and enjoyment of the roof deck, if any, and any cords or other lines associated with such installation shall be reasonably concealed so as to not detract from the aesthetics of the roof deck, if any. In no event shall any such cords hang down or across the front or sides of the Building.

(15) Consents. Any consent or approval given under these Rules and Regulations may be added to, amended or repealed at any time by the Trustees.

(16) Real Estate Taxes. For so long as the Condominium is assessed as a single property rather than as separate Units, each Unit Owner may be billed by the Trustees for their respective portion of real estate taxes during each tax period, which bill shall enclose a copy of the tax bill issued by the City of Boston. Each Unit Owner will forward payment equal to his percentage interest in the total tax bill to the Trustees by check made payable to the 228 West Fifth Street Condominium Trust no later than ten (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 City of Boston for late payment, together with costs of collection therefor incurred by the Trustees, including reasonable attorneys' fees. If taxes are collected by holders of mortgages on Condominium Units, each Unit Owner shall be responsible for causing the mortgage holders to forward payment as above required.

(17) Amendments. These Rules and Regulations may be amended from time as provided in the Condominium Documents.

IN WITNESS WHEREOF, Owen Kiernan has set his hand and seal on the 17th day of September 2003.

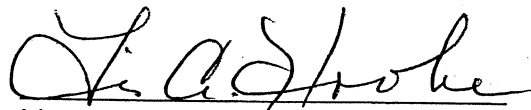

Owen Kiernan

COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss.

September 17, 2003

Then personally appeared the above-named Owen Kiernan and acknowledged the foregoing instrument to be his free act and deed, before me,


Lisa A. Hooke, Notary Public
My Commission Expires: 03/12/04

This page is inserted solely for purposes of separating the pages and is not a part of the document to which it is attached or enclosed.

COMMONWEALTH OF MASSACHUSETTS
City of Boston
OFFICE OF THE COLLECTOR-TREASURER
Certificate of Municipal Liens

NO: 858887

Date: 15-Nov-2002
Ward, Parcel: 06-01040-000
UNIT:

ON REAL ESTATE LOCATED AT: 228 W FIFTH ST

2003 Assessed to: WILDEMAN CAROL

Assessment 2002	Area	Land	Building	Total	Tax
	1,806	65,100	118,100	183,200	2,017.03

Taxes and Apportioned Assessments	Year 2003	Year 2002	Tax Title	Total
Preliminary 1st Quarter	.00			
Preliminary 2nd Quarter	.00			
Assessments Apportioned, including committed interest:				
Street				
Sewer				
Sidewalk				
Charges and Fees:	.00			
Interest:	.00			
Total Owed:	.00			0

Betterment assessments not yet added to tax

Kind	Book	Page	Lien Attaches	Original Amount	Period of Apportionments	Apportioned
Sidewalk					from ___ to ___ Interest	
Street					from ___ to ___ Interest	
Sewer					from ___ to ___ Interest	
Inspectional Services:						TOTAL <u>none</u> <u>none</u>

TOTAL DUE ON THIS CERTIFICATE: none

Water Charges: Contact Water & Sewer Commission

It is hereby certified from available information that above are listed all taxes and assessments, which on the above date constitute liens on the parcel of real estate specified in your application, dated: 15-Nov-2002.

The AMOUNTS NOW PAYABLE on account of such real estate so far as they are fixed and ascertained are itemized above. Any amount not ascertainable is so stated.

I have no knowledge of any other lien outstanding.

Oliver M. Barlow
Asst. Collector-Treasurer

Fee for this certificate, \$ 25.00

Applicant's Name: BRODERICK

BRODERICK & MURRAY, P.C.

470 West Broadway, Suite 201

P.O. Box 376

South Boston, MA 02127-0003

RECORD AND RETURN TO:

This form approved by the Commissioner of the Department of Revenue