

**Canal Place I**

**Declaration  
Of Trust**

DECLARATION OF TRUST

OF

CANAL PLACE CONDOMINIUM TRUST

THIS DECLARATION OF TRUST made this 20<sup>th</sup> day of OCTOBER, 1987, at Lowell in the County of Middlesex and Commonwealth of Massachusetts, GEORGE T. ALLEN, JR., of Billerica, Massachusetts, and JON H. GRAHAM of Burlington, Massachusetts, (hereinafter called the Trustees, which term and any pronoun referring thereto shall be deemed to include their 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 CANAL PLACE CONDOMINIUM TRUST and under that name, so far as legal, convenient, and practicable, shall all business carried on by the Trustees be conducted and shall all instruments in writing by the Trustees be executed.

ARTICLE II

The Trust and Its Purposes

Section 2.1. All of the rights and powers in and with respect to the common areas and facilities of the Canal Place Condominium established by a Master Deed of even date and recorded herewith which are by virtue of provisions of Chapter 183A of the Massachusetts General Laws conferred upon or exercisable by the organization of Unit Owners of said

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Condominium, and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder shall vest in the Trustees as joint tenants with right of survivorship as Trustees of this Trust, in trust, to exercise, manage, administer, and dispose of the same and to receive the income thereof for the benefit of the owners of record from time to time of the Units of said Condominium (hereinafter called the Unit Owners); according to the schedule of undivided beneficial interests in the common areas and facilities (hereinafter referred to as the "beneficial interests") set forth in Article IV hereof, and in accordance with the provisions of said Chapter 183A, this Trust being the organization of the Unit Owners established pursuant to the provisions of Section 10 of said Chapter 183A for the purposes therein set forth.

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

ARTICLE III

The Trustees

Section 3.1. There shall be a Board of Trustees hereunder consisting initially of two individuals chosen by the Trustees of Canal Place Trust, under a Declaration of Trust dated March 24,

1986, recorded with Middlesex North District Deeds, Book 3399, Page 117, (hereinafter, the "Declarant", which term and any pronoun referring thereto herein shall be deemed to mean said Trustees and their successors and assigns) each to serve for a term which shall expire at the annual meeting of Unit Owners in 1989 unless such term shall expire earlier, as hereinafter provided. Any vacancy in the office of a Trustee appointed by the Declarant shall be filled by the Declarant.

Within four (4) months after Units entitled to seventy-five percent (75%) of the beneficial interest of this Trust have been conveyed, or in any event within three (3) years from the date the first Unit within the Condominium is conveyed, regardless of the percentage of beneficial interest hereunder owned by the Declarant, if the term of any of the Trustees initially chosen by the Declarant shall not have expired, the term of such Trustees and all other Trustees then serving shall expire and a Special Meeting of the Unit Owners shall be held and three (3) Trustees shall be elected for a term of three (3) years by a majority (in beneficial interest) vote of Unit Owners, including the Declarant as an Owner of Units, if any.

Except as hereinabove specifically provided, at all meetings of Unit Owners, the Declarant shall be entitled to the same voting rights as any other Unit Owners, as to Units owned by the Declarant. After the aforesaid Special Meeting of Unit Owners, the Board of Trustees shall consist of not less than three nor more than five Trustees, as determined by a majority vote of the Unit Owners present in person or by proxy at the annual meeting of Unit Owners (as provided in Article V, Section 5.10B hereof).

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For purposes of this Section, a natural person designated in writing as the nominee of a Unit Owner which is not an individual, shall be considered a Unit Owner and shall be eligible to serve as Trustee hereunder.

If and whenever the number of such Trustees become less than two at times when only two Trustees are permitted pursuant to the foregoing, and if and whenever the number of Trustees shall become less than three at times when three Trustees are so permitted or less than the number of Trustees last determined as aforesaid, a vacancy or vacancies in said office shall be deemed to exist. Each such vacancy shall be filled by an instrument in writing setting forth (a) the appointment of a natural person to act as such Trustee(s), signed (i) by the Declarant if the vacancy is in the office of the Trustee chosen by the Declarant, or by a majority of the Trustees then in office, or the sole remaining Trustee if only one, and (b) the acceptance of such appointment signed and acknowledged the person so appointed. If for any reason any vacancy in the office of Trustee shall continue for more than sixty days and shall at the end of that time remain unfilled, a Trustee or Trustees to fill such vacancy or vacancies may be appointed by any Court of competent jurisdiction upon the application of any Unit Owner or by notice to all Unit Owners and Trustees and to such other, if any, parties in interest to whom the Court may direct that notice be given.

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---aforesaid to be a Trustee hereunder, there shall promptly be recorded with Middlesex North District Registry of Deeds a Certificate of such appointment or election signed by any one or more of the Trustees hereunder and acceptance of such appointment signed by the person so appointed, and such appointment or election shall take effect upon such recording. The person so appointed or elected thereupon shall be and become such Trustee and shall be vested with the Powers and titles of the Trustee jointly with the remaining or surviving Trustees or Trustee, without the necessity of any act of transfer of conveyance.

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

Section 3.2. In any matters relating to the administration of the Trust hereunder and the exercise of the powers hereby conferred, the Trustees may act by majority vote at any duly called meeting at which a quorum is present, as provided in Paragraph (a) of Section 5.10 A of Article V; provided, however, that in no event shall a majority consist of less than two (2) Trustees hereunder, and, if and whenever the number of Trustees hereunder shall become less than two (2), the then remaining or surviving Trustee, if any, shall have no power or authority whatsoever to act with respect to the administration of the Trust

except as provided in Section 3.1 of Article III. The Trustees may also act without a meeting by instrument signed by all of the Trustees as provided in Article V, Section 5.10A hereof.

Section 3.3. Any Trustee may resign at any time by instrument in writing signed and acknowledged in the manner required in Massachusetts for the acknowledgment of deeds, and such resignation shall take effect upon the recording of such instrument with said Registry of Deeds. After reasonable notice and opportunity to be heard before the Board of Trustees, a Trustee (except a Trustee chosen by the Declarant) may be removed from office with or without cause by an instrument in writing signed by a majority of Unit Owners present in person or by proxy at a duly held meeting of Unit Owners (as provided in Article V, Section 5.10B hereof), such instrument to take effect upon the recording thereof with the said Registry of Deeds.

Section 3.4. Except as otherwise provided in Article V, Section 5.5 hereof, no Trustee named or appointed as hereinbefore provided, whether as original Trustee or as successor to or as substitute for another, shall be obliged to give any bond or surety or other security for the performance of any of his duties hereunder, provided, however, that Unit Owners may at any time by instrument in writing signed by majority of Unit Owners present in person or by proxy at a duly held meeting of Unit Owners (as provided in Article V, Section 5.10B hereof), and delivered to the Trustee or Trustees effected, require that any one or more of the Trustees shall give bond in such amount and with such sureties as shall be specified in such instrument. All expenses incident to any such bond shall be charged as a common expense of

the Condominium.

Section 3.5. With the approval of a majority of the Trustees, each Trustee other than any Trustee designated by the Declarant may receive such reasonable remuneration for his services and also additional reasonable remuneration for extraordinary or unusual services, legal or otherwise, rendered by him in connection with the trusts hereof, all as shall be from time to time fixed and determined by the Trustees, and such remuneration shall be a common expense of the Condominium. No compensation to Trustees may be voted by the Trustees with respect to the period before the acquisition of at least fifty-one percent (51%) of the beneficial interest hereunder by persons other than Canal Place Trust or its nominee, and in no event shall any compensation be paid to any Trustee appointed by the Declarant.

Section 3.6. No Trustee hereinbefore named or appointed as hereinbefore provided shall under any circumstances or in any event be held liable or accountable out of his personal assets or be deprived of compensation by reason of any action taken, suffered, or omitted in good faith or be so liable or accountable for more money or other property than he actually receives, or for allowing one or more of the other Trustees to have possession of the Trust books or property, or be so liable, accountable, or deprived by reason of honest errors of judgment or mistakes of fact or law or by reason of the existence of any personal or adverse interest or by reason of anything except his own personal and willful malfeasance and defaults.

Section 3.7. No Trustee shall be disqualified by his office



from contracting or dealing with the Trustees or with one or more Unit Owners (whether directly or indirectly because of his interest individually or the Trustees' interest or any Unit Owner's interest in any corporation, firm, trust or other organization connected with such contracting or dealing or because of any other reason), as vendor, purchaser, or otherwise, nor shall any such dealing, contract, or arrangement entered into in respect of this Trust in which any Trustee shall be in any way interested be avoided nor shall any Trustee so dealing or contracting or being so interested be liable to account for any profit realized by any such dealing, contract, or arrangement by reason of such Trustee's holding office or of the fiduciary relation hereby established, provided the Trustee shall act in good faith and shall disclose the nature of his interest before the dealing, contract, or arrangement is entered into.

Section 3.8. The Trustees and each of them shall be entitled to indemnity both out of the common funds of the organization of Unit Owners and by the Unit Owners against any liability incurred by them or any of them in the execution hereof, including without limiting the generality of the foregoing, liabilities in contract and in tort, and liabilities for damages, penalties, and fines. Each Unit Owner shall be personally liable for all sums lawfully assessed for his share of the common expenses of the Condominium and for his proportionate share of any claims involving the Trust property in excess thereof, all as provided in Sections 6 and 13 of said Chapter 183A. Nothing in this Paragraph contained shall be deemed, however, to limit in any respect the powers granted to the

Trustees in this instrument.

ARTICLE IV

Beneficiaries and the Beneficial Interest in the Trust

Section 4.1. The cestuis que trustent shall be the Unit Owners of the Canal Place Condominium. The beneficial interest in the Trust hereunder shall be divided among the Unit Owners in the percentage of undivided beneficial interest appertaining to the Units of the Condominium, as set forth in Exhibit C of the Master Deed of the Condominium recorded herewith.

Section 4.2. The beneficial interest of each Unit of the Condominium shall be held and exercised as a Unit and shall not be divided among several owners of any such Unit. To that end, whenever any of said Units is owned of record by more than one person, the several owners of such Unit shall -

- (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 the record owners of such Unit. Any such designation shall take effect upon receipt by the Trustees and may be changed at any time and from time to time by notice as aforesaid. In the absence of any such notice of designation, the Trustees may designate any one such owner for such purposes.

All rights of a Unit Owner under this Trust may be exercised by written proxy. The Trustees shall make any necessary

determinations in their sole discretion as to the validity of the proxies.

A Unit Owner is any person holding any legal or any beneficial interest in the fee of the Unit.

ARTICLE V

By-Laws

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

Section 5.1. Powers of the Trustees.

The Trustees shall, subject to and in accordance with all applicable provisions of said Chapter 183A, have the absolute control, management, and disposition of the Trust property (which term as herein used shall insofar as applicable be deemed to include the common areas and facilities of the Condominium) as if they were the absolute owners thereof, free from the control of the Unit Owners (except as limited in this Trust instrument), and, without by the following enumeration limiting the generality of the foregoing or of any item in the enumeration, with full power and uncontrolled discretion, subject only to the limitations and conditions herein and in the provisions of said Chapter 183A, at any time and from time to time and without the necessity of applying to any court or to the Unit Owners for leave so to do:

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

(ii) To sell, assign, convey, transfer, exchange, and otherwise deal with or dispose of, the Trust property, or any part of parts thereof, free and discharged of any and all trusts, at public or private sale, to any person or persons, for cash or on credit, and in such manner, on such terms and for such consideration and subject to such restrictions, stipulations, agreements and reservations as they shall deem property, 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 to execute and deliver any deed or other instrument in connection with the foregoing.

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

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

(v) To invest and reinvest the Trust property, or any part or parts thereof, and from time to time and as often as they shall see fit to change investments, including power to invest in all types of securities and other property, of whatsoever nature and however denominated, all to such extent as to them shall seem

proper, and without liability for loss, even though such property or such investments shall be of a character or in an amount not customarily considered proper for the investment of trust funds or which does or may not produce income;

(vi) To enter into any arrangement for the use or occupation of the Trust property, or any part or parts thereof, including, without hereby 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;

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

(viii) To obtain and maintain such casualty and liability insurance on and with respect to the Trust property as they shall deem necessary or proper;

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

(x) To vote in such manner as they shall think fit any or all shares in any corporation or trust which shall be held as Trust property, and for that purpose, to give proxies to any person or persons or to one or more of their number, to vote, waive any notice or otherwise act in respect of any such shares;

(xi) To deposit any funds of the Trust in any bank or trust

company, and to delegate to any one or more of their number, or to any other person or persons, the power to deposit, withdraw, and draw checks on any funds of the Trust;

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

(xiii) To enter and have such access into Units in the Condominium as shall be reasonably necessary to the performance and exercise of the duties, obligations, rights and powers of the Trustees hereunder;

(xiv) To employ, appoint and remove such agents, managers, officers, board of managers, brokers, 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 Trustee shall not be answerable for the acts and defaults of any such person, provided however; that, until control shall pass from the original Trustees to the Trustees elected by all Unit Owners in accordance with the provisions of Article III, Section 3.1, no agreement, lease or contract with respect to matters referred to in this subsection or in subsection (vi) above shall be valid unless terminable by the Trustees without penalty upon no more than 90 days notice to the other party. The Trustees may delegate to any such agent, manager, officer, board, broker, employee, servant, assistant or counsel any or all of their powers (including discretionary

power, except that the power to join in amending, altering, adding to, terminating or changing this Declaration of Trust and the trust hereby created shall not be delegated) all for such times and purposes as they shall deem proper. Without hereby limiting the generality of the foregoing, the Trustees shall, at least as often as annually, designate from their number a Chairman, a Treasurer, a Secretary, and such other officers of the Board of Trustees as they deem fit, and may from time to time designate one or more or 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; and

(xv) Generally, in all matters not herein otherwise specified, to control, 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 Chapter 183A, manage the Trust property as if the Trustees were the absolute owners thereof and to do any and all acts, including the execution of any instruments, which by their performance thereof shall be shown to be in their judgment for the best interests of the Unit Owners; and the Trustees shall have without limitation, all of the rights and powers set forth in Chapter 183A and the Trustees shall by the exercise and fulfillment of the powers and provisions set forth in this Article V, provide for the necessary work of maintenance, repair and replacement of the common areas or facilities and payments therefor, including approval for payment vouchers.

Section 5.2. Maintenance and Repair of Units.

The Unit Owners shall be responsible for the proper maintenance and repair of their respective Units and the maintenance, repair and replacement of utility fixtures therein serving the same, including, without limitation (and except as stated in the Master Deed to be part of the common areas and facilities of the Condominium), interior finish walls, ceilings, and floors; windows, and window trim; doors, door frames and interior door trim; plumbing and sanitary waste fixtures and fixtures for water and other utilities; electrical fixtures and outlets; and all wires, pipes, drains and conduits for water, sewerage, electric power and light, telephone and any other utility services which are contained in and serve such Unit. 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 or reasonable enjoyment of one or more other Units is being adversely affected or that the condition of a Unit or fixtures, furnishings, facility or equipment therein is hazardous to any Unit or the occupants, the Trustees shall in writing request the Unit Owner to perform the needed maintenance, repair or replacement or to correct the hazardous condition, and in case such work shall not have been commenced within fifteen (15) days (or such reasonable shorter period in case of emergency as the Trustees shall determine) of such request and thereafter diligently brought to completion, the Trustees shall be entitled to have the work performed for the account of the Owner(s) of such Unit 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 Owner(s) of such Unit shall be personally and jointly and severally liable therefor.

Section 5.3

A. The Trustees shall be responsible for the proper maintenance, repair and replacement of the common areas and facilities of the Condominium (see Section 5.6 for specific provisions dealing with repairs and replacement necessitated because of casualty loss or condemnation), which may be done through the managing agent, as hereinafter provided, and any two Trustees (one if there then be only one in office) or the managing agent or any others who may be so designated by a majority of the Trustees may approve payment of vouchers for such work. The expenses of such maintenance, repair and replacement shall be assessed to the Unit Owners as common expenses of the Condominium at such times and in such amounts as provided in Section 5.4. The Trustees' decision that work on the common areas and facilities is in maintenance, repair or replacement, and not improvement, thereof shall be conclusive and binding on all Unit Owners unless shown to have been made in bad faith.

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

B. No work which would jeopardize the soundness or safety of

the building shall be done in a Unit or in the common areas and facilities unless in every such case the unanimous written consent of all Unit Owners of the Condominium is first obtained.

C. On application by the respective Unit Owners, the Trustees shall authorize that Units may be connected for the purpose of single occupancy and that for such purpose cuts be made in common walls or floors; provided, always, that the owner(s) of such Units shall do any work in connecting such Units at such owners' expenses, in accordance with all applicable law (and, if the Trustees request, so certified to the Trustees who shall be entitled to rely thereon) and only in the manner prescribed by, and in accordance with plans and specifications approved by the Trustees. Any such authorization may in the Trustees' discretion be limited to periods during which the connected Units are in common ownership, but shall not otherwise be limited in time and shall inure to the benefit of subsequent owners and mortgagees who comply therewith. Any such authorization may be withheld or refused only if, in the Trustees' judgment the proposed work to connect the Units will adversely affect the structural integrity of the building or the proper functioning of the building service systems or other common areas and facilities or otherwise materially impair the common areas and facilities of the other Unit Owners' rights therein. Any such authorization shall be valid only if in writing signed by a majority of the Trustees then in office and unless otherwise stated therein shall become void unless the work to connect the Units shall be commenced within six months after the date of the authorization and completed within a reasonable

time thereafter. Connected units shall be deemed a single unit for purposes of the occupancy limits set forth in Section 7 of the Master Deed. At such time as connected Units are no longer occupied as a single Unit, or no longer in common ownership if such was a condition of the authorization to connect, the owner(s) of such Units shall promptly restore the common walls and/or floors between the Units at their expense and upon failure to do so, the Trustees then, or at any time thereafter, may perform or cause to be performed such work, in which event such Unit Owner(s) shall be personally and jointly and severally liable to the Trust for the cost of the work which, if not paid when demanded, shall constitute a lien on the Units in question pursuant to Chapter 183A, Section 6(c) in proportion to their respective common interests. Such lien shall be valid notwithstanding any conveyance of the Units, or any of them, out of common ownership prior to demand or any filing in the Registry of deeds to enforce the lien. "Common ownership" shall mean that at least one person is a Unit Owner of each Unit connected.

The Trustees may authorize that exclusive use of one or more common areas be assigned to one or more Units for such time and on such conditions as the Trustees may determine, which conditions may, without limitation, include a requirement that the Unit Owner(s) so benefitted pay, as additional common expenses, such costs of said common areas as the Trustees from time to time may determine. The failure of the Trustees granting said exclusive use to require payment of any such costs as a condition of such exclusive use shall not preclude those Trustees, or any successor Trustees, from imposing reasonable

additional common expenses for the exclusive use of said common areas. Unless otherwise provided in a writing signed by a majority of the Trustees and recorded with the Registry of Deeds, such rights of exclusive use of common areas shall be personal to the Unit Owner(s) to whom granted and shall terminate when such Units Owner(s) no longer own the Units so benefitted.

Section 5.4 Common Expenses, Common Profits and Funds.

A. The Unit Owners shall be liable for common expenses and, subject to the Trustees' judgment as to reserve and contingent liability funds stated below, shall be entitled to the benefit of surplus accumulations, if any, of the Condominium in proportion to their beneficial interest in the Trust. The Trustees may at any time or times distribute common profits among the Unit Owners in such proportions. Common expenses shall include an adequate reserve fund for working capital; maintenance, repairs and replacement of those items in the common areas and facilities which 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 to be included in the reserve fund to be used for reduction of indebtedness or other lawful capital purpose. The funds in the fund shall not be deemed to be common profits available for distribution.

B. 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 such fiscal year together with a reasonable provision for contingencies and

reserves, and after taking into account any undistributed common funds from prior years, shall determine the assessment to be made for such fiscal year. The Trustees shall promptly render statements to the Unit Owners for their respective shares of such assessment, according to their percentages of interest in the common areas and facilities, and such statements shall, unless otherwise provided therein, be due and payable within thirty (30) days after the same are rendered. 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 assessment and render statements therefor in the manner aforesaid, and such statements shall be payable and take effect as aforesaid. The Trustees may in their discretion provide for payments of statements in monthly or other installments. The amount of each such statement, together with interest thereon, if not paid when due, at a rate equal to 5% above Bank of Boston, N.A. prime rate then in effect, or the maximum rate permitted by law, whichever is less, on such unpaid common expenses computed from the date thereof, together with all expenses, including without limitation, attorney's fees, paid or incurred in any proceeding brought to collect such unpaid common expenses or in an action to enforce the lien on such Unit arising from such unpaid common expenses, and all of the foregoing shall constitute a lien on the Unit of the Unit Owner assessed, pursuant to the provisions of Section 6 of said Chapter 183A. The Trustees shall have the right to institute all proceedings deemed necessary or desirable

by the Trustees to recover such unpaid common expenses, together with interest thereon computed as aforesaid and the expenses paid or incurred in connection with any such proceeding as aforesaid. Assessments of monthly common charges will commence with the first day of the month commenced next after sixty (60) days from the recording of the first unit deed or such earlier time as the Trustees may determine. During such period, Owners of Units conveyed by the Declarant shall make monthly payments to the Condominium Trust equal to the monthly common charge to offset operating expenses as herein after set forth. During such period the Declarant shall be responsible for the operating expenses of the building and shall be entitled to be reimbursed for such expenses by the Condominium Trust, but in no event shall the Condominium Trust be obliged to reimburse the Declarant for an amount in excess of what has been collected from Unit Owners during said period.

If, in any action brought by the Trustees to enforce a lien on a Unit because of unpaid common expenses, the lien shall be foreclosed, then for such period as the Unit Owner shall continue to use such Unit, the Unit Owner shall be required to pay a reasonable rental for the use of this Unit and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. The Trustees, acting on behalf of all Unit Owners shall have the power to purchase such Unit at the foreclosure sale and to hold, lease, mortgage, convey or otherwise deal with the same, except as otherwise provided in the Trust. A suit to recover a money judgment for unpaid common expenses shall be maintained without enforcing or waiving the

lien securing the same.

Notwithstanding the foregoing, any first mortgagee who obtains title to a Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage or any person taking title to a Unit through or under such mortgagee will not be liable for such Unit's unpaid common expenses which accrue prior to the acquisition of title to such Unit by the mortgagee.

C. There shall also be established a working capital fund to assure that the Trustees will have funds available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Trustees. Within sixty (60) days after the first Unit Deed of any Unit within the Condominium has been recorded, the Developer will pay each unsold Unit's share of the Working Capital Fund to the Trustees of Canal Place Condominium Trust. Each Unit Purchaser shall reimburse the Developer for its payment to the Condominium Trust at the time of recording of his or her Unit Deed. Each Unit Owner shall contribute to this fund, at the time of purchasing a Unit, an amount equal to two months' estimated common expenses for such Unit. The working capital fund shall be maintained in a separate account by the Trustees. Unit Owners may be called upon to replenish the working capital fund upon its depletion in the same proportion as their original contributions bear to the total amount of the fund. Amounts deposited into the working capital fund shall be a common fund but shall not be deemed prepaid common expenses. A Unit Owner's interest in the fund may be transferred only to a successor in title to the Unit.

D. The Board of Trustees shall expend common funds only for

common expenses and lawful purposes permitted hereby and by provisions of said Chapter 183A.

~~Section 5.5 Insurance~~ **REPLACED BY AMENDMENT**

**DATED 19 August 2008, BK 22418, Pg 61**

A. The Trustees shall obtain and maintain, to the extent obtainable and permitted by applicable law, a multi-peril type insurance policy from a carrier duly licensed to transact business in Massachusetts and having a Bests' Insurance Report rating of Class B/VI or better, including fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use, insuring the Condominium, including, without limitation, common areas and facilities, all of the units with all fixtures, additions, alterations and improvements thereof, but not including (i) any furniture, furnishings, household and personal property belonging to and owned by individual Unit Owners, or (ii) improvements within a Unit made by the Owners thereof subsequent to the first sale of such Unit by the Declarant of said Master Deed, as to which it shall be the separate responsibility of the Unit Owners to insure.

Such insurance shall insofar as practicable be maintained in an amount equal to not less than one hundred percent (100%) of the full replacement value (exclusive of land and foundations), as determined by the Trustees (who shall review such value at least as often as annually), of the insured property, shall contain an "agreed amount" and "inflation guard endorsement" and shall name the Trustees of Canal Place Condominium Trust as



~~Insurance Trustees for use and benefit of all Unit Owners and~~  
their mortgagees, with loss payable to and adjusted by the  
Trustees as Insurance Trustees in accordance with the provisions  
of these By-Laws.

Such insurance may provide for a reasonable deductible amount from the coverage thereof, as determined by the Trustees in their reasonable discretion, but no greater (when allocated among Units according to their undivided interest in the common areas and facilities of the Condominium) than \$250. or 1% of the amount of any FNMA or FHLMC mortgage loan made on any residential Unit. In the event of any loss which relates solely to the common areas and facilities, such deductible amount may be assessed to all Unit Owners as a special assessment of common expenses hereunder. In the event of any loss which relates in whole or in part to insurable improvements forming part of a Unit, which loss is covered by such insurance, the Trustees may assess to the Unit Owner of such Unit, as a special assessment, all or part of such deductible amount, such special assessment being in an amount directly proportional to the amount of such loss related to such Unit improvements and the amount of the loss related to the common areas and facilities. Unit Owners shall be liable for such special assessments in addition to their respective shares of the common expenses, and until such charged are paid by such Unit Owners, the same shall constitute a lien against their Units pursuant to the provisions of Section 6 of said Chapter 183A, as amended.

Such policy shall contain the standard mortgagee clause  
~~commonly accepted by private institutional mortgage investors in~~

~~the area in which the Condominium is located, which shall be~~  
endorsed to provide that any proceeds shall be paid to the Trustees of Canal Place Condominium Trust for the use and benefit of mortgagees and their successors and assigns as their interests may appear.

So long as there is a steam boiler in operation in connection with the Condominium, such insurance shall include boiler explosion insurance evidenced by the standard form of boiler and machinery insurance policy and providing as a minimum \$100,000 per accident per location. If the Condominium is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket" policy of flood insurance on the Condominium shall be maintained in the amount of the aggregate of the outstanding principal balances of the mortgage loans on the Units comprising the Condominium or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less.

Policies for such casualty insurance shall provide: (i) that the insurer waives any right of subrogation against the Trust, the Trustees, their agents and employees, Unit Owners, their respective employees, agents, tenants and guests; (ii) that the insurance shall not be prejudiced by any act or neglect of any Unit Owners or occupants or any other person or firm (including employees and agents of Trustees and Canal Place Condominium Trust when such act or neglect is not within the control of the Trustees and the Trust (or Unit Owners collectively), or by failure of the Trustees and the Trust (or