

NOTE: CHANGES FROM OCTOBER 2023 DRAFT ARE HIGHLIGHTED

**DECLARATION OF TRUST OF THE
HARBORSIDE INN CONDOMINIUM TRUST
AMENDED AND RESTATED DECLARATION OF TRUST**

Reference is hereby made to the Declaration of Trust of the Harborside Inn Condominium (the “Condominium”) dated April 25, 1980, and recorded with the Dukes County Registry of Deeds (the “Registry”) in Book 373, Page 744. The undersigned, constituting a majority of the Board of Trustees of the Harborside Inn Condominium Trust, hereby certify that Unit Owners holding at least 66 2/3% interest of the Beneficial Interests voted in the affirmative to amend and restate the Declaration of Trust in its entirety, as hereinafter set forth, with such vote of the Unit Owners taking place at the special meeting of the Unit Owners of the Condominium, held on _____, 2023, which meeting was held for the purpose of such vote.

**ARTICLE I
The Trust, Its Purpose, By-Laws and Name**

Section 1.1. Declaration of Trust and Purpose. All of the rights and power in and with respect to the common areas and facilities (the “Common Areas and Facilities” or “Common Elements”) of Harborside Inn Condominium (the “Condominium”), a condominium established by a Master Deed dated April 25, 1980, and recorded with the Registry in Book 373, Page 700 (the “Master Deed”), which are, under the provisions of Massachusetts General Laws, Chapter 183A, as amended (“Chapter 183A”), conferred upon or exercisable by the organization of unit owners of the Condominium, and all property, real and personal, tangible and intangible, conveyed to or held by the Trustees (the “Trust Property”) hereunder shall vest in the Trustees as it or they may from time to time be, in trust, to exercise, manage, administer and dispose of the same and to receive the income thereof (a) for the benefit of the owners of record from time to time (the “Unit Owners”) of the Units (the “Units”) of the Condominium according to the schedule of undivided beneficial interest in the Common Areas and Facilities (the “Beneficial Interest”) set forth in the Master Deed of the Condominium, and (b) in accordance with the provisions of Chapter 183A. This Trust is the organization of unit owners established pursuant to the provisions of Section 10 of Chapter 183A for the purposes therein and herein set forth.

Section 1.2. Trust Relationship. 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 whatsoever between themselves and with respect to the Common Elements and/or Trust Property other than as Unit Owners of the Condominium, 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 the provisions of Chapter 183A.

Section 1.3 By-Laws. This Declaration of Trust, as from time to time amended, shall be and comprise the By-Laws of the Trust.

Section 1.4 Name of Trust. The Trust hereby created shall be known as Harborside Inn Condominium Trust (the “Trust”), and under that name, so far as legal, convenient and practicable, all activities shall be carried on by the Trustees and all instruments shall be executed by the Trustees. Said name (and the word “Trust” whenever used in this Declaration of Trust, except where the context otherwise requires) shall refer to the Trustees in their capacity as trustees, and not individually or personally, and shall not refer to the officers, agents or employees of the Trust or to the Unit Owners.

ARTICLE II Definitions

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

Section 2.1 “Appurtenant Interests” shall have the meaning set forth in Section 6.1 hereof.

Section 2.2 “Beneficial Interests” shall have the meaning set forth in Section 1.1 above.

Section 2.3 “Buildings” shall mean the buildings which contain the Units and “Building” shall mean any one of such buildings.

Section 2.4 “By-Laws” shall mean the provisions of this Trust as the same may be amended from time to time.

Section 2.5 “Chapter 183A” shall refer to Chapter 183A of the General Laws of Massachusetts as from time to time amended.

Section 2.6 “~~Chapter 183B~~” shall refer to ~~Chapter~~Chapter 183B of the General Laws of Massachusetts as from time to time amended.

Section 2.7 “Common Charges” shall mean all charges hereinafter made by this Trust to the Unit Owners.

Section 2.8 “Common Elements” shall mean the common areas and facilities of the Condominium as so described and designated in the Master Deed.

Section 2.9 “Common Expenses” shall mean the expenses of administration, operation, maintenance, repair or replacement of the Common Elements, expenses declared Common Expenses herein or by Chapter 183A, and betterment and other assessments referred to in Chapter 183A which are assessed to the Trustees.

Section 2.10 “Common Funds” shall mean all funds held by the Trustee.

Section 2.11 “Condominium” shall mean the Harborside Inn Condominium submitted to the provisions of Chapter 183A by the Master Deed.

Section 2.12 “Declaration of Trust” shall mean this declaration of trust as amended, restated or modified from time to time. References in this Declaration of Trust to “hereof”, “herein”, and “hereunder” shall be deemed to refer to the Declaration of Trust and shall not be limited to the particular text, article or section in which such words appear.

Section 2.13 “Master Deed” shall mean the master deed of the land and buildings ~~executed by the Sponsor dated the date hereof and~~ recorded ~~contemporaneously herewith~~ with the Registry in Book 373, Page 700, which ~~subjects~~ subjected the Condominium to Chapter 183A.

Section 2.14 “Person” or “persons” shall mean any person or persons whether acting in an individual, representative or fiduciary capacity, and any firm or firms, corporation or corporations, partnership or partnerships, and any legal entity or entities whatsoever.

Section 2.15 “Property” shall mean the properties and assets subjected to Chapter 183A by the Master Deed and any addition or additions thereto.

Section 2.16 “Rules and Regulations” shall mean any rules and regulations for operation of the Condominium adopted pursuant to Section 5.13 hereof.

Section 2.16 ~~“Sponsor” shall mean Jennie A. Fratto, Trustee of Inner Harbor Realty Trust u/d/t dated January 22, 1980, and recorded in the Dukes County Registry of Deeds, and its successors and assigns.~~

Section 2.17 “Trust” shall have the meaning set forth in Section 1.1 above.

Section 2.18 “Trust Estate” shall mean any and all property, whether real, personal or mixed, tangible or intangible, held by the Trustees under the terms and provisions of this Declaration of Trust on behalf of the Trust.

Section 2.19 “Unit” shall have the meaning set forth in Section 1.1 above and shall specifically include any Unit Committed to Interval Ownership.

Section 2.20 “Unit Owner” shall have the meaning set forth in Section 1.1 above, and shall specifically include all Interval Owners within any Unit Committed to Interval Ownership, and shall specifically include each unit owner's heirs, devisees, successors, and assigns.

Section 2.21 ~~“Written” or “In Writing” shall mean communications on paper as well as contained in an email, text message, or posted on the Unit Owners’ portal.~~

Section 2.21 Any definition contained in the Master Deed of words used herein shall have the same definition as in the Master Deed.

ARTICLE III Unit Owners

Section 3.1 Beneficial Interests. The beneficiaries shall be the Unit Owners for the time being. The total Beneficial Interests in the Trust shall be divided among the Unit Owners according to

the Beneficial Interests appertaining to the Units as set forth in Exhibit "E" attached to the Master Deed, and the owners of Unit Weeks in Units Committed to Interval Ownership each shall have an interest based upon one-thirtieth (1/30th) of the percentage of undivided Beneficial Interests appertaining to their Unit for each Unit Week owned.

Section 3.2 Beneficial Interest Held by One Person. Each Beneficial Interest shall be exercised as a Unit and shall not be divided among several owners of any Unit. Whenever any ~~Unit~~Interval in a Unit Committed to Interval Ownership is owned of record by more than one person (including fiduciaries and corporate entities), the several owners of such ~~Unit~~Interval shall (a) determine and designate which of such owners shall be authorized and entitled to cast votes, execute instruments and otherwise exercise the rights appertaining to such Interval hereunder, and (b) notify the Trustees of such designation by a notice ~~i~~In wWriting signed by all of the record owners of such ~~Unit~~Interval. 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 such notice of designation, the Trustees may designate any one such owner for such purposes. Whenever any Unit not committed to Interval Ownership is owned of record by more than one person (including fiduciaries and corporate entities), the several owners of such Unit shall (a) determine and designate which 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 ~~i~~In wWriting 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 such notice of designation, the Trustees may designate ~~by written notice to all such owners,~~ any one such owner for such purposes. For Units or Intervals to which title is held by a fiduciary, the fiduciary shall be the designated individual. For Units or Intervals to which title is held by a corporation, a duly authorized employee or officer of such corporation shall be the designee. Each Owner of an Interval in a Unit Committed to Interval Ownership shall be entitled to vote at meetings of the Trust and shall be entitled to one-thirtieth (1/30th) of the Beneficial Interests assigned to that Unit. The Trust shall not have a vote for any maintenance Periods conveyed to it.

Section 3.3 Annual Meeting. The annual meeting of the Unit Owners shall be held at 12:00 pm on the first ~~Wednesday~~Saturday in December in each year at the Condominium, unless a different hour is fixed by the Trustees. If that day be a legal holiday at the place where the meeting is to be held, or at such other reasonable date, place and time as may be designated by the Trustees, provided, however, that in no event shall the Annual Meeting be more than sixty (60) days preceding or following the first Saturday in December (the "Annual Meeting"). If that day is a legal holiday, the meeting shall be held on the next succeeding day. The Trustees shall give ~~w~~Written notice thereof to the Unit Owners at least fourteen (14) days prior to said date, which notice shall include an agenda and a full description of all matters to be voted upon, if any. At the Annual Meeting the Trustees shall submit reports of the management and finances of the Condominium, conduct elections as are necessary, and conduct such other business as is proper.

Section 3.4 Special Meetings. 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. Upon written application of a majority of the Trustees or of Unit Owners holding at least thirty-three percent (33%) in interest of the Beneficial Interest ("Special Meeting"), the Trustees shall call a special

meeting. A request for such a Special Meeting from the Unit Owners shall be accompanied by a delineation of the items the requestors wish to have considered at said meeting, including the text of any proposed amendment to the Condominium's documents. Written notice of any Special Meeting designating the place, day and hour thereof, together with a full description of the matter(s) to be considered and/or voted upon, shall be given by the Trustees to the Unit Owners at least fourteen (14) days prior to the date so designated.

Section 3.5 Place of Meetings; Remote Attendance and Participation. All meetings of the Unit Owners shall be held at ~~such reasonable~~the Condominium, or any place as may be designated by the Trustees. Any adjourned session of any meeting of the Unit Owners shall be held at the same ~~city or town~~place as the initial session, ~~or within Massachusetts, in either case~~ at the place designated in the vote of adjournment, or at such other place as designated by the Trustees. Notwithstanding the foregoing and any contrary or inconsistent provision of this Declaration of Trust, the Trustees may conduct any annual or special meeting of Unit Owners such that some or all attendees are not physically present, but are able to attend and participate via electronic, remote communication or such other means as reasonably determined by the Trustees and communicated in advance to the Unit Owners.

Section 3.6 Notice of Meetings. A ~~w~~Written notice of each meeting of the Unit Owners, stating the place, date and hour and the purpose of the meeting, shall be given at least ~~ten~~fourteen (14) days before the meeting (a) to each Unit Owner, by (i) leaving such notice with him/her at their residence or usual place of business, (ii) by mailing it, postage prepaid, addressed to such Unit Owner at his/her address as it appears on the records of the Trust, (iii) by emailing to such Unit Owner at his/her email address as it appears on the records of the Trust, (iv) sent through the Unit Owner portal, or (v) by hand delivery. No notice of any meeting of Unit Owners need be given to a Unit Owner if a ~~w~~Written waiver of notice, executed before or after the meeting by such Unit Owner or his attorney thereunto duly authorized, is filed with the records of the meeting.

Section 3.7 Quorum of Unit Owners. At any meeting of the Unit Owners, a quorum shall consist of a majority in interest of all Beneficial Interests, except when a larger quorum is required by law or by this Declaration of Trust. Any meeting may be adjourned from time to time by a majority in interest of the Beneficial Interests voting upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

Section 3.8 Action by Vote. When a quorum is present at any meeting, a plurality in interests of the Beneficial Interests voting for election to any office shall elect to such office. In all other matters, a majority in interest of the Beneficial Interests voting upon any question shall decide the question except when a larger vote is required by law or by this Declaration of Trust. No ballot shall be required for any election unless requested by a Unit Owner present or represented at the meeting and entitled to vote in the election.

Section 3.9. Action by Writing or Electronic Means in Lieu of a Meeting. If the Trustees so decide, any election or other action to be taken by the Unit Owners may be taken without a meeting ~~if all, by mail, electronic mail or any other reasonable procedure adopted by the Trustees; provided, however, that~~ Unit Owners ~~entitled to vote on the matter consent to the~~

action by writings filed with representing 51% or more of all Beneficial Interests take part in such procedure, thus establishing the equivalent of a quorum, for such election or other action, which shall then be treated for all purposes as a vote or approval at a meeting under Section 3.8.

Section 3.10 Proxies. Unit Owners entitled to vote may vote either in person or by proxy ~~In Writing, or by electronic means as provided for in Section 3.9.~~

ARTICLE IV The Trustees

Section 4.1.1 Number Of Trustees. There shall be a Board of Trustees (the “Board” or the “Trustees”) consisting of seven (7) natural persons who shall be elected as hereinafter provided. Such natural persons shall be Unit Owners. In such case as a title to a Unit is held by a fiduciary, such person may be the fiduciary, or in the case of a Unit owned by a corporation, such person may be an officer or director of such corporation, manager if a limited liability company, or the general partner of a partnership.

Section 4.1.2 Acceptance by Trustees. Each person elected as Trustee shall sign and acknowledge in the manner required in Massachusetts for the acknowledgement of deeds, an acceptance of such election which shall be recorded in the Dukes County Registry of Deeds. Notwithstanding any other provisions in this Declaration of Trust contained, the failure to record such acceptance in said Registry of Deeds shall in no way affect the validity of such Trustees' election.

Section 4.1.3. Terms Of Trustees. Except as otherwise provided by law or by this Declaration of Trust, the term of each Trustee shall be for a period of three (3) years from the annual meeting of Unit Owners at which such Trustee is elected. Such terms shall be on a staggered basis so that in each year one-third (1/3) of the Trustee’s terms will expire. A Trustee whose term has expired shall continue in office until a successor is elected or appointed as herein provided.

Section 4.1.4. Powers And Duties Of Trustee(s). The Trustees shall, subject to all provisions of applicable laws, the Master Deed and this Declaration, including these By-Laws, have the absolute control and management and disposition of the Property (excluding the Units) and the absolute control, management and disposition of Trust Property as if they were the absolute owners thereof, free from the control of the Unit Owners, and shall have all of the powers necessary for the administration of the affairs of the Condominium and may do all such acts and things in connection therewith. The powers and duties of the Trustee(s) shall include, but shall not be limited to, the following, all of which shall be exercised subject to the provisions hereof:

- (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, but not the whole thereof, and sell, assign, convey, transfer, exchange and otherwise deal with or dispose of any Units or Intervals in the Condominium obtained

| pursuant to the provisions of Chapter 183B, 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 other manner raise such sum or sums of money or other property as they shall deem advisable in any manner and on any terms, and evidence the same by notes, bonds, securities or other evidences of indebtedness, which may mature at a time or times, even beyond the possible duration of this Trust, and execute and deliver any mortgage, pledge or other instrument to secure any such borrowing.

(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 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.

(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 other persons, agents, managers, officers, management company, 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 advisable and proper, and defining their respective duties and fixing their pay and compensation. 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, management company, broker, engineer, architect, employee, servant, assistant or counsel any or all of their powers (including discretionary powers, except that the power to join in amending, altering, adding to, terminating or changing this Declaration of 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, 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) Generally, in all matters not herein otherwise specified, control and do each and every thing necessary, suitable, convenient, or proper for the accomplishment of any of the purposes of the Trust or incidental to the powers herein, in Chapter 183A, or in Chapter 183B, manage and dispose of the Trust property as if the Trustees were the absolute owners thereof and do any and all acts, including the execution of any instruments, which by their performance thereof shall be shown to be in their judgment for the best interest of the Unit Owners.

(n) Conduct litigation on behalf of the Trust and the Unit Owners and being subject to suit as to any course of action involving the Common Areas and Facilities or arising out of the enforcement of this Declaration of Trust, any and all Rules and Regulations promulgated hereunder, or restrictions in the Master Deed or Unit Deeds.

(o) Open and utilize bank accounts on behalf of the Trust and designate the signatories required therefor.

(p) Incur obligations and pay, compromise or adjust all obligations incurred and rights acquired in the administration of the Trust.

(q) Grant permits, licenses and easements and/or leases over, under, through and/or to the Common Elements for utilities, roads and/or all other purposes reasonably necessary and/or beneficial, useful for and/or to the proper maintenance and/or operation of the Condominium and of abutting land whether part of the Condominium or not and/or the

convenience of the Unit Owners, and modify the terms and provisions of any easements, permits and/or licenses beneficial to the Common Elements and/or the Condominium and/or the abutting land whether part of the Condominium or not.

(r) Enforce obligations of the Unit Owners, including, but not limited to, the levying of general and special assessments for Common Expenses and the providing of adequate remedies for failure to pay such assessments, levying reasonable fines, attorney's fees, fines, costs and expenses against the Unit Owners for violations by the Unit Owners, or persons for whom a Unit Owner is responsible, of the Rules and Regulations or of the provisions of the Declaration of Trust or the Master Deed, and in the case of persistent violations of the Rules and Regulations or of this Declaration of Trust or the Master Deed by a Unit Owner, or persons for whom a Unit Owner is responsible, requiring such Unit Owner to post a bond to secure adherence thereto.

(s) Purchase and otherwise acquire any real or personal property.

(t) Borrow money and mortgage or pledge all or any part of the Trust Property, and/or the Condominium's Funds, and issue bonds, notes or other evidence of indebtedness.

(u) Enter into and have such access to Units and Common Elements as shall be reasonably necessary to the performance and exercise of the duties, obligations, rights and powers of the Trustees hereunder.

(v) Charge or empower its agent(s) to charge, reasonable sums for services to Unit Owners (such as opening locked doors, responding to security system alarms, etc.).

(w) Execute any and all instruments incidental or necessary to carry out any of the foregoing powers.

(x) Enter into any arrangement for the use or occupation of any Interval acquired by the Trust through foreclosure or otherwise, including, without thereby limiting the generality of the foregoing, leases, subleases, or licenses, upon such terms and conditions and with such stipulations and agreements as the Trustees shall deem desirable, even if the same extend beyond the possible duration of this Trust. Notwithstanding any provisions contained in this Declaration of Trust to the contrary, in the event the Trust enters into a lease, license or other agreement with an unrelated third party for the use or occupation of an Interval acquired by the Trust through foreclosure or otherwise, the lessee, licensee or occupant may be entitled to voting rights related to such Interval if so granted by the Trust in said lease, license or other agreement.

Section 4.1.5 Managing Agent. The Trustees may, in their discretion, appoint a manager or management company to administer the Condominium, who shall perform such duties in the administration, management and operation of the Condominium, including the incurring of expenses, the making of disbursements and the keeping of accounts, as the Trustees shall from time to time determine. The Trustees or such manager or management company may appoint,

employ or remove such additional agents, attorneys, accountants or employees as the Trustees may from time to time determine.

Section 4.1.6 Regular Meetings. The Trustees shall meet at such time and place as the Trustees may from time to time determine, and shall meet upon the request of any two Trustees; provided, however, that ~~w~~Written notice ~~(which may be sent via email)~~ of each such Trustee meeting setting the place, day, hour and purpose thereof shall be given at least three (3) days before such meeting to each Trustee, unless such notice is waived by all Trustees. Such meetings shall be conducted in accordance with such rules as the Trustees may adopt. The Trustees may conduct any meeting of the Trustees such that, some or all attendees are not physically present, but are able to attend and participate via electronic, remote communication or such other means as reasonably determined by the Trustees. Accurate minutes of all Trustee meetings shall be taken by a person designated by the Trustees or in lieu thereof the Trustee meetings may be audio recorded, and any such minutes or recordings and shall be maintained by the Trustees as part of the records of the Trust.

Section 4.1.7 Quorum. At any meeting of the Trustees a majority of the Trustees then in office shall constitute a quorum. Any meeting may be adjourned from time to time by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

Section 4.1.8. Trustee Action. In any matter relating to the administration of the Condominium and the Trust, and the exercise of the powers herein conferred, the Trustees shall act by majority vote of those present at any duly called meeting at which a quorum is present ~~at any meeting, a majority of the Trustees present may take any action, except when a larger vote is required by law or by this Declaration of Trust.~~ as hereinafter provided. Any action required or permitted to be taken at any meeting of the Trustees may be taken without a meeting if ~~written consents thereto are signed by all the~~ a majority of the Trustees and such written consents are filed with the records of the meetings of the Trustees then in office consent to the action electronically or In Writing. Such consents shall be treated for all purposes as a vote at a meeting. Notwithstanding anything contained herein to the contrary, despite any vacancy in the office of Trustee, however caused and for whatever duration, the then remaining or surviving Trustees, or Trustee, shall continue to exercise and discharge all of the powers, discretions and duties hereby conferred or imposed upon the Trustees. All actions by the Trustees shall be done in accordance with the procedures adopted by the Trustees.

Section 4.1.9 Committees. The Trustees may, by vote of a majority of the Trustees then in office, ~~elect from their number an executive~~ create any such committees the Trustees deem advisable. The Trustees may appoint any Unit Owners to serve on such committees; provided, however, that at least one Trustee must be a member of each committee and the chair of each committee must be a Trustee. The chair of the committee will conduct all committee meetings in accordance with the same procedures and as Trustee meetings are conducted. Members of committees serve at the discretion of the Trustees, and only the Trustees have the power to add or remove committee members. The Trustees may delegate to any committees some or all of the powers of the Trustees except those which by law or by this Declaration of Trust they are prohibited from delegating and except that no such committee shall have the powers to determine

Common Expenses or Common Charges hereunder. ~~Except as the Trustees may otherwise determine, any such committee may make rules for the conduct of its business, but unless otherwise provided by the Trustees or such rules, its business shall be conducted, as nearly as may be, in the same manner as is provided by this Declaration. Trustees may, by a vote of a majority of the Trustees then in office, designate one or more of their own number to be the Managing Trustee or Managing Trustees for the management of the Trust property and the business of the Trust property and the business of the Trust or any part or parts thereof.~~

Section 4.2 Officers and Agents. There shall be from among the Trustees, in addition to such other officers as they may elect from their number, Chair, Treasurer, and Secretary. The Trustees may add to, modify, or otherwise change any of the above-noted duties and responsibilities of the officers. The Trust may also have such agents, if any, as the Trustees from time to time, may in their discretion appoint. Any two or more officers may be held by the same person. Subject to law and to the provisions of this Declaration of Trust, each officer shall have such duties and powers as the Trustees may from time to time designate.

Section 4.3. Resignation and Removal. Any Trustee or officer may resign at any time by delivering his resignation an instrument in writing, signed and acknowledged in the manner required in Massachusetts for the acknowledgement of deeds and delivered to the remaining Trustees. Such resignation shall be effective upon, receipt unless specified to be effective at some other time in said instrument. The remaining Trustees, or Trustee, shall forthwith cause said instrument to be duly recorded with the said Registry of Deeds. Upon a failure thereof, or the absence of other Trustees, the resigning Trustee may so record said instrument and shall notify the Unit Owners thereof.

____ Any Trustee may, (a) with or without cause, be removed by the vote of the holders of a majority in interest of the Beneficial Interests, but such removal shall take effect only when approved by vote of a majority of the Trustees then in office exclusive of the Trustee or Trustees to be removed, or (b) for cause by vote of a majority of the Trustees then in office. A Trustee may be removed for cause only after reasonable notice and an opportunity to be heard before the body proposed to remove him/her. Any removal shall become effective upon the recording of a certificate thereof with the Registry executed by one or more of the then remaining Trustees in office or, upon a failure thereof, by any five of the Unit Owners voting to remove such Trustee; provided, however, that the failure or delay in recording said instrument shall not affect the validity of such Trustee's removal.

Section 4.4. Compensation and Reimbursement. Trustees shall be entitled to be reimbursed for their reasonable expenses incurred on behalf of the Trust. No Trustee, Officer or Committee Member shall receive any compensation or remuneration (which term shall not be deemed to include reimbursement for expenses incurred by such person in connection with his duties, which reimbursement shall be permitted and charged as a Common Expense) for his/her services rendered as such Trustee or officer, but this shall not preclude any such person from performing any other service for the Trust, legal or otherwise, and receiving compensation therefor.

Section 4.5. Vacancies, Election, Appointment And Acceptance Of Trustees. If and when the number of Trustees shall become less than seven (7) due to death, disability, removal or

resignation, a vacancy shall be deemed to exist, whereupon the Trustees then remaining in office may appoint a natural person, as aforesaid, to fill such vacancy. The expiration of a term shall also create a vacancy which, however, shall be filled at the annual meeting of the Unit Owners. Trustees shall be elected by the vote of a majority of the Unit Owners present in person or by proxy; provided that a quorum is present. There shall be no cumulative voting. In the event that the Trustees fail to so appoint a successor Trustee within sixty (60) days, or if there is no remaining Trustee, then such vacancy, or vacancies, shall, upon the petition therefor of any Unit Owner, with notice to all other Unit Owners, be filled by the appointment, or appointments, of a court of competent jurisdiction. The election or appointment of Trustees shall become effective upon such election or appointment. An instrument certifying such election or appointment shall be recorded with the Registry, acknowledged and subscribed to by a majority of the then Trustees, (1) referencing this Declaration of Trust; (2) reciting the election or appointment of the successor Trustee; and (3) containing an acceptance of such election or appointment by the successor Trustee. The failure or delay in recording said instrument shall not affect the validity of such Trustee's election. An individual appointed to fill a vacancy prior to the expiration of the term, shall be appointed only until the next Annual Meeting of the Unit Owners, at which time the Unit Owners shall vote to fill the vacancy for the remaining duration of the then term of the seat on the Board being filled; provided, however, that if the individual so appointed to fill the vacancy by the remaining Trustees is appointed after the notice of the Annual Meeting has been sent, then said person shall serve until the next Annual Meeting.

Section 4.4 Vacancies. Any vacancy in the Trustees may be filled by the appointment of a natural person to act as such Trustee, signed by any five (5) Unit Owners who shall certify under oath that Unit Owners not entitled to less than fifty-one percent (51%) of the Beneficial Interests hereunder have voted to make such appointment, or, in the absence of the Unit Owner action for a period of thirty (30) days, by the Trustees by vote of a majority of the Trustees then in office, subject to the right of the Sponsor to fill the vacancy of any Trustee appointed by it and to fill any vacancy created by an increase in the number of trustees so long as it is entitled to designate such trustee as provided in Subsection 4.1.1. The Trustees shall have and may exercise all their powers notwithstanding the existence of one or more vacancies in their number. Such appointment shall become effective upon the recording with Dukes County Registry of Deeds of a Certificate of such appointment signed by a majority of the then remaining Trustees or by the sole remaining Trustee, or by the recording of a Certificate of Appointment signed by said five (5) Unit Owners on behalf of Unit Owners holding at least fifty-one percent (51%) of the Beneficial Interests, together with acceptance by the Trustees

Section 4.6. Indemnification. The Trust shall, to the extent legally permissible, indemnify each of its Trustees, Officers and Committee Members against all liabilities and expenses, including amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and counsel fees, reasonably incurred by him in connection with the defense or disposition of any action, suit or other proceedings, whether civil or criminal, in which he may be involved or with which he may be threatened, while in office, or thereafter, by reason of his being or having been such a Trustee, Officer or Committee Member, except with respect to any matter as to which he shall have been adjudicated in any court proceeding to have acted in gross or willful personal misconduct. The right of indemnification hereby provided shall not be exclusive of or affect any other rights to which any Trustee, Officer or Committee Member may be entitled herein or by contract or otherwise under applicable law. As used in this Section, the terms "Trustee", "Officer" and "Committee Member" includes his respective heirs, executors and administrators.

Nothing in this Section shall, however, be deemed to limit in any respect the powers granted to the Trustees and Officers in this instrument. In connection with the indemnification provided for herein, the Trust shall be given written notice of any claim for which indemnity will be sought and the opportunity to control the defense and disposition of such claim, to the extent a conflict of interest is avoided.

Section 4.7. No Personal Liability. No Trustee, Officer, or Committee Member shall under any circumstances or in any event be held liable or accountable out of his personal assets or be deprived of compensation, if any, by reason of any action taken, suffered or omitted in good faith, or for allowing one or more of the other Trustees, Officers, or Committee Members 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 anything, unless he or she shall have been adjudicated by a court of competent jurisdiction to have engaged intentionally in gross and willful personal misconduct.

Section 4.8. Bond or Surety. No Trustee elected 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 the Unit Owners by a vote of fifty-one percent (51%) may at any time require that any one or more of the Trustees, except a Court-appointed Trustee, shall give bond in such amount and with such sureties as shall be specified in such vote. All expenses incident to any such bond shall be charged as a Common Expense of the Condominium.

Section 4.9. Interest Not Disqualify – Trustees May Deal With Condominium. No Trustee nor Unit Owner, shall be disqualified by his/her office, or status, from contracting or dealing, directly or indirectly, with the Trustees or with one or more Unit Owners as vendor, purchaser or otherwise because of his, the Trustees', Officers', or any Unit Owner's interest in any corporation, firm, trust, partnership or other organization connected with such contracting or dealing, nor shall any such dealing, contract or arrangement entered into in respect of this Trust in which any Trustee, Officer, or Unit Owner, shall in any way be interested be avoided nor shall any Trustee, Officer, or Unit Owner, 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 or Officer's holding office or of the fiduciary relation hereby established, or by reason of such Unit Owner's status, provided the Trustee, Officer or Unit Owner shall act in good faith and shall disclose the nature of his interest before the dealing, contract or arrangement is entered into. Notwithstanding the foregoing, in the event a Trustee is directly or indirectly involved financially or otherwise with any vendor, purchaser or otherwise which is or may be engaged by the Trust, such Trustee shall disclose such involvement and shall recuse himself from any portion of a Trustee meetings, discussions, and decisionmaking regarding the involvement of such entity, unless a majority of the remaining Trustees shall waive such recusal.

ARTICLE V

Operation of the Property

Section 5.1. Determination of Common Expenses and Fixing of Common Charges. The Trustees shall from time to time, and at least annually, prepare a budget for the Condominium,

determine the amount of Common Charges payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such Common Charges among the Unit Owners according to their respective Beneficial Interests. The Common Expenses may also include such amounts as the Trustees may deem proper for the operation and maintenance of the Property, including without limitation, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Trustees pursuant to the provisions of Section 5.8, an amount for working capital of the Condominium, for a general operating reserve, for a reserve for replacements, and to make up any deficit in the Common Expenses for any prior year. The Common Expenses may also include such amounts as may be required for the purchase or lease by the Trustees, on behalf of all Unit Owners, pursuant to the terms of this Declaration of Trust, of any Unit or Interval whose owner has elected to sell or lease such Unit or Interval or of any Unit or Interval which is to be sold at a foreclosure or other judicial sale. The Trustees shall advise all Unit Owners, promptly ~~i~~In wWriting of the amount of the Common Charges payable by each of them, respectively, as determined by the Trustees, as aforesaid and shall furnish copies of each budget on which such Common Charges are based, to all Unit Owners. 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.

Section 5.2. Payment of Common Charges. The Trustees shall, so far as reasonably possible, provide for payment of the annual assessment of Common Expenses in advance in monthly substantially equal, installments, which shall be due upon the first day of each month, or such other periodic payment as the Trustees may determine. The amount of each such statement, together with late charges as may be reasonably imposed by the Trustees, reasonable attorneys' fees, and fines, if that amount is not paid when due, shall constitute a lien on the Unit or Interval, as the case may be, and the personal obligation of the Unit Owner, all pursuant to provisions of Chapter 183A and Chapter 183B. The Trustees shall take prompt action to collect any Common Expenses due from any Unit Owner which remains unpaid. The Trustees may also prohibit the delinquent Owner from occupying or leasing the Unit or Interval, from voting or using any of the amenities of the Condominium, and from exercising any other membership privileges of said Owner. No Unit Owner shall be liable for the payment of any part of the Common Charges assessed against his Unit or Interval subsequent to a sale, transfer or other conveyance by him/her of such Unit or Interval. A purchaser of a Unit or Interval shall not be personally liable for the payment of Common Expenses assessed and unpaid against such Unit or Interval prior to the acquisition by him/her of such Unit or Interval unless such purchaser has agreed to assume such obligation. This provision shall not, however, affect the statutory lien on such Unit or Interval for such unpaid Common Expenses.

All obligations and charges to a Unit Owner and such Unit Owner's Unit or Interval shall for the purposes hereof be deemed a Common Expense attributable to such Unit or Interval and payment thereof shall be enforceable as herein provided.

Section 5.3 Default In Payment Of Common Expenses. In the event of default by any Unit Owner in paying to the Trustees the Common Expenses assessed to him/her or his/her Unit or

~~Interval, such Unit Owner shall be obligated to pay all expenses, including attorneys' fees, fines, late charges and interest incurred by the Trustees in any proceeding brought to collect such unpaid Common Expenses, irrespective of the amount so unpaid. The Trustees shall have the right to attempt to recover such unpaid Common Expenses, irrespective of the amount so unpaid, together with late charges, interest thereon, fines and the expenses of the proceeding, including attorneys' fees, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit or Interval, or in any proceeding wherein the Unit Owner seeks to avoid payment of the common expenses due. In furtherance hereof, a defaulting Unit Owner hereby waives any argument upon such a proceeding that the expenses thereof, including attorneys fees, are unreasonable and/or excessive when considered in the light of the amount so unpaid. A Unit Owner shall, upon any action brought by the Trustees to collect unpaid Common Expenses, have no right to make any claims or defense of off set upon any basis in such action, but the Owner shall be entitled to make such claim by separate action only after all amounts have been paid in full by said Owner.~~

Section 5.43 Maintenance Fee for Units Committed to Interval Ownership. Each Interval Owner of an Interval in a Unit Committed to Interval Ownership shall be responsible for and pay a "Maintenance Fee" as determined by the Trustees. Such Maintenance Fee shall be assessed by the Trustees and shall be payable in advance or at such other time or times as the Trustees shall determine. The Maintenance Fee shall include, without limiting the generality thereof the following: the particular Interval Owner's percentage share of: (a) Common Expenses attributed and charged to the Condominium Unit in which the Interval Owner holds the Interval; (b) costs of repair and upkeep of the interior of the Condominium Unit in which the Interval Owner holds his/her Interval for normal wear and tear (example – repainting interior wall); (c) costs of repair and replacement of furniture, fixtures, appliances and carpeting in the Condominium Unit in which the Interval Owner holds his Interval; (d) costs of casualty and/or liability insurance for the Condominium Unit in which the Interval Owner holds his/her Interval; (e) costs of utility services for the Condominium Unit in which the Interval Owner holds his/her Interval; (f) the personal property, real estate and any other taxes applicable to the Condominium Unit for the entire yearly fiscal tax due with regard to the Condominium Unit in which the Interval Owner holds his/her Interval; (g) any expense incurred in the cleaning and servicing of the Condominium Unit in which the Interval Owner holds his/her Interval; (h) any and all other expenses incurred in the normal maintenance of the Condominium Unit in which the Interval Owner holds his/her Interval which cannot be attributed to a particular Interval Owner.

Section 5.54 Proration. The Maintenance Fee shall be prorated among all Interval Owners in a specific Unit by applying a fraction the numerator of which is the number of Intervals owned by a specific Interval Owner, the denominator of which is thirty (30), to the total of all such expenses. The Maintenance Fee is applicable to the Maintenance Periods as more particularly set forth in the Master Deed.

Section 5.65 Supplemental Assessment of Maintenance Fees. In the event that the Trustees shall determine during any fiscal year that the Maintenance Fee so made is less than the maintenance costs actually incurred, or in the reasonable opinion of the Trustees likely to be incurred, the Trustees shall make a supplemental Maintenance Fee assessment or assessments, and render

statements therefore in the manner aforesaid, and such statements shall be payable and take effect as aforesaid.

Section 5.76 Collection of Assessments. All assessments shall be due and payable within thirty (30) days after the same is rendered. The Trustees shall take prompt action to collect any Common Charge or Maintenance Fee due from any Unit Owner or Interval Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof.

Section 5.87 Default in Payment of Common Charges. In the event of default by any Unit Owner in paying to the Trustees the Common Charges and/or Interval Maintenance Fee as determined by the Trustees, said Unit Owner shall be obligated to pay ~~interest at a rate equal to the prime interest rate of the First National Bank of Boston at the time such payment was due and late fees in an amount determined by the Trustees, and said unpaid Common Charges or Interval Maintenance Fee~~ shall constitute a lien on the Unit of the Unit Owners assessed, together with all expenses, including attorney's fees, incurred by the Trustees in any proceeding brought to collect such unpaid Common Charges. The Trustees shall have the right ~~and duty~~ to attempt to recover such Common Charges and/or Interval Maintenance Fees, together with ~~interest thereon late fees~~, and the expenses of the proceeding, including attorney's fees, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit ~~or Interval~~ as provided in Chapter ~~183A~~183B. In the case of a lien against an Interval Owner, said lien shall be limited to the Interval(s) owned by said Interval Owner and shall not encumber the property, real or personal, of any other Interval Owner of Intervals in said Unit. In furtherance hereof, a defaulting Unit Owner hereby waives any argument upon such a proceeding that the expenses thereof, including attorneys fees, are unreasonable and/or excessive when considered in the light of the amount so unpaid. A Unit Owner shall, upon any action brought by the Trustees to collect unpaid Common Expenses, have no right to make any claims or defense of off-set upon any basis in such action, but the Owner shall be entitled to make such claim by separate action only after all amounts have been paid in full by said Owner.

Section 5.9-8 Foreclosure of Liens for Unpaid Common Charges and/or Maintenance Fees and Other Remedies. In any action brought by the Trustees to foreclose a lien on a Unit or Interval because of unpaid Common Charges and/or Maintenance Fees, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit or Interval and the Trustees in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Trustees, acting on behalf of all Unit Owners, shall have the power to purchase such Unit or Interval at the foreclosure sale and to acquire, hold, license, lease, mortgage (but not vote the Beneficial Interest appurtenant to such Unit or Interval), convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Charges and/or Maintenance Fees shall be maintainable without foreclosing or waiving the lien securing the same.

In the event of default by any Unit Owner in paying to the Trustees the Common Charges and/or Interval Maintenance Fees, in addition to such other rights and remedies described herein, an Interval Owner shall be prohibited from using his/her Interval or exchanging his/her Interval until the Common Charges or Interval Maintenance Fees have been paid in full, as determined by the Trustees. In addition, during the period of such delinquency, the Interval

cannot be rented outside of the Trust's rental program. Furthermore, during the period of such delinquency, the Trust may rent the Interval and use such rent proceeds to offset the delinquency.

Section 5.10-9 Statement of Common Charges and/or Maintenance Fees. The Trustees shall promptly provide any Unit Owner and potential purchaser of a Unit so requesting the same in writing, with a written statement in recordable form of all unpaid Common Charges and/or Maintenance Fees due from such Unit Owner.

Section 5.11-10 Insurance. The Trustees shall obtain and maintain, to the extent available at reasonable cost, master policies of insurance of the following kinds, insuring the interests of the Trust, the Trustees, all Unit Owners and their mortgagees as their interests may appear:

A. Casualty Insurance. Casualty physical damage insurance on the buildings and all other insurable improvements forming part of the Condominium (including all of the Units but not including furniture, furnishings and other personal property of the Unit Owners therein), now existing or as they may from time to time be increased by amendment to the Master Deed, together with service machinery, apparatus, equipment and installations located in the Condominium and existing for the provisions of central services or for common use, in an amount not less than one hundred percent (100%) of the full replacement value thereof, exclusive of foundations, land and other items normally excluded therefrom without deduction for depreciation, but subject to a reasonable deductible as determined by the Trustees in their Judgment, and which shall include, if available, so-called Agreed Amount, Inflation Guard, Construction Code and Replacement Cost Endorsements, against (1) loss or damage by fire and other hazards covered by the standard extended coverage endorsement, together with coverage for the payment of common expenses with respect to damaged Units during the period of reconstruction, and (2) such other hazards and risks as the Trustees from time to time in their discretion shall determine to be appropriate including but not limited to vandalism, malicious mischief, windstorm and water damage, boiler and machinery explosion or damage and plate glass damage. The Trustee(s) may purchase a so-called "blanket" policy covering all of the buildings, if there be more than one, if they deem it advisable. The name of the insured under such policy shall be stated in form, substance and effect similar to the following: "Trustee(s) of Harborside Inn Condominium, for use and benefit of the Unit Owners of Harborside Inn Condominium and their mortgagees, as their interests may appear". Such insurance shall contain the standard mortgagee clause and shall name the Trustee(s) as Insurance Trustee(s) for the use and benefit of all Unit Owners of Harborside Inn Condominium and their mortgagees as their interest may appear, with losses payable to and adjusted by the Trustee(s) as Insurance Trustee(s) in accordance with the provisions of these By-Laws. The Trustee(s) may insure against such other hazards or risks of casualty as the Trustee(s) from time to time in their discretion shall determine to be appropriate, including, but not limited to, vandalism, malicious mischief, windstorm and water damage, earthquake, flood and machinery explosion or damage. All policies of casualty or physical damage insurance shall provide (to the extent such clauses are so obtainable) (1) that such policies may not be cancelled or substantially modified without at least ten days' prior written notice to all of the insureds, including each Unit Mortgagee, and (2) that the coverage thereof shall not be

terminated for nonpayment of premiums without thirty days' notice to all of the insureds including each Unit Mortgagee. Certificates of such insurance and all renewals thereof, together with proof of payment of premiums, shall be delivered by the Trustees to Unit Owners and their mortgagees upon request at least ten days prior to the expiration of the then current policies.

~~(a) — Comprehensive public liability insurance in such amounts and forms as shall be determined by the Trustees, covering the Trust, the Trustees, the Unit Owners and any Management Corporation of the Condominium. Such public liability coverage shall also cover cross liability claims of one insured against another. The Trustees shall review such limits at least annually.~~

~~(b) — Workman's compensation and employer's liability insurance covering any employees of the Trust.~~

~~The Trustees shall obtain casualty and liability insurance covering any employees of the Trust.~~
B. Liability Insurance. The Trustees shall obtain and maintain, to the extent obtainable and/or applicable, master policies of insurance with respect to the Condominium for the benefit and protection of the Trust and all Unit Owners for: (i) comprehensive public liability insurance in such limits as the Trustees may, from time to time, determine; (ii) workmen's compensation and employee's liability insurance; (iii) if applicable, boiler and machinery insurance in such limits as the Trustees may, from time to time, determine; and (iv) such other liability insurance as the Trustees may from time to time deem appropriate and desirable.

C. Fidelity Coverage. The Trustees shall obtain fidelity coverage against dishonest acts on the part of the Trustees, the Property Manager, if any, employees or volunteers responsible for handling funds belonging to Trust or administered by the Trustees. This fidelity insurance shall name Harborside Inn Condominium Trust as the named insured and shall be written in an amount equal to the maximum amount that will be in the custody of the Trust at any one time, but in no event less than three months Common Expenses plus all reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

D. Directors And Officers Liability Insurance. The Trustee(s) may obtain Directors' and Officers' Liability Insurance in such amounts and upon such terms as they deem appropriate and customary for the industry.

E. Interval Ownership. The Trustees shall obtain casualty and liability insurance as needed, on all Units Committed to Interval Ownership. Each such policy shall reflect the respective interests of the Trust and all Interval Owners in each such Unit. Casualty insurance shall be in an amount equal to the maximum insurable replacement value of the Condominium Unit and the personal property therein without deduction for depreciation as determined annually by the Trustees. The premiums shall be part of the Maintenance Fee. All losses thereunder shall be payable to the Insurance Trustee herein designated.

All such proceeds shall be used in the event that such loss is not to be repaired or replaced, as determined elsewhere, to be divided among all Interval Owners in such Unit in accordance with their percentage interest. Any deficit or coverage in such proceeds, after repair or replacement, shall be divided amongst all such Interval Owners in the Unit in accordance with their percentage interest. Deficits shall be treated as part of the Maintenance Fee next due.

F. Insurance for Commercial Units. The Unit Owners of the commercial units shall carry insurance for their own benefit insuring their furniture, furnishings and other personal property located within their respective Units or its appurtenances, and for such as is not covered by the Condominium master policies - particularly any deductible; 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 any Unit Owner. The Unit Owners of the commercial units shall in all events maintain liability insurance related to the commercial units, upon request, provide evidence thereof to the Trustees.

G. Terms And Conditions Of Policies. Policies for casualty insurance, and to the extent applicable, such other policies of insurance, shall provide: (i) that the insurance company waive any right of subrogation against the Trustees, their agents and employees, and the Unit Owners, their respective employees, agents, tenants and guests to the extent they are not specifically obligated hereunder; (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 the Trustees) when such act or neglect is not within the control of the Trustees (or Unit Owners collectively) or by failure of the Trustees (or Unit Owners collectively) to comply with any warranty or condition with regard to any portion of the premises over which the Trustees (or Unit Owners collectively) have no control; (iii) that such policies may not be canceled or substantially modified without at least twenty (20) days' prior Written notice to all Unit Owners and mortgagees of Units to whom certificates of insurance have been issued; (iv) that recovery thereunder shall not be affected on account of the availability of proceeds under any policies obtained by individual Unit Owners covering their Units; and (v) if obtainable, that the company shall waive any right it may have under the policy to repair or restore damage should the Unit Owners elect to terminate the Condominium because of such damage.

Such insurance policies may provide for a reasonable deductible from the coverage thereof as determined by the Trustees in their reasonable discretion.

H. Insurance Appraisal. The Trustees may obtain an appraisal of the full replacement value of the property to be insured in accordance with the foregoing provisions of this Section, without deduction for depreciation, for the purpose of determining the amount of insurance to be maintained pursuant to this Section.

I. Trustees As Insurance Trustee(s). The Trustees (i) shall have exclusive authority to negotiate all losses as herein provided for, (ii) shall collect and receive all loss insurance proceeds, and (iii) shall hold, use, apply and disburse the same in accordance with the applicable provisions of these By-Laws for the benefit of the Unit Owners and their respective mortgagees. With respect to losses which affect portions or elements covered by such insurance of more than one Unit and/or the Common Elements to different extents, the proceeds relating thereto shall be used, applied and disbursed by the Trustees in their judgment in a fair and equitable manner, primarily based upon the relative losses.

J. Authorized Insurance Representative. Notwithstanding any of the forgoing provisions and requirements to the contrary relating to physical damage or liability insurance, there may be named as an insured, on behalf of the Trustees, the Trustees' authorized representative, including any Trustee, with whom such Trustees may enter into any Insurance Trust Agreement or any successor to such Trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such physical damage or public liability insurance. Each Unit Owner appoints the Trustees, or any Insurance Trustee or substitute Insurance Trustee designated by the Trustees, as his attorney-in-fact for the purpose of purchasing, maintaining and administering such insurance, including without limitation the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.

K. Notification Of Mortgagees. The Trustees, on behalf of the organization of Unit Owners, shall, when requested by mortgagees of Units, give written notice to such mortgagees of such loss to the Common Areas and Facilities, or to the Unit mortgaged, as the mortgagee requests.

L. Certificates Of Insurance. Certificates of insurance with proper mortgagee endorsements, when requested, shall be issued to Unit Owners or their designees. The Trustees may charge a reasonable fee for obtaining and issuing such certificates.

~~8.5 Notice of Owner's Improvements. Each Unit Owner, within twenty(20) days after the commencement of construction of such improvements, shall notify the Trustees of all improvements to his or her Unit(except personal property other than fixtures) which exceed a total value of One Thousand(\$1,000.00) Dollars and upon receipt of such notice the Trustees shall notify the insurer under any policy obtained pursuant to section 5.8.1 hereof of any such improvements.~~

Section 5.12-11 Maintenance and Alterations.

- A. The Trustees may enter into a contract with any firm, person or corporation, or may join with other Condominium Associations and entities in contracting for the maintenance and repair of the Condominium Property and other type properties, and

may contract for or may join with other Condominium Associations in contracting for the management of the Condominium Property and other type properties.

B. Each Owner of a Unit not committed to Interval Ownership agrees as follows:

1. To maintain in good condition and repair his Unit and all interior surfaces within or surrounding his Unit (such as the surfaces of the walls, ceilings, floors, whether or not a part of the Unit or Common Areas and Facilities) and maintain and repair the fixtures therein and pay for any utilities which are separately metered to his Unit, and pay any and all personal property, real estate taxes or any other taxes attributed to his Unit;
2. Not to make or cause to be made any structural addition, alteration, decoration, repair, replacement or change of the Common Areas and Facilities or to any outside or exterior portion of the building whether or not within a Unit without the prior written consent of the Board of Trustees.

C. Each Owner of an Interval in a Unit Committed to Interval Ownership agrees:

1. To pay his proportionate share of the cost of the maintenance and repair of all interior and exterior components of said Unit, the cost of maintenance, repair and replacement of all appliances, furniture, carpeting, fixtures, equipment, and other personal property within said Unit, and such other costs of repair, maintenance, upkeep and operation of the Unit as is necessary to the continued enjoyment of said Unit by all said Interval Owners.
2. Not to make, cause, or allow to be made, any repairs, modifications, alterations, or replacements to the Common Areas and Facilities, outside or exterior portion of the buildings whether within a Unit or part of the Common Areas and Facilities, exterior or interior of his Unit, or of the furnishings, appliances, personal property, or decor thereof, without the prior written consent of the Board of Trustees and all other Interval Owners of said Condominium Unit.
3. Expenses of repairs or replacements to the Unit or its components, furnishings, carpeting, appliances, or other property, real, personal or mixed, occasioned by the specific use or abuse of any Interval Owner in any Unit, or any licensee or tenant of said Owner, shall be borne in their entirety by said Interval Owner.
4. The Trustees shall determine the interior color scheme, decor and furnishings, of each such Condominium Unit committed to Interval Ownership, as well as the proper time for redecorating and replacements thereof.

5. That the Trustees of the Harborside Inn Condominium Trust shall formulate and promulgate procedures which Interval Owners shall follow in possessing and vacating the Condominium Unit and moving their personal belongings in and out of the Condominium at the beginning and at the end of each Interval, so as to prevent a minimum of inconvenience and confusion.
- D. All Owners of Units, including Interval Owners of Units Committed to Interval Ownership agree as follows:
1. To allow the Trustees or the Management Firm, or the agents or employees of the Management Firm or the Trust, to enter into any Unit for the purpose of maintenance, inspection, repair, replacement of the improvements within the Units or the Common Areas and Facilities, or to determine in case of emergency circumstances threatening Units or the Common Areas and Facilities, or to determine compliance with the provisions of this Declaration of Trust.
 2. To show no signs, advertisements or notices of any type on the Common Areas and Facilities or on his Unit, and to erect no exterior antennae or aerials, except as consented to by the Board of Trustees.
- E. In the event a Unit Owner fails to maintain the said Unit as required herein, or makes any alterations or additions without the required written consent, or otherwise violates or threatens to violate the provisions hereof, the Trustees shall have the right to proceed in a Court of competent jurisdiction for an injunction to seek compliance with the provisions hereof. In lieu thereof and in addition thereto, the Trustees shall have the right to levy an assessment against the Unit Owner and the Unit, for such necessary sums to remove any unauthorized addition or alteration and to restore the property to good condition and repair. Where said failure, alteration, addition, or other violation is attributable to an Interval Owner in a Unit Committed to Interval Ownership, any such levy or an assessment shall be limited to the Interval(s) owned by said Interval Owner and shall be of no force and effect as to any other Interval Owner in said Unit.
- Said assessment shall have the same force and effect as all other special assessments. The Trustees shall have the further right to have employees or agents, or any subcontractors appointed by the Trustees, enter a Unit at all reasonable times to do such work as is deemed necessary by the Trustees to enforce compliance with the provisions hereof.
- F. The Trustees shall determine the exterior color scheme of the buildings and all exteriors, and the interior color scheme of the Common Areas and Facilities, and shall be responsible for the maintenance thereof, and no Owner shall paint an exterior wall, door, window, or any exterior surface, or replace anything thereon or affixed thereto, without the written consent of the Trustees.

G. The Trustees shall be responsible for the maintenance, repair and replacement of the Common Areas and Facilities, including but not limited to all recreation facilities, and all property not required to be maintained, repaired and/or replaced by the Unit Owners. Except for the maintenance, repair and replacement of the commercial units, which is provided in this Declaration the sole responsibility of Trust, the Owners of the commercial units, the Trustees may enter into an agreement with such firms or companies as it may determine to provide certain services and/or maintenance for and on behalf of the Units Committed to Interval Ownership whereby maintenance and service are provided on a regularly scheduled basis for air conditioning maintenance and service and appurtenances thereto, exterminating services and other types of maintenance and services as the Trustees deem advisable for such periods of time and on such basis as deemed appropriate. Said agreements shall be on behalf of all UnitInterval Owners and the monthly assessment due from each Unit Owner Committed to Interval Ownership for Common Expenses shall be increased by such sum as the Trustees deem fair and equitable under the circumstances in relation to the monthly charge for said maintenance or service. Each Unit Owner of a Unit Committed to Interval Ownership shall be deemed a party to said agreement with the same force and effect as though said Unit Owner had executed said agreement and it is understood and agreed that the Trustees shall execute said agreement as the agent for the Unit Owners. The aforesaid assessment shall be deemed to be a Common Charge or Maintenance Fee assessment under the provisions of this Declaration of Trust.

Section 5.1312. Rebuilding, Restoration And Condemnation. the following provisions shall apply in the case of casualty loss or condemnation:

5.1312.1 Determination of Scope of Loss. In the event of any casualty loss to the Condominium, or any part thereof, the Trustees shall determine in their reasonable discretion whether or not such loss exceeds ten percent of the value of the Condominium immediately prior to the casualty, and shall notify all Unit Owners of such determination. If such loss as so determined does not exceed ten percent of such value, the Trustees shall proceed with the necessary repairs, rebuilding or restoration in the manner provided in paragraph (a) of Section 17 of Chapter 183A. If the loss as so determined exceeds ten percent of such value, the Trustees shall forthwith submit to all Unit Owners (a) a form of agreement (which may be in several counterparts) 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 further action as they may in their discretion deem advisable in order to implement the provisions of paragraph (b) of Section 17.

In the event that the total cost of repair or restoration as estimated on the basis of an independent appraisal, or as determined during the course of repair or restoration exceeds the total sum of available insurance proceeds, then the Trustees shall assess, levy or charge to all Unit Owners, as a Common Expense, for the amount estimated to repair or

restore the Common Elements and Units (Unit) in excess of the insurance proceeds available therefor.

~~Whenever the estimated cost of repair or restoration exceeds as to any one casualty or occurrence, on the basis of an independent appraisal, the sum of Fifty Thousand (\$50,000.00) Dollars with respect to Common Elements and Five Thousand (\$5,000.00) Dollars with respect to any Unit, then the Trustees shall retain a registered architect or registered engineer, who shall not be directly or indirectly a Unit Owner or an employee or agent of any Unit Owner or a member or an employee or agent of any member of the Trustees to supervise the work of repair or restoration, and no sums shall be paid by the Trustees on account of such repair or restoration except upon certification to it by such architect or engineer that the work for which payment is being made has been completed in a good and workmanlike manner in accordance with approved plans and specifications and that the estimated total cost of completion of said repair or restoration, less amounts theretofore advanced, does not exceed the undisbursed proceeds of Insurance as augmented by funds obtained by any assessment or assessments levied or chargeable to the Unit Owners as a Common Expense.~~

The Trustees may perform emergency work essential to the preservation and safety of the Property or the safety of persons, or required to avoid the suspension of any essential service to the Property without having first engaged an architect or engineer, adjusted the loss or obtained proceeds of insurance.

If there shall have been a repair or restoration pursuant to the foregoing and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds, if any, shall be added to the Trust's Common Funds or, at the option of the Trustees, divided among all the Unit Owners in proportion to their respective Beneficial Interests.

Section 5.13.2.2 Arbitration of Disputed Trustee Action. Notwithstanding the foregoing, 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 5.13.2, and such dispute shall not be resolved within thirty (30) days after such notice, then either the Trustees or the dissenting Unit Owner(s) shall submit the matter to arbitration. For that purpose, one arbitrator shall be designated by the Trustees, one by the dissenting Unit Owner(s) and a third by the two arbitrators so designated. Such arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association and shall be binding upon all parties. The Trustees' decision that work constitutes a repair, rebuilding or restoration other than an improvement shall be conclusive unless shown to have been made in bad faith. The Trustees shall in no event be obliged to proceed with any repair, rebuilding or restoration, or any improvement, unless and until they have received funds in an amount equal to the Trustees' estimate of all costs thereof.

Section 5.13.2.3 Condemnation. If more than ten percent (10%) in value of the Condominium is taken under any power of eminent domain, the taking shall be treated as a "casualty loss", and the provisions of Section 17 of Chapter 183A of Massachusetts

General Laws shall apply. Where one or more Units have been substantially altered or rendered uninhabitable as a result of a partial taking, and the Unit Owners vote to restore and continue the Condominium pursuant to the provisions of Section 17 of said Chapter 183A, the Trustees shall have the authority to acquire the remaining portions of such Units, for such price as the Trustees shall determine, provided that any Unit Owner of such remaining portion who does not agree with such determination may apply to the Superior Court of Dukes County, on such notice to the Trustees as the Court shall direct, for an order directing the purchase of such remaining portion at fair market value thereof as approved by the Court. Where as a result of a partial taking any Unit is decreased in size or where the number of Units is decreased by a partial taking, then the Trustees may make such provision for realignment of the Undivided Interests in the Common Areas and Facilities as shall be just and equitable.

In the event of a total or partial taking under the powers of eminent domain, the Unit Owners shall be represented by the Trust acting through the Trustees. In the event of a partial taking the award shall be allocated to the respective Unit Owners, according to their respective Beneficial Interests, except as to such portion or portions of the award which are attributable to the direct or consequential damages suffered by particular Units, which shall be payable to the Owners of such Units or their mortgagees, as their interests may appear. In the case of a total taking of all Units and the Common Elements, the entire award shall be payable to the Trustees to be distributed to the Unit Owners in accordance with their respective Beneficial Interests to their mortgagees, as their interest may appear.

No vote or consent required of a Unit Owner pursuant to this Section shall be deemed effective without the written consent of the holder of any mortgage permitted by Section 6.3.

If any Unit or portion thereof is taken under the power of eminent domain, the holder of any mortgages on such Unit shall be given notice by the Trustees of such taking. Mortgagees of Units will be entitled to priority with respect to any awards distributed to their Mortgagees.

| Section 5.14-13 Improvements to the Common Elements of the Condominium.

- A. Fifty percent (50%) or more but less than seventy-five percent (75%) in interest of the Unit Owners may agree to make an improvement to the Common Elements but the cost of such improvements shall be borne solely by the Unit Owners so agreeing.
- B. Seventy-five percent (75%) or more in interest of the Unit Owners may agree to make an improvement to the Common Elements and assess the cost thereof to all Unit Owners as a Common Expense, but if such improvement shall cost in excess of ten percent (10%) of the then value of the Condominium, any Unit Owner not so agreeing may apply to the Dukes County Superior Court, on such notice to the Trustees as the Court shall direct, for an order directing the purchase of his Unit

by the Trustees at the fair market value thereof as approved by the Court. The cost of any such purchase shall be a Common Expense.

Section 5.15–14 Restriction on Use of Units and Common Elements. In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be subject to the following provisions and restrictions:

- A. Each of the Units is intended to be used solely for residential and resort/timeshare purposes subject, in all events, to the restrictions set forth below in this Section 5.15, provided, however, that ~~such Units may be used by the Sponsor for other purposes pursuant to provisions of subparagraph (d) of this Section 5.12, and~~ certain Units may be used for commercial purposes pursuant to the provisions of subparagraph (c) of this Section 5.15.
- B. The parking area within the Common Elements is intended to be used for the parking of currently registered and licensed private passenger cars, in operating condition, of Owners of Units and their occupants, guests and invitees, and not for trucks, boats, trailers or other vehicles or items except in connection with the operation and maintenance of the Condominium, or as provided in the easements referred to in the Master Deed, or with the prior written permission of the Trustees; ~~provided, however, that such parking spaces may be used by the Sponsor for other purposes pursuant to provisions of subparagraph (d) of this Section 5.12.~~
- C. The Units and the Common Elements shall be subject to the restrictions that, unless otherwise permitted by instruments ~~in w~~Writing duly executed by the Trustees pursuant to the provisions of the Trust: (1) no Unit shall be used for any purpose other than residential and/or resort/timeshare except as otherwise provided in this Section 5.15; (2) no business activities of any nature shall be conducted in any such Unit, except as provided in subparagraphs (a) and (d) of this Section 5.15 and except that the Units designated on the plans filed with the Master Deed as Commercial Units – “Stores” – may be used for commercial purposes; (3) the architectural integrity of the Buildings and the Units shall be preserved without modification, and to that end, without limiting the generality: no porch, patio, balcony, awning, screen, antenna, sign, banner or other device, and no exterior change, addition, structure, projection, decoration or other feature shall be erected or placed upon or attached to any such Unit or any part thereof; no addition to or change or replacement of any exterior light, door knocker or other exterior hardware shall be made; and no painting, attaching of decalcomania or other decoration shall be done on any exterior part or surface of any Unit nor on the interior surface of any window. Provided that an owner of two (2) Units may, subject to the same conditions and approvals, remove all or part of an interior wall or ceiling or floors separating such Units; (d) all maintenance and use by Unit Owners of patios, terraces, deck-balconies, lights and other facilities shall be done so as to preserve the appearance and character of the same and of the Property without modification; (e) all use and maintenance of the Units shall be conducted in a manner consistent with the comfort and convenience of the occupants of other Units and in accordance with provisions of rules and regulations with respect thereto from

time to time promulgated by the Trustees; (f) the Common Elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units; (g) no nuisances shall be allowed on the Property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of the Property by its residents; (h) no immoral, improper, offensive, or unlawful use shall be made of the Property, or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of Laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any Unit shall be eliminated by and at the sole expense of the Owner of said Unit and relating to the Common Elements shall be eliminated by the Trustees; (i) a Unit Owner shall not place or cause to be placed in the lobbies, vestibules, stair halls, public halls, corridors, stairways or other Common Elements, other than the deck-balcony, to which such Unit Owner has exclusive rights, any furniture, packages, or objects of any kind. The public halls, corridor, stair halls, and stairways shall be used for no purpose other than normal transit through them. No clotheslines or other objects deemed objectionable by the Trustees shall be placed in any of the Common Elements. There shall be no parking on the Property except in the parking area; and parking in said spaces shall be limited on a first come-first serve basis.

- D. No Unit Owner may exempt himself from liability for his contribution toward the Common Expenses and/or, in the case of an Interval Owner in a Condominium Unit Committed to Interval Ownership, the Maintenance Fee, by waiver of the use and enjoyment of any of the Common Elements or by the abandonment of his Condominium Unit.
- E. In the event any Interval Owner in a Unit Committed to Interval Ownership fails to vacate his Unit at the expiration of his Interval each year, or at such earlier time as may be fixed by the Rules and Regulations adopted by the Trustees from time to time, he shall be deemed a "Holdover Owner". It shall be the responsibility of the Trustees to take such steps as may be necessary to remove such Holdover Owner from the Unit, and to assist the Owner of any subsequent Interval, who may be affected by the Holdover Owner's failure to vacate, to find alternate accommodations during such holdover period.

In addition to such other remedies as may be available, the Trustees shall exercise reasonable efforts to secure, at their expense, alternate accommodations for any Interval Owner who may not occupy his Unit due to the failure to vacate of any Holdover Owner. Such accommodations shall be as near in value to the Interval Owner's own Unit as possible. The Holdover Owner shall be charged for the cost of such alternate accommodations, plus any other costs incurred due to his failure to vacate, and a daily administrative fee ~~of \$75.00 per day~~, in an amount determined by the Trustees, during his period of holding over. In the event it is necessary that the Trustees contract for a period greater than the actual period of holding over in order to secure alternate accommodations as set forth above, the entire period shall be the

responsibility of the Holdover Owner, although the ~~\$75.00 per day~~daily administrative fee shall cease upon actual vacating by the Holdover Owner. The Trustees shall submit a bill to the Holdover Owner in accordance with this paragraph. In the event the Holdover Owner fails to pay same within ten (10) days of the date of same, a lien shall be filed against said Holdover Owner's Interval in accordance with the provisions hereof.

The above provisions shall not abridge the Trustees' right to take such other action as is provided by law including, but not limited to, eviction proceedings.

F. Use of Common Elements. The Trustees, the Beneficiaries,~~the Sponsor~~, and their heirs, successors and assigns, and all parties who own an interest in and to the Common Elements agree that they shall not have any right to bring any action for partition or division of the real property that constitutes said Common Elements except as otherwise specifically provided for herein and in the Master Deed, and said parties do hereby otherwise waive said rights of partition or division of said Common Elements.

G. Smoking Restrictions. Smoking shall be prohibited within all Units and within the Buildings and grounds comprising the Condominium, including but not limited to: in the individual Units, in all buildings, in and upon all balconies and decks whether open or closed, indoor exclusive use areas, within the parking areas and all Condominium grounds.

No Owner shall smoke, or permit smoking by any occupant, agent, tenant, invitee, guest, friend, or family member anywhere in or upon the Condominium property. Smoking shall include the inhaling, exhaling, vaping, breathing, carrying, or possession of any lighted cigarette, cigar, pipe, other product containing any amount of tobacco, marijuana, or other heated or lit product.

~~G.H.~~ Said restrictions shall be for the benefit of the Unit Owners and the Trustees as the persons in charge of the Common Elements, may be waived in specific cases by the Trustees, and shall, insofar as permitted by law, be perpetual; and to that end may be extended by said Trustees at such time or times and in such manner as permitted or required by law for the continued enforceability thereof. The failure of any Unit Owner to comply with the provisions of said restrictions will give rise to a cause of action in the Trustees and any aggrieved Unit Owner for the recovery of damages, or for injunctive relief, or both. No Unit Owner shall be liable for any breach of the provisions of this paragraph except such as occur during his or her ownership thereof.

~~(a) — Notwithstanding anything to the contrary contained herein, the Sponsor may, until all of said Units have been sold by said Sponsor, (i) use any Units owned by the Sponsor as models for display, as offices and/or as storage areas, or for any other uses which it deems necessary or desirable in connection with the construction, sale, management, or leasing of Units, and (ii) use any parking spaces for parking of trucks, for storage, or any other uses which it deems~~

~~necessary or desirable in connection with the construction, sale, management or leasing of Units.~~

H.I. A majority of the Trustees then in office may, by an instrument in writing and in accordance with the provisions of the Declaration of Trust, adopt such rules and regulations from time to time as they may determine to be necessary or appropriate (i) to ensure that the Buildings and Units and parking areas are used for the purposes set forth in subparagraph (a) and subparagraph (b) of this Section 5.14 and to the architectural integrity of the Buildings, and (ii) to govern the use of the Common Elements and the recreational facilities included therein.

Section 5.14-15 Right of Access. A Unit Owner shall grant a right of access to his Unit, at reasonable times and upon reasonable notice except in emergencies, to the manager, to the management corporation, and any other person authorized by the Trustees, the manager, or the management corporation, for the purpose of making inspections or for the purpose of correcting any conditions originating in his Unit and threatening another Unit or a Common Element, or for the purpose of performing installations, alterations or repairs to the mechanical or to the electrical services or other Common Elements in his Unit or elsewhere in the Buildings. In case of an emergency such right of entry shall be immediate, whether the Unit Owner is present at the time or not. In the event of the exercise of the right of access provided in this Section 5.15, any costs for repairs shall be borne in accordance with the provisions of Section 5.12 above.

Section 5.17-16 Rules and Regulations. Rules and Regulations concerning the use of the Units and the Common Elements may be promulgated and amended by the Trustees; ~~provided, however, that any such Rules and Regulations shall not be promulgated and amended which will adversely affect the holder of any mortgage permitted pursuant to Section 6.3 without the consent of such holder.~~ A vote of two-thirds (2/3) in interest of Unit Owners at a meeting may overrule and declare void any Rules and Regulations adopted by the Trustees. Copies of the Rules and Regulations shall be furnished by the Trustees to each Unit Owner ~~and to the holder of any mortgage referred to herein~~, prior to the time when the same shall become effective. The Unit Owners hereby covenant and agree to be bound by all of such Rules and Regulations and said parties shall obey same and be responsible for their being obeyed by the said Unit Owners, their family, guests, invitees, lessees, and servants. Should a Unit Owner fail to pay an assessment for Common Expenses and/or Maintenance Fees as required hereunder for the period of time specified herein whereby said assessment becomes delinquent, the Trustees may deny the Unit Owner and/or the authorized user of the facilities the use and enjoyment of same until such time as all assessments are paid. The Trustees shall further have the right in their sole discretion to suspend any Unit Owner and/or authorized user of said facilities from the use of same for a period not to exceed thirty (30) days for any infraction of the promulgated Rules and Regulations pertaining to said facilities, and in the case of a Unit Committed to Interval Ownership for a period not to exceed seven (7) days. Should the Unit Owner or the authorized user of said facilities rights to use same be suspended, there shall be no reduction in the assessments due and payable by said Unit Owner or authorized user. In the case of a Condominium Unit Committed to Interval Ownership, all sanctions, as outlined above, shall be limited to the delinquent Interval Owner and shall be of no force and effect against non-delinquent Interval Owners in such Condominium Unit Committed to Interval Ownership.

Any person who is a Unit Owner, together with members of his family, social guests, lessees, invitees and licensees, may use the said Common Elements. For any Interval Owner, together with members of his family, social guests, lessees, invitees and licensees, this right to use of the Common Elements shall only be for the term of his Interval.

ARTICLE VI Sales and Mortgages of Units

Section 6.1 No Severance of Ownership. No Unit Owners shall execute any deed, mortgage or other instrument conveying or mortgaging title to his Unit without including therein the interest of such Unit Owner in the Common Elements and assets of the Trust, including without limitation, the exclusive right and easement of such Unit Owner to use any deck-balcony which is granted by the first Unit Deed (hereinafter collectively called the “Appurtenant Interests”), it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit may be sold, transferred or otherwise disposed of, except as part of a sale, lease, transfer or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the Appurtenant Interests of all Units.

Section 6.2 Payment of Assessments. No Unit Owner shall convey, mortgage, pledge, hypothecate, sell or lease his Unit unless and until he shall have paid in full to the Trustees all unpaid Common Charges theretofore assessed by the Trustees against his Unit and until he shall have satisfied all unpaid liens against such Unit, except permitted mortgages. Nothing herein shall be deemed to affect the validity of any permitted mortgage given by a Unit Owner in contravention of this Section.

Section 6.3 Mortgage of Units. A Unit Owner may grant any mortgage or mortgages to his Unit to any person or persons. All mortgages of a Unit shall be permitted by this Section 6.3 and shall be deemed Permitted Mortgages. A Unit Owner who mortgages his Unit, shall notify the Trustees of the name and address of his mortgagee and shall file a conformed copy of the mortgage with the Trustees; the Trustees shall maintain such information in a book entitled “Mortgages of Units”. The failure of a Unit Owner to so notify the Trustees or to file a conformed copy with them shall not invalidate the mortgage or any of its provisions or the rights of any holder of such mortgage. The Trustees, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid Common Charges and/or Maintenance Fees due from, or any other default by, the owner of the mortgaged Unit. The Trustees, when giving notice to a Unit Owner of a default in paying Common Charges and/or Maintenance Fees or other defaults, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Trustees. In addition, the Trustees shall send written notice to all holders of mortgages of which the Trustees have notice, of any proposed amendment to this Declaration of Trust to be made pursuant to Section 9.1. Each Unit Owner and each mortgagee of a Unit shall be permitted to examine the books of account of the

Trust and the books of account of any Management Company or Manager relating to the Condominium at reasonable times on business days.

If a mortgagee gives written notice to the Trustees that there is a default in a mortgage on a Unit held by it, or if a mortgagee gives written notice to the Trustees of an agreement or covenant by a Unit Owner that said mortgagee is to be the proxy of said Unit Owner, then such mortgagee shall be recognized as the proxy of the Unit Owner of such Unit for all matters concerning the Condominium until the mortgagee revokes the same by written notice to the Trustees, or such mortgage is discharged of record; provided, however, that if the mortgagee, who has received written notice of the meeting, is not represented at a meeting of Unit Owners, then the Unit Owner may, notwithstanding the foregoing, cast the vote attributable to his Unit. In the event two or more mortgagees of the same Unit give notice or seek to exercise rights hereunder, the mortgagee who in good faith determination of the Trustees holds the senior lien upon the Unit shall have the rights granted under this paragraph.

ARTICLE VII

Rights And Obligations Of Third Parties Dealing With The Trustees

Section 7.1. Third Parties No Duty of Inquiry. No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear of record in the Dukes County Registry of Deeds shall be bound to ascertain or inquire further as to the persons who are then Trustees hereunder, or be affected by any notice, implied or actual, otherwise than by a certificate thereof, and such record or certificate shall conclusively evidence the persons who are the Trustees. The receipts of the Trustees, or any one or more of them, for money or things paid or delivered to them, or him, shall be effectual discharges therefrom to the persons paying or delivering the same and no person from whom the Trustees, or any one or more of them, shall receive any money, property or other credit shall be required to see to the application thereof. No purchaser, mortgagee, lender or other person dealing with the Trustees or with any real or personal property which then is or formerly was Trust Property shall be bound to ascertain or inquire as to the existence or occurrence of any event or purpose in or for which a sale, mortgage, pledge or charge is herein authorized or directed, or otherwise, as to the purpose or regularity of any of the acts of the Trustees, or any one or more of them, purporting to be done in the pursuance of any of the provisions or powers herein contained, or as to the regularity of the resignation, removal, or election of any Trustee, and any records of the Trust purporting to be executed by persons herein required to execute the same, shall be conclusive evidence in favor of any such purchaser or other person dealing with the Trustees of the matters therein recited.

Section 7.2. No Recourse to Trustees. No recourse shall be had at any time 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 payment under contract or claim, or for the payment of any debt, damage, judgment or decree, or of any money that may

otherwise become due or payable to them from the Trustees, so that neither the Trustees nor the Unit Owners, present or future, shall be personally liable therefor; provided, however, that nothing herein contained shall be deemed to limit or impair the liability of Unit Owners under provisions hereof or under provisions of Chapter 183A.

Section 7.3. All Instruments Subject To Terms Hereof. Every taking, note, bond, contract, order, instrument or agreement, 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 hereof, whether or not express reference shall have been made to this instrument.

Section 7.4. Recording in Registry. This Declaration of Trust and any amendments hereto and any certificate herein required to be recorded and any other certificate or paper signed by said Trustees or any of them which they may be deemed desirable to record shall be recorded with the Dukes County Registry of Deeds and such recording 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 Property and/or any Unit Owner 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 any two Trustees in office at the time (or by one Trustee if there is only one at the time), setting forth as facts any matters affecting the Trust, as to what action has been taken by the Unit Owners and as to matters determining the authority of the Trustees to do any act, when duly acknowledged and recorded with said 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 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 and of the existence of the facts therein set forth.

Section 7.5 Application. All present and future owners, mortgagees, lessees, and occupants of Units and their employees, and any other persons who may use the facilities of the Property in any manner are subject to the Master Deed, this Declaration of Trust, and the Rules and Regulations. The acceptance of a deed or conveyance or the entering into a lease or the act of occupancy of a Unit shall constitute an agreement that the Master Deed, this Declaration of Trust, and the Rules and Regulations, as they may be amended from time to time are accepted, ratified, and will be complied with.

ARTICLE VIII MISCELLANEOUS

Section 8.1 Records. The Trustees or the management corporation or manager shall keep detailed records of the actions of the Trustees and the management corporation and manager, and financial records and books of account of the Trust, including a chronological listing of receipts

and expenditures, as well as a separate account for each Unit which, among other things, shall contain the amount of each assessment of Common Charges and/or Maintenance Fees against such Unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. An audited or reviewed (as determined by the Trustees) annual report of the receipts and expenditures of the Trust shall be rendered by the Trustees to all Unit Owners reasonably after the end of each fiscal year. In accordance with MGL c. 183A, Section 10(c), copies of the Master Deed, Rules and Regulations, this Declaration of Trust and floor plans of the Building and Units, as the same may be amended from time to time, shall be maintained at the office of the Trustees and shall be available for inspection by Unit Owners and their authorized agents during reasonable business hours.

Section 8.2 Fiscal Year. Except as from time to time otherwise provided by the Trustees, the fiscal year of the Trust shall end on the thirty-first (31st) day of December in each year.

Section 8.3 Invalidity. The invalidity of any part of this Declaration of Trust shall not impair or affect in any manner the validity, enforceability or effect of the balance of this Declaration of Trust.

Section 8.4 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 Declaration of Trust, or the intent of any provision thereof.

Section 8.5 Gender. The use of the masculine gender in this Declaration of Trust shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 8.6 Waiver. No restriction, condition, obligation, or provisions contained in this Declaration of Trust 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 thereof which may occur.

ARTICLE IX

Amendments to This Declaration of Trust

Section 9.1. Amendments To This Declaration Of Trust. Except as provided in the next sentence, this Declaration of Trust may be altered, amended or repealed at any annual or special meeting of the Unit Owners called for the purpose, of which the notice shall specify the subject matter of the proposed alteration, amendment or repeal or the sections to be affected thereby, by the affirmative vote of the Unit Owners holding at least 66 2/3% interest of the Beneficial Interests. Section 1.1, 1.2 and this Section 9.1 may be amended only by affirmative vote of all Unit Owners and Section 7.2 may be amended only by affirmative vote of all Trustees and all Unit Owners. No amendment which purports to alter the Beneficial Interest of any Unit or the basis for allocation of Common Expenses, Common Charges or distributions to Unit Owners, shall be of any force and effect unless the same has been signed by all Unit Owners and recorded in the Dukes Registry of Deeds, ~~For so long as the Sponsor owns more than five Units or more than Fifty (50%) percent of the beneficial interests of five Units, this Declaration of Trust may~~

~~not be amended so as to adversely affect the Sponsor without Sponsor's consent.~~ In addition, this Declaration of Trust may not be amended without the written consent of the holder of all first mortgages of which the Trustees have been given notice.

ARTICLE X CONFLICTS

Section 10.1 Conflicts. This Declaration of Trust is set forth in compliance with the requirements of MGL c. 183A ~~and c. 183B~~. In case any provision of this Declaration of Trust conflicts with the provisions of said Statutes, or the Master Deed, the provisions of said Statutes or the Master Deed, as the case may be, shall control. All the trusts, powers and provisions herein shall take effect and be construed according to the laws of the Commonwealth of Massachusetts.

ARTICLE XI DURATION

Section 11.2. Duration. The Trust hereby created shall terminate only upon the removal of the Harborside Inn Condominium from the provisions of Chapter ~~183A~~183B in accordance with the procedure therefor set forth in Section ~~1915~~ of ~~said~~ Chapter 183B.

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