

1105 MASSACHUSETTS AVENUE

CONDOMINIUM TRUST

THIS DECLARATION OF TRUST made this 12th day of April, 1974, at Cambridge in the County of Middlesex and Commonwealth of Massachusetts by Max Wasserman of Newton, Massachusetts, Michael J. Coyne of Massachusetts and Rudolph Kass of Arlington, Massachusetts hereinafter called the Trustees, which term and any pronoun referring thereto shall be deemed to include their successors in trust hereunder and to mean the trustee or the trustees for the time being hereunder, wherever the context so permits).

ARTICLE I

Name of Trust

The trust hereby created shall be known as 1105 Massachusetts Avenue Condominium Trust, and under that name, so far as legal, convenient and practicable, shall all business carried on by the Trustees be conducted and shall all instruments in writing by the Trustees be executed.

ARTICLE II

The Trust and Its Purpose

Section 2.1. All of the rights and powers in and with respect to the common areas and facilities of the 1105 Massachusetts Avenue Condominium established by a Master Deed of even date and record herewith which are by virtue of provisions of Chapter 183A of the Massachusetts General Laws conferred upon or exercisable by the organization of unit owners of said Condominium, and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder shall vest in the Trustees as joint tenants with right of survivorship as trustees of this trust, in trust to exercise, manage, administer and dispose of the same and to receive the income thereof for the benefit of the owners of record from time to time of the units of said Condominium (hereinafter called the Unit Owners), according to the schedule of undivided beneficial interests in the common areas and facilities (hereinafter referred to as the "beneficial interests") set forth in Article IV hereof and in accordance with the provisions of said Chapter 183A, this trust being the organization of the unit owners established pursuant to the provisions of section 10 of said Chapter 183A for the purposes therein set forth.

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

ARTICLE III

The Trustees

Section 3.1. There shall at all times be Trustees consisting of such number, not less than three (3) nor more than fifteen (15), as shall be determined from time to time by vote of the Unit Owners entitled to not less than fifty-one percent (51%) of the beneficial interest hereunder. Until 1105 Realty Trust or other entity affiliated with Max Wasserman owns less than 25 Units, there shall not be more than seven Trustees and it shall be entitled to designate two such Trustees; and until 1105 Realty Trust or such other entity owns less than 12 units, it shall be entitled to designate one such Trustee. If and whenever the number of such Trustees shall become less than three (3), or less than the number of Trustees last determined as aforesaid, a vacancy or vacancies in said office shall be deemed to exist. Each such vacancy shall be filled by instrument in writing setting forth (a) the appointment of a natural person to act as such Trustee, signed (i) by any seven Unit Owners who certify under oath that Unit Owners entitled to not less than fifty-one percent (51%) of the beneficial interest hereunder, have voted to make such appointment, or (ii) if Unit Owners entitled to such percentage have not within thirty (30) days after the occurrence of any such vacancy made such appointment, by a majority of the then remaining Trustees, or by the sole remaining Trustee if only one, and (b) the acceptance of such appointment, signed and acknowledged by the person so appointed. Such appointment shall become effective upon the recording with South Middlesex Registry of Deeds of a certificate of such appointment signed by a majority of the then remaining Trustees or Trustee if any there be still in office or by said seven Unit Owners on behalf of Unit Owners holding at least fifty-one (51%) per cent of the beneficial interest if there be no such trustees, together with such acceptance, and such person shall then be and become such Trustee and shall be vested with the title to the trust property jointly with the remaining or surviving Trustees or Trustee without the necessity of any act of transfer or conveyance. If for any reason any vacancy in the office of Trustee shall continue for more than sixty (60) days and shall at the end of that time remain unfilled, a Trustee or Trustees to fill such vacancy or vacancies may be appointed by any court of competent jurisdiction upon the application of any Unit Owner or Trustee and notice to all Unit Owners and Trustees and to such other, if any, parties in interest to whom the court may direct that notice be given. The foregoing provisions of this section to the contrary notwithstanding, despite any vacancy in the office of Trustee, however caused and for whatever duration, the remaining or surviving Trustees, subject to the provisions of the immediately following section, shall continue to exercise and discharge all of the powers, discretions and duties hereby conferred or imposed upon the Trustees.

Section 3.2. In any matters relating to the administration of the trust hereunder and the exercise of the powers hereby conferred, the Trustees may act by majority vote at any duly called meeting at which a quorum is present, as provided in paragraph A of Section 5.9 of Article V; provided, however, that in no event shall a majority consist of less than two (2) Trustees hereunder, and, if and whenever the number of Trustees hereunder shall become less than two (2), the then remaining or surviving Trustees, if any, shall have no power or authority whatsoever to act with respect to the administration of the trust hereunder or to exercise any of the powers hereby conferred except as provided in Section 3.1 of Article III. The Trustees may also act without a meeting by instrument signed by a majority of their number. [The rest of this section added by the Fifth Amendment] Notwithstanding the above two sentences, however, no rule primarily affecting the use or operation of the Retail Units may be adopted without (a) 14 days' prior notice by the Trustees to the Retail Unit Owners of such proposed rule and an opportunity for the Retail Unit Owners to appear before the Trustees and be heard on such proposed rule; and (b) the approval of the rule by two-thirds of the Trustees in attendance at a duly called meeting at which a quorum is present; and (c) the implementation of any such rule shall be delayed for a period of at least 60 days.

Section 3.3. Any Trustee may resign at any time by instrument in writing, signed and acknowledged in the manner required in Massachusetts for the acknowledgment of deeds and such resignation shall take effect upon the recording of such instrument with said Registry of Deeds. By vote of Unit Owners

entitled to not less than fifty-one percent (51%) of the beneficial interest hereunder, but subject to the right of 1105 Realty Trust recited in Section 3.1 to retain Trustees of its choice, any Trustee may be removed with or without cause and the vacancy among the Trustees caused by such removal shall be filled in the manner above provided. Such removal shall become effective upon the recording with the South Middlesex Registry of Deeds of a certificate of removal signed by a majority of the remaining Trustees in office or by seven Unit Owners who certify under oath that Unit Owners holding at least fifty-one percent (51%) of the beneficial interest hereunder have voted such removal.

Section 3.4. No Trustee named or appointed as hereinbefore-provided, whether as original Trustee or as successor to or as substitute for another, shall be obliged to give any bond or surety or other security for the performance of any of his duties hereunder, provided, however, that Unit Owners entitled to not less than fifty-one percent (51%) of the beneficial interest hereunder may at any time by instrument in writing signed by them and delivered to the Trustee or Trustees affected require that any one or more of the Trustees shall give bond in such amount and with such sureties as shall be specified in such instrument. All expenses incident to any such bond shall be charged as a common expense of the Condominium.

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

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

Section 3.7. No Trustee shall be disqualified by his office from contracting or dealing with the Trustees or with one or more Unit Owners (whether directly or indirectly because of his interest individually or the Trustees' interest or any Unit Owner's interest in any corporation, firm, trust or other organization connected with such contracting or dealing or because of any other reason), as vendor, purchaser or otherwise, nor shall any such dealing, contract or arrangement entered into in respect of this trust in which any Trustee shall be in any way interested be avoided nor shall any Trustee so dealing or contracting or being so interested be liable to account for any profit realized by any such dealing, contract or arrangement by reason of such Trustee's holding office or of the fiduciary relation hereby established, provided the Trustee shall act in good faith and shall disclose the nature of his interest before the dealing, contract or arrangement is entered into.

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

however, to limit in any respect the powers granted to the Trustees in this instrument.

ARTICLE IV

Beneficiaries and the Beneficial Interest in the Trust

Section 4.1. The beneficiaries shall be the Unit Owners of the 1105 Massachusetts Avenue Condominium for the time being. The beneficial interest in the trust hereunder shall be divided among the Unit Owners in the percentages of undivided beneficial interest appertaining to the Units of the Condominium, as follows [as amended by the the 3rd Amendment; in the original documents these values are expressed as percentage factors, which have been multiplied by 100 for the table here]:

<i>Unit Number</i>	<i>Beneficial Interest</i>
1A	1.02180
1B	0.77850
1C	0.99750
1D	0.77850
1E	1.02180
1F	0.77850
1G	1.03400
1H	0.77850
2A	0.97320
2B	0.72990
2C	0.97320
2D	0.72990
2E	1.02180
2F	1.53280
3A	0.97320
3B	0.72990
3C	0.97320
3D	0.72990
3E	1.02180
3F	1.53280
3G	0.77850
4A	0.97320
4B	0.72990
4C	0.97320
4D	0.72990
4E	1.02180
4F	1.53280
4G	0.80290
5A	0.97320
5B	0.75420
5C	0.97320
5D	0.75420

5E	1.07050
5F	1.58150
5G	0.80290
6A	1.02180
6B	0.77850
6C	0.99750
6D	0.77850
6E	1.11920
6F	1.58150
6G	0.80290
7A	1.02180
7B	0.77850
7C	0.99750
7D	0.77850
7E	1.11920
7F	0.90020
7G	1.07050
7H	0.80290
8A	1.07050
8B	0.82720
8C	1.04620
8D	0.80290
8E	1.16780
8F	0.92450
8G	1.07050
8H	0.85150
9A	1.07050
9B	0.82720
9C	1.07050
9D	0.80290
9E	1.16780
9F	0.92450
9G	1.07050
9H	0.85150
10A	1.07050
10B	0.82720
10C	1.09480
10D	0.80290
10E	1.16780
10F	0.92450
10G	1.09480
10H	0.85150
11A	1.07050
11B	0.82720
11C	1.09480
11D	0.85150
11E	1.16780
11F	0.92450

11G	1.14350
11H	0.90020
12A	1.07050
12B	0.82720
12C	1.09480
12D	0.85150
12E	1.16780
12F	0.92450
12G	1.14350
12H	0.90020
PH-A	1.94640
PH-B	1.70310
PH-C	2.06810
PH-D	1.82480
RETAIL	5.08900

Section 4.2. The beneficial interest of each Unit of the Condominium shall be held and exercised as a unit and shall not be divided among several owners of any such Unit. To that end, whenever any of said Units is owned of record by more than one person, the several owners of such Unit shall (a) determine and designate which one of such owners shall be authorized and entitled to cast votes, execute instruments and otherwise exercise the rights appertaining to such Unit hereunder, and (b) notify the Trustees of such designation by a notice in writing signed by all of the record owners of such Unit. Any such designation shall take effect upon receipt by the Trustees and may be changed at any time and from time to time by notice as aforesaid. In the absence of any such notice of designation, the Trustees may designate any one such owner for such purposes. Section 4.3; Retail Units and Apartment Units. The owners of Units denominated "Apartment Units" in Section 4.1 shall be referred to as `Apartment Unit Owners.` The owners of Units denominated "Retail Units" in Section 4.1 shall be referred to as `Retail Unit Owners.` [This Section was added by the Fifth Amendment.]

ARTICLE V

By-Laws

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

Section 5.1. Powers of the Trustees. The Trustees shall, subject to and in accordance with all applicable provisions of said Chapter 183A, have the absolute control, management and disposition of the trust property (which term as herein used shall insofar as applicable be deemed to include the common areas and facilities of the Condominium) as if they were the absolute owners thereof, free from the control of the Unit Owners (except as limited in this trust instrument) and, without by the following enumeration limiting the generality of the foregoing or of any item in the enumeration, with full power and uncontrolled discretion, subject only to the limitations and conditions herein and in the provisions of said Chapter 183A, at any time and from time to time and without the necessity of applying to any court or to the Unit Owners for leave so to do:

- (i) To retain the trust property, or any part or parts thereof, in the same form or forms of investment in which received or acquired by them so far and so long as they shall think fit, without liability for any loss resulting therefrom;*
- (ii) To sell, assign, convey, transfer, exchange, and otherwise deal with or dispose of, the trust property, but not the whole thereof, free and discharged of any and all trusts, at public or private sale, to any person or persons, for cash or on credit, and in such manner, 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 to execute and deliver any deed or other instrument in connection with the foregoing;*
- (iii) To purchase or otherwise acquire title to, and to rent, lease or hire from others for terms which may extend beyond the termination of this trust any property or rights to property, real or personal, and to own, manage, use and hold such property and such rights;*
- (iv) To borrow or in any other manner raise such sum or sums of money or other property as they shall deem advisable in any manner and on any terms, and to evidence the same by notes, bonds, securities or other evidences of indebtedness, which may mature at a time or times, even beyond the possible duration of this trust, and to execute and deliver any mortgage, pledge or other instrument to secure any such borrowing;*
- (v) To enter into any arrangement for the use or occupation of the trust property, or any part or parts thereof, including, without thereby limiting the generality of the foregoing, leases, subleases, easements, licenses or concessions, upon such terms and conditions and with such stipulations and agreements as they shall deem desirable, even if the same extend beyond the possible duration of this trust;*
- (vi) To invest and reinvest the trust property, or any part or parts thereof and from time to time and as often as they shall see fit to change investments, including power to invest in all types of securities and other property, of whatsoever nature and however denominated, all to such extent as to them shall seem proper, and without liability for loss, even though such property or such investments shall be of a character or in an amount not customarily considered proper for the investment of trust funds or which does or may not produce income;*
- (vii) To incur such liabilities, obligations and expenses, and to pay from the principal or the income of the trust property in their hands all such sums as they shall deem necessary or proper for the furtherance of the purposes of the trust;*
- (viii) To determine whether receipt by them constitutes principal or income or surplus and to allocate between principal and income and to designate as capital or surplus any of the funds of the trust;*
- (ix) To vote in such manner as they shall think fit any or all shares in any corporation or trust which shall be held as trust property, and for that purpose to give proxies, to any person or persons or to one or more of their number, to vote, waive any notice or otherwise act in respect of any such shares;*
- (x) To deposit any funds of the trust in any bank or trust company, and to delegate to any one or more of their number, or to any other person or persons, the power to deposit, withdraw and draw checks on any funds of the trust;*
- (xi) To maintain such offices and other places of business as they shall deem necessary or proper and to engage in business in Massachusetts or elsewhere;*

(xii) To employ, appoint and remove such agents, managers, officers, board of managers, brokers, engineers, architects, employees, servants, assistants and counsel (which counsel may be a firm of which one or more of the Trustees are members) as they shall deem proper for the purchase, sale or management of the trust property, or any part or parts thereof, or for conducting the business of the trust, and may define their respective duties and fix and pay their compensation, and the Trustees shall not be answerable for the acts and defaults of any such person. The Trustees may delegate to any such agent, manager, officer, board, broker, engineer, architect, employee, servant, assistant or counsel any or all of their powers (including discretionary powers, except that the power to join in amending, altering, adding to, terminating or changing this Declaration of Trust and the trust hereby created shall not be delegated) all for such times and purposes as they shall deem proper. Without hereby limiting the generality of the foregoing, the Trustees may designate from their number a Chairman, a Treasurer, a Secretary, and such other officers as they deem fit, and may from time to time designate one or more of their own number to be the Managing Trustee or Managing Trustees, for the management and administration of the trust property and the business of the trust, or any part or parts thereof;

(xiii) Generally, in all matters not herein otherwise specified, to control, do each and every thing necessary, suitable, convenient, or proper for the accomplishment of any of the purposes of the trust or incidental to the powers herein or in said Chapter 183A, manage and dispose of the trust property as if the Trustees were the absolute owners thereof and to do any and all acts, including the execution of any instruments, which by their performance thereof shall be shown to be in their judgement for the best interests of the Unit Owners.

Section 5.2. Maintenance and Repair of Units. The Unit Owners shall be responsible for the proper maintenance and repair of their respective Units and the maintenance, repair and replacement of utility fixtures therein serving the same, including, without limitation, interior finish walls, ceilings, and floors; the interior portions of windows and window frames, and interior window trim; doors; the interior portions of door frames and interior door trim; plumbing and sanitary waste fixtures and fixtures for water and other utilities; electrical fixtures and outlets; and all wires, pipes, drains and conduits for water, sewerage, electric power and light, telephone and any other utility services which are contained in and serve such Unit. If the Trustees shall at any time in their reasonable judgment determine that the interior of a Unit is in such need of maintenance or repair that the market value of one or more other Units is being adversely affected or that the condition of a Unit or any fixtures, furnishing, facility or equipment therein is hazardous to any unit or the occupants thereof, the Trustees shall in writing request the Unit Owner to perform the needed maintenance, repair or replacement or to correct the hazardous condition, and in case such work shall not have been commenced within fifteen days (or such reasonable shorter period in case of emergency as the Trustees shall determine) of such request and thereafter diligently brought to completion, the Trustees shall be entitled to have the work performed for the account of such Unit Owner whose Unit is in need of work and to enter upon and have access to such Unit for the purpose, and the cost of such work as is reasonably necessary therefor shall constitute a lien upon such Unit and the Unit Owner thereof shall be personally liable therefor.

Section 5.3. Maintenance, Repair and Replacement of Common Areas and Facilities and Assessment of Common Expenses Thereof. The Trustees shall be responsible for the proper maintenance, repair and replacement of the common areas and facilities of the Condominium (see Section 5.5 for specific provisions dealing with repairs and replacement necessitated because of casualty loss) and such may be done through the managing agent, as hereinafter provided, and any two trustees or the managing agent, or any others who may be so designated by the Trustees, may approve payment of vouchers for such work, and the expenses of such maintenance, repair and replacement shall be assessed to the Unit Owners as common expenses of the Condominium at such times and in such amounts as provided in Section 5.4. [The following was added to Section 5.3

by the Fifth Amendment]The Trash Storage Shed erected by the Retail Unit Owners on the parking deck of the Building in or about 1978, which is used for storage of garbage and trash generated by certain businesses, including restaurants, operated in the Retail Units, and the Trash Storage/Parking Ramp Area (which shall be defined to mean the inclined ramp section of the parking deck, bounded by the Building, the public sidewalk, the vertical wall abutting the driveway to the underground garage, and the line where the incline ends and the deck becomes horizontal), shall continue to be so used without charge to the Retail Units. The Retail Unit Owners may at their sole expense alter and improve the existing Trash Storage Shed and/or erect and maintain a substitute Trash Storage Shed without charge by the Condominium, provided that the area occupied by any altered, improved, or substituted Trash Storage Shed shall not be greater than the Trash Storage/Parking Ramp Area and shall not encroach on any area not included in the Trash Storage/Parking Ramp Area, and provided further that any such alteration, improvement, or substitution shall be subject to prior review and approval of the Board, which approval shall not be unreasonably withheld.

Section 5.3.1. Parking Spaces. The Trustees shall be responsible for the assignment of parking spaces located in the Condominium and may charge a fee therefor. In making assignments of parking spaces, the Trustees shall not assign parking spaces to persons other than Unit Owners, nor more than one space to any one Unit Owner until each Unit Owner who desires one has at least one parking space. This limitation shall not prevent the Trustees from assigning more than one space per Unit Owner or renting spaces to persons other than Unit Owners if there are spaces available after all space requests of Unit Owners have been met or to arrange to rent spaces assigned to Unit Owners but not utilized, provided such assignments and rentals shall be on the condition that they may be rescinded to meet the priority requirements of the preceding sentence.[Section 5.3.1 was added by Second Amendment, July 2, 1974.]

Section 5.3.2: Certain Expenses That Are Not To Be Treated As Common Expenses. The Trustees may, at their option, install individual meters to any or all of the Retail Units for the purpose of metering water to said retail unit or units, and the Retail Unit Owners, and each of them, shall pay the charges for this water based on each Retail Unit's usage thereof as indicated by the meter or meters, provided the Condominium issues separate periodic statements of charges for each metered Retail Unit and the charges are the same as the amounts that the Condominium is charged for such water usage. Other than the charges described in the previous sentence, the condominium fees of the Retail Units shall no longer include any charge for water. Costs relating to storage and removal of all trash and garbage resulting from use of the Retail Units are not common expenses, but will be paid for by each of the Retail Unit Owners. The Condominium shall lend its reasonable cooperation to allow the Retail Units to handle the trash and garbage in compliance with applicable laws and regulations. The three bathrooms located in the vicinity of the Retail Units and that are used primarily by them and their tenants shall be maintained, supplied, and repaired as necessary by the Retail Unit Owners at their sole expense and shall be treated as Limited Common Areas, under the control of the Retail Unit Owners, in accordance with chapter 183A of the Massachusetts General Laws. If any paragraph or portion of this Section shall be finally adjudicated unlawful, invalid, or unenforceable by a court of competent jurisdiction, the remainder of this Section, to the extent practicable, shall continue in full force and effect as though such paragraph or portion had not been included herein. [Section 5.3.2 was added by the fifth Amendment and replaces the Section added by the Fourth Amendment. In the Fifth Amendment it is called section 5.3.1, but the Second Amendment had already added a section of that name, so it has been changed by an Affidavit Relative to Scriverer's Error in July, 2002, to 5.3.2 for clarity.]

Section 5.4. Common Expenses, Profits and Funds. A. The Unit Owners shall be liable for common expenses and entitled to common profits of the Condominium in proportion to their respective percentages of beneficial interest as determined in Article IV hereof. The Trustees may at any time or times distribute common profits among the Unit Owners in such proportions. The Trustees may, to

such extent as they deem advisable, set aside common funds of the Condominium as reserve or contingent funds, and may use the funds so set aside for reduction of indebtedness or other lawful capital purpose, or, subject to the provisions of the following paragraphs B and C of this Section 5.4, for repair, rebuilding or restoration of the trust property or for improvements thereto, and the funds so set aside shall not be deemed to be common profits available for distribution.

B. At least thirty days prior to the commencement of each fiscal year of this trust the Trustees shall estimate the common expenses expected to be incurred during such fiscal year together with a reasonable provision for contingencies and reserves, and after taking into account any undistributed common profits from prior years, shall determine the assessment to be made for such fiscal year. The Trustees shall promptly render statements to the Unit Owners for their respective shares of such assessment, according to their percentages of interest in the common areas and facilities, and such statements shall, unless otherwise provided therein, be due and payable within thirty days after the same are rendered. In the event that the Trustees shall determine during any fiscal year that the assessment so made is less than the common expenses actually incurred, or in the reasonable opinion of the Trustees likely to be incurred, the Trustees shall make a supplemental assessment or assessments and render statements therefor in the manner aforesaid, and such statements shall be payable and take effect as aforesaid. The Trustees may in their discretion provide for payments of statements in monthly or other installments. The amount of each such statement shall be a personal liability of the Unit Owner and if not paid when due shall carry a late charge at a rate equal to the First National Bank of Boston prime interest rate at the time such payment was due and shall constitute a lien on the Unit of the Unit Owner assessed, pursuant to provisions of Section 6 of said Chapter 183A.

C. No Unit Owner shall file an application for abatement of real estate taxes without the approval of the Trustees.

D. The Trustees shall expend common funds only for common expenses and lawful purposes permitted hereby and by provisions of said Chapter 183A.

Section 5.5. Rebuilding and Restoration, Improvements. A. In the event of any casualty loss to the trust property the Trustees shall determine in their reasonable discretion whether or not such loss exceeds ten percent 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 said Chapter 183A. If such loss as so determined does exceed 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) by the Unit Owners authorizing the Trustees to proceed with the necessary repair, rebuilding or restoration, and (b) a copy of the provisions of said Section 17; and the Trustees shall thereafter proceed in accordance with, and take such further action as they may in their discretion deem advisable in order to implement, the provisions of paragraph (b) of said Section 17.

B. If and whenever the Trustees shall propose to make any improvement to the common areas and facilities of the Condominium, or shall be requested in writing by the Unit Owners holding twenty-five per cent or more of the beneficial interest in this trust to make any such improvement, the Trustees shall submit to all Unit Owners (a) a form of agreement (which may be in several counterparts) specifying the improvement or improvements proposed to be made and the estimated cost thereof, and authorizing the Trustees to proceed to make the same, and (b) a copy of the provisions of Section 18 of said Chapter 183A. Upon (a) the receipt by the Trustees of such agreement signed by the Unit Owners holding seventy-five per cent or more of the beneficial interest or (b) the expiration of ninety days after such agreement was first submitted to the Unit Owners, whichever of said (a) and

(b) shall first occur, the trustees shall notify all Unit Owners of the aggregate percentage of beneficial interest held by Unit Owners who have then signed such agreement. If such percentage exceeds seventy-five per cent, the Trustees shall proceed to make the improvement or improvements specified in such agreement and, in accordance with said Section 18 of Chapter 183A, shall charge the cost of improvement to all the Unit Owners. The agreement so circulated may also provide for separate agreement by the Unit Owners that if Unit Owners holding more than fifty percent but less than seventy-five percent of the beneficial interest so consent, the Trustees shall proceed to make such improvement or improvements and shall charge the same to the Unit Owners so consenting.

C. Notwithstanding anything in the preceding paragraphs A and B contained, (a) in the event that any Unit Owner or Owners shall by notice in writing to the Trustees dissent from any determination of the Trustees with respect to the value of the Condominium or any other determination or action of the Trustees under this Section 5.5, and such dispute shall not be resolved within thirty days after such notice, then either the Trustees or the dissenting Unit Owner or Owners may submit the matter to arbitration, and for that purpose one arbitrator shall be designated by the Trustees, one of the dissenting Unit Owner or Owners and a third by the two arbitrators so designated, and such arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association, and (b) the Trustees shall not in any 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 estimate of the Trustees of all costs thereof.

Section 5.6. Rules, Regulations, Restrictions and Requirements. The Trustees may at any time and from time to time adopt, amend and rescind administrative rules and regulations governing the details of the operation and use of the common areas and facilities, and such restrictions on and requirements respecting the use and maintenance of the Units and the use of the common areas and facilities as are consistent with provisions of the Master Deed and are designed to prevent unreasonable interference with the use by the Unit Owners of their Units and of the common areas and facilities and the Trustees do hereby adopt the Rules and Regulations annexed to this Declaration of Trust, which Rules and Regulations are incorporated herein by reference.

Section 5.7. Managing Agent. The Trustees may, at their discretion, appoint a manager or managing agent 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 managing agent may appoint, employ and remove such additional agents, attorneys, accountants or employees as the Trustees may from time to time determine.

Section 5.8. Insurance. The Trustees shall obtain and maintain, to the extent available, master policies of insurance of the following kinds, naming the Trust, the Trustees, all of the Unit Owners and their mortgagees as insureds as their interests appear:

A. Casualty or physical damage insurance on the Buildings and all other insurable improvements forming part of the Condominium (including all of the Units but not including the furniture, furnishings and other personal property of the Unit Owners therein), together with the service machinery, apparatus, equipment and installations located in the Condominium, and existing for the provision of central services or for common use, in an amount not less than eighty percent of their full replacement value (exclusive of foundations) as determined by the Trustees in their judgment, 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. All policies of casualty or physical damage insurance shall provide (to the extent such clauses are 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 all Unit Owners and their mortgagees upon request, at least ten days prior to the expiration of the then current policies.

B. Comprehensive public liability insurance in such amounts and forms as shall be determined by the Trustees, covering the Trust, the Trustees, all of the Unit Owners and any manager or managing agent of the Condominium, with limits of not less than a single limit of \$1,000,000 for claims for bodily injury or property damage arising out of one occurrence, a limit of \$100,000 for each occurrence for water damage legal liability, and with cross liability endorsement to cover liability of any insured to other insureds.

C. Workmen's compensation and employer's liability insurance covering any employees of the Trust.

D. Elevator liability and collision insurance.

E. Such other insurance as the Trustees shall determine to be appropriate.

Such master policies shall provide that all casualty loss proceeds thereunder shall be paid to the Trustees as insurance trustees under these by-laws. The sole duty of the Trustees as such insurance trustees shall be to receive such proceeds as are paid and to hold, use and disburse the same for the purposes stated in this Section and Section 5.5. If repair or restoration of the damaged portions of the Condominium is to be made, all insurance loss proceeds shall be held in shares for the Trust and the owners of damaged Units in proportion to the respective costs of repair or restoration of the damaged portions of the common areas and facilities and of each damaged Unit, with each share to be disbursed to defray the respective costs of repair or restoration of the damaged common areas and facilities and damaged Units, and with any excess of any such share of proceeds above such costs of repair or restoration to be paid to the Trust or Unit Owner for whom held upon completion of repair or restoration; but if pursuant to Section 5.5 restoration or repair is not to be made, all insurance loss proceeds shall be held as common funds of the Trust and applied for the benefit of Unit Owners in proportion to their percentage interests as listed in Section 4.1 if the Condominium is totally destroyed, and, in the event of a partial destruction, to those Unit Owners who have suffered damage in proportion to the damage suffered by them. Such application for the benefit of Unit Owners shall include payment directly to a Unit Owner's mortgagee if the mortgage with respect to such unit so requires. Such master policies shall contain (1) waivers of subrogation as to any claims against the Trust, the Trustees and their agents and employees, and against the Unit Owners and their respective employees, agents and guests, (2) waivers of any defense based on the conduct of any insured, and (3) provisions to the effect that the insurer shall not be entitled to contribution as against casualty insurance which may be purchased by individual Unit Owners as hereinafter permitted.

Each Unit Owner or his mortgagee may obtain additional insurance at his own expense, provided that all such insurance shall contain provisions similar to those required to be contained in the Trust's master policies waiving the insurer's rights to subrogation and contribution. If the proceeds from the master policies on account of any casualty loss are reduced due to proration with insurance individually purchased by a Unit Owner, such Unit Owner agrees to assign the proceeds of such individual insurance, to the extent of the amount of such reduction, to the Trustees to be distributed as herein provided. Each Unit Owner shall promptly notify the Trustees of all improvements made by him to his Unit, the value of which exceeds one thousand dollars and such Unit Owner shall pay to

the Trustees as an addition to his share of the common expenses of the Condominium otherwise payable by him any increase in insurance premium incurred by the Trust which results from such improvement.

F. The cost of such insurance shall be deemed a common expense assessable and payable as provided in Section 5.4.

Section 5.9. Meetings. A. The Trustees shall meet annually on the date of the annual meeting of the Unit Owners and at such meeting may elect the Chairman, Treasurer, Secretary and any other officers they deem expedient. Other meetings may be called by any Trustee (if there be no more than three then in office) or by any two Trustees (if there be more than three then in office) and in such other manner as the Trustees may establish, provided, however, that written notice of each meeting stating the place, day and hour thereof shall be given at least two days before such meeting to each Trustee. A majority of the number of Trustees then in office shall constitute a quorum at all meetings, and such meetings shall be conducted in accordance with such rules as the Trustees may adopt.

B. There shall be an annual meeting of the Unit Owners on the second Thursday of November in each year at 8:00 P.M. at such reasonable place as may be designated by the Trustees by written notice given to the Unit Owners at least seven days prior to the date so designated. Special meetings (including a meeting in lieu of a passed annual meeting) of the Unit Owners may be called at any time by the Trustees and shall be called by them upon the written request of Unit Owners entitled to more than thirty-three percent of the beneficial interest hereunder. Written notice of any such meeting designating the place, day and hour thereof shall be given by the Trustee to the Unit Owners at least seven days prior to the date so designated.

Section 5.10. Notices to Unit Owners. Every notice to any Unit Owner required under the provision hereof, or which may be deemed by the Trustees necessary or desirable in connection with the execution of the trust created hereby or which may be ordered in any judicial proceeding shall be deemed sufficient and binding if a written or printed copy of such notice shall be given by one or more of the Trustees to such Unit Owner by mailing it, postage prepaid, and addressed to such Unit Owner at his address as it appears upon the records of the Trustees if other than at his Unit in 1105 Massachusetts Avenue or by delivery or mailing the same to such Unit if such Unit appears as the Unit Owner's address or, if no address appears, in any case, at least seven days prior to the date fixed for the happening of the matter, thing or event of which such notice is given.

Section 5.11. Inspection of Books; Reports to Unit Owners. Books, accounts and records of the Trustees shall be open to inspection to any one or more of the Trustees and the Unit Owners at all reasonable times. The Trustees shall, as soon as reasonably possible after the close of each fiscal year, or oftener if convenient to them, submit to the Unit Owners a report of the operations of the Trustees for such year which shall include financial statements certified by a certified public accountant in such summary form and in only such detail as the Trustees shall deem proper. Any person who has been furnished with such report and shall have failed to object thereto by notice in writing to the Trustees given by registered mail within a period of one month of the date of the receipt by him shall be deemed to have assented thereto.

Section 5.12. Checks, Notes, Drafts, and Other Instruments. Checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the names of the Trustees or of the trust may be signed by any two Trustees (or by one Trustee if there is only one), or by any person or persons to whom such power may at any time or from time to time be delegated by not less than a majority of the Trustees.

Section 5.13. Seal. The seal of the Trustees shall be circular in form bearing the inscription -- 1105 Massachusetts Avenue Condominium Trust - 1974 -- but such seal may be altered by the Trustees at pleasure, and the Trustees may, at any time or from time to time, at their option, adopt a common or wafter seal which shall be valid for all purposes; or they may sign any instrument under seal without being required to affix a formal common or wafer seal.

Section 5.14. Fiscal Year. The fiscal year of the trust shall be the year ending with the last day of December or such other date as may from time to time be determined by the Trustees.

ARTICLE VI

Rights and Obligations of Third Parties Dealing with the Trustees

Section 6.1. No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear on record in said 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 be conclusive evidence of the personnel of said Trustees and of any changes therein. The receipts of the Trustees, or any one or more of them, for moneys or things paid or delivered to them or him shall be effectual discharges therefrom to the persons paying or delivering the same and no person from whom the Trustees, or any one or more of them, shall receive any money, property or other credit shall be required to see to the application thereof. No purchaser, mortgagee, lender or other person dealing with the Trustees or with any real or personal property which then is or formerly was trust property shall be bound to ascertain or inquire as to the existence or occurrence of any event or purpose in or for which a sale, mortgage, pledge or charge is herein authorized or directed, or otherwise as to the purpose or regularity of any of the acts of the Trustees, or any one or more of them, purporting to be done in pursuance of any of the provisions or powers herein contained, or as to the regularity of the resignation or appointment of any Trustee, and any instrument of appointment of a new Trustee or resignation of an old Trustee purporting to be executed by the Trustees, Unit Owners or other 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 relating to such discharge, resignation or appointment or the occasion thereof.

Section 6.2. No recourse shall at any time be had under or upon any note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant, or agreement, whether oral or written, made, issued, or executed by the Trustees or by any agent or employee of the Trustees, or by reason of anything done or omitted to be done by or on behalf of them or any of them, against the Trustees individually, or against any such agent or employee, or against any beneficiary, either directly or indirectly, by legal or equitable proceedings, or by virtue of any suit or otherwise, and all persons extending credit to, contracting with or having any claim against the Trustees, shall look only to the trust property for payment under such 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 beneficiaries, present or future, shall be personally liable therefor; provided, however, that nothing herein contained shall be deemed to limit or impair the liability of Unit Owners under provisions of Section 3.8 of Article III hereof or under provisions of said Chapter 183A.

Section 6.3. Every note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustees, or by any agent or employee of the Trustees, shall be deemed to have been entered into subject to the terms,

conditions, provisions and restrictions hereof, whether or not express reference shall have been made to this instrument.

Section 6.4. 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 it may be deemed desirable to record shall be recorded with said Registry of Deeds and such record shall be deemed conclusive evidence of the contents and effectiveness thereof according to the tenor thereof; and all persons dealing in any manner whatsoever with the Trustees, the trust property or any beneficiary thereunder shall be held to have notice of any alteration or amendment of this Declaration of Trust, or change of Trustee or Trustees, when the same shall be recorded with said Registry of Deeds. Any certificate signed by two Trustees in office at the time (only one Trustee if there is only one at the time), setting forth as facts any matters affecting the trust, including statements as to who are the beneficiaries, as to what action has been taken by the beneficiaries, and as to matters determining the authority of the Trustees 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.

ARTICLE VII

Amendments and Termination

Section 7.1. The Trustees, with the consent in writing of Unit Owners entitled to not less than seventy-five percent (75%) of the beneficial interest hereunder, may at any time and from time to time amend, alter, add to, or change this Declaration of Trust in any manner or to any extent, the Trustees first, however, being duly indemnified to their reasonable satisfaction against outstanding obligations and liabilities;[the following added by the Fifth Amendment] provided, however, that no amendment to the By-Laws affecting the use or operation of the Retail Units may occur without the approval of 75% of the beneficial interest allocated to the Apartment Unit Owners and 75% of the beneficial interest allocated to the Retail Unit Owners, which approval may be withheld for any reason if the amendment has more than an incidental effect upon the Retail Units or if the amendment alters the method of amending the By-Laws, but which approval shall otherwise not be unreasonably withheld; and [end of Fifth Amendment addition] provided always, however, that no such amendment, alteration, addition or change (a) according to the purport of which the percentage of the beneficial interest hereunder of any Unit Owner would be altered or in any manner or to any extent whatsoever modified or affected, so as to be different from the percentage of the individual interest of such Unit Owner in the common areas and facilities as set forth in the Master Deed, or (b) which would render this trust contrary to or inconsistent with any requirements or provisions of said Chapter 183A, shall be valid or effective. Any amendment, alteration, addition or change pursuant to the foregoing provisions of this paragraph shall become effective upon the recording with said Registry of Deeds of an instrument of amendment, alteration, addition or change, as the case may be, signed, sealed and acknowledged in the manner required in Massachusetts for the acknowledgment of deeds, by any two Trustees, if there be at least two then in office (or one Trustee if there be only one), setting forth in full the amendment, alteration, addition or change and reciting the consent of the Unit Owners herein required to consent thereto. Such instrument, so executed and recorded, shall be conclusive evidence of the existence of all facts and or compliance with all prerequisites to the validity of such

amendment, alteration, addition or change, whether stated in such instrument or not, upon all questions as to title or affecting the rights of third persons and for all other purposes. Nothing in this paragraph contained shall be construed as making it obligatory upon the Trustees to amend, alter, add to or change the Declaration of Trust upon obtaining the necessary consent as hereinbefore provided.

Section 7.2. The trust hereby created shall terminate only upon the removal of the 1105 Massachusetts Avenue Condominium from the provisions of said Chapter 183A in accordance with the procedure therefor set forth in Section 19 of said Chapter.

Section 7.3. Upon the termination of this trust, the Trustees may, subject to and in accordance with the provisions of said Chapter 183A, sell and convert into money the whole of the trust property, or any part or parts thereof, and, after paying or retiring all known liabilities and obligations of the Trustees and providing for indemnity against any other outstanding liabilities and obligations, shall divide the proceeds thereof among, and distribute in kind, at valuations made by them which shall be conclusive, all other property then held by them in trust hereunder, to the Unit Owners according to their respective percentages of beneficial interest hereunder. And in making any sale under this provision the Trustees shall have power to sell by public auction or private contract and to buy in or rescind or vary any contract of sale and to resell without being answerable for loss and, for said purposes, to do all things, including the execution and delivery of instruments, as may by their performance thereof be shown to be in their judgment necessary or desirable in connection therewith. The powers of sale and all other powers herein given to the Trustees shall continue as to all property at any time remaining in their hands or ownership, even though all times herein fixed for distribution of trust property may have passed.

ARTICLE VIII

Construction and Interpretation

In the construction hereof, whether or not so expressed, words used in the singular or in the plural respectively include both the plural and singular, words denoting males include females and words denoting persons include individuals, firms, associations, companies (joint stock or otherwise), trusts and corporations unless a contrary intention is to be inferred from or required by the subject matter or context. The cover, title, headings of different parts hereof, the table of contents and the marginal notes, if any, are inserted only for convenience of reference and are not to be taken to be any part hereof or to control or affect the meaning, construction, interpretation or effect hereof. All the trusts, powers and provisions herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts. Unless the context otherwise indicates, words defined in said Chapter 183A shall have the same meaning herein.

IN WITNESS WHEREOF said Max Wasserman, Michael J. Coyne and Rudolph Kass have hereunto set their hands and seals on the day and year first hereinabove set forth.

*Max Wasserman
Michael J. Coyne
Rudolph Kass*

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. April 12, 1974 Then personally appeared the above-named Max Wasserman, Michael J. Coyne and Rudolph Kass and acknowledged the foregoing instrument to be their free act and deed, before me,

*David Adler
Notary Public
My commission expires: 6/27/80*