

ALLOWED

Marilyn McSherry
Chief Justice

HARBORSIDE CONDOMINIUM

FIRST AMENDMENT TO MASTER DEED

Reference is made to a certain Master Deed by Edward T. Moore, Trustee and J. Alan Chew, Trustee of Harborside Realty Trust under a Declaration of Trust dated September 20, 1977 and filed with the Land Registration Office for the Southern Registry District of Essex County on Certificate No 47287, as amended, filed with said Land Registration Office on October 26, 1983 as Document No. 191062 (the "Master Deed").

Acting pursuant to the provisions of paragraph 10. of the Master Deed, the undersigned, being the owners of all the Units in the Condominium established by the Master Deed, and being all the Condominium Trustees now in office of the Harborside Condominium Trust under a Declaration of Trust dated October 19, 1983 and filed with said Land Registration Office as Document No. 191063, hereby amend the Master Deed by substituting therefor the "Amended Master Deed" attached hereto, marked Exhibit A, and herein incorporated by reference.

EXECUTED as a sealed instrument this 22nd day of December, 1988 .

UNIT OWNERS

CONDOMINIUM TRUST:

Harborside Realty Trust

Harborside Condominium Trust

By: *Edward T. Moore*
Edward T. Moore, Trustee

By: *Edward T. Moore*
Edward T. Moore, Trustee

By: *J. Alan Chew*
J. Alan Chew, Trustee

By: *J. Alan Chew*
J. Alan Chew, Trustee

Douglass Four Realty Trust
(Unit D-4)

By: *Edward T. Moore*
Edward T. Moore, Trustee

Douglass Five Realty Trust
(Unit D-5)

By: *Edward T. Moore*
Edward T. Moore, Trustee

EXHIBIT A

AMENDED MASTER DEED

This Master Deed of Harborside Condominium made this day of December, 1988.

WITNESSETH THAT:

Edward T. Moore, Trustee and J. Alan Chew, Trustee of Harborside Realty Trust under a Declaration of Trust dated September 20, 1977 and filed with the Land Registration Office for the Southern Registry District of Essex County on Certificate of Title No. 47287 as amended, Edward T. Moore, Trustee of Douglass Four Realty Trust under Declaration of Trust dated April 26, 1988 and filed with said Land Registration Office as Document No. 235336, and Edward T. Moore, Trustee of Douglass Five Realty Trust under Declaration of Trust dated April 26, 1988 and filed with said Land Registration Office as Document No. 235537, (hereinafter, including their successors and assigns, referred to as the "Declarants" or the "Declarant"), being the sole owner of certain premises (hereinafter referred to as the "Premises") in the Town of Marblehead, County of Essex, and the Commonwealth of Massachusetts, as more fully described in Exhibit A attached hereto and made a part hereof, by duly executing and recording this Master Deed, (which, together with all amendments of record to be made thereto, is hereinafter called the "Master Deed") do hereby submit said Premises to the provisions of Chapter 183A of the General Laws of Massachusetts as amended and hereby establish a Condominium to be governed by and subject to the provisions of said Chapter 183A as amended, and to that end said Declarants hereby declare and provide as follows:

1. NAME OF CONDOMINIUM

The Condominium shall be known as Harborside

Condominium. (hereinafter called the "Condominium"). The organization through which the Owners of Condominium Units (hereinafter called the "Unit" or "Units") shall manage and regulate the Condominium established hereby is Harborside Condominium Trust (the "Trust" or the "Condominium Trust"), established by written Declaration of Trust (the "Declaration") of even date, to be recorded herewith. The Trustees thereunder are hereinafter referred to as the "Condominium Trustees." The Trust has enacted By-Laws and Rules and Regulations pertaining thereto, as provided in said Chapter 183A, Section 8. Said By-Laws and said Rules and Regulations are recorded as part of the Trust.

2. DESCRIPTION OF BUILDINGS

The Condominium consists of four (4) buildings; Building A being two (2) stories in height and containing three (3) Units, Building B being three (3) stories in height and containing ten (10) Units, Building C being three (3) stories in height and containing eight (8) Units, Building D being three (3) stories in height and containing eight (6) Units, a total of twenty-seven (27) Units, located on the premises described in Exhibit A. The plan of land entitled "Plan of Harborside Condominiums Marblehead, Mass. Scale: As Shown Nov. 1979 Rev. 10/17/83 Carter & Towers Engineering Corp. Swampscott, Mass." filed with with said Land Registration Office with Condominium Certificate C23 (hereinafter referred to as the "Site Plan") shows the location of the buildings and improvements thereon, and the land and the areas included in the Condominium.

The buildings in the Condominium are constructed principally of stone and concrete foundations, wood frame structures, wood clapboard, wood shingle and glass exteriors and tar and gravel or rolled asphalt roofs.

3. DESCRIPTION OF THE UNITS

The designation of each Unit in the Condominium, a statement of its location, approximate area, number of rooms and immediate common area to which it has access, as built, the number of designated parking spaces and Percentage Undivided Interest in the Common Areas and Facilities are set forth on Exhibit "B" attached hereto and made a part hereof. The location and layout of each Unit in the Condominium, the location of the rooms therein and other descriptive specifications thereof are as shown on two (2) plans entitled "Amended Plan of Harborside Condominium Marblehead, Mass. Scale: As Shown Nov 1979 Carter & Towers Engineering Corp. Swampscott, Mass. Unit B-7 & B-8 Revised 4/14/81 Rev. 10/17/83 Rev. Units B-1, B-2, B-3, B-5, B-6, B-10, & D-6 12/6/88" and Amended Plan of Harborside Condominiums Marblehead, Mass. Scale: As Shown Nov 1979 Carter & Towers Engineering Corp. Swampscott, Mass. Revised Area of Unit 3, 12/6/88" (hereinafter called the "Floor Plans").

The boundaries of the Units with respect to the floors, ceilings, and walls, doors and windows thereof are as follows:

- A. Floors: The upper surface of the floor joists of all the Units except Unit B-9 in which the boundary is the upper surface of the cement floor.
- B. Ceilings: The plane of the lower surface of the ceiling joists and the plane of the lower surface of the roof rafters, where applicable.

- C. Interior Building Walls between Units: The plane of the surface facing such Unit of the wall studs.
- D. Exterior Building Walls, Doors and Windows: As to walls, the plane of the interior surface of the wall studs; as to doors, the exterior surface thereof and of the doorframes, including storm doors; and as to windows, including any storm windows, the exterior surface of the glass and of the window frames.

4. DESCRIPTION OF THE COMMON AREAS AND FACILITIES

The Common Areas and Facilities of the Condominium comprise and consist of those items herein set forth and set forth under the definition of Common Areas and Facilities of said Chapter 183A, Section 1 as from time to time amended, except as hereinafter set forth, and shall include:

- A. said land described in Exhibit A annexed hereto, subject to the reservations and encumbrances therein and hereinafter set forth in sub-paragraph G. and H. hereof.
- B. the foundations, structural columns, chases, girders, beams, vents, chimneys, supports, party walls, common walls, main walls, corridors, lobbies, halls, roofs, stairs and stairways not located entirely within one Unit, entrances and exits of the buildings, and boiler and laundry areas, if any, located in the Buildings.
- C. all conduits, ducts, pipes, plumbing, wiring, flues, and other facilities for the furnishing of the utility services which are contained in portions of the Building, contributing to the structure or support thereof, and all such facilities contained within any Unit which serve parts of the Condominium other than the Unit within which such facilities are contained.
- D. the meters and the sillcocks serving Common Areas and

Facilities;

- E. subject to the reservations and encumbrances provided for in A. above, the yards, lawns, gardens, roadways, floats and gangways, driveways, walkways, and the improvements thereon and thereof, including walls, railings, steps, lighting fixtures, trees and plants;
- F. The storage areas located in the basement of Building A and the first floor level of Building B and Building C, as shown on said Building Plan;
- G. The outdoor parking spaces, subject to the right of the Trustees to assign said parking spaces to the Unit Owners from time to time, exact location of which may also be designated by the Condominium Trustees from time to time.
- H. The decks, porches, patio, steps and platforms attached or hereafter legally attached to the Units, except that each Unit Owner whose Unit has or shall have direct access through an existing doorway to any deck, porch, patio, steps or platform shall have an easement for the exclusive use of such deck, porch, steps or platform, subject to the right of other Unit Owners to make emergency use thereof.

Declarant reserves the right as to the two (2) garage stalls and the two (2) car ports in and adjacent to Building A and as to all surface parking spaces, to make irrevocable designations of any garage stall, car-port or surface parking space to any particular Unit grantee and to provide in any such Unit Deed that the grantee and grantees' successors and assigns may assign and re-assign the same from time to time to any Unit Owner in the Condominium.

Declarant further reserves for a period of five (5) years from this date the right to enlarge Units C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 by extending the same onto the "Deck", "Wood Deck" and "Deck" shown as adjacent thereto, by executing and filing with said Land Registration Office an appropriate amendment to the Master Deed and such plans showing exclusive easements for the use of the decks, if appropriate, as shall be appropriate therefor. Such amendment shall not require the consent, approval, or signature of any party other than the Declarant. Such amendment shall not affect the percentage interest in the Common Areas and Facilities of the Condominium as the right to enlarge has been reflected in the percentages set forth on Exhibit B. Upon the filing of such amendment the portions of the Deck, Wood Deck and Deck so enlarged upon shall become parts of the Units and shall cease to be parts of the Common Areas and Facilities.

The percentage interest of each Unit is shown on Exhibit B attached hereto and made a part hereof.

Said Common Areas and Facilities shall be subject to the provisions of the Trust and its By-Laws as from time to time amended and to Rules and Regulations from time to time promulgated pursuant thereto with respect to the use and maintenance thereof.

The Declarants reserve the right to grant and impose permits, licenses, covenants, restrictions and easements over the Common Areas and Facilities for utilities, roads and other purposes necessary for the proper operation of the project or otherwise including, but not limited to, the exercise of rights reserved in the Master Deed. At such time as the Declarant, his successors and assigns shall cease to own any Unit in the Condominium, the within reserved right shall vest in the Condominium Trustees.

5. FLOOR PLANS

The Floor Plans of the Buildings and Units showing the layout, location, Unit numbers, and dimensions of the Units and bearing the verified statement of a Registered Land Surveyor that said plans fully and accurately depict the same as built, are the Floor Plans to be recorded herewith.

6. ENCROACHMENTS

If any portion of the Common Areas and Facilities now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Areas and Facilities, or if any such encroachment shall occur hereafter as a result of (a) settling of a Building, or (b) alteration or repair to the Common Areas and Facilities; made by or with the consent of the Condominium Trustees, or (c) as a result of repairs or restoration of a Building or a Unit after damage by fire or other casualty, or (d) as a result of condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Building(s) stand(s).

7. PIPES, WIRES, FLUES, DUCTS, CABLES, CONDUITS, PUBLIC UTILITY LINES AND OTHER COMMON AREAS AND FACILITIES LOCATED INSIDE OF UNITS

Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, flues, cables, conduits, public utility lines, and elements of the Common Areas and Facilities located in any of the other Units (or in areas subject to exclusive easements) but serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use all pipes, wires, ducts, flues, cables, conduits and

elements of the Common Areas and Facilities located in such Unit (or in areas subject to exclusive easements) but serving such other Units. The Condominium Trustees or anyone authorized by said Trustees, shall have the right of access to each Unit (and to areas subject to exclusive easements) in order to inspect the same, or to maintain, repair or replace any of the Common Areas and Facilities contained therein or elsewhere in the Building or to remove any violation of any agreement or instrument affecting the premises.

8. USE

The purpose for which the Building and the Condominium Units and other facilities are intended to be used are as follows:

- A. Each of the Units is intended to be occupied for residence purposes only. Not more than three unrelated persons may occupy same without the written consent of the Condominium Trustees, subject to the restrictions set forth in the following Paragraph 9, provided, however, that such Units may be used by the Declarants hereof for other purposes temporarily pursuant to provisions of, and subject to the limitations set forth in the following Section 8 (C); and provided, however, that one such Unit if owned by the Condominium Trust may be designated from time to time by the Condominium Trustees as an office at which to carry on the affairs and business of the Condominium.
- B. The outdoor and indoor parking spaces are intended to be used for the parking of duly registered private passenger automobiles of occupants of Units in the Condominium and

others, and not for boats, trucks or other vehicles or items except with the prior written permission of the Condominium Trustees. Such permission, if given, may be revoked at any time by the Condominium Trustees.

- C. As provided in the foregoing Section 8 (A), and notwithstanding the provisions of the following Paragraph 9, the Declarants hereof may, until all of said Units have been sold by the Declarants, (a) let or lease Units which have not been sold by the Declarants; and (b) use any Unit owned by the Declarants as models for display for purposes of sale or leasing of Units, or as a sales office for the marketing of Units in this Condominium.

9. RESTRICTIONS ON USE

Said Units shall be subject to the restrictions that, unless otherwise permitted by instrument in writing duly executed by the Condominium Trustees pursuant to provisions of the By-Laws thereof, or unless expressly permitted by the preceeding Section 8 (A), (a) no such Unit shall be occupied for other than residence purposes nor by more than three unrelated persons, (b) no business activities of any nature shall be conducted in any such Unit, except that (subject to applicable zoning and use law, ordinance or By-Law) a lawyer, physician, architect, engineer, accountant, real estate broker, business person, clergyman, or insurance agent, residing in any such Unit, may maintain therein an office for his or her personal professional use, but not more than one employee or person other than a resident of such Unit shall engage therein in any such activities and no such office shall be advertised, held out or used as a place for service to clients, customers, or patients;

(c) the architectural integrity of the Buildings and Units shall be preserved without modification, and to that end, unless the prior written consent of the Condominium Trustees shall have been obtained, no porch, terrace, platform, deck, yard enclosure, awning, screen, antenna, sign, banner, or other device, and no exterior change, additional 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; (d) all maintenance and use by Unit Owners of yards, entries, terraces, decks, platforms, steps, porches, parking spaces, lights and other facilities shall be done so as to preserve the appearance and character of the same and of the grounds and Buildings without modification; (e) all use and maintenance of such Units shall be conducted in a manner consistent with the comfort and convenience of the occupants of other Units and in accordance with provisions with respect thereto from time to time promulgated by said Condominium Trustees; and (f) the following conditions and restrictions shall apply to the tenanting, renting, or leasing of Units:

- (i) Each and every lease, license, and/or tenancy agreement must be for the entire Unit and must be in writing;
- (ii) No Unit may be tenanted, rented, let, leased, or licensed for less than 30 days;

(iii) Every lease, license, or tenancy arrangement permitting outside occupants use or possession or occupancy of a Unit shall include a provision making same specifically subject to the requirements of this Master Deed, the Condominium Trust, and its By-Laws, Rules and Regulations, and providing that the failure of said outside occupant to comply with any of the terms of said Master Deed, Condominium Trust, and/or said By-Laws, Rules and Regulations shall be a default under said lease, license, or tenancy arrangement;

(iv) The provisions of the within sub-paragraph (f) shall not apply to any bona fide first mortgage lender who obtains title to or takes possession of a Unit by foreclosure or pursuant to any other remedies provided in the mortgage or by applicable law;

(g) No dogs, cats, or other animals, birds or pets shall be kept in or about the Units or the Common Areas and Facilities without the written consent of the Condominium Trustees, and consent so given may be revoked at any time. Said restrictions shall be for the benefit of the Owners of all the Condominium Units and, as the persons in charge of the Common Areas and Facilities, shall be enforceable solely by the Condominium 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. 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.

10. AMENDMENT TO MASTER DEED

A. This Master Deed may be amended by an instrument in writing (a) signed by the Owners of Units entitled to at least sixty-seven (67%) per cent of the undivided interests in the Common Areas and Facilities; and (b) signed and acknowledged by the Condominium Trustees; and (c) duly filed with the Land Registration Office for the Southern Registry District of Essex County, PROVIDED HOWEVER, that:

- (1) The date on which any such instrument is first signed by a Unit Owner shall be indicated thereon as the date thereof and no such instrument shall be of any force or effect unless the same shall have been so recorded within six (6) months after such date.
- (2) No instrument of amendment which alters the dimensions of any Unit shall be of any force or effect unless the same shall have been signed by the Owners of the Unit so altered.
- (3) No instrument of amendment which alters the percentage of the undivided interest to which any Unit is entitled in the Common Areas and Facilities shall be of any force or effect unless the same shall have been signed by all Unit Owners whose percentage of the undivided interest is affected, expressed in an amended Master Deed duly filed.
- (4) No instrument of amendment affecting any Unit in a manner which impairs the security of a first mortgage of record thereon held by a bank or other

recognized lending institution shall be of any force or effect unless the same shall have been assented to by such holder; and,

- (5) No instrument of amendment which alters this Master Deed in any manner which would render it contrary to or inconsistent with any requirements or provisions of said Chapter 183A as from time to time amended, shall be of any force or effect.

B. Notwithstanding anything herein contained to the contrary, Declarants reserve the right and power to make, execute and record special amendment(s) ("Special Amendments") to this Master Deed (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration or any other government agency or any other public, quasi-public, or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Unit ownerships; (iii) to bring this Master Deed into compliance with Chapter 183A of the General Laws of the Commonwealth of Massachusetts; or (iv) to correct clerical or typographical errors in this Master Deed or any exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to

Declarants to vote in favor of, make, or consent to any such Special Amendment(s) on behalf of each Unit Owner. Each deed, mortgage, other evidence or obligation, or other instrument affecting a Unit and the acceptance thereof, shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power to the Declarants to vote in favor of, make, execute and record Special Amendments. The right of the Declarants to act pursuant to rights reserved or granted under this Section shall terminate at such time as the Declarant no longer hold or control title to a Unit. At such time the power to make, execute and record Special Amendments shall vest in the Condominium Trustees.

11. UNIT OWNER ORGANIZATION

The Trust through which the Unit Owners will manage and regulate the Condominium established hereby is Harborside Condominium Trust under a Declaration of Trust, of even date, to be recorded herewith. Said Declaration of Trust establishes a Trust of which all Unit Owners shall be Beneficiaries and in which such Owners shall have a beneficial interest in proportion to the percentage of undivided interest in the Common Areas and Facilities to which they are or may become entitled hereunder.

The name(s) and address(es) of the original and present Trustee(s) thereof are as follows:

Edward T. Moore, 16 Redstone Lane, Marblehead, MA 01945
J. Alan Chew, 24 Adams Road, Marblehead, MA 01945

Said Trust has enacted By-Laws and Rules and Regulations which are set forth in said Declaration of Trust, pursuant to and in

accordance with the provisions of said Chapter 183A. The said Trust shall represent the Unit Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Areas and Facilities, or part thereof, and each Unit Owner by acceptance of title to such Unit, hereby irrevocably appoints the said Trust as attorney-in-fact for such purposes. In the event of a taking or acquisition of part or all of the Common Areas and Facilities by a condemning authority, the award or proceeds of settlement shall be payable to the Trust, for the use and benefit of the Declarants (with respect to existing structures not yet included in the Condominium and with respect to the rights to create additional Phases), the Unit Owners, and their mortgagees as their interests may appear.

12. GOVERNING LAW

The Units and the Common Areas and Facilities, and the Unit Owners and Condominium Trustees shall have the benefit of and be subject to the provisions of said Chapter 183A, as from time to time amended, and in all respects not specified in this Master Deed or in said Trust and the By-Laws and Rules and Regulations set forth therein, shall be governed by provisions of said Chapter 183A, as from time to time amended, in their relation to each other and to the Condominium established hereby, including, without limitation, provisions thereof with respect to improvements and rebuilding of Common Areas and Facilities, and with respect to removal of the Condominium premises or any portion thereof from the provisions of said Chapter 183A.

13. UNITS SUBJECT TO MASTER DEED, UNIT DEED, CONDOMINIUM TRUST,
ETC.

A. All present and future owners, tenants, visitors, servants and occupants of the Units shall be subject to, and shall comply with, the provisions of this Master Deed, the Unit Deed conveying such Unit, the Condominium Trust and By-Laws and Rules and Regulations promulgated pursuant thereto, as they may be amended from time to time, the terms affecting title to and the use of the land as set forth and referred to in the Master Deed, and said Chapter 183A. The acceptance of a deed of conveyance or the entering into occupancy of any Unit shall constitute an agreement that:

(i) the provisions of this Master Deed, the Unit Deed, if any, conveying such Unit, the Condominium Trust and the By-Laws and Rules and Regulations promulgated pursuant thereto, as they may be amended from time to time, and the said items affecting title to and use of the land are accepted and ratified by such owner, tenant, visitor, servant, or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed of conveyance or lease thereof, and (ii) a violation of the provisions of this Master Deed, such Unit Deed, the Condominium Trust and By-Laws or Rules and Regulations promulgated pursuant thereto or said Chapter 183A by any such person shall be deemed a substantial violation of the duties of the Owner of a Unit.

B. The failure of any Unit Owner to comply with any of the provisions of the Master Deed, Condominium Trust, the Rules and Regulations adopted pursuant to said Trust, and decisions of the Condominium Trustees, shall give rise to a cause of action by the Condominium Trustees, and any aggrieved Unit Owner, which they may enforce in any manner permitted by law, including, without limitation, court action for injunctive relief and/or damages. Unit Owners shall have similar rights of action against the Condominium Trustees.

14. PROVISIONS REGARDING MORTGAGES

Notwithstanding anything in the Master Deed, the Condominium Trust, its By-Laws, Rules and Regulations and the Unit Deed to the contrary, subject to any greater requirement imposed by Massachusetts General Laws Chapter 183a, the following provisions shall apply to mortgages of one or more Condominium Units:

A. Any right of first refusal shall not impair the rights of a first mortgagee to:

- (1) foreclose or take title to a Unit pursuant to the remedies provided in the mortgage; or
- (2) accept a deed (or assignment) in lieu of foreclosure in the event of a default by the mortgagor; or
- (3) sell or lease a Unit acquired by the first mortgagee through the procedures set forth in Paragraph (1) and/or (2) above;

B. Any person taking title to a Unit through a foreclosure sale duly conducted by a first mortgagee shall be exempt from any right of first refusal with respect to taking such title.

C. Any first mortgagee who obtains title to a Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage or by law will not be liable for such Unit's unpaid common charges or dues which accrued prior to the acquisition of title to such Unit by the mortgagee:

D. Except as provided by statute in case of condemnation or substantial loss to the Units and/or Common Areas and Facilities of the Condominium project, unless at least sixty-seven (67%) per cent of the first mortgagees (based upon one vote for each first mortgage owned) holding mortgages on the individual Units in the Condominium shall have given their prior written approval, neither the Unit Owners nor the Condominium Trustees shall be entitled to:

- (1) by act or omission, seek to abandon or terminate the Condominium project;
- (2) change the pro rata interest or obligations of any individual Unit for the purpose of: (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (b) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities;
- (3) partition or subdivide any Unit;
- (4) by act or omission, seek to abandon, partition, sub-divide, encumber, sell, or transfer the Common Areas and Facilities, PROVIDED, HOWEVER, that the granting of easements for public utilities or for other public purposes consistent with the intended

use of the Common Areas and Facilities by the Condominium project and the exercise of other actions with respect to granting special rights of use or easements to Common Areas and Facilities provided for herein or in the Condominium Trust shall not be deemed a transfer within the meaning of this clause;

- (5) use hazard insurance proceeds for losses to any property of the Condominium (whether to Units or to Common Areas and Facilities) for other than the repair, replacement, or reconstruction of such property of the Condominium.

E. All taxes, assessments, and charges which may become liens prior to a first mortgage under the laws of the Commonwealth of Massachusetts shall relate only to the individual Units and not to the Condominium as a whole;

F. In no case shall any provision of the Master Deed or the Condominium Trust give a Unit Owner or any other party priority over any rights of a first mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of such Unit and/or the Common areas and Facilities of the Condominium;

G. A first mortgagee (and any eligible mortgage holder or eligible insurer or guarantor as defined in the Federal National Mortgage Association's Selling Guide as presently constituted and as from time to time amended, as such entities may be later described in amendments thereto or substitutions thereof) shall be entitled to the following:

- (1) Notice of Action: Upon written request to the Condominium Trustees, identifying the name and address of the mortgagee, holder, insurer or guarantor and the Unit designation, timely written notice of:
- (a) Any condemnation loss or any casualty loss which affects a material portion of the project or any Unit on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable, or held by such first mortgagee;
 - (b) Any delinquency in the payment of assessments or charges owed by an owner of a Unit subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, or held by such first mortgagee, or of any default in the performance by such Owner of any obligation under the Condominium constituent documents, which remains uncured for a period of 60 days;
 - (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Condominium Trustees;
 - (d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified below or in subparagraph H hereof;

(2) Other Provisions for Eligible Mortgage Holders,
Insurers or Guarantors:

(as defined in paragraph 14G). To the extent permitted by applicable law, eligible mortgage holders, insurers and guarantors shall also be afforded the following rights:

(a) Any restoration or repair of the project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Master Deed, the Site Plan and Floor Plans, unless other action is approved by at least 51 percent of the votes of Units subject to eligible holder mortgages.

(b) Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property must require the approval of eligible holders holding mortgages on Units which have at least 51 per cent of the votes of Units subject to eligible holder mortgages, in addition to other applicable requirements of law.

(c) Unless the formula for reallocation of interests in the common areas after a partial condemnation or partial destruction of a condominium project is fixed in advance by applicable law, no reallocation of interests in the common areas resulting from a partial condemnation or partial destruction of such a project may be effected without the prior approval

of eligible holders holding mortgages on all remaining Units whether existing in whole or in part, and which have at least 51 per cent of the votes of such remaining Units subject to eligible holder mortgages.

(d) When professional management has been previously required by any eligible mortgage holder or eligible insurer or guarantor at that time or later, any decision to establish self management by the Condominium Trust shall require the prior consent of owners of Units to which at least sixty-seven (67%) per cent of the votes in the Condominium Trust are allocated and the approval of eligible holders holding mortgages on Units which have at least 51 per cent of the votes of Units subject to eligible holder mortgages.

(e) To receive free of charge upon written request therefor an audited financial statement of the Condominium Trust for the immediately preceding fiscal year. Such statement shall be furnished by the Condominium Trustees within a reasonable time following such request.

H. Amendment to Documents:

The following provisions do not apply to amendments to the Master Deed, Trust, and its By-Laws, Rules and Regulations or termination of the Condominium project made as a result of destruction, damage or condemnation pursuant to Subparagraph

G. above, or to a reallocation of interests in the Common Areas and Facilities which might occur pursuant to any plan of phased development contained in the Master Deed.

- (1) The consent of Owners of Units to which at least 75 per cent of the votes in the Condominium Trust are allocated, and the approval of eligible holders holding mortgages on Units which have at least 67 per cent of the votes of Units subject to eligible holder mortgages, shall be required to terminate the legal status of the project as a Condominium, in addition to other applicable requirements of law.
- (2) The consent of the Owners of Units to which at least 67 per cent of the votes in the Condominium Trust are allocated, and the approval of eligible holders holding mortgages on Units which have at least 51 per cent of the votes of Units subject to eligible holder mortgages, shall be required to add or amend any material provisions of the constituent documents of the project, which establish, provide for, govern or regulate any of the following:
 - (a) voting rights;
 - (b) assessments, assessment liens or subordination of assessment liens;
 - (c) reserves for maintenance, repair and replacement of common areas;
 - (d) responsibility for maintenance and repairs;

- (e) reallocation of interests in the general or limited common areas, or rights to their use;
- (f) boundaries of any Unit;
- (g) convertibility of Units into common areas or vice versa;
- (h) expansion or contraction of the project, or the addition, annexation or withdrawal of property to or from the project;
- (i) insurance or fidelity bonds;
- (j) leasing of Units;
- (k) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- (l) a decision by the owner's association to establish self management when professional management had been required previously by an eligible mortgage holder;
- (m) restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;
- (n) any action to terminate the legal status of the project after substantial destruction or condemnation occurs; or
- (o) any provisions that expressly benefit mortgage holders, insurers or guarantors.

(3) An addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only.

I. No agreement for professional management of the Condominium or any other contract with the Trust may exceed a term of one (1) year, renewable by agreement by the parties for successive one (1) year periods, and any such agreement shall provide for termination by either party without cause and without payment of a termination fee on thirty (30) days', or less, written notice.

J. It is intended that the provisions of this paragraph 14 comply with the requirements of the Federal Home Loan Mortgage Corporation and Federal National Mortgage Association with respect to condominium mortgage loans, and all questions with respect thereto shall be resolved consistent with that intention.

15. MEANING OF TERMS

All terms and expressions herein used which are defined in Section 1 of said Chapter 183A, as from time to time amended, shall have the same meaning herein as set forth in said Section 1.

16. CONFLICTS

This Master Deed is set forth to comply with the requirements of said Chapter 183A, as from time to time amended. In the event any of the provisions of this Master Deed, as from time to time amended, are inconsistent with said Chapter 183A, as from time to time amended, the provisions of said Chapter 183A, as from time to

time amended, shall control and the repugnant provisions of this Master Deed, as from time to time amended, shall be deemed modified so as to comply with said Chapter 183A, as from time to time amended.

17. INVALIDITY

The invalidity of any provisions of this Master Deed, as from time to time amended, shall not be deemed to impair or affect in any manner the validity , enforceability or effect of the remainder of this Master Deed, as from time to time amended, and in such event, all of the other provisions of this Master Deed, as from time to time amended, shall continue in full force and effect as if such invalid provision had never been included herein.

18. WAIVER

No provision contained in this Master Deed, as from time to time amended, shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

19. CAPTIONS

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

20. SPECIAL PROVISIONS

Right of First Refusal:

The Declarant, his successors and assigns (except as may be modified hereinbelow) shall have a right of first refusal (hereinafter called "the right of first refusal") with respect to

all sales of Condominium Units (except the initial sale thereof by the Declarant), and to that end no Owner of any Unit shall sell or convey the same to any person other than a spouse or child of such Owner unless: (1) said Owner shall have received a bona fide offer to purchase the same; (2) said Owner shall have given the Declarant his successors or assigns written notice stating the name and address of the offeror and the terms and conditions of said offer and the encumbrances subject to which the Unit is to be conveyed, and containing an offer by said Unit Owner to sell said Unit to the Declarant his successors or assigns on the same terms and conditions as said bona fide offer; and (3) said Declarant his successors or assigns shall not within thirty (30) days after the giving of such notice have given said Owner written notice of the election of said Declarant his successors or assigns to purchase said Unit in accordance with said offer. In the event that said Declarant his successors or assigns shall so elect to purchase, a deed shall be delivered and the consideration paid at Essex South District Registry of Deeds at 11 o'clock a.m. in the thirtieth day after the date of the giving of such notice of election to purchase. In the event that said Declarant his successors or assigns shall not so elect to purchase, then said Owner shall be free thereafter to sell and convey said Unit to the offeror named in said Owner's notice at a price not lower than that specified therein but said Owner shall not sell or convey said Unit to any other person or at any lower price without again offering the same

to said Declarant his successors or assigns. The provisions of this paragraph shall not be construed to apply to bona fide mortgages of any Unit or to sale or other proceedings for the foreclosure thereof. For purposes of this Paragraph 20, a lease or tenancy or occupancy agreement for a term of more than five (5) years shall be deemed to be a sale, and said Declarant his successors or assigns shall have a right of first refusal with respect to any such lease, tenancy or occupancy, exercisable in the manner aforesaid insofar as applicable. The rights of first refusal hereunder shall not be exercised so as to restrict ownership, use or occupancy of Units because of race, creed, national origin, or sex. 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. The holder(s) from time to time of the right of first refusal may in any particular instance(s) waive the requirements of this Paragraph. The Declarant his successors or assigns may assign the right of first refusal referred to hereinabove to the Trustees of Harborside Condominium Trust and upon such assignment said right of first refusal shall vest in said Trustees. The right of first refusal shall in any case vest in the Condominium Trustees and become exercisable by them, forty (40) years from the date of this Master Deed, if not so assigned earlier as provided hereinabove.

EXECUTED as a sealed instrument this 22nd day of December, 1988.

Douglass Four Realty Trust

By: Edward T. Moore
Edward T. Moore, Trustee

Harborside Realty Trust

By: Edward T. Moore
Edward T. Moore, Trustee

Douglass Five Realty Trust

By: Edward T. Moore
Edward T. Moore, Trustee

By: J. Alan Chew
J. Alan Chew, Trustee

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

December 22, 1988

Then personally appeared the above-named Edward T. Moore, Trustee as aforesaid, and acknowledged the foregoing instrument to be his free act and deed as such Trustee, before me,

Barry W. Plunkett
Notary Public
My commission expires: 11/1/89

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

December 22, 1988

Then personally appeared the above-named J. Alan Chew, Trustee as aforesaid, and acknowledged the foregoing instrument to be his free act and deed as such Trustee, before me,

Barry W. Plunkett
Notary Public
My commission expires: 11/1/89

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

December 22, 1988

Then personally appeared the above-named Edward T. Moore, Trustee as aforesaid, and acknowledged the foregoing instrument to be his free act and deed as such Trustee, before me,

Barry W. Plunkett
Notary Public
My commission expires: 11/1/89

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

December 22 1988

Then personally appeared the above-named Edward T. Moore, Trustee
as aforesaid, and acknowledged the foregoing instrument to be his free
act and deed as such Trustee, before me,

Barry W. Plunkett

Notary Public

My commission expires:

-30-

BARRY W. PLUNKETT
NOTARY PUBLIC
MASSACHUSETTS
12-22-1988

EXHIBIT A

The land, with the buildings thereon situated in the Town of Marblehead, County of Essex and Commonwealth of Massachusetts, bounded and described as follows:

- NORTHWESTERLY by Lee Street fifty one and 09/100 (51.09) feet;
- NORTHEASTERLY by lands now or formerly of Elizabeth R.K. Sumner and of Annie G. Quiner eighty eight and 99/100 (88.99) feet;
- SOUTHEASTERLY seven and 34/100 (7.34) feet, and
- NORTHEASTERLY ninety four and 50/100 (94.50) feet by said Quiner land;
- SOUTHEASTERLY by Marblehead Harbor;
- SOUTHWESTERLY by land and flats now or formerly of Susan M. Borden fifty seven and 71/100 (51.71) feet;
- NORTHWESTERLY thirty three and 98/100 (33.98) feet;
- SOUTHWESTERLY thirty eight and 46/100 (feet);
- NORTHWESTERLY sixty six and 67/100 (66.67) feet; and
- SOUTHWESTERLY sixteen and 03/100 (16.03) feet by said Borden land; and
- NORTHWESTERLY by land of sundry adjoining owners one hundred sixty nine and 12/100 (169.12) feet.

All of said boundaries, except the water lines, are determined by the Court to be located as shown on a plan numbered 13343-B, drawn by Carter & Towers Engineering Corp., Surveyors, dated March 25, 1981, as modified and approved by the court, filed in the Land Registration Office, a copy of a portion of which is filed with Certificate of Title 51338 in said Registry, and the above described land is shown as lot 1, on last mentioned plan.

The above described land is subject to rights of way and drainage as set forth in a deed given by Benjamin G. Hathaway to John H. Frazier, dated August 31, 1899, duly recorded in Book 1586, Page 59 in said Registry.

The above described land is subject to any possible statutory rights in said land growing out of the debts or settlement of the estate of John H. Frazier, late of Swampscott, in said County of Essex, who died on October 7, 1934, if claimed and enforced within the time allowed by law; and to any rights which may be established under a bill in equity brought by Charles M. Frazier et al against the Merchants National Bank of Salem, Executor et al in the Supreme Judicial Court for the County of Essex and numbered 2298 on the files of said Court.

Part of the above described land is subject to rights described in an easement from Henry V.L. Baay to New England Telephone and Telegraph Company, dated August 20, 1958, and filed as Document 868800 in said Registry.

The above described land is subject to a Grant of Easement from Edward T. Moore and J. Alan Chew, Trustees of Harborside Realty Trust to Edward T. Moore and J. Alan Chew, Trustees of Gregory Street Investment Trust under Declaration of Trust dated August 21, 1979 recorded with Essex South District Registry of Deeds in Book 6628, Page 001, dated December, 1988 filed as Land Court Document No.

EXHIBIT B

Description	Location	Approximate Area (square feet)	Number of Rooms	Immediate Common Area to which Unit has Access	Percentage Undivided Interest
1	Building A	860	4	A Building-Deck	3.091
2	Building A	520	3	A Building-Porch	1.189
3	Building A	1130	6	A Building-Deck	4.281
1	Building B	1345	6	B Entry Porch-Deck	4.419
2	Building B	620	3	B Decks & Common Hallways	2.379
3	Building B	1300	5	B Building & Deck & Rear Yard & Common Hallways	3.758
4	Building B	660	3	B Building-Deck	2.379
5	Building B	720	4	B Building-Deck & Hall	2.807
6	Building B	620	3	B Building-Deck & Hall	2.616
7	Building B	660	4	B Building-Deck & Hall	3.094
8	Building B	600	3	B Building-Deck & Hall	2.379
9	Building B	780	4	B Patio Area	2.616
10	Building B	920	5	B Patio Area	2.854
1	Building C	480	3	C Building-Deck & Hallway	2.807
2	Building C	1030	4	C Building-Deck	5.571
3	Building C	570	3	C Building-Deck & Hallway	2.854
4	Building C	560	3	C Building-Deck & Hallway	2.949
5	Building C	850	4	C Building-Deck	4.044
6	Building C	560	3	C Building-Deck & Hallway	2.949
7	Building C	560	3	C Building-Deck & Hallway	3.092
8	Building C	850	4	C Building-Deck	4.281
1	Building D	770	4	D Building-Deck	4.025
2	Building D	1080	4	D Building-Deck & Hallway	5.418
3	Building D	910	4	D Building-Deck & Hallway	4.799
4	Building D	1380	4	D Building-Deck & Hallway	6.811
5	Building D	910	4	D Building-Deck & Hallway	5.108
6	Building D	1610	6	D Building-Deck & Hallway	7.430

TOTAL PERCENTAGE INTEREST:

DOCUMENT NO. 24166

First Amendment
to Master Deed
Piano

1988

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PM

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