

**AMENDMENT TO THE MASTER DEED  
OF THE CANAL PLACE CONDOMINIUM**

This Amendment to the Master Deed of the Canal Place Condominium (the "Condominium") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed and acknowledged by a majority of the Trustees of the Canal Place Condominium Trust who certify under oath that one or more owners of Units entitled to at least sixty-seven percent (67%) of the undivided interests in the common areas and facilities of the Condominium have consented in writing to this Amendment.

WHEREAS, secondhand tobacco smoke contains no less than sixty (60) compounds which are known or probable human carcinogens, and is itself classified as a "Class A" carcinogen by the United States Environmental Protection Agency;

WHEREAS, exposure to secondhand smoke substantially increases the risk in non-smokers of lung cancer, cardiovascular disease and other acute and chronic health conditions;

WHEREAS, secondhand smoke is known to drift through common walls and ventilation systems and contaminate air in common areas and individual units;

WHEREAS, Section 9 of the Master Deed provides, in pertinent part, that the Master Deed may be amended by an instrument in writing signed and acknowledged by a majority of the Trustees of the Condominium Trust who certify under oath that one or more owners of Units entitled to at least sixty-seven percent (67%) of the undivided interests in the common areas and facilities of the Condominium have consented in writing to the amendment;

NOW THEREFORE, pursuant to the power and authority set forth in the Master Deed and at law, the Master Deed is hereby amended as follows:

***1. A new Section 7A is hereby added to immediately follow Section 7 and to read as follows:***

**"Section 7A. Smoking.** Effective immediately, as of the date that this amendment to the Master Deed is recorded with the Middlesex North District Registry of Deeds, smoking at the Condominium property shall be prohibited as set forth below:

(a) For the purposes of this provision, "smoking" shall be broadly defined as the inhaling, exhaling, breathing, carrying or possession of any lighted cigarette, cigar, pipe, electronic cigarette, vaping device, hookah or any other apparatus, item or product containing any amount of tobacco, marijuana or other similar heated, smoldering, lit or vaping product.

(b) Except as otherwise provided herein, there shall be no smoking ***anywhere*** on the Condominium property including, but not limited to: (i) the individual Units (including, but not limited to, any balconies appurtenant to any Unit); (ii) any limited common areas or exclusive use areas; (iii) all other indoor common areas and facilities; and/or (iv) all outdoor common areas and facilities that are within thirty (30) feet of the Condominium building. Notwithstanding the restrictions set forth in this provision, the Board, in its sole and absolute discretion, may designate or remove from designation, from time to time, one or more outdoor common areas for smoking; provided, however, that any such smoking area(s) shall not cause secondhand smoke to drift into indoor common areas, exclusive use areas or individual Units. The Board shall provide

written notice to the Unit owners of any designation or removal of designation made pursuant to this paragraph.

(c) The restrictions set forth under this provision shall apply to all persons at the Condominium including Unit owners and occupants, visitors, contractors, service providers, tenants, invitees, licensees, guests, friends and family members. Unit owners shall be responsible for informing all Unit occupants, visitors, contractors, service providers, tenants, invitees, licensees, guests, friends and family members of these provisions. Unit owners and their respective occupants, visitors, contractors, service providers, tenants, invitees, licensees, guests, friends and family members shall be jointly and severally liable for any violations of this provision.

(d) Any violations of these provisions shall subject the offender (and, in the case where the offender is an occupant, visitor, contractor, service provider, tenant, invitee, licensee, guest, friend or family member of a Unit owner, the appropriate owner) to a fine in the amount determined by the Board, from time to time, with each violation constituting a separate and independent finable offense. In any action brought to enforce these provisions the unit owner and/or offender shall be jointly and severally liable for all costs and fees associated with any enforcement action including, but not limited to, all reasonable attorney's fees. All fines, fees, costs and expenses due hereunder shall constitute common expenses attributable to the appropriate Unit and shall be due within the time period stated in any notice to the offender or owner, and if no time period is stated, with the Condominium fees in the month immediately following the assessment of said amount. All remedies hereunder shall be cumulative

(e) Notwithstanding the foregoing, the Board is not a guarantor of a smoke-free environment at the Condominium. The Board shall have the right, but not the obligation, to enforce the restrictions set forth above if the Board determines, in the Board's sole and absolute discretion, that it is appropriate to do so in any individual case or circumstance. If the Board determines, in its sole and absolute discretion and for any reason, not to pursue enforcement of the restrictions hereunder in any individual case or circumstance, any Unit owner may bring his or her own separate action to enforce this restriction against any other Unit owner (or occupant, visitor, contractor, service provider, tenant, invitee, licensee, guest, friend or family member of a Unit owner) who violates this provision. If a Unit owner who brings such action succeeds in establishing that another individual has violated this restriction, the Unit owner bringing the action shall be entitled to recover his or her costs and expenses, including reasonable attorneys' fees and court costs, incurred in such action from the offender and/or appropriate Unit owner. No Unit owner, occupant, visitor, contractor, service provider, tenant, invitee, licensee, guest, friend or family member of a Unit owner, or other person shall be entitled to recover from the Board or Association any attorneys' fees, court costs, or other costs or expenses incurred in any action brought by or against the Board or the Association under or pursuant to this restriction, including, without limitation, any action to enforce this restriction or any action for failure to enforce this restriction, regardless of whether or not any such individual prevails in such action.

(f) In the event that any provision of this amendment shall be determined to be invalid or unenforceable, it shall be interpreted and construed so as to be enforceable as to the extent and in such situations as may be permitted by applicable law and in any event, the partial or total enforceability of such provisions shall not effect in any manner, the validity,

enforceability or effect of the remainder of this amendment and, in such event, all the provisions of this amendment shall continue in full force and effect as if such invalid provisions had never been included herein.”

2. *In all other respects, the Master Deed is hereby ratified and affirmed.*
3. *This amendment shall not amend, alter or otherwise affect the existing provisions of the Condominium documents prohibiting unit owners from causing nuisances. It is acknowledged hereby, that subsequent to the recording of this amendment, drifting secondhand smoke might rise to the level of constituting a nuisance.*

*[Signatures Appear on the Following Page(s)]*

The undersigned, being a majority of the duly authorized members of the Board of the Canal Place Condominium Trust, hereby certify under oath that Unit owners entitled to at least sixty-seven percent (67%) of the undivided interest in the Condominium Trust consented in writing to this amendment, and we hereby sign and acknowledge this amendment under seal as of the date and year first written above.

BOARD OF TRUSTEES – CANAL PLACE CONDOMINIUM TRUST

\_\_\_\_\_  
Print Name: Ruth Evans

\_\_\_\_\_  
Print Name: Sean Gleason

\_\_\_\_\_  
Print Name: Craig Himmelberger

\_\_\_\_\_  
Print Name: Peter Pedulla

\_\_\_\_\_  
Print Name: Lillian Bertram

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss: \_\_\_\_\_, 2020

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared \_\_\_\_\_

\_\_\_\_\_,  
proved to me through satisfactory evidence of identification, which was/were \_\_\_\_\_, to be the person(s) whose name(s) appear(s) on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily, for its stated purpose, as (a) duly authorized member(s) of the Board of the Canal Place Condominium Trust.

\_\_\_\_\_  
Official Signature and Seal of Notary Public  
My Commission Expires:

**CANAL PLACE CONDOMINIUM  
BALLOT – AMENDMENT TO MASTER DEED**

The undersigned, [Print Your Name] \_\_\_\_\_,  
having read the proposed amendment to the Canal Place Condominium Master Deed enclosed with  
this ballot and presented to the Unit Owners of the Canal Place Condominium, hereby votes as  
follows:

<i>Vote to amend the Master Deed to add a new Section 7A to prohibit smoking at the Condominium property (including within Condominium units).</i>	<i>Yes:</i> <input type="checkbox"/> <i>No:</i> <input type="checkbox"/>
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\_\_\_\_\_, 2020  
Unit Owner(s) – Name (Print)      Date

\_\_\_\_\_  
Unit Owner(s) - Name (Signature)      Unit Number(s)

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PLEASE RETURN THIS COMPLETED FORM EITHER:

1. BY MAIL OR IN HAND TO THE PROPERTY MANAGER; OR,
2. BY MAIL OR IN HAND TO A TRUSTEE.

***THANK YOU FOR YOUR PARTICIPATION***