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DECLARATION OF CONDOMINIUM

AMBASSADOR CONDOMINIUMS

109, 111 and 113 South 49th Avenue, Omaha, Nebraska

After recording, return to:
Robert Dailey
McGrath North Mullin & Kratz, PC LLO
1601 Dodge Street, Suite 3700
Omaha, NE 68102

McGrath North Mullin & Kratz, PC LLO

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DECLARATION OF CONDOMINIUM AMBASSADOR CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM FOR AMBASSADOR CONDOMINIUM is made as of this 24th day of March, 2009, pursuant to Sections 76-825 to 76-894, inclusive, Revised Statutes of Nebraska and amendments thereto (the "Act"), commonly known as the Nebraska Condominium Act, by **OSC AMBASSADOR, LLC**, a Nebraska limited liability company (the "**Declarant**").

Declarant hereby declares that the Condominium is and shall be held, conveyed, mortgaged, encumbered, leased, used, occupied and improved, subject to the following described limitations, covenants, obligations, restrictions, conditions, reservations, subdivisions, easements, liens, charges, and assessments, all of which are established in order to carry out a general plan for the development, improvement and sale of residential Units, pursuant to the Act and each of which shall constitute covenants running with the land and shall bind and inure to the benefit of the Declarant, each Owner of a Unit, and all parties who now have or may hereafter acquire any right, title or interest in the Condominium or any part of the Condominium, whether as sole owners, joint owners, tenants by the entireties, tenants-in-common, or otherwise, as well as their respective heirs, successors, executors, administrators and assigns.

ARTICLE I DEFINITIONS

As used in this Declaration, unless the context otherwise requires, the following terms shall have the meanings described below:

Section 1.01. "Act" shall mean Sections 76-825 to 76-894, inclusive, Revised Statutes of Nebraska and amendments thereto, commonly known as the Nebraska Condominium Act.

Section 1.02. "Approved by the Board" shall mean Approved by the Board of Directors in accordance by a majority vote of a quorum of the Board of Directors at a meeting of the Board of Directors duly held. The Board of Directors may attach reasonable conditions to any action which is Approved by the Board.

Section 1.03. "Articles" and "Articles of Incorporation" shall mean the Articles of Incorporation, filed with the Secretary of State of the State of Nebraska, incorporating Ambassador Condominium Association, Inc. as a Nebraska not-for-profit corporation, as amended from time to time.

Section 1.04. "Assessments" shall mean the assessments that may be levied by the Association pursuant to Article VII hereof

Section 1.05. "Association" shall mean Ambassador Condominium Association, Inc. an entity which shall administer this Condominium, and the members of which shall consist of all of the Owners, created by the filing of the Articles and is one and the same as the Association required for the Condominium under the Act.

Section 1.06. "Board" or "Board of Directors" shall mean the body, regardless of name, designated in this Declaration or in the Bylaws of the Association, to act on behalf of and be responsible for over-seeing and carrying out the day-to-day business of the Association.

Section 1.07. "Building" shall mean any building or any part thereof now or hereafter located on and forming part of the Condominium.

Section 1.08. "Bylaws" shall mean the Bylaws adopted by the Association and all amendments thereto.

Section 1.09. "City" shall mean the City of Omaha, Nebraska.

Section 1.10. "Common Elements" (as more fully defined in Section 2.10 below) shall mean the entire Condominium, including all areas designed for the common use and benefit of more than one Owner, all improvements, sidewalks, driveways, landscaped areas and all real and personal property described in this Declaration and future amendments, but excluding the Units.

Section 1.11. "Common Element Interest" shall mean the percentage assigned to each Unit that establishes each Owner's undivided interest in the Common Elements, and liability for Common Expenses, as further described in Section 3.07 below.

Section 1.12. "Common Expense Liability" shall mean the liability for Common Expenses assessed to each Unit in accordance with each Owner's Common Element Interest.

Section 1.13. "Common Expenses" shall mean expenditures made or financial liabilities incurred by the Association, together with any allocations to reserves, including but not limited to, (a) all sums lawfully assessed against the Common Elements by the Association; (b) all expenses of administration and management, insurance, maintenance, repair and replacement of the Common Elements including, without limitation, the costs of salaries, expenses and fees of persons administering the Association and/or Common Elements; fees of accountants, legal counsel and other third party consultants or experts deemed necessary by the Board to serve or protect the Association; payments of any judgment against or other liabilities incurred by the Association; settlement of any claims against the Association; insurance premiums; costs for utilities, repairs, cleaning, upkeep, replacements, and security of the Common Elements; (c) all expenses for all shared utility services, including water, sewer and gas; and (d) all other expenses declared to be Common Expenses by the Act, this Declaration, the Bylaws or as determined by a Majority vote of the Board.

Section 1.14. "Condominium" shall mean the aggregate of the entire Property and all Buildings and improvements described herein, together with any additional real estate and improvements added to and made subject to this Declaration in accordance herewith.

Section 1.15. "Declarant" shall mean OSC Ambassador, LLC, a Nebraska limited liability company, and its successors and assigns.

Section 1.16. "Declarant Control Period" shall mean the period of time from the date hereof to the earliest of any of the following to occur:

(a) Sixty (60) days after the conveyance of an aggregate of ninety percent (90%) of the Units to Owners other than the Declarant; or

(b) Two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business.

Section 1.17. "Declaration" shall mean this Declaration of Condominium – Ambassador Condominium, to be recorded in the office of the Douglas County Register of Deeds in Omaha, Nebraska, together with recorded amendments and supplements from time to time.

Section 1.18. "Identifying Numbers" shall mean a symbol or address which identifies only one Unit in the Condominium.

Section 1.19. "Limited Common Elements" shall mean a part of the Common Elements reserved for the exclusive use of one or more but fewer than all of the Units, and allocated by designation on the Plans, in this Declaration, or by the provisions of the Act, as further described in Section 2.11.

Section 1.20. "Majority" shall mean a vote by those Owners representing more than fifty percent (50%) of the Units, exercised in person or by proxy at a duly convened meeting at which a quorum is present.

Section 1.21. "Member" shall mean an Owner, each of whom shall belong to the Association by virtue of its ownership of a Unit. Each Owner shall be deemed to have one (1) membership unit in the Association for each Unit owned, regardless of the fact that a given Owner may include more than one Person.

Section 1.22. "Mortgage" shall mean a mortgage covering all or any portion of a Unit or the Condominium.

Section 1.23. "Mortgagee" shall mean the holder of a Mortgage on any part of the Condominium, or any Unit.

Section 1.24. "Officer" shall mean any person holding office in the Association pursuant to the Bylaws of the Association, but shall not include members of the Board of Directors unless such directors are also officers pursuant to the Bylaws.

Section 1.25. "Owner" shall mean the Declarant and all other Persons who purchase or acquire a Unit or Units in the Condominium. A Person having an interest in a Unit solely as security for an obligation, such as a Mortgagee, shall not be an Owner. Ownership of a Unit shall include the ownership of certain other rights, titles, interests and estates described in this Declaration, as well as ownership of the Unit itself.

Section 1.26. "Person" shall mean any natural person, trust, partnership, corporation, limited liability company, estate, business trust, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity; provided, however, that

in the case of a land trust, "Person" refers to the beneficiary of the trust rather than to the trust itself or to the trustee.

Section 1.27. "Plans" shall mean the plat and plans related to the Property and all of the Units in the Property submitted to the provisions of the Act, such Plans being attached hereto as **Exhibit B** and made a part hereof and recorded with the recording of this Declaration.

Section 1.28. "Property" shall mean that certain real estate legally described on **Exhibit A**, attached hereto and incorporated herein by reference, located in Douglas County, Nebraska, together with any other areas subsequently added as provided herein.

Section 1.29. "Quorum" shall mean, unless provided otherwise in the Bylaws, the presence, at a meeting, of Owners or proxies of Owners entitled to cast twenty percent (20%) of the outstanding votes in the Association. "Quorum" shall mean the presence of, at a meeting, of members of the Board, a Majority of the Board.

Section 1.30. "Rules and Regulations" shall mean the rules and regulations adopted for the Association from time to time, by either the Declarant, during the Declarant Control Period, or which must be Approved by the Board, following the Declarant Control Period, together with all amendments and modifications to the same as the same may be adopted from time to time by the same procedure.

Section 1.31. "Special Declarant Rights" shall mean those rights which the Declarant reserves to itself:

- (a) to complete improvements indicated on the plans filed with this Declaration;
- (b) to add real estate (but not units) to the Condominium
- (c) to create Units, Common Elements, or Limited Common Elements within the condominium (but not to add additional Units beyond the Units specifically described in the Plans);
- (d) to subdivide Units or convert Units into Common Elements;
- (e) to withdraw real estate from the Condominium;
- (f) to maintain sales offices, management offices, signs advertising the Condominium and models;
- (g) to use easements through the Common Elements for the purpose of making improvements within the Condominium or within real estate which may be added to the Condominium
- (h) to make the Condominium subject to a master association; or

6

(i) to appoint or remove any officer of the Association or a master association or any Board member.

Section 1.32. "Special Assessments" shall mean those assessments described in Section 7.05 herein.

Section 1.33. "Special Unit Expenses" shall mean those costs incurred by or attributable to a particular Unit or Unit Owner for its own benefit, including but not limited to real estate taxes and comprehensive property and liability insurance coverage attributable to the Units only and Limited Common Elements appurtenant to a specific Unit, but not the Common Elements. For the sake of convenience, such costs may be billed to the Association but shall be payable by each Owner by special assessment.

Section 1.34. "State" shall mean the State of Nebraska.

Section 1.35. "Unit" or "Units" shall mean those portions of the Condominium not owned in common with other Owners, as more specifically described in the Plans and all amendments thereto, together with the other rights, titles, interests and estates described in this Declaration. Each individual Unit shall include:

(a) a separate fee simple interest in the air space within each Unit conveyed, the interior surfaces of the exterior building walls, the interior surface walls of the separately numbered Units, and the elements identified as relating to that Unit in the Plans and any amendments thereto;

(b) an undivided fee interest in the Common Elements as a tenant-in-common with other Owners, also referred to as a Common Element Interest; and

(c) exclusive easements in, over, across and through those areas within those Common Elements designated as Limited Common Elements in the Plans.

One (1) Unit shall include all contiguous spaces which are accessible to one another without going through any Common Elements, whether located on the same or on another floor.

ARTICLE II DESCRIPTION OF THE CONDOMINIUM

Section 2.01. Name. The name of the Condominium is "Ambassador Condominium." The Condominium shall be situated entirely within Douglas County, Nebraska.

Section 2.02. Submission of Condominium to the Act. The Declarant hereby submits the Condominium to the provisions of the Act, subject to the reservations, restrictions and easements contained in this Declaration, the Association's Articles, the Bylaws (including any and all supplements and amendments thereto which may be duly adopted from time to time) and the Rules and Regulations. All roads, drives, lanes, walkways, trails, paths, cul-de-sacs and other ways commonly used for vehicular and pedestrian traffic, as now or hereafter located on

7

the Condominium which are not dedicated as public on the Plans, shall be private ways, and no dedication to the public of such ways for vehicular and pedestrian traffic is intended, but the same are hereby dedicated to the use and benefit of all Owners, their grantees, heirs, personal representatives agents, successors and assigns, and to their guests, invitees, and business visitors, for ingress and egress over said private ways.

Section 2.03. Maximum Number of Units. The Condominium shall consist of a maximum of twenty (20) Units.

Section 2.04. Indivisibility of a Unit. Each Unit, the Common Element Interest of that Unit, and the appurtenant Limited Common Elements shall together comprise one Unit, shall be inseparable, and may be conveyed, leased, devised or encumbered only as one Unit. No Unit may be partitioned or in any way separated from the Condominium.

Section 2.05. Description of Units. The Plans included as part of this Declaration sets forth the description of the boundaries of each Unit and its Identifying Number. A description of each Unit which sets forth the name of the Condominium, the recording data for this Declaration, the county in which the Condominium is located, and the Identifying Number of the Unit, is a sufficient legal description of the Unit and all rights, obligations, and interests, appurtenant to the Unit which were created by this Declaration or the Bylaws.

Section 2.06. Separate Assessment. Whenever there is any Owner other than the Declarant, each Unit, together with its interest in the Common Elements, shall constitute for all purposes a separate parcel of real estate and shall be separately taxed and assessed.

Section 2.07. Encroachments. If any portion of the Common Elements encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. A valid easement also exists with respect to that portion of the Common Elements occupied by any part of a Unit not contained within the physical boundaries of such Unit, including, but not limited to, space occupied by heating and air conditioning equipment, utility lines and similar equipment which serves only one Unit. For title or other purposes, such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or the Units.

Section 2.08. Parking Stalls and Storage Lockers.

(a) The Owner of each Unit shall receive a revocable license for one (1) parking stall or parking garage, to the extent such parking stalls or garages are available, and one (1) storage locker, all of which shall be designated on a map of parking stalls and garages and storage lockers maintained in the Association office where stalls and garages and storage lockers shall be allocated among the Owners. There are fewer parking garages available than there are Units in the condominium and there may be fewer parking stalls available than there are Units in the Condominium. Therefore, all parking stalls and garages will be provided on a first-come first-serve basis. Owners shall have the right to purchase a license or licenses for additional parking stalls and storage lockers

from Declarant, on an as-available, first-come first-serve basis, at such price as Declarant and the Owner may mutually agree.

The original assignment of parking stalls and garages and storage lockers shall be made by the Declarant at the time each Unit Owner purchases a Unit. Except as expressly provided herein, all such assignments may thereafter be changed only by (i) Declarant, if the change is made within the Declarant Control Period, or (ii) mutual agreement between two or more Owners, made in writing and delivered to the Board, or (iii) the Board (if the change is made after the Declarant Control Period). The Declarant, during the Declarant Control Period, and the Board, thereafter, shall have the right to make such reassignments of parking stalls and garages and storage lockers as they may feel to be necessary, reasonable or appropriate in the circumstances. By way of example, and not by way of limitation, Declarant or the Board, if applicable, may reassign parking stalls or garages or storage lockers in order to accommodate the special needs of any particular Unit owners with disabilities, or to accommodate reconstruction or repair work within the Condominium.

(b) Some or all of the parking stalls and all of the parking garages are or will be leased from third parties by the Declarant or the Association and as such, some or all licenses in favor of Owners to use said stalls or garages may be subject to such leases and at risk of termination if such leases expire or terminate. The rights of Owners to parking stalls and garages and storage lockers shall be licenses rather than fee simple ownerships or leases. No additional charges will be made for parking stalls or storage lockers; provided, however, the licensee of any parking garage will be obligated to pay the Declarant or the Association a monthly fee for use of said parking garage based on the rate that the Declarant or the Association pays for said parking garage. All payments for parking garages shall be due and payable by the applicable Unit Owner, to the Association or Declarant as applicable, the first day of each month. Upon failure to timely make such payment, the Declarant or Association, as applicable, shall have the right to terminate the said Owner's license for use of said garage. Each Owner's use of the same is subject to the provisions of this Declaration and the Rules and Regulations of the Condominium, as they may be amended from time to time. Each Owner shall be solely responsible for all motor vehicles and other property of any kind or stored in a parking stall or garage or storage locker, and all such property is parked or stored at the sole risk of the Owner. Neither Declarant nor the Association will carry any insurance related to such vehicles or property. Each Owner shall defend, indemnify and hold Declarant, the Association and all other Owners harmless from and against any claims, assertions, costs, expenses, liabilities, lawsuits or other legal proceedings which may be brought in connection with any motor vehicles or other items parked at or stored in a parking stall or garage or storage locker or any occurrences with respect to such motor vehicles or items. Each Owner shall be responsible for maintaining, cleaning, and repairing the parking stall or garage or storage locker assigned to that Owner from time to time, subject to whatever obligations may be imposed by the Rules and Regulations, and except for such overall facility-wide repair and maintenance work as may be Approved by the Board. Nothing herein shall be deemed to require the Association or the Board to undertake any particular repair, maintenance, reconstruction or rebuilding obligations.

9

(c) All parking stalls and garages and storage lockers not originally assigned to another Owner (or in the case of parking stalls or garages, for which an Owner has not obtained an additional license) shall remain Limited Common Elements, assigned to and reserved for the exclusive use of the Declarant or its affiliates, until such time as the Special Declarant Rights described herein have expired or been fully exercised and the Declarant no longer has an ownership interest in any Unit. Thereafter, the unassigned parking stalls and garages and storage lockers shall remain Limited Common Elements, assigned to and reserved for the exclusive use of the Association, as may be Approved by the Board.

(d) Parking stalls shall be used in accordance with the provisions of Section 4.03 hereof.

Section 2.09. Unit Boundaries. The boundaries of each respective Unit shall be the walls, floors, and ceilings. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, furnished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the Unit. Except as set forth in the definition of Limited Common Elements, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

Section 2.10. Common Elements. The Common Elements shall mean the entire Condominium, excluding the Units, but specifically including the following areas intended for the common use and benefit of all Owners:

- (a) The land constituting the Property.
- (b) The lobby on the garden level of the Building and all vestibule entrances.
- (c) The walkways, driveways, hallways and corridors; the walk-up entrances to the Building; the drive-up entrances to the Building; all exits including fire exits; all parking areas on the Property; all yards, landscaped areas, recreation and refuse areas (including the trash chute), which are located within the Property.
- (d) All foundations, columns, girders, beams, supports, exterior and interior load-bearing walls, and roof, and all cooling towers, mechanical penthouses and other structures, improvements and equipment situated on the roof.
- (e) The stairs, stairwells and the three elevators.
- (f) The outdoor courtyard.
- (g) The deck on the roof of the Building, including any plantings, improvements, grills or other accoutrements or improvements thereto, but not including any portion of the rooftop deck or gardens which constitute a part of some of the eighth floor Units.

(h) The community room.

(i) The utility stacks and vent chutes and any and all appurtenances which may be located within said utility stacks or vent chutes, including (without limitation) all ducts, electrical, heating, ventilating and air-conditioning equipment, satellite dishes (permitted to be owned by the Association only) wires, lines and conduits, including, without limitation, cable television, chutes, pipes and stacks for trash service, electricity, light, cold and hot water, gas, plumbing, sanitary sewer, sprinkler systems, refuse, telephone, telecommunication and other utility or communication systems.

(j) The security entry system to the building and garages.

(k) All portions of the walls, floors or ceilings not within the Unit Boundaries shall be a part of the Common Elements. No bearing wall or column may be removed or otherwise penetrated or affected without a building permit from the City and until the same has been Approved by the Board in advance, such approval to be supported by a report from a structural engineering firm designated by the Board.

Section 2.11. Limited Common Elements.

(a) Certain parts of the Common Elements, designated as "Limited Common Elements," shall be set aside and reserved for the exclusive use of the Owners of specific Units. The respective Owners shall have an exclusive easement for the use of such Limited Common Elements designated as Limited Common Elements on the Plans.

(b) No part or component of any Limited Common Elements may be removed, altered, repaired or replaced, except by the Association or Declarant; and then any such repairs, alterations or replacements shall be in conformity to this Declaration. The Association may, by having such action Approved by the Board, assess the costs of all such repairs, alterations or replacements as Special Unit Expenses attributable to specific Owners to whom such Limited Common Elements are assigned.

(c) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the Unit boundaries, that portion serving only the particular Unit shall be a Limited Common Element and that portion serving more than one Unit or serving any part of the Common Elements shall be Common Elements. Any shutters, awnings, window boxes, door steps, porches, balconies, patios, decks, exterior doors and windows, parking spaces, storage areas or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

ARTICLE III THE ASSOCIATION

Section 3.01. Name and Organization. The Declarant shall form and establish the Association as a not-for-profit corporation, to provide for the maintenance and upkeep of the Common Elements of the Condominium, to carry on the administration of the Association, and

to provide such other services as its Members desire for their common benefit. The name of the Association shall be "Ambassador Condominium Association, Inc."

Section 3.02. Ownership. A Unit shall be a fee simple estate and may be held and owned by any Person or Persons singularly, as joint tenants with right of survivorship, as tenants-in-common, tenants by the entirety, or in any real property tenancy relationship recognized under the laws of the State.

Section 3.03. Membership. Each Owner shall be a Member of the Association and, by its purchase or acquisition and ownership of a Unit in the Condominium, shall be deemed to have agreed to be bound by all the provisions of this Declaration and all amendments, as well as by the Articles of Incorporation and Bylaws of the Association. No Owner may avoid the obligations and burdens coincident to ownership of a Unit or membership in the Association.

Section 3.04. Assignment or Sale. Upon assignment, sale or other transfer of its Unit to a new Owner, the transferring Owner shall be relieved of liability for any assessments levied on such Unit by the Association accruing after the closing date of such assignment, sale or transfer. All such assessments levied or accrued prior to the closing date shall be paid at or prior to the closing by the transferor or seller.

Section 3.05. Exclusiveness of Ownership. Each Owner shall be entitled to exclusive ownership and possession of that Owner's Unit. Each Owner may use the Common Elements and Limited Common Elements in accordance with the purposes for which they are intended, but only without hindering or encroaching upon the lawful rights of the other Owners.

Section 3.06. Mechanics' and Materialmen's Liens. No labor performed or materials furnished and incorporated in a Unit, notwithstanding the consent or request of the Owner, his agent, contractor or subcontractor, shall be the basis for filing a lien against the Common Elements. Each Owner shall defend, indemnify and hold harmless each of the other Owners and the Association from and against all losses, damages, costs and expenses, including, without limitation, reasonable attorneys' fees and expenses, arising from any lien against the Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the indemnifying Owner's Unit at such Owner's request.

Section 3.07. Share of Common Element Interest and Common Expense Liability.

(a) The Declarant and each Unit Owner shall have and be deemed to own, by virtue of their respective ownership of a Unit or Units, a share or percentage of the undivided interests in all the Common Elements for the entire Condominium and shall be liable for Common Expenses, based upon the allocation of the Common Element Interest and Common Expense Liability to each Owner is set forth in Exhibit C attached and incorporated as part of this Declaration.

(b) In addition to each Owner's liability for Common Expenses, each Owner shall also pay any and all assessments by the Association for Special Unit Expenses in the amount attributable to its Unit and related Limited Common Elements. Such

assessments shall be Approved by the Board. Special Unit Expenses may be based upon any of actual or estimated costs to the Association attributable to an Owner, independent billings of respective creditors, usage, estimated insurable values, insurance risks, or the relative size of each Unit in relation to the size of all Units in the aggregate. Special Unit Expenses shall include (without limitation) real estate taxes or assessments and comprehensive property and liability insurance premiums applicable to each Unit, as well as, late charges, fines or penalties Approved by the Board upon specific Owners from time to time.

Section 3.08. One Membership Per Unit. Ownership of each Unit shall entitle the record Owner to one (1) membership in the Association, irrespective of the number of Persons or entities that comprise the ownership of each such Unit (*i.e.*, only one membership per Unit). Ownership of a Unit shall be the sole qualification for membership. Mortgagees or other Persons or entities who hold an interest merely as security for the performance of an obligation shall not be Members unless and until fee title is indefeasibly vested in such Person. Membership shall be appurtenant to and may not be separated from the ownership of any Unit.

Section 3.09. Membership Inseparable from Ownership. The membership in the Association held by any Owner of a Unit shall not be transferred, pledged or alienated in any way, except upon the sale or disposition of the Unit, and then only to the purchaser or transferee of such Unit. Any attempt to make a prohibited transfer shall be void and of no effect, and shall not be reflected upon the books or records of the Association.

Section 3.10. Owner Maintenance. Each Owner shall maintain and keep his or her Unit in good condition and repair, including the fixtures thereof, and other Limited Common Elements, if any, which are appurtenant to such Owner's Unit. All Limited Common Elements, if any, associated with a Unit, shall be maintained and kept in good condition by the Owner of the Unit.

Section 3.11. Repair and Maintenance Upon Failure by Owner. If any Owner shall fail to maintain or repair his or her Unit in a reasonable condition as determined by the Board, and such maintenance or repair is not covered or paid for by insurance either on such Unit or the Common Elements which is available to the Board or the Association, then the Association shall have the right (but not the responsibility) to undertake such repairs and maintenance as may be Approved by the Board. The cost of such maintenance or repairs, including any amounts as Approved by the Board to compensate the Board or the Association for undertaking and supervising the repair and maintenance work, shall be added to and become a part of the Special Unit Expense applicable to such Unit.

Section 3.12. Declaration and Bylaws. Each Owner shall comply strictly with the provisions of this Declaration, the Association's Articles, the Bylaws, the Rules and Regulations, and the decisions and resolutions of the Association or the Board adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the foregoing shall be grounds for an action to recover damages or for injunctive relief, or both, maintainable by the Association or the Board on behalf of the Owners or, to the extent permitted by law, by an aggrieved Owner.

Section 3.13. Relocation of Boundaries. The Owners of adjoining Units may relocate the boundaries between their Units upon application to the Board and if Approved by the Board in advance, in compliance with the Act; provided, however, that if the relocation is allowed, the Owners of the Units whose boundaries are relocated shall promptly pay all costs incurred by the Association, including, without limitation, all attorneys', architects', surveyors' and recording fees and expenses to accomplish such relocation, and the Association shall have a lien upon both of the Units whose boundaries are relocated for the repayment of such costs, which liens shall be enforceable in the same manner as a lien for Assessments.

ARTICLE IV RESTRICTIONS ON USE AND IMPROVEMENTS

In addition to limitations established by law and by additional rules and regulations which may from time to time be promulgated by the Board, all Owners shall observe the restrictions set forth in this Article IV.

Section 4.01. Restrictions. The Units, the Common Elements, and Limited Common Elements shall be subject to the following:

(a) Each Unit not owned by the Declarant (or its affiliates) shall be occupied only by the Owners and their immediate family or, subject to the provisions of Section 4.01(v) hereof, pertaining to the leasing of Units, by the tenant, guest, or employee (and his/her immediate family) of any Owner. Each Unit shall be used for residential purposes only (as defined in the zoning ordinances of the City) and shall not be used for commercial or other purposes. Notwithstanding the foregoing, this restriction shall not prevent an Owner from maintaining a home office area in a Unit so long as (i) the office is not in violation of any zoning or other laws, ordinances or regulations of the City or other applicable governing bodies, (ii) the Owner complies with all relevant laws, ordinances or regulations of the City or other applicable governing bodies, and (iii) the Owner does not utilize any portion of the Common Elements, including without limitation any parking spaces or any meeting rooms or public areas of the Condominium, for business purposes.

(b) Each Owner shall have the exclusive right, at his or her sole cost and expense, and subject to the requirements of the following subsection, to paint, repaint, tile, wax, paper or otherwise finish, refinish and decorate the inner surfaces of the walls, ceilings, and floors which comprise the boundaries of the Owner's own Unit and the surfaces of bearing walls and partitions within the Unit, and to clean the interior surfaces of windows and doors bounding the Unit. If any floor coverings other than carpeting are installed in any Unit, each Owner shall install sound attenuation materials that must be Approved by the Board prior to installation. Each Owner shall maintain his or her Unit in a clean, safe, sanitary and attractive condition. Each Owner shall also be responsible for the (i) maintenance, repair or replacement of all plumbing lines, plumbing fixtures, electrical wiring, lighting fixtures, heating and air conditioning equipment, and water heaters located within the Unit, and (ii) all utility lines located within the Unit.

(c) In undertaking any repairs, maintenance or alteration of a Unit which require (or for which the Owner desires to use) the services of an outside contractor or laborer(s), other than minor and routine cleaning, housekeeping, plumbing, electrical and heating or air conditioning repairs which do not involve the addition of any new fixtures or services, Owner shall comply with the following. Owner shall:

(1) use the services of the Association's approved contractors, if any, or such contractor(s) as may be Approved by the Board in advance,

(2) have plans and specifications for the work drawn by a reputable licensed architect or engineer (the identity of whom shall be Approved by the Board in advance) if the work involves or significantly impacts any exterior walls or windows of the Unit, the ceiling or floor of the Unit, the main heating, ventilating and/or air conditioning equipment serving the Unit, any Common Elements or Limited Common Elements, or if the work involves the relocation of or significantly impacts any interior load-bearing walls or members,

(3) have the plans and specifications so drawn (if applicable) Approved by the Board in advance of the work,

(4) acquire or have Owner's contractor(s) acquire and maintain in force all applicable permits and licenses for the performance of the work,

(5) coordinate the performance of the work with the Board or its designee prior to commencement of the alterations or improvements,

(6) allow the Board or its designee to have direct contact with the contractors or laborers before and throughout the performance of the work to supervise or coordinate the work and for the performance of periodic inspections,

(7) require the contractors or laborers to have insurance in an amount which is acceptable to the Board (as Approved by the Board) or its designee,

(8) require the contractors or laborers to carefully observe all applicable codes, ordinances, rules, regulations or requirements of the City or other applicable governing bodies, and

(9) obtain any certificates of occupancy or other certificates or approvals which may be necessary or desirable at the conclusion of the work.

Owner agrees that any actions which are undertaken by the Association, the Board or the Board's designee in connection with any of the work described in this Section are undertaken solely to protect the interests of the Association and the Owners of other Units in the Condominium, and not undertaken for the benefit of the Owner or any other parties. Owner, for the Owner and his or her family members, heirs, successors, assigns, mortgagees, contractors, and all other persons who may have or acquire an interest in the Unit or have any connection therewith, hereby waives any and all claims of any kind or

nature whatsoever which he or she or any of them may have or assert against the Association, the Board, and any officers, employees or designees thereof, and any other Owners, arising out of any of the activities described in this Section.

(d) Each Unit shall contain a fire sprinkler system in accordance with the building or other applicable codes of the City. Owner agrees to keep such system in good and working condition.

(e) There shall be no obstruction of the Common Elements, nor shall anything be stored in the Common Elements (except in the storage locker assigned to the Owner's Unit) unless such storage has been Approved by the Board in advance.

(f) Nothing shall be done or kept in any Unit or in the Common Elements or Limited Common Elements, including without limitation any flammable materials, which will increase the applicable rates of insurance unless Approved by the Board in advance. In particular but without limitation, no flammable or combustible materials shall be kept within the same compartment or space as the heating, ventilating and/or air conditioning equipment serving a Unit or any portion of the Common Elements. No Owner shall permit anything to be done or kept in Owner's Unit or in the Common Elements which will result in the cancellation of any insurance or which would be in violation of any law, and no waste shall be committed in the Common Elements.

(g) No reflective materials, advertising, art work or signs of any kind (including without limitation any signs relating to any business of any Owner) shall be installed, placed or hung on the exterior (or visible through the windows) of any Unit or the Common Elements other than ultraviolet shading materials Approved by the Board. No clothing or other personal effects shall be placed upon or hung in view of any balcony or other exterior portion of any Unit or the Common Elements unless the same are Approved by the Board, except for barbeque grills, flower pots and other such items which shall be properly maintained and in good and attractive condition.

(h) To the extent that certain Units may include balconies, no Owner or other resident of a Unit shall engage in hose washing on the balcony of a Unit or otherwise. No leakage or overflow shall be allowed from any flower pots or other items holding water or moist soil, and any spills shall be promptly cleaned up so that no dripping occurs onto surface areas below. No furniture, of the nature of lawn or garden furniture or otherwise, shall be allowed on any balcony or patio unless the same is of sufficient weight, or is sufficiently anchored, to prevent the same from being blown over or off the balcony or patio. No awnings or umbrellas shall be allowed on any balcony or patio unless the same are firmly anchored and kept tightly closed when not in use. No cooking devices utilizing non-fossil fuels shall be kept or used on the balconies or patios except in strict accordance with all laws, ordinances, rules, regulations and requirements of the City and all other governing bodies. No balcony or patio shall be carpeted unless the materials have been Approved by the Board, and all such carpeting shall be carefully and regularly maintained by the Owner. The number, types, colors and sizes of any and all furniture, window coverings (whether located inside or outside a Unit), umbrellas,

plants, lights and other objects on balconies shall also be subject to further control and regulation by the Board.

(i) Except as otherwise provided with respect to the original sales period until all Units which may be created by Declarant are sold, no real estate signs advertising Units for the sale or rental shall be displayed on or about the Condominium or any Unit, unless Approved by the Board.

(j) No animals, reptiles, birds, rabbits, livestock, fowl or poultry of any kind shall be kept, raised or bred in any Unit or in any portion of the Condominium, except that one cat and/or one dog (which shall not exceed 40 pounds in weight at adulthood) or two caged birds may be kept as a pet within a Unit, subject to the Rules and Regulations and all applicable laws, ordinances, rules, regulations, or requirements of the City or other governing body. Nothing herein shall prevent any Owner who is a person with a disability from keeping a service animal in a Unit. Any such animals shall not be allowed in the Common Elements except for immediate transportation to and from the Unit, and the Owner shall be fully responsible for cleaning up any pet waste or products and keeping the Common Elements completely free therefrom. Fish maintained in a household aquarium shall not be deemed to be "animals" as defined herein, but all aquariums shall be properly maintained and kept completely free of any leakage or overflow, and any spills or leakage occurring therefrom shall be immediately cleaned up and the Owner shall take steps to prevent any reoccurrence. Any pet creating a nuisance or unreasonable disturbance or noise (in the sole judgment of the Board) shall be permanently removed from the property upon written notice from the Board, as may be Approved by the Board. The Board shall have the right to impose fines upon any Owner who violates (or whose pet violates) any of the Rules and Regulations or provisions hereof, as may be Approved by the Board.

(k) No gardening or farming of any kind shall be carried on within any Unit or any Limited Common Elements, unless plants shall be kept in appropriate containers using a water drainage system which precludes any leakage onto the floors of the Unit.

(l) No noxious, offensive or illegal activity of any kind shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners. No Owner, guest, tenant or any other Person shall have loud parties or play stereo equipment or musical instruments in a loud manner or otherwise permit or make loud noises audible outside its Unit.

(m) No drilling operations of any kind shall be permitted upon or within any Unit or the Common Elements, or in the concrete floors or ceilings, unless the same are conducted in accordance with the plans designed by a qualified and licensed engineer and are Approved by the Board in advance.

(n) Each Owner shall be obligated to pay any and all charges and assessments for electricity, other utilities, and taxes levied against its Unit. All Owners shall also be obligated to pay each Owner's share (in accordance with the percentages set

forth in Exhibit C) of costs for utilities which are shared by all of the Units, including water, sewer and gas. For reasons of efficiency in the Condominium and to avoid confusion and an unnecessary number of cables and lines in the Condominium, the Board shall have the right to designate specific providers of utility services such as (but without limitation) electricity, gas, telephone, Internet connection, fiber optic wiring, cable television and/or satellite television service. After the identity of such providers is Approved by the Board (together with any changes which may be made from time to time), all Owners shall utilize only the approved providers of such utility services. Any utility charges to the Association shall be assessed against all Owners in accordance with Article VII below. No Owner shall be exempt from liability for applicable specific assessments or charges which may be Approved by the Board pursuant to this Declaration.

(o) No Owner shall deposit any garbage, refuse, or rubbish on or about the Common Elements except in appropriate containers suitably placed as designated by the Board so as not to detract from the physical appearance of the Common Elements or the Condominium. No Owner, guest or tenant shall permit any noxious, offensive or unusual smells or odors of any kind to emanate beyond the boundaries of its Unit.

(p) Each Owner shall be liable to the Association for any damage to the Common Elements or any improvements, landscaping or equipment thereon which may be sustained by reason of the action or inaction of said Owner, or his or her family, guests, invitees, tenants, domestic employees or animals; and, as may be Approved by the Board, the Association shall assess the Owner for the costs of any necessary repairs or replacements, together with all attorneys' fees and other related expenses, including an amount necessary to compensate the Association for any administrative time, such assessment to be due and payable immediately or on a date Approved by the Board, by written assessment notice.

(q) If any portion of the Common Elements encroaches upon a Unit, a valid easement for the encroachment and for the maintenance of such Common Elements shall and does exist, so long as the encroachment continues. In the event any part of the Condominium is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of parts of the Common Elements due to construction shall be permitted and that valid easements for said encroachment and the maintenance of such Common Elements shall exist. The Common Elements are and shall always remain subject to easements for minor encroachments by Owners for repairs and construction relating exclusively to their respective Units.

(r) In decorating a Unit, each Owner is solely responsible for compliance with the fire protection ordinances, laws, rules, regulations, requirements and the building and safety codes of the City and other governing bodies, and shall defend and indemnify the other Owners, the Association and the Board for any violation thereof which causes loss or damage to Persons or property.

(s) No heavy trucks, construction equipment, commercial vehicles, boats, house trailers, campers, motor homes, inoperable vehicles, boat trailers, or trailers of any other type shall be permitted to be parked or stored on or within the Condominium, unless the same has been Approved by the Board. The Board may establish reasonable further restrictions in its discretion. This prohibition shall not apply to the temporary parking of trucks and commercial vehicles, during periods of approved construction or for pick-up, delivery and other commercial services, but designated spaces for such parking may be Approved by the Board. The Declarant's exercise of the Special Declarant Rights described herein shall be an approved use of the above in all events.

(t) No baby carriages, playpens, bicycles, wagons, toys, vehicles, charcoal burners or other outdoor cooking devices, devices utilizing non-fossil fuels, nor any other items shall be parked or stored on any part of the Common Elements or Limited Common Elements, in a manner so as to be exposed to public view from the exterior of any Unit, unless Approved by the Board in advance. Such items may, however, be kept (but not operated) in the Owner's storage locker. No dangerous or hazardous materials, chemicals, poisons, or any materials or substances which are prohibited or regulated under any Federal, state or local environmental law, ordinance, rule or regulation or which pose a threat to persons or property shall be kept or maintained in any storage locker (other than ordinary cleaning solvents and other household materials handled in accordance with law). The storage locker area will not be climate controlled, so no weapons, ammunition, explosive or combustible materials, firecrackers, gasoline or petroleum products, or any other items which may be or become dangerous in hot weather, shall be stored in any storage locker at any time. Each Owner bears all risk of loss to the personal property stored

(u) After reasonable notice to the Owners, the Board may establish additional Rules and Regulations, as Approved by the Board, governing and further restricting the use of the Units and Common Elements in any manner not inconsistent with the provisions of this Declaration. The Board, or any Owner, shall have the right to enforce such rules and regulations by any proceeding at law or in equity.

(v) Any leasing of a Unit shall be subject to the following restrictions:

(1) Each lease must be for a minimum of one (1) year, except for leases signed by Declarant during the Declarant Control Period;

(2) The lease shall mandate compliance with this Declaration, the Bylaws, the Rules and Regulations, and all other documentation associated with the Condominium and shall require the tenant to pay all costs and expense relating to its move-in and move-out from the premises, and save the Association, the Board and other Owners harmless therefrom;

(3) The names of all people who will occupy the Unit shall be given to the Declarant and/or the Board, as applicable, not less than five (5) business days prior to the tenant(s) moving into the Unit. The Declarant and/or the Board shall

have the right to check references and conduct ordinary screening activities with regard to such tenants, at the cost of the Owner proposing the lease, and the Declarant and/or the Board, as applicable, shall have the right to reject any such tenant(s) at its sole discretion (which rejection by the Board must be Approved by the Board), subject to any limitations imposed by law;

(4) The Declarant or the Board, as applicable, shall have the right to designate a certain elevator during certain periods to accommodate any move-in or move-out, and may otherwise generally witness and observe the move-in and move-out through designated representatives;

(5) A copy of the executed lease shall be furnished to the Declarant and/or the Board, as applicable, prior to the commencement of the tenant's occupancy of the Unit; and

(6) No more than thirty percent (30%) of the Units may be the subject of a lease. If an Owner wishes to lease a Unit when thirty percent (30%) or more of the Units are already the subject of leases, the Board of Directors shall have the right to prohibit the lease, and its prohibition shall be fully binding.

(w) The Board shall have the specific power to enact rules or regulations from time to time regarding activities in the community room and the outdoor brick plaza.

Section 4.02. Restrictions on Alterations/Improvements. The following restrictions and limitations shall apply to the installation of improvements and equipment by Owners on or about their Units:

(a) No vestibule projections, decks, balconies, awnings, spoutings, chimney, trellises, grillwork, poles or flagpoles, porches, bay, bow or oriel windows or doors or similar projections or ornaments shall be connected to or installed or maintained upon any Unit, which project beyond the exterior shell of the Building, and no other windows, doors, openings or apertures of any kind may be installed or maintained in the exterior shell of the Building, unless the same have been Approved by the Board in advance. Any increase in insurance costs resulting from any such improvements or alterations shall be the sole responsibility of the Owner installing the same. With respect to the installation of awnings, sunshades, screen doors, and other minor additions to any Unit, the same must be Approved by the Board in advance. All windows and glasswork, and all other items described herein, are the responsibility of the Owner to maintain and repair.

(b) No antennas, communications equipment, satellite disks, weather vanes, electrical, telephone or television cables or other wires or lines, and no solar collectors or recreational or exercise equipment which extends beyond the exterior shell of the Building shall be placed, connected, erected or maintained upon any Unit or Common Elements (including any balcony or patio), unless Approved by the Board in advance, except to the extent the Association or this Declaration is limited in restricting an

antennae or satellite dish pursuant to the express terms of the Telecommunications Act of 1996 or other present or future law, ordinance, rule, or regulation.

(c) No heating or air-conditioning equipment of any kind and no solar collectors shall be erected or maintained upon any of the Units or Common Elements, without the prior written consent of the Board.

(d) No Owner shall make any alterations, additions or modifications to any part of the Common Elements, or decorate the exterior portion of any Unit or Common Element, except as specifically permitted in the Rules and Regulations.

(e) After acquiring all or pertinent parts of an adjoining Unit (subject to satisfaction of the requirements herein), an Owner may remove or alter any previously shared wall or create interior doors, windows or other apertures therein, even if the shared wall is wholly or partially a Limited Common Element or Common Element; provided that such alterations do not impair the structural integrity or mechanical or electrical or other systems of the Condominium or Property, and provided that the Owner complies with the provisions of Section 4.01(c) hereof. The removal of walls, creation of apertures, and alteration of sound insulation between Units or weatherstripping of Units shall not be permitted under any circumstances for boundary or demising walls which are also exterior walls or which remain as Unit boundaries.

(f) Except as otherwise provided herein, Owners may make any nonstructural, interior improvements or alterations to their Units they may desire. All such proposed improvements and alterations shall fully comply with applicable City laws, ordinances, codes, rules and regulations, including those for fire, safety, plumbing, electrical, and heating, ventilation and air conditioning systems. The Board reserves the right to set and enforce standards which exceed applicable City codes in its sole and absolute discretion; provided that the Board's approval shall in no way be deemed to imply compliance with or waiver of any applicable City code requirement.

(g) No Owner shall do any act or any work that will impair the structural soundness and integrity of the mechanical, electric or other systems or the support of any portion of the Buildings or Common Elements or impair any easement or hereditament. No Owner shall in any way alter, modify, add to or otherwise perform any work whatever upon any of the Common Elements without the same having been Approved by the Board in advance. Any such alteration or modification shall be in harmony with the external design and location of the surrounding structures and topography, and shall not be considered until submission to the Board of complete plans and specifications, prepared by a licensed architect or engineer Approved by the Board in advance, showing the nature, kind, shape, size, materials, color and location for all proposed work.

(h) Notwithstanding any other provisions in this Declaration, the Declarant and its agents and employees shall have the express right and privilege during the period of original sale of the Units in the Condominium: (1) to complete the development, improvement and sale of the Units, together with the improvement and interior

decorating of the lobbies and any unsold or model Units; (2) to maintain and operate model Units for sales and administrative purposes; and (3) to show the Condominium, any unsold Units or available floor space which are offered for sale, including the right to use such Common Elements and facilities as the Declarant deems appropriate, convenient or incidental to the sale of Units, in its sole discretion, including, but without limitation, the exclusive right to use any portion of the Condominium as a business office, the right to display "For Sale" or "For Rent" and other appropriate signs in aid of the sale or rental of all Units, and the right to maintain and operate a fully staffed customer service, sales and leasing office complex in such other portions of the Condominium including the Common Elements as may be necessary or convenient under the circumstances. The foregoing rights shall continue and remain effective until the completion of all original sales of all the Units within the Condominium to Owners other than the Declarant.

(i) Notwithstanding the provisions of any State law or City ordinances to the contrary, the Declarant shall have and may freely exercise each of the foregoing rights and privileges described in Subsection 4.02(h) above without notice to or consent of any kind from the other Owners; and each and every Owner and its heirs, successors and assigns shall be conclusively presumed to have waived any and all rights afforded under State law or City ordinances for notice or consent to any lot split, minor subdivision, plat amendment, variance, or other right or privilege described herein, by virtue of its ownership or acquisition of a Unit, whether by sale or by operation of law.

Section 4.03. Parking and Vehicular Restrictions.

(a) No Owner shall park, store or keep within or on any parking or garage space within the Condominium any truck or commercial type vehicle, bus, trailer, trailer coach, camper trailer, boat, or any inoperable vehicle. The Owner shall comply with any applicable laws, ordinances, rules, regulations and requirements, including without limitation any height and/or weight requirements, with regard to any recreational vehicle, including, but not limited to, any camper unit, house/car, motor/mobile home, boat or other watercrafts, motorcycles or snowmobiles. Motorcycles and any other vehicles producing noise in excess of that of ordinary passenger automobiles will be driven slowly and otherwise operated so as to minimize any disruption to other Owners. Pick-up trucks, camper trucks, minivans, and similar vehicles shall be allowed so long as they do not exceed three-quarters (3/4) of a ton in weight and are used for everyday transportation by the Owner of a Unit or the Owner's tenant. However, the Board may impose such rules and regulations regarding any non-automotive vehicles (including the prohibition of such vehicles) in the event the Board determines that the parking of any such vehicles in the Condominium may presently or eventually cause damage or wear and tear above that expected from the parking of ordinary automobiles.

(b) No Owner shall park, store, or keep anywhere within the Condominium any vehicle or vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board.

(c) No Owner shall maintain, repair, rebuild, dismantle, paint, wash, service, change oil in, or restore any motor vehicle, boat, trailer, aircraft or other vehicle anywhere within the Condominium, including without limitation within any parking stall. This restriction shall not be deemed to prohibit polishing of vehicles. No vehicle may be parked or stored in any parking stall which does not fit within the boundaries of such stall or which, even if it fits within such boundaries, interferes with the ability of those parking in neighboring stalls to use their stalls. No vehicles may be operated within the Condominium which are unreasonably noisy or which emit an unreasonable amount of smoke or other emissions (as determined by the Board). No off-road unlicensed motor vehicles may be operated within the Condominium.

(d) In addition to the foregoing restrictions, parking of any and all automobiles, motorcycles or similar vehicles and of any bicycles in any parking stalls shall be subject to the Rules and Regulations.

Section 4.04. Enforcement of Restrictions.

(a) In the event that the Association determines, as Approved by the Board, that an Owner is not maintaining his or her Unit or the assigned or appurtenant Limited Common Elements, in accordance with the applicable standards, or continues to violate any of the restrictions on use or improvements contained in Sections 4.01, Sections 4.02 or Section 4.03 above and as may be otherwise established by the Board from time to time, so that (in the discretion of the Board) the physical or aesthetic qualities of the Condominium or the peace and quiet enjoyment of other Owners are detrimentally affected, and the Owner of such Unit fails to properly remedy any such condition within ten (10) days after notice in writing, then in such event the Board shall have the right: (1) to assess fines as Special Unit Expenses upon the offending Owner (as described in Article VII below) in such amounts as the Board deems necessary to effect compliance with the requirements or (2) to enter said Unit or Limited Common Element upon at least twenty-four (24) hours' prior notice to the Owner (except in the case of an emergency as reasonably determined by the Association, in which event no notice will be required) and perform such repairs, maintenance or alterations as it deems necessary or appropriate and levy the costs and expenses of such actions as Special Unit Expenses upon the Owner of such Unit. So long as the Association, its agents, servants or employees exercise reasonable care in the performance of said repairs, maintenance or alterations, they shall not be liable to the offending Owner for any damages caused in so doing. The cost of such work shall be collected in the same manner as other assessments. In addition, the Board or its designated representatives, together with emergency personnel, shall have an immediate right of access to all Units in the Owner's absence under emergency conditions. Furthermore, the Association shall be entitled to tow or cause to be towed, and/or may impound or cause to be impounded, any automobile or other vehicle that is operated, parked or stored in violation of the restrictions set forth in Section 4.03 of this Declaration or any applicable rule or regulation. The costs and expenses incurred in connection with any such activity shall be assessed against and collected from the applicable Owner in the same manner as other assessments.

(b) To secure payment of any fine assessed or cost and expense incurred by the Board, the Association shall have authority to create a lien, as described in Article VII herein, and as Approved by the Board, ultimately enforceable by foreclosure of the Unit. The violation of any restriction or regulation adopted by the Association, or the breach of any covenant or provisions herein contained, shall give the Association the right in addition to all other rights set forth herein:

(1) To enter upon the portion of the Condominium upon which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition which may exist thereon, contrary to the intent and meaning of the provisions hereof, and the Declarant, the Association, the Board, or their successors, assigns or agents shall not thereby be deemed guilty in any manner of trespass; or

(2) To enjoin, abate or remedy the continuance of any breach by appropriate legal proceedings, either at law or in equity;

(3) To recover in any legal proceedings to enjoin, abate or remedy a breach, all costs of such action, including court costs and reasonable attorneys' fees.

(c) In addition, if any Owner (either by its own conduct or by the conduct of any other occupant including any tenant, guest, or employee of its Unit), shall violate any of the covenants, restrictions or provisions of this Declaration or the Rules and Regulations, and such violation shall continue for ten (10) days after notice in writing from the Association, or shall occur repeatedly during any thirty (30) day period after written notice or request to cure such violation, then the Association shall have the power, exercised upon Approval by the Board, to issue to the defaulting Owner a ten (10) day notice in writing to terminate the rights of the said defaulting Owner to continue as an Owner and to continue to occupy, use or control his or her Unit, and thereupon an action in equity may be filed by the Association against the defaulting Owner for a decree of mandatory injunction against the Owner or the Unit's occupant, or in the alternative, a decree declaring the termination of the defaulting Owner's rights to occupy, use or control the Unit owned by him or her on account of the breach of covenant, and ordering that all the rights, title and interests of the Owner in the Unit shall be sold (subject to the lien of any existing Mortgage) at a judicial sale upon such notice and terms as the court shall establish, except the court shall enjoin and restrain the defaulting Owner from reacquiring his or her interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, reasonable attorneys' fees and expenses, and all other expenses of the proceeding, and all such expenses shall be assessed against the defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder and any liens or Mortgages, may be paid to the Owner. Upon the confirmation of such sale, the purchaser shall be entitled to a deed and immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the

Unit subject to this Declaration and that the purchaser shall immediately be a Member of the Association in the place and stead of the defaulting Owner.

ARTICLE V MANAGEMENT AND ADMINISTRATION

Section 5.01. Management. Subject to the provisions of applicable law, the management and administration of the Condominium shall be governed and performed by the Association, acting through the Board of Directors in accordance with this Declaration, the Articles and the Bylaws. The Bylaws shall govern the administration and management of the Association, and shall provide, among other things, for voting by proxy, annual election of directors by the Owners, and the requirements for a quorum. All persons present at a meeting at the time a matter is voted upon, and all persons voting by proxy, shall be deemed present for purposes of all quorum requirements set forth in this Declaration and the Bylaws. Every Person or entity that acquires any interest in any portion of the Condominium shall be deemed to have consented and agreed to, and shall be bound by, all provisions of this Declaration and the Articles and the Bylaws. In the event of any conflict between the provisions of this Declaration and the provisions of the Articles or the Bylaws, then, subject to applicable law, the provisions of this Declaration shall supersede and be controlling over the conflicting provisions of the Articles or the Bylaws.

Section 5.02. Declarant Control. For the benefit and protection of the Owners and any Mortgagees, the Declarant shall have the sole power to appoint and remove all members of the Board during the Declarant Control Period. Not later than the end of the Declarant Control Period, the Owners shall elect a Board consisting of five (5) Members, who shall be Owners. Notwithstanding the foregoing, (i) not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Owners other than the Declarant, one member of the Board shall be elected by Owners other than the Declarant; and (ii) not later than sixty (60) days after conveyance of fifty percent (50%) of the Units to Owners other than the Declarant, a second member of the Board shall be elected by Owners other than the Declarant.

Section 5.03. Manager. The Association may employ a manager, who shall have and possess all of the rights, powers, authority, functions and duties as may be specified in the contract of employment or as may be delegated by the Association to the manager. The Association may pay the manager such compensation as it may deem reasonable for the services to be rendered, which compensation shall constitute a part of the Common Expenses.

Section 5.04. Powers and Authority of the Board. In addition to those powers granted in the Articles and the Bylaws, which govern the administration of the Condominium in further detail, the Board shall have and may freely exercise the following powers and authority:

- (a) To conduct, manage and control the affairs of the Association and to make and enforce rules and regulations not inconsistent with this Declaration or with the Act and which it deems to be in the best interests of the Owners.

(b) To determine the frequency, date, time and location of any Board meetings, provided that the Board shall meet not less frequently than once per year.

(c) To appoint an agent or property management company as manager of the Condominium and Common Elements, and to delegate such of its powers to such agent or manager as may be required for proper maintenance and operation of the Condominium and Common Elements.

(d) To make contracts and incur liabilities and to pay, out of the assessments against Owners, the following items (among others):

(1) Service charges for water, sewer, garbage, electrical, telephone, gas, heating, air-conditioning, security, cable television, closed-circuit television, and other desirable or necessary utility services for the Common Elements and (if not separately metered or charged) for the individual Units.

(2) Expenses of maintaining, cleaning, and keeping in good repair and condition the Common Elements, including when applicable the expense of maintenance contracts, repairmen, contractors and other parties who may be employed to perform such work.

(3) Premiums for workers' compensation insurance to the extent necessary to comply with any applicable laws or as is otherwise desirable.

(4) Compensation for the Manager and for all employees of the Association, including medical and hospitalization insurance, pension plans and such other compensation as the Board shall deem appropriate.

(5) Legal, accounting and consultant fees for services necessary or proper in the operation of the Association or enforcement of the restrictions and covenants herein contained and other rules and regulations adopted by the Board.

(6) Charges for regular and preventive maintenance, painting, gardening, landscaping, pest control, janitorial and security services, elevator maintenance and inspection, and repair of the Common Elements, and for such equipment, and furniture for the Common Elements as the Board shall determine is appropriate or desirable, and the Board shall have the exclusive right and duty to purchase and maintain the same.

(7) The costs of any other materials, supplies, furniture, labor, services, maintenance, repairs or structural alterations, which the Board is required to secure or pay for pursuant to the terms of this Declaration, the Articles or the Bylaws, or which in its opinion shall be necessary or desirable for the Common Elements or the enforcement of this Declaration, the Bylaws or rules and regulations.

(8) Any amount necessary to discharge a lien or encumbrance levied against the Condominium or any part thereof which may, in the opinion of the Board, constitute a lien against the Common Elements, rather than merely against the interests of a particular Owner or Owners, except that where one or more Owners are responsible for the existence of any lien, they shall be jointly and severally liable for the cost of discharging such lien.

(9) Expenses for maintenance and repair of any Unit if such maintenance and repair is necessary, in the opinion of the Board, to protect and preserve the Common Elements, and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity for such maintenance or repair is delivered personally or by certified mail to said Owner or Owners pursuant to Section 4.04, Enforcement of Restrictions. The Board, its agents and employees are hereby given the right and license to enter upon any Unit and levy a special assessment against the Owner or Owners of any such Unit to pay for the costs or expenses incident to said maintenance, repair, and assessment pursuant to Article VII.

(10) Taxes and special assessments which are or would become a lien on the Common Elements.

(11) Expenses for maintenance and repair of nonexclusive easements for drainage purposes including all drainage structures and appurtenances constructed thereon, which nonexclusive easements shall be appurtenant to and for the benefit of the Condominium.

(12) Expenses of employing, equipping and providing uniforms for security guards, doormen, parking attendants, switchboard operators, maintenance engineers, cleaning personnel and similar required expenses.

(e) To prepare a component study of the Condominium, analyzing the projected remaining useful life of the major structural and equipment components of the Condominium, and to determine the amount of funds which should be set aside in reserve accounts each year for the purpose of accumulating sufficient funds to handle the repair and replacement of the major components at such time as the same are anticipated to be required.

(f) To authorize and contract for the repair and replacement of the major structural and equipment components of the Condominium when necessary or desirable.

(g) To authorize and contract for capital additions and improvements to the Common Elements, which shall be charged to the Owners in accordance with their respective percentages of Common Element Interests. The Declarant shall not be deemed to be an Owner for purposes of voting for such capital improvements to the Common Elements.

(h) To establish and maintain a contingency reserve account in an amount equal to at least twenty-five percent (25%) of the projected annual operating budget for the upcoming year, to assure the availability of funds for unanticipated or extraordinary Common Expenses.

(i) To adopt and amend budgets for revenues, expenditures, and reserves and collect assessments from the Owners.

(j) To institute, defend, or intervene in litigation or administrative proceedings, in its own name or on behalf of two (2) or more Owners, on matters affecting the Condominium.

(k) To regulate the use, maintenance, repair, replacement, and modification of Common Elements and Limited Common Elements and to regulate the use and improvement of Units as they affect the Common Elements.

(l) To maintain, repair, remodel, reconstruct and make improvements to the Limited Common Elements, the costs of which shall be assessed to the Owners to whom such Limited Common Elements are assigned or appurtenant.

(m) To acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property; provided, that Common Elements may be conveyed or subjected to a security interest only pursuant to the Act.

(n) To grant easements, leases, licenses, and concessions through or over the Common Elements.

(o) To make reasonable accommodations in the Rules and Regulations and declarations adopted by the Association or the Board, or any other restrictions applicable to the Condominium if such accommodations are required by law to afford a disabled person equal opportunity to use and enjoy the Condominium.

(p) To impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements, other than Limited Common Elements, and for services provided to Owners.

(q) To impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, or Rules and Regulations of the Association.

(r) To suspend the voting rights of an Owner or Owners for the period during which an assessment against his or her Unit remains unpaid and delinquent and to suspend the voting rights of every Owner of a Unit for a period not to exceed thirty (30) days for any one (1) violation of this Declaration or infraction of the Rules and Regulations of the Association committed by such Owners, their respective guests, servants, family members, tenants or invitees; provided that any suspension of voting rights (except for failure to pay assessments) shall be made only after written notice and

the opportunity for a hearing are provided in accordance with the Bylaws. Further, no such suspension shall apply to any vote for which the Act specifies a minimum percentage necessary to establish a quorum or take a specific action where the presence or vote of any such suspended Member is required to meet said minimum percentage.

(s) To impose reasonable charges for the preparation and recording of amendments to the Declaration, resale certifications, or statements of unpaid assessments.

(t) To provide for the indemnification of its officers and Board members and to maintain directors' and officers' liability insurance.

(u) To assign its rights to future income, including the right to receive Common Expense assessments, but only to the extent expressly provided in the Declaration.

(v) To adopt and amend the Bylaws and rules and regulations governing the use of the Common Elements and the improvements and facilities located thereon.

(w) To exercise any other powers conferred by the Declaration, in the Articles or Bylaws, or necessary and proper for the administration of the Association.

(x) To contract with other parties for use by Owners of recreational facilities.

Section 5.05. Insurance Matters.

(a) The Association shall obtain and maintain at all times property and liability insurance on the Condominium as required in Section 76-871 of the Act, including any fixtures and equipment therein, insuring against such risks and in such amounts as are required therein, and also meeting the requirements of any Mortgagee having a Mortgage on the Common Elements and/or fixtures, or as hereafter customarily covered with respect to such property similar in construction, design, location, and use to that of the Condominium, and such other risks as may be Approved by the Board, including but not limited to the risk of floods (but only if any part of the Property is located within an officially designated flood plain), as the Board in its discretion shall deem appropriate and consistent with responsible business practice to the extent available at commercially reasonable rates. All policies of such insurance shall be issued by responsible insurance companies authorized to do business in the State. The insurance may be in blanket policy form and shall be issued in the name of the Association, the Unit Owners to the extent required by Section 76-871 of the Act, and all Mortgagees of the Common Elements and/or the fixtures therein, as their interests may appear. The policy shall be in an amount not less than that required by any Mortgage of the Common Elements and/or the fixtures therein, or ninety percent (90%) of the actual cash value of the Condominium, exclusive of land, foundations, excavations and other items normally excluded from coverage, whichever is greater. The loss payable clause shall be in favor of the Association, the Unit Owners to the extent required by Section 76-871 of the Act, and any Mortgagees of the Common Elements and/or the fixtures therein. Such

insurance policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty (30) days' prior written notice (or the maximum number of days of notice less than thirty (30) which is reasonably possible to obtain) to the Association and to such Mortgagee. The Board, upon request of any Owner or Mortgagee, shall request the insurer to furnish a certified copy of each policy and a separate certificate identifying the interest of the Owner and any such Mortgagee.

(b) Not later than the time of the first conveyance of a Unit to a Person other than the Declarant, the Association shall obtain and maintain at all times a comprehensive policy or policies of public liability insurance, including medical payments insurance, covering the Common Elements. Such policy or policies shall be in a base amount deemed sufficient by the Association or in such amounts as reasonably required by Section 76-871 of the Act and any Mortgage, plus such other insurance, and including such coverage, as the Board in its discretion shall deem appropriate and consistent with responsible business practice to the extent available at commercially reasonable rates. Such policies must provide that they may not be canceled or substantially modified by any party without at least thirty (30) days written notice (or the maximum number of days of notice less than thirty (30) which is reasonably possible to obtain) to the Association and all Mortgagees of the Common Elements and/or the fixtures therein.

(c) Not later than the first conveyance of a Unit to a person other than the Declarant, the Association shall obtain and maintain at all times a policy or policies of (i) liability insurance insuring the Board, Officers, employees and agents of the Association and Board against any claims, losses, liabilities, damages or causes of action arising out of, in connection with, or resulting from any act done or omission to act by any such Person, (ii) worker's compensation as required under the laws of the State if the Board has any employees, and (iii) such other insurance as the Board in its discretion shall deem appropriate and consistent with responsible business practice.

(d) Each Owner shall be obligated to procure and maintain his or her own property insurance and liability insurance respecting Owner's own furnishings, improvements and other items of personal property belonging to an Owner, and covering the Owner's own liability which may arise out of or in connection with the Owner's use of the Unit or actions in or about the Condominium.

(e) The Association shall not be responsible for the liability of any Owner not caused by or connected with the Association's operation or maintenance of the Condominium.

(f) All insurance policies required by this Article V shall also comply with any provisions of the Bylaws regarding insurance and with the requirements of Section 76-871 of the Act. Without limiting the generality of the foregoing, all insurance policies on the Common Elements shall provide that:

(1) Each Owner is an insured person under the policy with respect to liability arising out of his or her interest in the Common Elements or membership in the Association;

(2) The insurer waives its rights to subrogation under the policy against any Owner or members of the Owner's household;

(3) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy or reduce the amount of recovery under the policy; and

(4) If, at the time of a loss under the Policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

Section 5.06. Responsibility for Common Areas. The Association shall have the responsibility to manage and maintain all the Common Elements and all property which may be acquired by the Association in good condition and repair. The Board may grant easements over the Common Elements where necessary to provide utilities and sewer facilities to serve the Condominium or adjacent properties.

Section 5.07. Limitation on Liability. Neither the Association nor the Declarant nor manager, nor any officer or member of the Board nor any committee of the Association, nor the Declarant or Manager, shall be liable to any Owner or to any other party, including the Association, for damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of any such party; provided that such Person or party has acted in good faith on the basis of such information as may be available, and without willful or intentional misconduct.

Section 5.08. Restrictions Upon the Board.

(a) Under no circumstances may the Association cause a forfeiture of an Owner's right to use and enjoy its Unit for failure of the Owner to comply with the provisions of this Declaration, the Bylaws, or the Rules and Regulations, except: (1) in accordance with the procedure set forth in Subsection 4.04 above; or (2) by judgment of a court of competent jurisdiction or a decision arising out of a previously agreed upon arbitration in accordance with applicable Nebraska law; or (3) on account of a foreclosure or a sale under a power of sale for failure of the Owner to pay assessments duly levied by the Association or to abide by the terms of this Declaration, the Bylaws or Rules and Regulations; or (4) the suspension of voting rights pursuant to Subsection 5.04(r) above; or (4) the imposition of late charges and other fees and assessments.

(b) The Board is prohibited from taking any of the following actions, except with the vote or written consent of a Majority of the Members of the Association (excluding the Declarant):

(1) Entering into any contract for goods or services for a term longer than one (1) year with the following specific exceptions:

(i) A property management agreement for a term of no longer than three (3) years.

(ii) A contract with a public utility company if the rates charged for the materials or services are regulated by the State Public Service Commission or under franchise with the City, or other governmental authority; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(iii) Prepaid comprehensive casualty, liability and other insurance policies not to exceed three (3) years in duration; provided that such policies shall permit cancellation or modification by the insured.

(iv) Service contracts for equipment, repair and maintenance of principal building components, elevators and the like, for terms of up to five (5) years.

(2) Incurring aggregate expenditures for capital improvements to the Common Elements in any fiscal year in excess of ten percent (10%) of the budgeted gross expenses of the Association for the previous fiscal year, except for expenditures made in accordance with any component survey prepared for the Building, a significant portion of which expenditures are made from previously set aside accounts for the repair and maintenance of such components.

(3) Selling property of the Association having an aggregate fair market value greater than ten percent (10%) of the budgeted gross expenses of the Association for the previous fiscal year.

(4) Paying compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may reimburse a Board member or officer for expenses actually incurred in carrying out the business of the Association.

ARTICLE VI AUTHORITY OF THE MEMBERS

In addition to any other powers and authority provided in this Declaration and in the Bylaws, the Members of the Association shall have the following express authority and control over actions by the Board, following the expiration of the Declarant Control Period:

(a) To effect necessary amendments to this Declaration in the manner provided in Section 14.14 below.

(b) To subject any action taken by the Board in levying any assessment (other than the general monthly assessments, special assessments, and emergency assessments provided for in Article VII herein) to review by the Members. Such review may be initiated only by a Member filing with the Board, within thirty (30) days of notice of such assessment, a petition requesting such review executed by Owners representing at least twenty-five percent (25%) of the Members of the Association. Upon receipt of such petition, the Board shall forthwith duly call and hold a special meeting of the Members in accordance with the procedures set forth in the Bylaws in order to consider such petition and review the disputed action of the Board. At such meeting, in the event two-thirds (2/3) of the Members cast affirmative votes for a resolution rescinding the assessment referred to in the petition, the assessment shall be deemed rescinded, and the Board shall take no action to enforce such assessment. If such vote is not obtained, the Board shall proceed to enforce such assessment according to this Declaration and the Bylaws. Following receipt of the petition, the Board shall take no action to enforce the assessment referred to in the petition pending the vote of the Members described herein.

(c) To enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Board or any Owner to enforce any covenant, restriction, rule or regulation shall in no event be deemed a waiver of the right to do so thereafter. Such right may only be waived by an instrument in writing signed by the party charged with such waiver and shall be limited to the particular covenant, restriction, rule or regulation which is expressly described as being waived in such writing.

ARTICLE VII ASSESSMENTS

Section 7.01. Assessments for Common Expenses. All Owners shall be obligated to pay the assessments imposed by the Association to meet the Common Expenses. Each Owner shall be jointly and severally liable for the Common Expenses that are levied against such Owner's Unit. Each Unit shall be assessed in accordance with such Unit's percentage of Common Expenses as allocated in this Article VII. Assessments for the estimated Common Expenses ("**Regular Assessments**") shall be due monthly in advance on or before the first (1st) day of each month. Any Regular Assessment not paid by the tenth (10th) day of each month shall accrue interest from said date until paid, at the lesser of eighteen percent (18%) *per annum* or the maximum rate permitted by the Act, if any. Liability for Regular Assessments shall be prorated if the ownership of a Unit commences on a day other than the first day of a month.

Section 7.02. Purpose of Assessments.

(a) Regular Assessments shall be used exclusively for the purposes of promoting the health, safety, welfare and recreation of the residents of the Condominium, and in particular of the Condominium and the facilities devoted to said purposes. Such uses may include, but are not limited to, the cost to the Association of the following: all insurance, repair, replacement and maintenance of the Common Elements; fire, extended

coverage, vandalism, malicious mischief and liability insurance for the Units; management services; taxes and assessments, general and special (exclusive of real estate taxes and assessments assessed against Owners); legal and accounting services as may from time to time be authorized by the Association; construction of facilities relating to the Association's purposes; maintenance of easements upon, constituting a part of, appurtenant to or for the benefit of, the Condominium; mowing grass and maintaining the grounds and landscaping; maintenance of any parking and recreational facilities which are part of the Common Elements; maintaining the roofs and exterior surfaces of any Building; garbage pickup; pest control; road maintenance; outdoor lighting; security service for the Condominium; gas, water and sewer service furnished to the Condominium by or through the Association; discharge of any liens on the Common Elements; recreational areas, if any; all other Common Expenses; and all other uses permitted by this Declaration and the Act. Nothing herein shall require the Association to provide any of the services for which Regular Assessments are to be used hereunder.

(b) Upon acquisition of record title to a Unit from the Declarant, each purchaser of a Unit shall contribute to the working capital fund of the Association an amount equal to two (2) months of the then current monthly assessment for such Unit as determined by the Board. This amount shall be deposited by the purchaser of such Unit into an escrow established in connection with the closing of the purchase and sale of the Unit and disbursed therefrom to the Association, which shall hold such funds in a segregated interest-bearing account for the use and benefit of the Association. The Declarant shall have no obligation to make contributions to the working capital fund. The purpose of the working capital fund is to insure that the Board will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board for the performance of its obligations. Amounts paid into the fund are not to be considered as advance payment of Regular Assessments.

(c) The Association, through the Board, may also establish a reserve or sinking fund to be maintained in a segregated interest-bearing account, in order to accumulate funds for the anticipated cost of maintenance, repair and replacement of capital improvements, including fixtures and personal property relating thereto. The Board may levy assessments for the reserve fund, payable no more frequently than monthly, in the same manner as Regular Assessments. Amounts paid into the reserve or sinking fund are not to be considered as advance payment of Regular Assessments.

Section 7.03. Determination of Assessments. Each year the Board shall prepare a proposed budget for consideration by the Owners at a meeting held not less than ten (10) nor more than thirty (30) days after the mailing or delivery by the Board to each Owner of notice of the meeting and a summary of the proposed budget. The budget and any summary shall specify the total amount of each proposed assessment, including any assessments for the reserve fund or the emergency working capital fund and any Special Assessments as provided in Section 7.05 hereof. Unless at that meeting the holders of a majority of the votes in the Association reject the budget, the budget shall be deemed ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the budget last ratified by the Owners shall be continued until such

time as the Owners ratify a subsequent budget proposed by the Board in the same manner as set forth above. Each budget shall reflect the cash requirements necessary to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Elements. The omission or failure of the Board or the Owners to fix the assessment for any month shall not be deemed a waiver, modification or a release of the Owners from the obligation to pay any future assessment for such month.

Section 7.04. Allocation, Limits and Changes in Assessments. The assessments for each Unit shall be proportionate to the Common Element Interest for each Unit as shown on Exhibit C attached hereto. If the Board determines at any time during any fiscal year that a greater Regular Assessment is required to adequately perform the duties and responsibilities of the Association and pay all expenses thereof, then the Board may call a special meeting of the Owners. By the affirmative vote of the holders of at least fifty-one percent (51%) of the votes in the Association cast at such meeting at which a Quorum is present, the Regular Assessment may be set at whatever level such Owners approve. The Board may decrease the amount of any Regular Assessment or any other assessment at any time or times and to any amount the Board deems appropriate and consistent with sound business practices, without the approval of the Owners.

Section 7.05. Special Assessments. In addition to the assessments authorized above, the Association may levy at any time a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the Common Elements, including the necessary fixtures and personal property related thereto, provided that any such Special Assessment must be approved by the holders of at least sixty-six and two-thirds percent (66-2/3%) of the votes in the Association cast at a meeting of the Owners duly called for this purpose, at which a Quorum is present.

(a) If any taxes are assessed against the Common Elements or the personal property of the Association, rather than against the individual Units, said taxes shall be added to the annual assessments and, if necessary, a special assessment may be levied against the Units in an amount equal to said taxes, to be paid in equal installments, the number of installments and date for payment based upon the number of installments permitted by the Douglas County Treasurer, payable thirty (30) days prior to the due date of each tax installment.

(b) The Association shall have the power to levy a special assessment against an individual Unit, as opposed to all Units, in cases where the Association is placed at special expense due to the actions or inactions of the Owner of that Unit, such as (but not limited to) the failure of the Owner of a Unit to obtain the insurance which is required in Section 5.05(d) above. Such special assessment shall be payable promptly upon the levying thereof, and shall constitute a lien against that individual Unit in the same manner as the liens otherwise provided for herein.

Section 7.06. Notice of Assessments. The Board shall give each Owner written notice of the amount of its Regular Assessment and any other assessments payable in monthly installments at least ten (10) days before the first day of the fiscal year in which such

assessments are payable (except that special assessments allocated to a specific Unit as permitted in Section 7.05(b) above shall be payable in full upon the levying thereof and shall not be payable in monthly installments). The Board shall give at least thirty (30) days' written notice of all other assessments. Failure of the Board to give timely notice of any assessment shall not release any Owner from the obligation to pay the assessment, but shall postpone the date the assessment is due, until the required notice period has elapsed; provided that, if the assessment is payable in monthly installments no due date will be postponed unless such due date occurs before the notice is given or within the ten (10) days following the date such notice was given,

Section 7.07. No Exemption. No Owner may exempt himself or herself from liability for any assessment by failure to use or enjoy any of the Common Elements or by abandonment of the Unit.

Section 7.08. Lien for Assessments.

(a) All assessments of any kind not paid by an Owner when due, including interest thereon at the lesser of eighteen percent (18%) *per annum*, or the maximum amount permitted by the Act. All assessments shall constitute a lien on such Unit superior and prior to all other liens and encumbrances, except:

(1) Liens and encumbrances recorded before the recordation of this Declaration, including any Mortgage;

(2) All liens of any Mortgage for the purchase of a Unit recorded prior to the date such assessment becomes delinquent;

(3) Liens for real estate taxes and other governmental assessments or charges against the Unit; and

(4) Up to a maximum of six (6) months' assessments or fines, which are due prior to any subsequent refinancing of a Unit or for any subsequent second mortgage interest except for delinquent assessments or fines.

If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the Association.

(b) Such lien shall attach from the date the Assessment becomes due. The lien may be enforced by foreclosure of the defaulting Owner's Unit by the Association in the same manner as a Mortgage on real estate as permitted under the laws of the State. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including, without limitation, all publication, recording, title search and mailing costs, the costs and expenses for filing any necessary notice or claim of lien and all reasonable attorneys' fees and expenses. The Owner shall also be required to pay to the Association a reasonable rental for the Unit during the period of delinquency. The Association shall have the power to bid for the Unit at the foreclosure sale and to acquire

and hold, lease, mortgage and convey the same. Any lease of the Association of such a Unit shall not be subject to the limitation contained in Section 4.01(v) hereof prohibiting the leasing of more than thirty percent (30%) of the Units. In the event a foreclosure has been commenced but is subsequently stopped because the Owner has paid all amounts due, the Owner will nevertheless pay all of the aforesaid costs and expenses incurred through the time the delinquency is paid.

(c) The amount of each assessment shall also be a personal debt of each respective Owner at the time the assessment becomes due. The Association may maintain an action against each Owner to recover a money judgment for unpaid assessments without foreclosing or waiving the lien securing the same, and the Association shall also be entitled to a judgment for reasonable attorneys' fees, expenses and court costs.

(d) Any Mortgagee holding a lien on a Unit may pay any unpaid assessments payable with respect to such Unit, and upon such payment such Mortgagee shall have a lien on such Unit for the amount paid of the same priority as the lien of its Mortgage.

Section 7.09. Statement of Assessments. Upon the written request of any Owner or Mortgagee of a Unit, the Association, by its Board, shall, within ten (10) days after such request, issue a written statement setting forth the unpaid assessments, if any, with respect to such Unit, the amount of the current monthly assessments, the date of such assessment and the due date, credit for advance payments or for prepaid items, including, but not limited to, insurance premiums and such other items as are required by the Act, which statements shall be conclusive upon the Association in favor of all persons who rely thereon in good faith.

Any purchaser, donee or other transferee of a Unit who, by deed or other writing (herein "Grantee") expressly assumes personal liability for unpaid assessments against the transferor, shall be jointly and severally liable with the transferor for such assessments. Grantee shall be entitled to a statement from the Board, within ten (10) days after Grantee's written request, setting forth the amount of all current assessments and the dates such assessments become due, as well as any credit for advanced payments or for prepaid items, including, but not limited to, insurance premiums. This statement shall be conclusive upon the Association.

ARTICLE VIII DAMAGE AND DESTRUCTION

Section 8.01. General Provisions.

(a) The provisions of this Article VIII shall govern the repair and rebuilding of the Condominium (including each Unit), if any part thereof is damaged by fire or other casualty, and shall also apply to the collection, holding, application, and disposition of the proceeds of any insurance policy or coverage obtained pursuant to this Declaration, or under which the insurance proceeds are to be paid to or for the account of the Association or under which the Board has control of the disposition of proceeds. Upon written notice

from the Board, each Owner shall promptly remove all furnishings and belongings from the Unit, the Limited Common Elements or parts thereof, as may be necessary to effect such repairs and reconstruction.

(b) Any portion of the Condominium for which insurance is required under Article V which is damaged or destroyed shall be repaired or replaced promptly by the Association unless:

- (1) The Condominium is terminated;
- (2) Repair or replacement would be illegal under State or local health or safety statute or ordinance, or
- (3) Eighty percent (80%) of the Owners, including every Owner of a Unit or assigned Limited Common Element which will not be rebuilt, vote not to rebuild. If the Owners vote not to rebuild any Unit, that Unit's Common Element Interests are automatically reallocated upon the vote as if the Unit had been condemned under Article IX hereof, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations.

Section 8.02. Damage to Common Elements. Notwithstanding Section 8.01 above, if all or any part of the Common Elements (including any Limited Common Element) is damaged by fire or other casualty, the following provisions shall govern repair and rebuilding, as well as the collection, holding, application and distribution of the proceeds of any insurance policy payable to or for the account of the Association due to such damage:

(a) If the estimated cost of repairing or rebuilding damaged portions of the Common Elements and/or Limited Common Elements does not exceed the amount of available insurance proceeds, the Board shall deposit such proceeds in an escrow account with a bank or a savings and loan institution or other financial institution including, without limitation, any loan servicer acting on behalf of such institution (each a "**Financial Institution**") to be held, used and disbursed to rebuild and repair the damage, as work progresses or upon completion, pursuant to such contract as the Board shall enter into for the repairs. The Board shall thereupon contract to repair or rebuild the damaged portion of the Common Elements and/or Limited Common Elements. If the insurance proceeds are insufficient to pay all the estimated costs of repairing and rebuilding the Common Elements, the Board shall levy a Special Assessment against all Owners to make up any deficiency. Notwithstanding the foregoing, in the event of damage to Limited Common Elements, only those Owners affected by such damage shall be assessed; provided that all Owners shall be assessed for damages to the other Common Elements. In the event the total insurance proceeds actually received exceed the actual cost of rebuilding and repairing damage to the Common Elements, the excess shall be paid and distributed to all the then Owners in proportion to their respective percentages of Common Element Interest and Common Expense Liability. The repair or rebuilding contemplated by this Section 8.02(a) shall restore the Common Elements as closely as possible to the condition existing immediately prior to such damage, and shall be

commenced within one hundred twenty (120) days following receipt of any such insurance proceeds by the Board.

(b) As soon as is practicable following damage to the Common Elements on account of fire or other casualty, the Board shall obtain firm bids from three (3) or more reputable contractors to rebuild, repair and restore the damaged portions of the Common Elements or Limited Common Elements as closely as possible to their condition existing immediately prior to such damage. The Board shall select and hire the contractor which (in the judgment of the Board) has submitted the best bid, as Approved by the Board.

(c) In the event the proceeds from insurance are not sufficient to cover the costs of rebuilding the Common Elements, the Board shall levy a special assessment in accordance with the Bylaws and Section 8.02(a) above, in order to raise any additional amounts necessary. The Board shall deposit such funds with a Financial Institution Approved by the Board in the manner set forth in Section 8.02(a), along with the insurance proceeds.

Section 8.03. Damage to the Units . Notwithstanding Section 8.01 above, if all or any part of a Unit or Units is damaged by fire or other casualty, the following provisions shall govern repair and rebuilding, as well as the collection, holding, application and distribution of any insurance proceeds payable to or for the account of the Association due to such damage:

(a) Each of the affected Owners shall be responsible for commencing repairs and reconstruction of their respective Units within one hundred twenty (120) days after the casualty and diligently pursuing such work to completion. The Board shall deposit all insurance proceeds applicable to a damaged Unit or Units, whether received from the Association's own insurer or from insurers under separate policies maintained by the affected Owners, into an escrow account or accounts with a Financial Institution for the benefit of the Owner or Owners of the damaged Units, to be held, used and disbursed to rebuild and repair the damage, as work progresses or upon completion, pursuant to contracts for such repairs negotiated and entered into by the affected Owners. In the event the actual costs of repairing and restoring the damaged Units should exceed the previously estimated cost, then the affected Owners shall pay the difference, which shall be allocated among them based upon the contractor's reasonable good faith estimate of the costs associated with repairing each affected Unit.

(b) Where provision is made in this Declaration for payment and distribution of all or any part of any insurance proceeds to all current Owners, payments to each of said Owners shall be based upon the ratio of the fair market value of each Unit to the fair market value of all Units in the Condominium. Fair market value shall be determined by a certified and independent real estate appraiser selected by the Board who shall not be a Member of the Association.

ARTICLE IX CONDEMNATION

This Article shall govern in the event all or a portion of the Condominium (including Units and/or Common Elements including Limited Common Elements) is taken by any public authority pursuant to the power of eminent domain. Upon receiving formal notice from such public authority that such authority intends to take all or a portion of the Condominium, the Board shall, within sixty (60) days thereafter, call and hold a special meeting of the Members of the Association. A vote of the Members shall be held to determine whether to sell and partition the Condominium pursuant to Article XI below.

Section 9.01. Waiver of Partition. In the event twenty-five percent (25%) or more of the Units and Common Elements are taken by condemnation, and a Majority of the Members vote to waive the prohibition against partition contained in Article XI below, the prohibition shall be deemed waived, and the Board, upon executing, acknowledging and recording a certificate evidencing the partition, shall sell the Condominium for the benefit of all the affected Owners and distribute the proceeds thereof in accordance with Article XI.

Section 9.02. Distribution of Proceeds. However, in the event that less than twenty-five percent (25%) of the Units or Common Elements are condemned or the prohibition against partition is not waived, the Board shall deposit the proceeds from the eminent domain action with a bank or savings and loan association as trustee for the Owners. The Board shall then distribute such proceeds among Owners whose Units are partially or wholly taken in the proportion in which their respective interests appear, such proceeds going first to any affected Mortgagees with any excess to the respective Owners. Thereafter, the interests of those Owners whose entire Units are condemned shall cease, and such Owners shall execute all documents deemed necessary and appropriate by the Board to dispose of their respective interests. Proceeds from the condemnation of Common Elements shall be distributed equally to all Owners and any portion of the proceeds from the condemnation of Limited Common Elements shall be equally divided among the Owners to which that Limited Common Element was assigned or appurtenant at the time of the condemnation.

Section 9.03. Adjustment of Common Interests. In the event one (1) or more of the Units are taken by condemnation but there is no waiver of the prohibition against partition, the proportionate interests of the remaining Owners in the Common Elements shall be readjusted appropriately, and appropriate amendments to this Declaration and the Bylaws shall be made.

ARTICLE X EASEMENTS

Section 10.01. Nonexclusive Easements.

(a) In addition to any exclusive easements established in the Limited Common Elements, each of the Units and Common Elements shall also be subject to the following nonexclusive easements which shall be easements appurtenant to and running with the land, perpetually in full force and effect, and at all times inuring to the benefit of

and being binding upon the Declarant, its successors and assigns, and any Owner, Mortgagee, purchaser, and other person having an interest in all or any part or portion of the Condominium or Property.

(b) Appurtenant to each Unit shall exist a nonexclusive easement: (1) over all the Common Elements for ingress, egress, utility services, support, maintenance and repairs to the Units; (2) over the Limited Common Elements as necessary for structural support, utility services, maintenance and repairs; and (3) over all parts of the Condominium and Property (including all other Units and Limited Common Elements) for structural support.

(c) Should any part of the Common Elements encroach upon any Unit or Limited Common Element, a valid nonexclusive easement shall exist for such encroachment and its maintenance. In the event any improvements constituting part of the Condominium shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the Common Elements due to construction shall be permitted, and valid nonexclusive easements shall exist for such encroachments and their maintenance.

(d) The Declarant and its successors and assigns (including but not limited to the Association) shall have, and are hereby granted the right and easement (to be exercised by any directors, officers, agents, employees or independent contractors) to enter any Unit and any Limited Common Elements from time to time during reasonable hours, provided at least twenty-four (24) hours advance notice is given to the particular Unit Owner (except that access may be had at any time in case of emergency or if property damage is occurring and continuing), (1) for the purpose of reconstructing, making repairs or performing maintenance, or (2) for essential operations of the Condominium, or (3) to prevent damage to any Units or Common Elements. In addition, the Declarant shall have all other easements and rights granted under the Act.

Section 10.02. Exclusive Easements. Appurtenant to the ownership of its Unit, each Owner is hereby granted and shall have an exclusive easement for ingress and egress to storage lockers and parking stalls, if any, as such may be assigned to the Owner of such Unit by the Board, as Limited Common Elements. The Declarant hereby reserves for itself, its successors and assigns forever, an exclusive easement for ingress and egress to all parking stalls, if any, storage lockers and Units not assigned to an Owner or a Unit.

Section 10.03. Encroachments. None of the rights and obligations of the Owners created by this Declaration or by the various deeds transferring ownership of the Units shall be altered in any way by encroachments attributable to the shifting or settling of the Building or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they exist; provided, however, that in no event shall a valid easement be created in favor of any Owner if said encroachment occurred due to the willful conduct of the Owner in violation or breach of this Declaration.

Section 10.04. Utility Easements. The Board shall also have the power to grant and maintain appropriate easements for public utilities over, under and through the Common Elements. The rights and duties of the Owners of each Unit with respect to sanitary sewer, water, electricity, gas, telephone lines, cable television, Internet connections and similar facilities shall be governed by the following:

(a) Whenever sanitary sewer connections or water connections or electricity, gas, telephone, television or Internet connection lines are installed within the Condominium, which connections or any portion thereof lie in or upon Units owned by other than the Owner of the Unit served by said connection, the Board shall have the right, and is hereby granted, upon twenty-four (24) hours' advance notice to the Owner of such Unit, an easement to enter or to permit the utility companies to enter any Unit within, upon or adjacent to which said connections, or any portion thereof lie, for the purpose of repairing, replacing, and generally maintaining said connections, as and when necessary.

(b) Whenever sanitary sewer connections or water connections or electricity, gas, telephone, cable television or Internet connection lines are installed within the Condominium, which connections serve more than one (1) Unit, the Owner of each Unit served by said connections shall be entitled to the full use and enjoyment of those portions of said connections which service his or her Unit.

(c) In the event of a dispute among Owners with respect to the sharing of the costs thereof, then, upon written request to the Association from one (1) of such Owners, the matter shall be submitted to the Board, who shall resolve the dispute. The decision of the Board shall be final and conclusive upon the parties. If any of the disputing Owners is a member of the Board, he or she shall not be entitled to vote on such issue. The remaining non-disputing Board members shall appoint another Owner to serve temporarily on the Board solely for the purpose of voting on such dispute.

(d) Easements over the entire Condominium for the installation and maintenance of electric, telephone, water, gas, television and sanitary sewer lines and facilities, and for drainage facilities, and as may be required from time to time to service the Condominium, are hereby reserved by Declarant together with right to grant and transfer the same.

Section 10.05. Original Assignment of Limited Common Elements. The Declarant hereby reserves the exclusive right to assign specific parking stalls and storage lockers, if any exist, as Limited Common Elements for the use of designated Owners upon their purchase of Units. All parking spaces and storage lockers not so assigned to another Owner shall be assigned to and reserved for the exclusive use of the Declarant or its affiliates until such time as the Declarant no longer has an ownership interest in any Unit. The original assignments of parking stalls and storage lockers, if any, may not be changed except upon the written consent of the Board, provided however, upon reasonable notice to an Owner, the Declarant or the Board shall have the right to substitute another parking stall for a parking stall which has previously been

assigned to an Owner as a Limited Common Element if one or more parking stalls must be reconfigured to reasonably accommodate a person with disabilities.

Section 10.06. Easements. The Declarant also hereby reserves in favor of itself, its successors and assigns, its general contractor, architect, engineer, appropriate City inspectors, and the Manager and any other Person authorized by the Board, any and all easements and rights-of-way through, under, over and across the Condominium and Property for any future construction purposes and for the construction, installation, maintenance, repair and inspection of the Building and any and all improvements, structures and landscaping located on or about the Condominium.

ARTICLE XI TRANSFERS OF PROPERTY

Section 11.01. Release Procedures. Any portion of the Condominium may be released from the effects of this Declaration only upon (a) prior written consent of all Mortgagees and approval of such release by the Board, the holders of at least sixty-six and two-thirds percent (66-2/3%) of the votes in the Association cast at a duly held meeting at which a Quorum is present, all Owners of any of the fee interest in the property to be released, and the holders of any Mortgage encumbering any property to be released, and (b) recordation in the office of the Register of Deeds of Douglas County, Nebraska, of an amendment to this Declaration executed by an authorized officer of the Association, and by all fee Owners and Mortgagees whose approval is required as aforesaid, containing a reference to this Declaration, including recording information, a description of the property to be released, a statement that such property has been released from the effects of this Declaration, a recitation of the manner in which such release was approved in compliance with the foregoing, all other information, plats and other documents required by the Act, and such other statements terms, conditions, restrictions and other provisions relating to the release, as the signatories to such instrument shall deem appropriate in furtherance of the purposes of this Section 11.01, the Association and this Declaration. The quorum for a meeting of the Owners to approve a release hereunder shall be sixty-six and two-thirds percent (66-2/3%) of the outstanding votes in the Association. If the required quorum is not achieved at any meeting, another meeting may be called upon written notice sent to all Owners not less than five (5) days in advance of such meeting, and the required quorum for such meeting shall be one-half (½) of the required quorum for the preceding meeting. Subsequent meetings may be called as provided above until a quorum is achieved, but no such subsequent meeting may be held more than sixty (60) days after the preceding meeting.

Section 11.02. Effect of Release. From and after the recordation of an amendment to this Declaration releasing property, the released property shall cease to be a part of the Condominium and shall be fully released from and shall not be subject to any covenant, condition, restriction, term or other provision of this Declaration.

ARTICLE XII TERMINATION OF CONDOMINIUM

Section 12.01. Agreement. Except in the case of a taking of all the Units by eminent domain, the Condominium may be terminated only by agreement of Owners of Units to which at least eighty percent (80%) of the votes in the Association are allocated. An agreement to terminate shall be evidenced by the execution of a termination agreement or ratifications thereof, in the same manner as a deed, by the requisite number of Owners. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications thereof shall be recorded in the office of the Register of Deeds of Douglas County, Nebraska, and is effective only upon recordation.

Section 12.02. Common Elements Sold. A termination agreement may provide that all the Common Elements and Units shall be sold following termination of the Condominium. If, pursuant to the agreement, any Property in the Condominium is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale and shall be subject to the requirements of Section 76-855 of the Act. Upon the recording of such termination agreement, the entire Condominium may be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Plans and the Bylaws. The sales proceeds shall be distributed to all Owners and lienholders as their interests may appear on the basis of each Owner's Common Element Interest in accordance with Section 76-855 of the Act.

ARTICLE XIII GENERAL PROVISIONS

Section 13.01. Performance Easement. The Condominium shall be subject to, and each Owner shall be deemed to have granted, a perpetual non-exclusive easement for the benefit of the Association, the Board, the Manager, and their respective employees, agents, successors and assigns, for ingress and egress upon any portions of the Condominium for the purpose of performing their respective obligations and duties under this Declaration, the Association's Articles, the Bylaws, and the Act.

Section 13.02. Binding Effect and Duration. This Declaration and all covenants, conditions, restrictions, terms, provisions, rights, obligations and easements hereunder (a) are made for the direct, mutual and reciprocal benefit of each portion of the Condominium, each Owner and any Mortgagees thereof, the Association and the Declarant; (b) create mutual equitable servitudes upon each portion of the Condominium in favor of every other portion; (c) constitute covenants running with the land; (d) bind and inure to the benefit of the Association, the Declarant, all Owners and all future Owners, and the heirs, personal representatives, successors and assigns of each of the foregoing; and (e) shall continue in full force and effect for a term of twenty years after the date of this Declaration, after which time they shall be automatically renewed and extended for successive periods of ten years. Notwithstanding the foregoing, this Declaration may be terminated at any time as set forth in Article XIII hereof.

Section 13.03. Delayed Effectiveness. Notwithstanding any provision in this Declaration to the contrary, as long as the Declarant owns all of the Units, Declarant, at its option, may perform any or all of the duties and responsibilities of the Association and pay any or all expenses thereof, the Association shall not be required to levy any assessments of any kind, and no meetings of the Board or the Owners shall be required.

Section 13.04. Enforcement. The Declarant, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions, restrictions, terms, provisions, duties, obligations, rights, privileges and liens now or hereafter imposed or created by or pursuant to the provisions of this Declaration. The failure of any of the foregoing to enforce any provision of this Declaration at any time or for any period of time shall not be deemed a waiver of the right to do so thereafter. The Association may impose such monetary and non-monetary sanctions and penalties on Owners as it shall deem appropriate for violations of the provisions of this Declaration or of rules and regulations duly adopted by the Association. All monetary sanctions and penalties shall constitute liens on the property of the offending Owner enforceable as provided in Article VII hereof. In addition, the failure of an Owner to comply with any sanction or penalty imposed by the Association may result in criminal prosecution for trespass and other appropriate offenses.

Section 13.05. Consent of Board for Litigation or Arbitration. In order to protect the Members and the Association from indiscriminate arbitration or litigation, and the accompanying expense, distraction and commitment of financial and other resources, the Association shall not initiate or participate in any arbitration or litigation (other than the collection of dues payable to the Association), in its own name or on behalf of the Members, without complying with the provisions of this Section 13.05. Prior to the initiation or participation by the Association in any arbitration or litigation, the Board must first give due consideration to (a) the expense, distraction, and commitment of financial and other resources that will be incurred or suffered by the Association and its Members; and (b) whether mediation is a valid and reasonable alternative to such arbitration or litigation. If the Board reasonably determines that arbitration or litigation is appropriate after such due consideration, the Board shall (i) call a special meeting of Members (pursuant to the terms of the Bylaws of the Association); (ii) report to the Members at the special meeting with respect to all of the Board's concerns, deliberations and conclusions as required pursuant to clauses (a) and (b) of this Section 13.05; (iii) establish a budget for such arbitration or litigation and describe that budget in reasonable detail to the Members (which budget shall have been prepared by the attorneys engaged by the Association to conduct such litigation or arbitration, and mailed or delivered to all Owners and posted at the principal office of the Association not less than thirty (30) days prior to such meeting; (iv) recommend to the Members that the Association initiate or participate (as the case may be) in arbitration or litigation; and (v) recommend adoption of the budget for such action. Notwithstanding any other provision of this Declaration, the Articles or the Bylaws, and regardless of the number of Members actually attending such special meeting, the Association shall not initiate or participate in any arbitration or litigation without the prior written consent of Members holding at least sixty-six and two-thirds percent (66-2/3%) of the total voting power of the Association (based upon the Members' applicable interest in the Common Elements), and the same percentage of Members of the Association must concurrently approve the imposition of a Special Assessment to fund the costs of such action or proceeding in accordance with the approved budget. All costs and

expenses of any action or proceeding requiring the approval of the Owners in accordance with the preceding sentence shall be funded by means of a Special Assessment pursuant to Section 7.05 hereof, and in the no event may the Association use reserve funds or incur any indebtedness in order to pay any costs and expenses incurred for such purpose. Furthermore, if the Association commences any action or proceeding against a particular Owner or particular Owners requiring the approval of the Owners in accordance with the foregoing, the Owners(s) who are being sued shall be exempted from the obligation to pay the Special Assessment(s) levied in order to pay the costs and expenses of such action or proceeding. The Association shall be authorized to expend funds for such action or proceeding in excess of the amount contemplated by the approved budget only after an amended budget has been approved in accordance with the procedures specified above. The procedures described above shall not apply to any action to collect or otherwise enforce Assessments and any related fines, late charges, penalties, interest or costs and expenses, including reasonable attorneys' fees and expenses, in an amount of \$25,000.00 or less. In addition, the above-described procedures shall not be required whenever the Association is named as a defendant in an arbitration or litigation; provided however, the Board shall attempt to mediate or seek alternative dispute resolution in any such dispute and the Association shall not expand the scope of such dispute by prosecuting counterclaims without the consent of the Members as required by this Section 14.05. In no event shall the Association retain an attorney on a contingency basis unless (A) a copy of the contingency fee agreement has been mailed or delivered to all Owners and posted at the principal office of the Association not less than thirty (30) days prior to the effective date of such fee agreement; (B) the Board has called a special meeting of the Owners (which may be the same meeting as otherwise required in this Section) for the approval of such fee agreement; and (C) the contingency fee arrangement and contingency fee agreement has been approved in writing by Members holding at least sixty-six and two-thirds percent (66-2/3%) of the total votes in the Association, regardless of the number of Owners actually attending such special meeting.

Section 13.06. Notices. Any notice to be given hereunder shall be deemed to be duly given three (3) business days after it has been deposited in the United States mails, postage and all fees prepaid, by certified or registered mail or one business day after deposit with FedEx or other overnight courier with a comparable national reputation for reliability or the day of delivery with respect to personal service (except for notices of meetings and assessments, which may be sent by regular mail without certification or registration) and addressed to the Association at its principal business office, to an Owner at the most recent address of such Owner appearing on the records of the Association, or to the Declarant at 105 South 9th Street, #416, Omaha, Nebraska 68102. The address for receipt of notices by the Association, the Declarant or any Owner shall be deemed changed as to any of the foregoing who receive written notice of such change from the party whose address has changed.

Section 13.07. Severability. If any covenant, restriction, obligation, term or condition of this Declaration, or the application thereof to any Person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Declaration, or the application of such covenant, restriction, obligation, term or condition to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each such covenant, restriction, obligation, term or condition of this Declaration shall be valid and fully enforceable.

Section 13.08. Section Headings. The headings of Articles and Sections of this Declaration are for convenience only and shall not be considered in construing or interpreting its provisions.

Section 13.09. Nebraska Condominium Act. The provisions of this Declaration shall be in addition and supplemental to the Act and all other provisions of law.

Section 13.10. Gender and Number. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Section 13.11. Board as Attorney-in-Fact. Wherever in this Declaration the Board is given the power and right to grant easements, the Owner of each Unit does hereby appoint the Board as its attorney-in-fact for the purpose of granting and effecting the same, and the appointment of the Board as attorney-in-fact shall be deemed confirmed, adopted and ratified by the actions of each Owner in accepting the deed and closing on the purchase of its Unit.

Section 13.12. Non-Severability of Common Interests. The undivided interests in the Common Elements appurtenant to each Unit shall not be separated from the Unit and shall pass to the purchaser, along with the title to the Unit, whether or not separately described in the deed or instrument of conveyance. The interest in the Common Elements appurtenant to each Unit cannot be conveyed or encumbered except in concert with a Unit.

Section 13.13. Interpretation. The provisions of this Declaration shall be construed liberally to effect its purpose of creating a uniform plan for the development and operation of the Condominium. Failure to enforce any provision shall not constitute a waiver of the right to enforce the same or any other provision of this Declaration at a later date. All references herein to the singular number shall be deemed to include the plural and vice versa. All references to one gender shall be deemed to include the other. This Declaration shall be governed under the laws of the State.

Section 13.14. Special Declarant Rights. Prior to the Transfer Date, notwithstanding any provision herein to the contrary, the Declarant shall have the following rights and privileges, which are hereby reserved only to itself and to its successors and assigns and their respective agents:

- (a) The Declarant may exercise any of the Special Declarant Rights.
- (b) The Declarant may (i) relocate the boundaries of any Unit or Units (but not add units), and (ii) further subdivide any one or more of the Units into Common Elements, and (iii) reallocate percentages of undivided interests in the Common Elements, liability for payment of Common Expenses, allocation of Limited Common Elements, and allocation of votes in the Association, all to be done in accordance with this Declaration and the Act. The Declarant shall cause such relocation or subdivision by its adoption, execution or recordation of an amendment to this Declaration by recording such certificates and plans as required by the Act. Such amendment shall be adopted by the Declarant pursuant to the terms hereof without the consent of any Unit Owners. From

time to time, as the Declarant shall file permitted amendments to this Declaration, each then owner and each Person or entity thereafter becoming a Unit Owner and its successors in title shall, upon the reallocation of such Common Elements or Limited Common Elements automatically be vested with the appropriate undivided percentage interest in such Common Elements and Limited Common Elements.

Section 13.15. Amendment. Except as otherwise specifically provided otherwise in this Declaration or under Section 76-854 of the Act, the provisions of this Declaration and of this Article XIII may be amended only by an instrument in writing signed and acknowledged by Owners representing sixty-seven percent (67%) of the Members in the Association. Nevertheless, the percentage of votes necessary to amend a specific provision shall not be less or more than the percentage of affirmative votes prescribed herein for action to be taken under that provision. Any such amendment shall be effective upon its recording in the office of the Register of Deeds in Douglas County, Nebraska.

Section 13.16. Special Amendment. Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time to amend the Condominium plans or to amend this Declaration (a) to correct clerical or typographical or similar errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto, (b) to exercise any of the Special Declarant Rights or (c) to relocate boundary lines of Units and subdivide or combine Unit(s) owned by Declarant (but not add units). In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make or consent to a Special Amendment on behalf of each Unit Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Unit, and the acceptance thereof, shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as the Declarant no longer holds or controls title to a Unit.

Section 13.17. Organization and Regular Meetings. Regular meetings of Members of the Association shall be held not less frequently than once each calendar year at a time and place prescribed in by the Bylaws. Special meetings of the Association may be called by the president or by twenty percent (20%), or any lower percentage specified in the Bylaws, of either the Board or the Owners. Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the secretary or other officer specified in the Bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove a director or officer.

Section 13.18. Attorney's Fees. In the event the Board or any Owner shall bring legal action against any other Owner or the Board to enforce the terms, covenants, conditions and restrictions of this Declaration, the court shall award reasonable attorneys' fees, expenses and court costs to the prevailing party.

Section 13.19. Assignability. Declarant shall have the power to assign all or any of its rights under this Declaration to any other party without the consent of the Association or the Owners. In the event such assignment occurs and the assignee assumes the obligations and liabilities of the Declarant, the Declarant shall be relieved, discharged and released from all obligations under this Declaration, and such obligations shall pass to and be assumed by the assignee to the extent of any such assignment and assumption.

IN WITNESS WHEREOF, the undersigned have set forth their hands for and on behalf of the Declarant as its duly authorized officers.

OSC AMBASSADOR, LLC, a Nebraska limited liability company

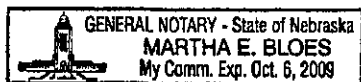
By: David Mackie
 Print Name: David Mackie
 Print Title: President

By: Robert Sadler
 Print Name: ROBERT SADLER
 Print Title: MANAGER

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

✓ On this 24th day of March, 2009, before me personally appeared David Mackie, to me personally known, who being by me duly sworn did say that he/she is the President of OSC Ambassador, LLC, a Nebraska limited liability company, that said instrument was signed and delivered in behalf of said limited liability company, and acknowledged to me that he executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.



Martha E. Bloes
 NOTARY PUBLIC

STATE OF NEBRASKA)
) ss.
 COUNTY OF DOUGLAS)

✓ On this 24th day of March, 2009, before me personally appeared Robert Sadler, to me personally known, who being by me duly sworn did say

that he is the Manager of OSC Ambassador, LLC, a Nebraska limited liability company, that said instrument was signed and delivered in behalf of said limited liability company, and acknowledged to me that he executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.



Martha E. Bloes
NOTARY PUBLIC

EXHIBIT A TO DECLARATION

PROPERTY LEGAL DESCRIPTION

The South 52 feet of Lot 4, and all of lots 5 and 6, Block 125, Dundee Place, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.

Together with a non-exclusive easement for vehicular and pedestrian ingress and egress over and across a portion of that real property described as follows: All of Lots 2 and 3 and the North 5 and 7/12 feet of Lot 4, Block 125, Dundee Place, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, which easement area is more particularly shown on Exhibit A-1. Said Easement was recorded March 9, 2009 with the Douglas County Register of Deeds as Instrument #2009021354.

EXHIBIT A-1

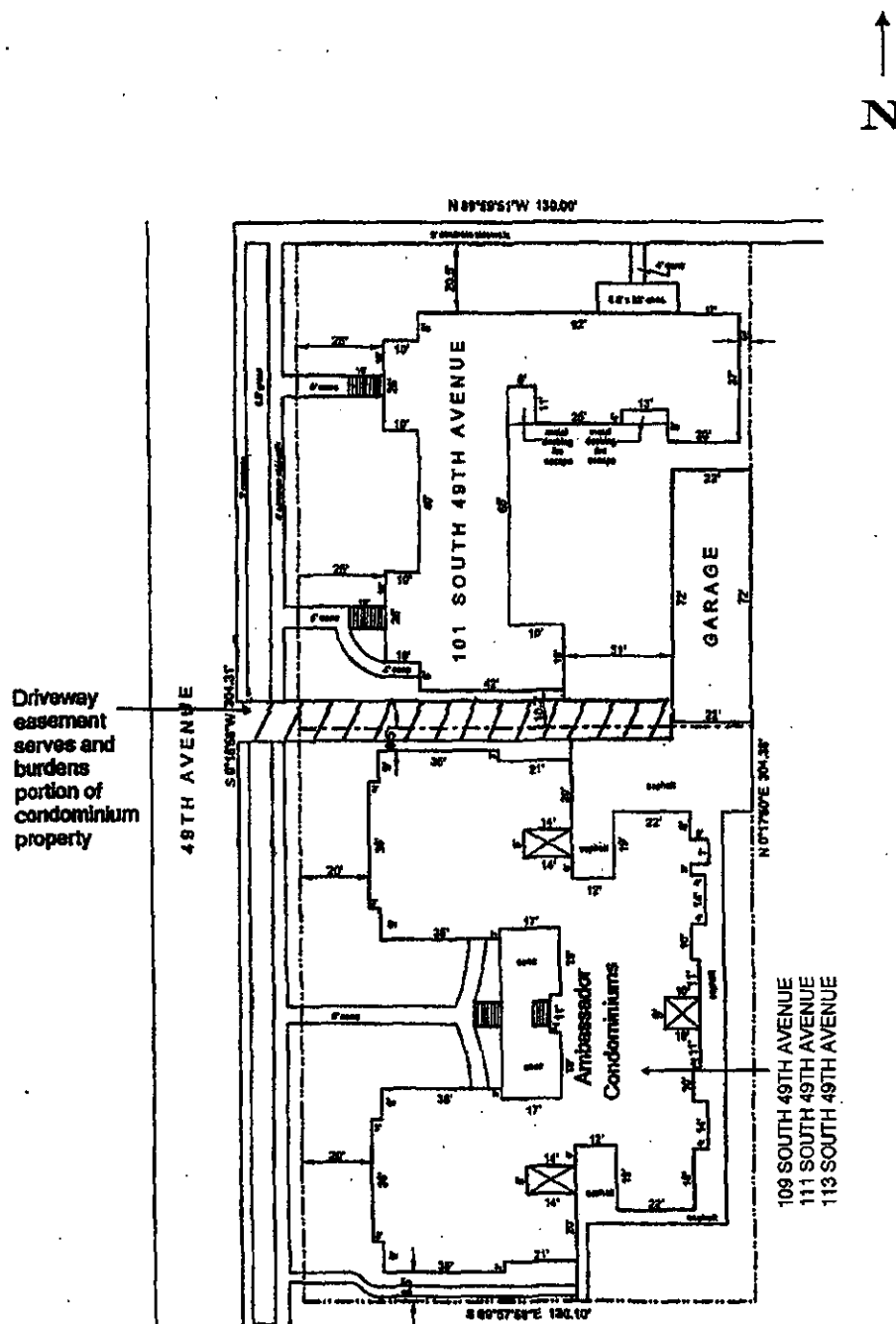
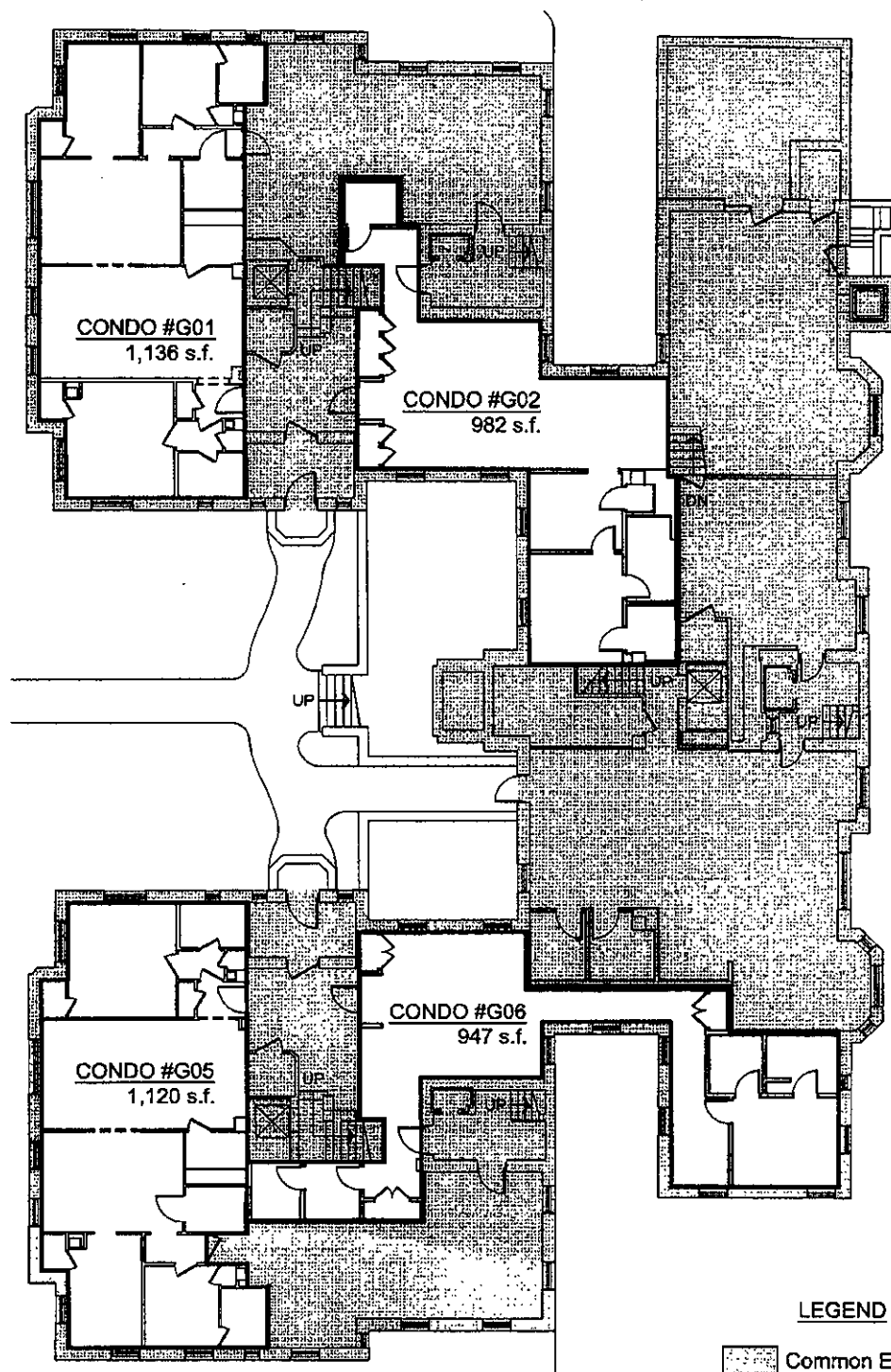


EXHIBIT B TO DECLARATION

CONDOMINIUM PLANS

[SEE ATTACHED]



GARDEN LEVEL FLOOR PLAN

SCALE: 1" = 20'-0"

6 April 2009

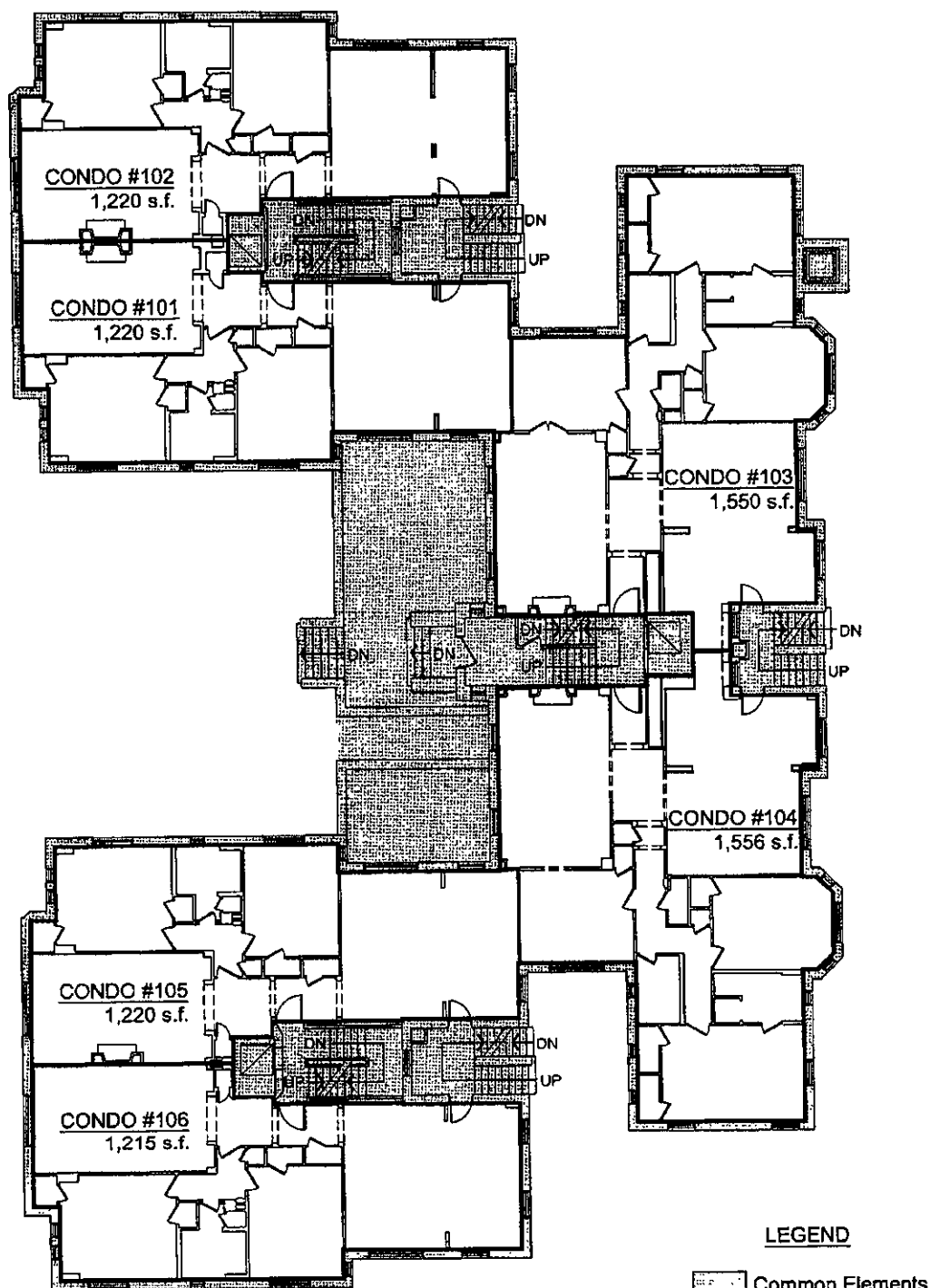


LEGEND

 Common Elements

ALLEY•POYNER
MACCHIEITO

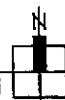
1516 Cumming Street
Omaha, NE 68102
Ph: 402.341.1544
Fx: 402.341.4735
alleypoyner.com



FIRST LEVEL FLOOR PLAN

SCALE: 1" = 20'-0"

2 April 2009

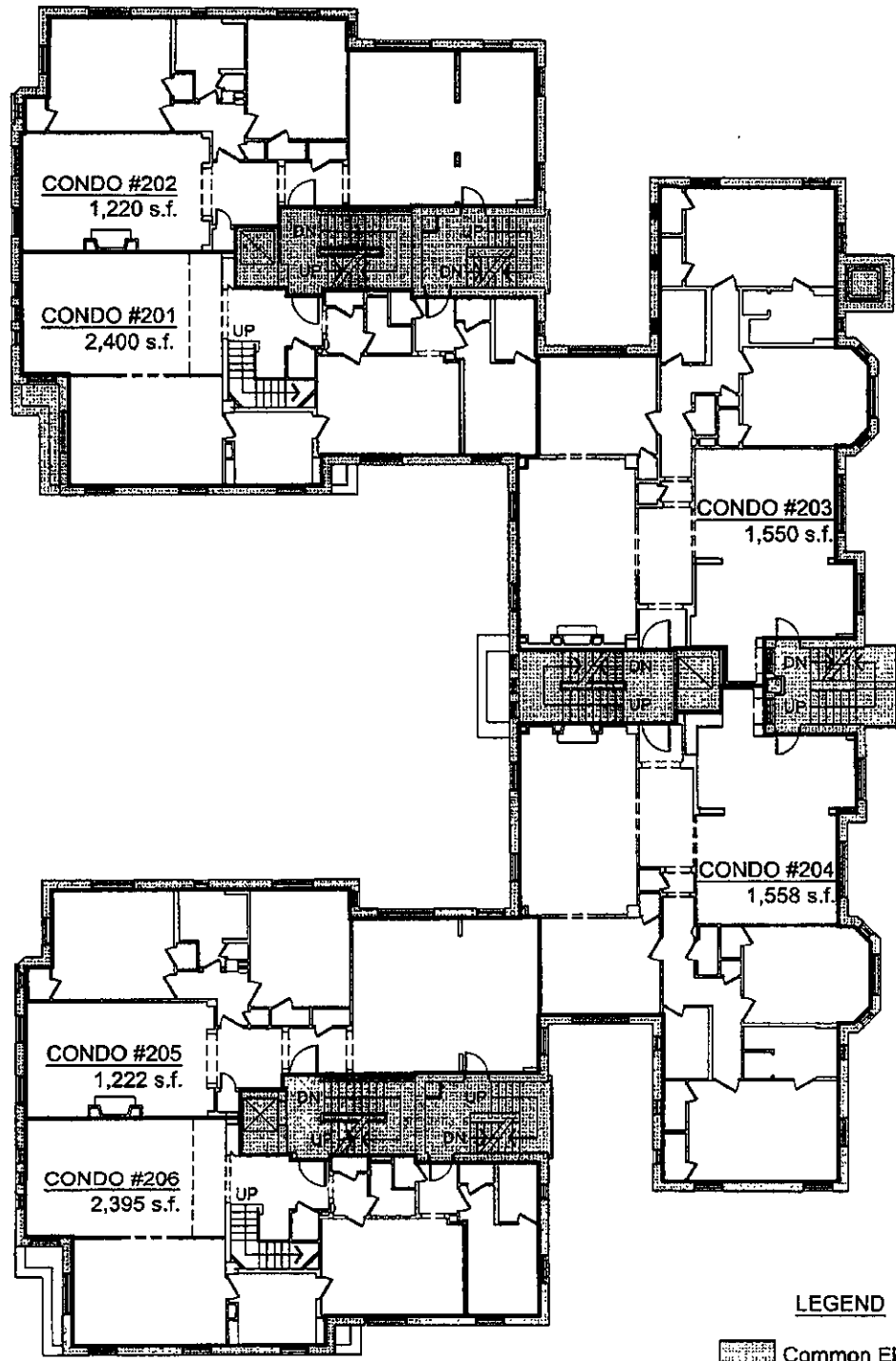


LEGEND

 Common Elements

ALLEY•POYNER
MACCHIETTO

1213 Jones Street
Omaha, NE 68102
Ph: 402.341.1544
Fx: 402.341.4735
alleypoyner.com



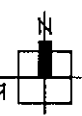
LEGEND

 Common Elements

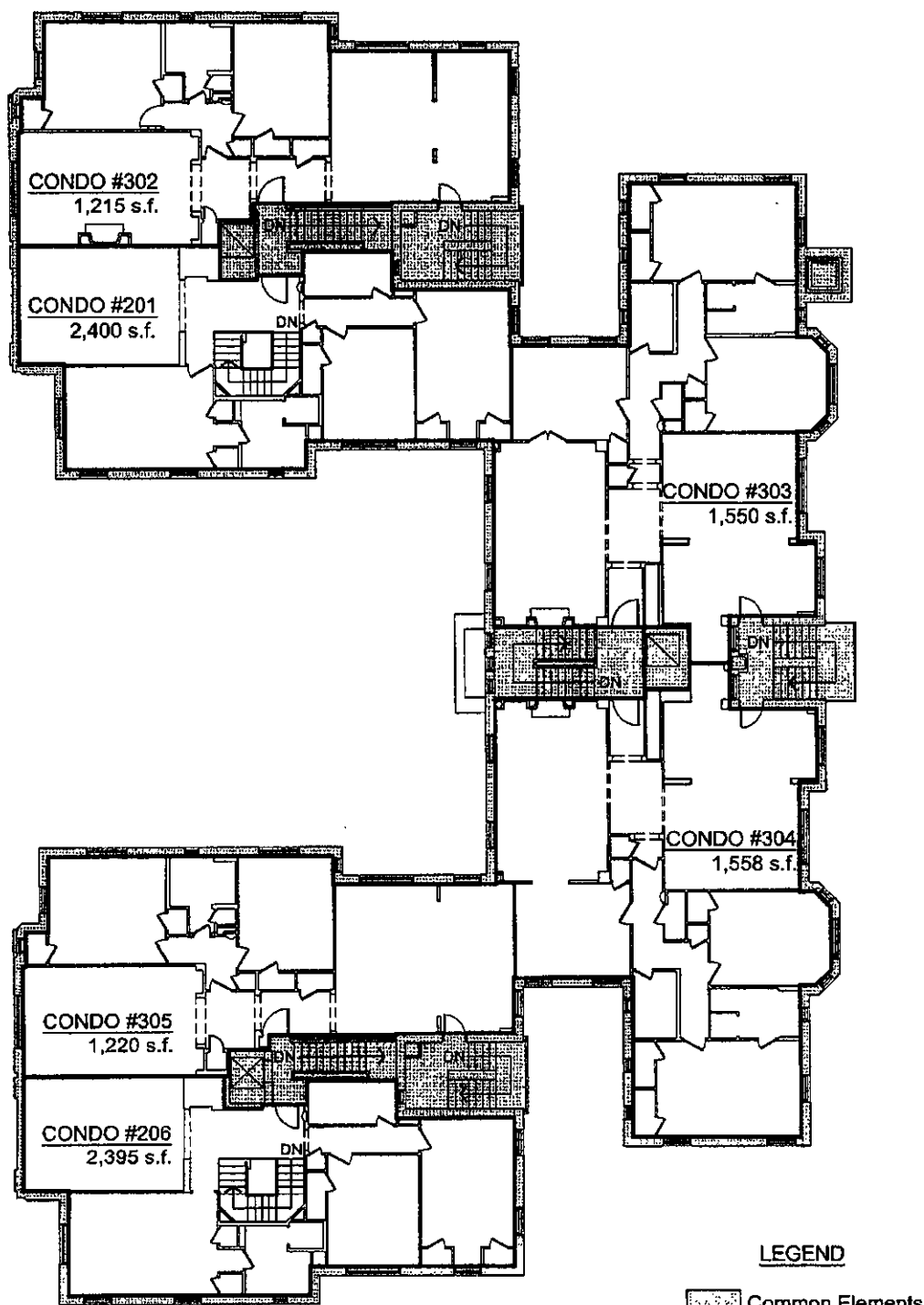
SECOND LEVEL FLOOR PLAN

SCALE: 1" = 20'-0"

2 April 2009



**ALLEY•POYNER
MACCHIETTO
ARCHITECTS**
1213 Jones Street
Omaha, NE 68102
Ph: 402.341.1544
Fax: 402.341.4735
alleypoyner.com



THIRD LEVEL FLOOR PLAN

SCALE: 1" = 20'-0"

6 April 2009



ALLEY•POYNER
MACCHIETTO
ARCHITECTS

1516 Cuming Street
Omaha, NE 68102
Ph: 402.341.1544
Fx: 402.341.4735
alleypoyner.com

EXHIBIT C TO DECLARATION

COMMON ELEMENTS INTEREST AND COMMON ELEMENT LIABILITY

<u>Unit Number</u>	<u>Unit Square Footage</u>	<u>Percent Interest of Unit in Common Elements and Common Expense Liability</u>
G01 109 South 49th Avenue	1,136	4.05%
G02 109 South 49th Avenue	982	3.50%
G05 113 South 49th Avenue	1,120	3.99%
G06 113 South 49th Avenue	947	3.37%
101 109 South 49th Avenue	1,220	4.35%
102 109 South 49th Avenue	1,220	4.35%
103 111 South 49th Avenue	1,550	5.53%
104 111 South 49th Avenue	1,556	5.55%
105 113 South 49th Avenue	1,220	4.35%
106 113 South 49th Avenue	1,215	4.33%
201 109 South 49th Avenue	2,400	8.55%
202 109 South 49th Avenue	1,220	4.35%
203 111 South 49th Avenue	1,550	5.53%
204 111 South 49th Avenue	1,558	5.55%
205 113 South 49th Avenue	1,222	4.35%
206 113 South 49th Avenue	2,395	8.54%
302 109 South 49th Avenue	1,215	4.33%
303 111 South 49th Avenue	1,550	5.53%
304 111 South 49th Avenue	1,558	5.55%
305 113 South 49th Avenue	1,220	4.35%
		100%

CONSENT OF MORTGAGEE

Dundee Bank, Branch of Security State Bank, as Trustee and Beneficiary of a Deed of Trust on the Property, filed October 1, 2007, as Instrument No. 2007111726 and holder of that certain Assignment of Leases and Rents filed October 1, 2007 as Instrument No. 2007111727, hereby consents to the execution and recording of the within Declaration and agrees that such Deed of Trust and Assignment of Leases and Rents as well as any other liens held by Dundee Bank, Branch of Security State Bank, are subject thereto and to the provisions of the Nebraska Condominium Act of the State of Nebraska.

IN WITNESS WHEREOF, Dundee Bank, Branch of Security State Bank, has caused this Consent of Mortgagee to be signed by its duly authorized officer on its behalf, on this 4 day of March, 2009.

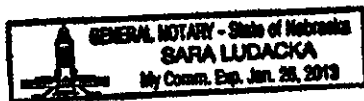
DUNDEE BANK, BRANCH OF SECURITY
STATE BANK

By: [Signature]
Title: Community Bank Officer

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 4 day of March, 2009, before me personally appeared Adrian Hernandez, to me personally known, who being by me duly sworn did say that he/she is the Community Banking Officer of Dundee Bank, Branch of Security State Bank, that said instrument was signed and delivered in behalf of said bank, and acknowledged to me that he/she executed the same as the free act and deed of said bank.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]
NOTARY PUBLIC