

DECLARATION

FOR

1700 KALORAMA LOFTS, A CONDOMINIUM

ARTICLE 1

CREATION; DEFINED TERMS

Section 1.1. Creation of the Condominium. Pursuant to the provisions of Chapter 19 of Title 42 of the District of Columbia Code ("Condominium Act"), 1700 Kalorama Condominium LLC, a District of Columbia limited liability company ("Declarant"), submits the land located on Lot 81 in Square 2567 commonly known as 1700 Kalorama Road, N.W., Washington, D.C. and more particularly described in the attached **Exhibit A-1** ("Land"), together with all improvements thereto and all easements, rights and appurtenances thereunto appertaining ("Property"), to the provisions of the Condominium Act, to create a plan of condominium ownership of the Property.

Section 1.2. Defined Terms. Except as otherwise defined herein or in **Section 1.3** of the Bylaws comprising **Exhibit B** hereto (the "Bylaws"), all terms used in the condominium instruments shall have the meanings specified in **Section 42-1901.02** of the Condominium Act. All exhibits referred to in the condominium instruments are exhibits to this Declaration.

Section 1.3. Name and Address of Condominium. The name of the Condominium is 1700 Kalorama Lofts, a Condominium ("Condominium"). The address of the Condominium is 1700 Kalorama Road, N.W., Washington, D.C. 20009.

Section 1.4. Plats and Plans. The Property is shown on the Condominium Plats and Plans recorded in the Office of the Surveyor of the District of Columbia in Condominium Book __ at Page __ (the "Plats and Plans").

ARTICLE 2

BUILDING ON THE LAND; UNIT BOUNDARIES

Section 2.1. Location and Dimensions of Building. The location and current dimensions of the building on the Land are depicted on the Plats attached as **Exhibit C**.

Section 2.2. Units. The location of the initial Commercial Units within the building, the initial Residential Units within the building and the Parking Units within the building, and their dimensions are shown on the Plans attached as **Exhibit D-1**. The second phase in which

additional Residential Units are being constructed within the convertible land which is more particularly described in Exhibit A-2 (the "convertible land") are shown on the preliminary Plans for the second phase attached as Exhibit D-2 hereto. The Residential Units, the Commercial Units and Parking Units are sometimes individually referred to as a "Unit" or a "unit" and sometimes are collectively referred to hereafter as the "Units". The Common Element Interest Table attached as **Exhibit E** includes a list of the Units on the submitted land, their identifying numbers, location (all as shown more fully on the Plans), and the Common Element Interest appurtenant to each Unit on the submitted land determined on the basis of current par value. **Exhibit E** also includes the current plan for the par values of each Unit in the convertible land and the Common Element Interest of each such Unit. The par value of each Unit is the number of points assigned by the Declarant based upon the relative size of the Unit and other factors. The basis for allocation of par value is set forth in the Notes to the Common Element Interest Table attached as **Exhibit E**. The par value of a Unit shall not be deemed to reflect or control the sales price or fair market value of any Unit, and no opinion, appraisal, or fair market transaction shall affect the par value of any Unit.

Section 2.3. Residential Unit and Commercial Unit Boundaries. Each Residential Unit and each Commercial Unit consists, of the volumes or cubicles of space which are enclosed by upper and lower boundaries described as follows:

(a) Horizontal (upper and lower) Boundaries: The upper and lower horizontal boundaries of a Residential Unit and Commercial Unit are the following boundaries extended to an interSection with the vertical (perimetric) boundaries:

(1) Upper Boundary: The upper horizontal boundary is the horizontal plane of the bottom surface of the concrete slab of the ceiling except in Residential Units and Commercial Units where there is a dropped ceiling in which locations the upper boundary is the horizontal plane which includes the top side of the acoustic tiles or wallboard of the dropped ceiling.

(2) Lower Boundary: The lower horizontal boundary is the horizontal plane of the top surface of the undecorated concrete floor slab or wood floor.

(b) Vertical (perimetric) Boundaries: The vertical boundaries of a Residential Unit and a Commercial Unit are the vertical planes which include the back surface of the wallboard of all walls bounding the unit extended to intersections with each other and with the upper and lower boundaries as depicted on the Plans.

(c) The Residential Units include, and the initial Commercial Units might include, the heating and air conditioning apparatus serving only that particular Unit (whether or not located within the Unit boundaries), which apparatus is part of the unit. All immediately visible fixtures, appliances, cabinets, and the windows are part of the initial Commercial Units and the Residential Units. All decorated surfaces of all boundary walls, ceilings and floors, including wallpaper, painting, interior brick surface, wallboard, plaster, ceramic tile, hardwood floorings, and all other finishing materials are part of the Unit. Any portion of a utility system or other apparatus serving more than one Residential Unit (*e.g.*, pipes, conduits, ducts) which is located partially within and partially outside the Unit is part of the common elements. Any portion of a

utility system or apparatus serving more than one Commercial Unit (*e.g.*, pipes, conduits, ducts) which is located partially within and partially outside the Unit is a common element appurtenant to the Unit served. Any portion of a utility system serving only one Residential Unit or a Commercial Unit which is located outside the Unit is a limited common element appurtenant to that Unit.

Section 2.4 Parking Unit Boundaries. Each Parking Unit shall consist of the volumes or cubicles of space which are enclosed by the lower, upper and lateral boundaries described as follows:

(a) **Upper Boundary:** An imaginary horizontal plane, the elevation of which is the lower of (i) the lower exterior surface of pipes, wires, conduits and other public utility lines, ventilation or other ducts running through a Parking Unit which are utilized or serve more than one unit or a unit and the common elements, and (ii) eleven feet six inches above the lower boundary of a Parking Unit.

(b) **Lower Boundary:** A horizontal plane, the elevation of which coincides with the unfinished upper surface of the asphalt or concrete slab of the Parking Unit, extended to intersect the lateral or perimetrical boundaries thereof.

(c) **Lateral Boundary:** The lateral boundary of each Parking Unit is an (1) imaginary vertical plane which coincides with the center line of the stripe or other marking on the asphalt or concrete slab on which the Parking Unit is located denoting and separating the Parking Unit as shown on the Plats and Plans, and (2) imaginary vertical planes intersecting the imaginary vertical plane noted in (1) above and denoting the entrance to, and the width of, each Parking Unit as shown on the Plats and Plans.

Section 2.5. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the common elements and the Units by virtue of the foregoing boundary description, the provisions of the Bylaws shall govern the division of all maintenance and repair responsibilities between the Unit Owner (as defined in the Bylaws) and the Unit Owner Association (as defined in the Bylaws).

Section 2.6. Relocation of Unit Boundaries and Subdivision of Units. Relocation of boundaries between Units and subdivision of Units is permitted subject to compliance with the provisions therefor in **Section 5.7** of the Bylaws and in **Sections 42-1902.25** and **42-1902.26** of the Condominium Act. Subject to the provisions of Section 5.7 of the Bylaws and compliance with the provisions of Sections 42-1902.25 and 42-1902.26 of the Condominium Act, the Declarant shall have the right to subdivide any Commercial Unit into one or more Residential Units and vice versa.

ARTICLE 3

COMMON ELEMENTS

Section 3.1. Common Elements. The common elements consist of all portions of the Property other than the Units. The common elements are classified as either general common elements or limited common elements.

Section 3.2 General Common Elements. The general common elements consist of all common elements other than limited common elements, and include, without limitation, the following:

- (a) the Land;
- (b) the foundations, roof, slabs, floors, ceilings, perimeter walls, structural interior walls, heating equipment, equipment and meter room, common stairs, electric room, fire escapes, fire alarm system, security systems (serving all units), lighting systems, antenna, pipes (serving more than one unit), watermains, wires, conduits, air ducts, utility rooms, maintenance areas, service installations regardless of location, front entranceway adjacent to the initial Commercial Units, accessways to Parking Units; and
- (c) trees, shrubbery, landscaping, steps, exterior lighting and other exterior devices of common use or necessary to the existence, upkeep, use and safety of the Property.

The locations of the common elements to which each Unit has direct access are shown on the Plats and Plans.

Section 3.3. Limited Common Elements.

(a) Limited common elements are those common elements which are or will be reserved for the exclusive use of a specific Unit or Units. Pursuant to **Section 42-1902.06(5)** of the Condominium Act, any common element shown adjacent to a Unit is a limited common element appurtenant to that Unit. A balcony or terrace shown on the Plans adjacent to a Residential Unit is a limited common element appurtenant to such unit. The elevator, elevator shaft and the reception area on the first floor of the building shall be limited common elements appurtenant to all of the Residential Units. Certain areas marked on the Plans as storage and recreational areas and certain stairways and certain security systems may be limited common elements appurtenant to only certain Residential Units as designated on the Plans.

(b) A portion of the common elements is marked on the Plans as "Common Elements which may be assigned as Limited Common Elements." This portion of the common elements may include storage areas in common element storage rooms. Pursuant to **Section 42.1902.13** of the Condominium Act, the Declarant reserves the exclusive right to assign these storage areas as limited common elements for the exclusive use of certain Unit Owners to whose units these storage areas shall become appurtenant. The Declarant may assign such a common element as a

limited common element storage cubicle pursuant to the provisions of **Section 42-1902.13** of the Condominium Act by causing an appropriate amendment to this Declaration or to the Plans to be signed and recorded. If, prior to settlement on a unit, a person acquires the right to the assignment of a limited common element, the Declarant shall evidence the right to such an assignment in the deed to the unit to which such limited common element shall appertain. If a unit owner acquires the right to the exclusive use of such a limited common element subsequent to settlement on the unit, the Declarant may but need not evidence the unit owner's right to such an assignment in a separate written agreement with the unit owner. If storage areas become limited common elements, they shall be the Limited Common Expenses of the unit owners of the units to which they are assigned.

Section 3.4. Reserved Common Elements. The Board of Directors (as defined in the Bylaws) shall have the power in its discretion from time to time to grant revocable licenses in designated common elements to the Unit Owner Association or to any Unit Owners and to establish a reasonable charge to such Unit Owners for the use and maintenance thereof. The common elements or portions thereof so designated shall be referred to as the reserved common elements. Such designation by the Board of Directors shall not be construed as a sale or disposition of the common elements.

Section 3.5. Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove or improve defective, obsolete or non-functional portions of the common elements, including without limitation any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of any applicable warranty period.

Section 3.6 Allocation of Percentage Interests. Each initial Commercial Unit and each Residential Unit is allocated a percentage interest in the common elements equal to the par value assigned to the Unit as set forth in **Exhibit E**. When the Residential Units and any Commercial Units in the convertible land are constructed, completed and added to the Condominium, each Commercial Unit, each Residential Unit and each Parking Unit may be allocated the percentage interest in the common elements equal to the par value assigned to the Unit as set forth in Exhibit E. The par value in the common elements shall not be separated from the Unit and shall be deemed to be conveyed or encumbered with the Unit even though such undivided interest is not expressly mentioned or described in the document of conveyance or encumbrance.

Section 3.7 Use of Common Elements. The use of the common elements shall be limited to the Unit Owners, to their tenants and to their guests, invitees and licensees and shall be governed by the Condominium Instruments (as defined in the Condominium Act) and the rules and regulations adopted by the Unit Owner Association. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the common elements shall be void unless the unit to which that interest is allocated is also so transferred.

Section 3.8. Rental Operation. The Declarant may establish and maintain all offices, signs and other accouterments normally used in the operation of rental properties in the sole discretion of the Declarant. The Declarant may, in the sole discretion of the Declarant, lease all or portions of the Units so long as the Declarant pays the expenses attributable to such rental operation. Such

operations shall be for the benefit of the Declarant and neither the Unit Owner Association nor any Unit Owner (other than the Declarant) shall have any right or interest in the profits or losses thereof.

ARTICLE 4

EASEMENTS

In addition to the easements created by **Sections** 42-1902.16 and 42-1902.21 of the Condominium Act, the following easements are granted.

Section 4.1. Easement to Facilitate Sales and Rentals. All Units shall be subject to an easement in favor of the Declarant pursuant to **Section** 42-1902.22 of the Condominium Act. The Declarant reserves the right to use any Units owned or leased by the Declarant as models, management offices, sales offices, rental offices or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Further, the Declarant shall have the right to erect temporary offices on any common elements for models, management, sales, rental, customer service and similar purposes. The reservation of this easement set forth in this **Section** 4.1 also applies to all of the convertible land. This easement shall continue until the Declarant has conveyed to Unit Owners other than the Declarant all the Units in the Condominium which the Declarant has the right to create.

Section 4.2. Easement for Access and Support.

(a) Access. The Declarant reserves in favor of the Declarant, the managing agent and any other person authorized by the Board of Directors, the right of access to any common element or Unit as provided in **Section** 42-1903.07 of the Condominium Act and **Section 5.9** of the Bylaws. In case of emergency, such entry shall be immediate whether or not the occupant is present at the time. Other than in the case of emergency, such access shall be after reasonable notice to the occupant. Further, until the expiration of any warranty period, such entry shall be permitted to inspect or perform warranty-related work (for the benefit of the Unit being entered, other Units or the common elements) whether or not the Unit Owner or the Unit Owner Association consents or is present at the time.

(b) Support. Each Unit and common element shall have an easement for lateral and subjacent support from every other Unit and common element as provided in **Section** 42-1902.16 of the Condominium Act.

Section 4.3. Declarant's Right to Grant Easements.

(a) Construction: Utilities. The Declarant shall have the right to grant and reserve easements and rights-of-way through, under, over and across the Property for construction purposes (including, but not limited to, the construction of Residential Units, Commercial Units and common elements), and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, television reception and other utilities. This right shall continue until the Declarant has conveyed to Unit Owners other than the Declarant all the Units which the Declarant has the right to create.

(b) Access. The Declarant reserves the right to grant or reserve easements and rights-of-way through, over and across the Property to afford vehicular and pedestrian access through, over and across the common elements from and to any public street or road adjoining the Property and any portion of the real estate described in **Exhibits A-1 and A-2** which is not, at the time of such grant or reservation, part of the Property. This right shall continue until the fifth anniversary of the recordation of this Declaration.

Section 4.4. Easement for Use of Common Facilities.

(a) Grant of Easement. Each Unit Owner and each person lawfully occupying a Unit located on any portion of the Land described in **Exhibits A-1 and A-2** are granted a non-exclusive right and easement of enjoyment in common with others of pipes, wires, ducts, flues, cables, conduits, public utility lines and the amenities and commercial and recreational facilities, grounds and driveways constituting a portion of the common elements (other than any limited common elements) of the Condominium (collectively, the "Common Facilities").

(b) Extent of Easement. The rights and easements of enjoyment created shall be subject to the following:

(1) the right of the Unit Owners Association to charge guests reasonable admission and other fees for the use of the Common Facilities;

(2) the right of the Declarant prior to the termination of the Declarant Control Period to grant and reserve easements and rights-of-way through, under, over and across the Common Facilities, for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, television reception and other utilities; and

(3) the right of the Unit Owners Association to adopt rules and regulations governing the use of the Common Facilities.

(c) Delegation of Use. Any person having the right to use and enjoy the Common Facilities may delegate such rights to the members of such person's household, such person's employees, tenants who occupy the Land and to such other persons as may be permitted by the Unit Owners Association.

(d) Rights to Use. Each person having the right to use the Common Facilities and each person to whom such right has been delegated shall comply with the rules and regulations

regarding such use, as such rules and regulations may be established and amended from time to time by the Board of Directors. Such rights to use may be suspended upon failure of a Unit Owner to pay condominium assessments, whether such Unit Owner owns a Unit in the same or in an adjacent condominium, or upon failure of a tenant (other than in a condominium unit) to pay rent to the landlord of the Unit which such tenant occupies.

Section 4.5. Easement to Facilitate Expansion. The Declarant reserves a transferable easement over and on the common elements for the purpose of making improvements on the Land and convertible land pursuant to the provisions of the Condominium Instruments and the Condominium Act, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

Section 4.6 Easements for Encroachments. To the extent that any Unit or common element encroaches on any other Unit or common element, whether by reason of any deviation from the Plats and Plans in the construction, repair, renovation, restoration or replacement of any improvement, or by the reason of the settling or shifting of any land or improvement, a valid easement shall exist for the encroachment and for the maintenance of the same, so long as the encroaching Unit or common element stands. A valid easement shall not relieve a Unit Owner of liability for his or her agent's negligence or intentional acts in cases of willful and intentional misconduct by him or his agents or employees.

ARTICLE 5

USE OF UNITS; COMPLIANCE WITH CONDOMINIUM INSTRUMENTS

A Unit shall be used only in accordance with applicable zoning law and for no other purpose. All present and future Unit Owners, tenants and occupants of Units and any person who uses any part of the Condominium in any manner, are subject to, and shall comply with, the provisions of the Condominium Instruments and the Rules and Regulations (as defined in the Bylaws). The acquisition, rental, or occupancy of a Unit or the use of any part of the Condominium by any person shall constitute his agreement to be subject to and bound by the provisions of the Condominium Instruments and the Rules and Regulations, and such provisions shall be deemed to be enforceable equitable servitudes and covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated in full each and every deed of conveyance or lease thereof. Failure to comply with any of such provisions shall be grounds for legal and equitable relief, maintainable by the Unit Owner Association (or the Board of Directors acting on the Unit Owner Association's behalf). In any such action at law or in equity which is successfully brought by or on behalf of the Unit Owner Association, the Unit Owner Association shall be entitled to recover all reasonable costs and expenses of any such action, including reasonable attorney fees.

ARTICLE 6

AMENDMENT TO CONDOMINIUM INSTRUMENTS; REQUIRED CONSENT

This Declaration may be amended as provided in the Condominium Act, as amended from time to time. No amendment of the Declaration may be made without the prior written approval of the required percentage of Mortgagees (as defined in the Bylaws) where such approval is provided for in **Section 8.5** of the Bylaws or where such approval is required elsewhere in the Condominium Instruments or by the Condominium Act. No amendment to the Condominium Instruments shall diminish or impair the rights of Mortgagees under the Condominium Instruments without the prior written consent of all Mortgagees, nor diminish or impair the rights of the Declarant under the Condominium Instruments without the prior written consent of the Declarant. No amendment may modify this **Article 6** or the rights of any person hereunder. Except as specifically provided in the Condominium Instruments, no provision of the Condominium Instruments shall be construed to grant to any Unit Owner, or to any other person, any priority over any rights of Mortgagees. No amendment will be made to the Condominium Instruments that shall adversely affect the right or obligations of a Unit Owner of a Commercial Unit to use its Commercial Unit for general office use, as defined under applicable zoning law, or in the case of Unit 101, for general office use, as defined under applicable zoning law, or for use as a Community Arts Center providing quality arts programming (including music, dance, drama, writing and visual arts) to children and youth of the District of Columbia, with an emphasis on youth and children residing in the Adams Morgan neighborhood (collectively, the "Permitted Use"), including, without limitation, any amendment of the Condominium Instruments which would limit (beyond any limitation now or hereafter imposed under applicable law) noise, access, use, hours of usage, the number of permitted invitees to a particular Unit or limiting access to common areas of the Property, unless such amendment is approved in writing by the affected Unit Owner, which approval shall not be unreasonably withheld, conditioned or delayed. Nothing in the preceding sentence shall affect the terms and provisions, including use limitations, set forth in the Condominium Instruments applicable to the Units and the Property.

ARTICLE 7

RIGHT TO LEASE OR SELL UNITS

The Declarant shall own in fee simple each Unit to which legal title is not conveyed or otherwise transferred to another person. The Declarant retains the right to enter into leases with any persons for the occupancy of any of the Units owned by the Declarant.

ARTICLE 8

DEVELOPMENT OPTIONS

Section 8.1 Convertible Land.

(a) Reservation. The Declarant hereby designates as convertible land all of the Property which is so designated on the Plats and Plans. The Declarant hereby reserves an option

until the fifth anniversary of the recordation of this Declaration to convert the convertible land from time to time in compliance with **Section** 42-1902.17 of the Condominium Act without the consent of any unit owner or Mortgagee. The option to convert may be terminated prior to such anniversary only upon the filing of an amendment to this Declaration by the Declarant. The Declarant reserves the right to convert any or all portions of the convertible land at any time, at different times, in any order, without limitation; provided, however, that the convertible land shall not exceed the area described on Exhibit A-2. There are no other limitations on the option to convert except as set forth in this Article 8.

(b) Assurances. At such time as the convertible land is converted, the maximum number of Residential Units on the submitted land plus the convertible land as an aggregate will be no more than thirty-six (36) units. At such time as the convertible land is converted, the maximum number of units on the convertible land in the aggregate will be no more than twenty-six (26) units. The maximum percentage of the aggregate land and floor area of all units that may be created within the convertible land described in Exhibit A-2 that may be occupied by Units not restricted exclusively to residential use, if the convertible land is converted, is thirty percent (30%). All the improvements, including the Residential Units and any Commercial Units, to be constructed within the convertible land will be compatible in quality, materials and style with the units on the submitted Land in terms of quality of construction, the principal materials to be used and architectural style. The Residential Units and any Commercial Units to be created on the convertible land will be substantially identical to the Units on the submitted land. The Declarant may construct or convert additional units on the convertible land only to the extent permitted by the then applicable zoning. The Residential Units, any Commercial Units and all other improvements to be created within each phase of the convertible land will be substantially as shown on Exhibit D-2. The Declarant reserves the right to create convertible space and limited common elements within the convertible land and to designate common elements therein which may be subsequently assigned as limited common elements, including areas designated as roof gardens and roof terraces on the Plans. The type of such elements may be attics, roofs, balconies, porches, stairways, roof gardens, terraces, storage spaces, electrical and mechanical rooms and systems including heating and cooling apparatus, recreational facilities, and all other elements which can appropriately be designated as common elements or limited common elements. The maximum number of such elements within the convertible land as an aggregate is 25,000. Other items may become limited common elements by operation of law. The Declarant reserves the right to convert limited common elements in any portion of the convertible land designated as interior recreational space into one or more Commercial Units and/or multiple Residential Units by filing appropriate amendments to this Declaration and the Plans. The allocation of Common Element Interests in the convertible land shall be computed as required by **Section** 42-1902.12 of the Condominium Act on the basis of par value. Areas shown as roof gardens and roof terraces on the Plans (or amendments to the Plans) may be included within Units upon the conversion of such Units.

(c) Additional Land. The Declarant may designate as convertible land all or any portion of the additional land at any such time as all or any portion of the additional land is

submitted to the Condominium Act. All of the reservations and the assurances set forth in **Sections** 8.1(a) and 8.1(b) shall apply to such convertible land; provided, however, that at such time as the convertible land is completely converted, the maximum number of Units on the convertible land as an aggregate will be no more than twenty-six (26) Units; and the maximum number of limited common elements within the convertible land as an aggregate will be 100,000.

Section 8.2 Contraction of the Condominium. The Declarant hereby reserves an option until the fifth anniversary of the recordation of this Declaration to contract the Condominium from time to time in compliance with **Section** 42-1902.20 of the Condominium Act without the consent of any unit owner or Mortgagee. The option to contract may be terminated prior to such anniversary only upon the recordation by the Declarant of an instrument relinquishing such option. The Declarant reserves the right to withdraw any or all portions of the withdrawable land at any time, at different times, in any order, without limitation; provided, however, that the withdrawable land shall not exceed the area described on Exhibits A-2.. The Declarant shall not have an option to withdraw the initially submitted land in Exhibit A-1. There are no other limitations on the option to contract.

Section 8.3 Convertible Space. The Declarant may designate as convertible space all or any portion of the buildings on the convertible land when added to the Condominium. The conversion of such convertible space shall be made pursuant to **Section** 42-1902.18 of the Condominium Act.

ARTICLE 9

NO OBLIGATIONS

Nothing contained in the Condominium Instruments shall be deemed to impose upon the Declarant or its successors or assigns any obligation of any nature to build, construct or provide any improvements except to the extent required by the Condominium Act.

ARTICLE 10

LIABILITY FOR ASSESSMENTS

A Unit Owner shall be personally liable for all lawful assessments, or installments thereof, levied against his Unit which become due while he is the owner of a Unit; and this liability of the Unit Owner is in addition to the Unit Owner Association's statutory lien on the Unit for such assessments. No Unit Owner may exempt himself or his Unit from such liability with respect to the common expenses by waiver of the enjoyment of the right to use any of the common elements or by abandonment of his Unit or otherwise.

ARTICLE 11

SUCCESSORS AND ASSIGNS

The rights and powers reserved to or exercisable by the Declarant under the Condominium Instruments or the Condominium Act may be exercised by any successor or assignee of the Declarant (a) who acquires title from Declarant by foreclosure or other judicial sale or deed in lieu of foreclosure, or (b) to whom Declarant specifically assigns such rights and powers.

(a) Captions. The captions are used solely as a matter of convenience and shall not define, limit or expand any term or provision of this Declaration.

(b) Gender; Number. Whenever the context so permits, the use of the plural shall include the singular, the singular shall include the plural, and any gender shall be deemed to include all genders.

(c) Exhibits. **Exhibits A-1, A-2, B, C, D-1, D-2** and **E** attached to this Declaration are an integral part of this Declaration.

(d) Severability. It is the intention of Declarant that the provisions of this Declaration are severable so that if any provision is invalid or void under any applicable federal or local law or ordinance, decree, order, judgment, or other wise, the remainder shall be unaffected thereby.

[Signature Page Follows]

IN WITNESS WHEREOF, the Declarant, 1700 Kalorama Condominium LLC, has caused this Declaration to be signed on _____, 2003 by Richard W. Naing, as manager of RWN Development Group, LLC, as manager of the Declarant.

DECLARANT:

1700 Kalorama Condominium LLC,
a District of Columbia limited liability company

By: RWN Development Group, LLC,
a Maryland limited liability company, as Manager

By: _____
Richard W. Naing, Manager

1700 KALORAMA LOFTS, A CONDOMINIUM

SUBMITTED LAND

DESCRIPTION OF
Square 2567
Lot 81
Washington, District of Columbia

Being all of Lot 81 in Square 2567 as per plat recorded in the Office of the Surveyor of the District of Columbia in Subdivision Book 179 at page 36 and being more particularly described as follows:

Beginning for the same at a point located at the intersection of the southerly line of Kalorama Road, N.W. and the westerly line of 17th Street, N.W., thence running with said westerly line of 17th Street, N.W.;

1. South 02°33'40" East – 181.90 feet to a point, thence departing 17th Street, N.W.;
2. South 52°59'20" West – 150.00 feet to a point on the easterly line of a Public Alley, thence with said easterly line of the Public Alley;
3. North 37°00'40" West – 67.86 feet to a point, thence departing said Public Alley;
4. North 52°59'20" East – 100.00 feet to a point, thence;
5. North 37°00'40" West – 82.14 feet to a point on the said southerly line of Kalorama Road, N.W., thence with said southerly line of Kalorama Road, N.W.;
6. North 52°59'20" East – 152.90 feet to the place of beginning containing 22,003.50 square feet of land.

The above described land extending vertically to the top of the parapet wall of the existing building located on said land at an elevation of 184.26 feet, more or less, above mean sea level as referenced to the District of Columbia Department of Public Works vertical datum, and as now described by Maddox Engineers & Surveyors, Inc. in January, 2003 Job # 02043.

DESCRIPTION OF CONVERTIBLE LAND

Being all of Lot 81 in Square 2567 as per plat recorded in the Office of the Surveyor of the District of Columbia in Subdivision Book 179 at page 36 and being more particularly described as follows:

Beginning for the same at a point located at the intersection of the southerly line of Kalorama Road, N.W. and the westerly line of 17th Street, N.W., thence running with said westerly line of 17th Street, N.W.;

1. South 02°33'40" East – 181.90 feet to a point, thence departing 17th Street, N.W.;
2. South 52°59'20" West – 150.00 feet to a point on the easterly line of a Public Alley, thence with said easterly line of the Public Alley;
3. North 37°00'40" West – 67.86 feet to a point, thence departing said Public Alley;
4. North 52°59'20" East – 100.00 feet to a point, thence;
5. North 37°00'40" West – 82.14 feet to a point on the said southerly line of Kalorama Road, N.W., thence with said southerly line of Kalorama Road, N.W.;
6. North 52°59'20" East – 152.90 feet to the place of beginning containing 22,003.50 square feet of land.

The above described land extending vertically from the top of the parapet wall of the existing building located on said land at an elevation of 184.26 feet, more or less, above mean sea level as referenced to the District of Columbia Department of Public Works vertical datum, and extending to the top of the proposed parapet wall at an elevation of 225.86 feet, more or less, above mean sea level of said vertical datum as now described by Maddox Engineers & Surveyors, Inc. in July, 2003 Job # 02043.

BYLAWS

OF

1700 KALORAMA LOFTS, A CONDOMINIUM

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1700 KALORAMA LOFTS, A CONDOMINIUM

BYLAWS

These Bylaws are adopted this ___ day of _____, 2003, by 1700 Kalorama Condominium LLC, a District of Columbia limited liability company ("Declarant").

ARTICLE 1

General Provisions

Section 1.1. Name. The name of the Condominium is the 1700 Kalorama Lofts, a Condominium. The name of the association of Unit Owners at the Condominium is "1700 Kalorama Lofts, a Condominium, Unit Owners Association"

Section 1.2. Office. The office of the Condominium, the Unit Owners Association and the Board of Directors shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors.

Section 1.3. Definitions. Terms used without definition have the meanings specified for such terms in the Declaration to which these Bylaws are attached as **Exhibit B**, or if not defined in the Declaration, the meanings specified for such terms in **Section 42-1901.02** of the Condominium Act. The following terms have the following meanings in the condominium instruments:

(a) "Board of Directors" or "Board" means the executive organ established pursuant to **Article 3**.

(b) "Common Element Interest" means the number from time to time assigned to each Unit by **Exhibit E** to the Declaration which establishes each Unit's undivided interest in the common elements, common expenses and common profits and votes in the Unit Owners Association.

(c) "Commercial Unit" means a Unit in the submitted land or convertible land which may be used for non-residential purposes or as otherwise restricted by zoning laws and so designated on the Plans or amendments to the Plans; provided, that, a Commercial Unit may be subdivided into one or more Residential Units and/or Commercial Units in compliance with Section 5.7 of these Bylaws and the provisions of the Condominium Act.

(d) "Declarant Control Period" means the period prior to the earliest of (i) the date on which Units to which seventy-five percent or more of the then aggregate Common Element Interests appertain have been conveyed to Unit Owners other than the Declarant; (ii) two years after the date of the first conveyance of a Unit to a Unit Owner other than the Declarant (the

maximum time period permitted by **Section** 42-1903.02(a) of the Condominium Act); or (iii) the date specified by the Declarant in a notice to the Unit Owners Association that the Declarant Control Period is to terminate on that date.

(e) "Limited Common Expenses" means expenses separately assessed against one or more but less than all of the Units generally in accordance with the use of the services, as permitted by **Sections** 45-1852(a) and (b) of the Condominium Act and **Section 5.1** of these Bylaws and expenses relating to Residential Units only, and expenses relating to Commercial Units only, and expenses relating to Parking Units only, as set forth in **Section 5.1(h)**. Except where the context requires otherwise, common expenses shall include Limited Common Expenses.

(f) "Majority Vote" means a simple majority (more than fifty percent) of the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any specified percentage vote means that percentage vote with respect to the votes actually cast in person or by proxy at a duly held meeting at which a quorum is present. Any specified percentage of approval or vote of the Mortgagees means approval or a vote by the Mortgagees of Units to which such percentage of the total number of votes appertain.

(g) "Mortgagee" means an institutional lender (one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts including but not limited to real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities) holding a first mortgage or first deed of trust ("Mortgage") encumbering a Unit in the Condominium which has notified the Unit Owners Association of its status and has requested all rights under the condominium instruments. For the purposes of **Article 8**, when any right is to be given to a Mortgagee, the Board of Directors shall also give such right to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmer's Home Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guarantying Mortgages if the Board has notice of such participation.

(h) "Officer" means any person holding office pursuant to Article 4, but contrary to **Section** 42-1901.02(23) of the Condominium Act, shall not mean members of the Board of Directors unless such directors are also Officers pursuant to **Article 4**.

(i) "Parking Unit" means a portion of the Condominium for permitted vehicular parking use as so designated on the Plat and Plans, and, intended for individual ownership, and separately identified by an identifying number in the Plats and Plans.

(j) "Reserved Common Element" means a common element in which the Board of Directors has granted a revocable license for exclusive use by less than all of the Unit Owners.

(k) "Residential Unit" means a unit which is part of the convertible land or the submitted land, which when constructed and added to the Condominium, will be a Unit used and occupied primarily as a residence or as otherwise permitted by zoning laws; provided, that, a Residential Unit may be subdivided into one or more Residential Units and/or Commercial Units in compliance with Section 5.7 of these Bylaws and the provisions of the Condominium Act.

(l) "Unit Owner" means a person that has a fee simple interest in either a Residential Unit, Commercial Unit or Parking Unit, and his or her successors and assigns.

(m) "Unit Owners Association" or "Association" means the unincorporated, non-profit association of all the Unit Owners owning condominium units in the Condominium.

Section 1.4. Application of By-Laws. These Bylaws provide for the governance of the Condominium by the Unit Owners Association pursuant to the requirements of Subchapter III of the Condominium Act. The administration and management of the Condominium and the actions of the Unit Owners and the Unit Owners Association and its Board of Directors and officers shall be governed by these Bylaws. All present and future Unit Owners and their tenants, licensees, invitees, servants, agents, employees and any other person or persons who are permitted to use the Condominium shall be subject to these Bylaws and the other Condominium Instruments and the Rules and Regulations of the Association. Acquisition, rental, or occupancy of a Unit shall constitute the Unit Owner's, tenant's and occupant's acceptance and ratification of, and agreement to comply with, these Bylaws and the other Condominium Instruments, and any Rules and Regulations now existent or hereafter adopted.

ARTICLE 2

Unit Owners Association

Section 2.1. Composition. The Unit Owners Association consists of all of the Unit Owners. A Unit Owner becomes a member of the Association upon his acquisition of a Unit and ceases to be a member of the Association automatically upon the termination of his ownership of a Unit. Ownership of an interest in a Unit solely as security for the performance of an obligation does not entitle the owner of such interest to membership in the Association. For all purposes, the Association acts merely as an agent for the Unit Owners as a group. The Association has the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association by the Condominium Act and the Declaration. Except as to those matters which the Condominium Act, or these Bylaws, specifically requires to be decided by the vote of the Unit Owners of the Association, the foregoing responsibilities shall be performed by the Board of Directors or managing agent as more particularly set forth in **Article 3**.

Section 2.2. Place of Meetings. Meetings of the Unit Owners Association shall be held at the principal office of the Association or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Directors in the notice of the meeting.

Section 2.3. Annual Meetings. The annual meetings of the Unit Owners Association shall be held on weekdays (other than legal holidays) at least forty-five days before the beginning of each fiscal year. The annual meeting of the Association shall be held for the election of directors and the conducting of such other business as may be properly brought before the meeting.

Section 2.4. Special Meetings.

(a) The President shall call a special meeting of the Unit Owners Association: (i) if so directed by resolution of the Board of Directors; (ii) after the termination of the Declarant Control Period, upon a petition signed and presented to the Secretary by the Unit Owners to which not less than twenty-five percent of the total Common Element Interests appertains; or (iii) during the Declarant Control Period, upon request of the Declarant. The signatures on a petition requesting a special meeting shall be valid for a period of one hundred-eighty days after the date of the first such signature. Such resolution, petition or request must (1) specify the time and place at which meeting is to be held, (2) either specify a date on which the meeting is to be held which will permit the Secretary to comply with **Section 2.5**, or else specify that the Secretary shall designate the date of the meeting, (3) specify the purposes for which the meeting is to be held, and (4) be delivered to the Secretary. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

(b) Not later than the time that Units to which twenty-five percent of the Common Element Interests appertain have been conveyed, including Residential Units and Commercial Units then created in convertible land and submitted land and then added to the Condominium, a special meeting of the Association shall be held at which not less than one-quarter of the directors shall be elected by the Unit Owners, other than the Declarant, to serve until the date of the first annual meeting. If such election is held prior to the time required by this **Section**, the directors elected at such election shall not take office until the earlier of the time such election is required to be held or resignation of a director appointed by the Declarant without appointment of a replacement within ten days. The elected directors shall assume office in the order of the highest number of votes received. Any remaining directors designated by the Declarant shall continue to serve until their terms expire.

(c) Not later than the time that Units to which fifty percent of the Common Element Interests appertain have been conveyed, including Residential Units and Commercial Units then created in convertible land and submitted land and then added to the Condominium, a special meeting of the Association shall be held at which not less than thirty-three and one-third percent of the directors shall be elected by the Unit Owners, other than the Declarant, to serve until the date of the first annual meeting; provided, however, that if not less than one third of the directors then serving were elected pursuant to **Section 2.4(b)**, no special meeting is required by this **Subsection (c)**.

(d) Not later than the termination of the Declarant Control Period, a special meeting of the Association shall be held at which more than fifty percent of the directors shall be elected

by the Unit Owners, including the Declarant if the Declarant owns any Units, to serve terms as provided in **Section 3.3**.

Section 2.5. Notice of Meetings. The Secretary shall notify each Unit Owner of each annual or regularly scheduled meeting of the Unit Owners at least twenty-one but not more than thirty days, and of each special meeting of the Unit Owners at least seven but not more than thirty days, prior to such meeting, stating the time, place and purpose thereof. The giving of a notice of meeting in the manner provided in this **Section** and **Section 11.1** constitutes service of notice.

Section 2.6. Quorum and Adjournment of Meetings. Except as otherwise provided in these Bylaws, the presence in person or by proxy of owners of Units to which twenty-five percent or more of the total Common Element Interests appertain constitutes a quorum at all meetings of the Unit Owners Association. A quorum shall be deemed to be present throughout a meeting of the Association until adjournment if persons owning Units to which twenty-five percent or more of the total Common Element Interest in person or by proxy are present at the beginning of such meeting. If at any meeting of the Association a quorum is not present, owners of Units of a majority of the Common Element Interests who are present at such meeting in person or by proxy may: (i) recess the meeting to such date, time and place as such Unit Owners may agree not more than forty-eight hours after the time the original meeting was called; or (ii) adjourn the meeting to a time not less than forty-eight hours after the time the original meeting was called, whereupon the Secretary shall make reasonable efforts to notify Unit Owners of such date, time and place.

Section 2.7. Order of Business. The order of business at all meetings of the Unit Owners Association shall be as follows: (a) roll call (proof of quorum); (b) proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of Board of Directors; (f) reports of committees; (g) appointment of inspectors of election (when so required); (h) election of directors (when so required); (i) unfinished business; and (j) new business; provided, however, that balloting for election of directors may commence at any time.

Section 2.8. Conduct of Meetings. The President shall preside over all meetings of the Unit Owners Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order, Revised, shall govern the conduct of all meetings of the Association when not in conflict with the Condominium Act or the condominium instruments. Tellers, appointed by the President or other Officer presiding over the meeting, shall supervise the tallying of all votes, and the names and addresses of the tellers shall be recorded in the minutes of the meeting.

Section 2.9. Voting.

(a) Voting at all meetings of the Unit Owners Association shall be on a percentage basis and the percentage of the vote to which each owner of a Unit is entitled shall be the Common Element Interest from time to time assigned to such Unit Owner's unit pursuant to Exhibit E to the Declaration. Where the ownership of a Unit is in more than one person, the

person entitled to cast the vote of such Unit shall be the person named in a certificate signed by all of the owners of such Unit and filed with the Secretary (if such a certificate is on file) or, in the absence of such named person from the meeting, the person entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one person owning a Unit is present, then such vote shall be cast only in accordance with their unanimous agreement pursuant to **Section** 42-1903.05(c) of the Condominium Act. If a owner of a Unit is not a natural person, the vote for such Unit may be cast by any natural person having authority to sign deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with one or more other persons, an owner of a Unit; provided, however, that such natural person is named in a certificate signed by an authorized officer of such person; and, provided, further, that any vote cast by a natural person on behalf of such owner of a Unit shall be deemed valid unless successfully challenged prior to adjournment of the meeting at which such vote was cast. Such certificate shall be valid until revoked by a subsequent certificate similarly signed and filed. Subject to the requirements of the Condominium Act, wherever the approval or disapproval of a Unit Owner is required by the Condominium Act or the condominium instruments, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such unit at any meeting of the Unit Owners Association. There shall be no cumulative voting.

(b) Except where a greater number is required by the Condominium Act or the condominium instruments, a Majority Vote is required to adopt decisions at any meeting of the Association. If the Declarant owns or holds title to a Unit, the Declarant shall have the right at any meeting of the Association to cast the votes appurtenant to such unit.

(c) No Unit Owner may vote at any meeting of the Association or be elected to or serve on the Board of Directors if payment by such Unit Owner of any financial obligation to the Association is delinquent more than sixty days and the amount necessary to bring the account current has not been paid at the time of such meeting or election.

Section 2.10. Proxies. A vote may be cast in person or by proxy. A proxy may be instructed (directing the proxy how to vote) or uninstructed (leaving how to vote to the proxy's discretion). Proxies may be granted by any Unit Owner in favor of only: (i) another Unit Owner, an Officer, the Declarant or such Unit Owner's Mortgagee, or (ii) additionally, in the case of a Unit Owner of a Commercial Unit, the Unit Owner's lessee, attorney or rental agent, or (iii) with respect to instructed proxies only, the managing agent. No person other than the Declarant, the managing agent or an Officer shall cast votes as a proxy for more than one unit not owned by such person; provided, however, that no Officer shall cast votes as an uninstructed proxy for more than five units not owned by such person and provided, further, that a Mortgagee or an attorney or a rental agent for a nonresident Unit Owner may cast votes as proxy for as many units as such person represents. Proxies shall be duly executed in writing, shall be dated, shall be signed by a person having authority at the time of the execution thereof to sign deeds on behalf of that person and shall be filed with the Secretary. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such unit. Except with respect to proxies in favor of a lessee or Mortgagee, no proxy shall in any event be valid for a period in excess of ninety (90) days after the proxy is signed.

ARTICLE 3

Board of Directors

Section 3.1. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Unit Owners Association and make and do all such acts and things as are not by the Condominium Act or the condominium instruments required to be exercised and done by the Association. The Board of Directors shall delegate to one of its members or to a person employed for such purpose the authority to act on behalf of the Board on such matters relating to the duties of the managing agent (as defined in **Section 3.2**), if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board shall on behalf of the Association:

- (a) Prepare and adopt an annual budget, in which there shall be expressed the assessments of each Unit Owner for the common expenses.
- (b) Make assessments against Unit Owners to defray the costs and expenses of the Condominium, establish the means and methods of collecting such assessments from the Unit Owners and establish the period of the installment payments of the annual assessment for common expenses.
- (c) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Condominium.
- (d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the common elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.
- (e) Collect the assessments against the Unit Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Property.
- (f) Adopt and amend any rules and regulations; provided, however, that such rules and regulations shall not be in conflict with the Condominium Act or the condominium instruments.
- (g) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (h) Make, or contract for the making of, repairs, additions and improvements to or alterations and restoration of the Property, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(i) Enforce by legal means the provisions of the Declaration, these Bylaws and the rules and regulations, act on behalf of the Unit Owners with respect to all matters arising out of any eminent domain proceeding, and notify the Unit Owners of any litigation against the Association involving a claim in excess of ten percent of the amount of the annual budget.

(j) Obtain and carry insurance against casualties and liabilities, as provided in **Article 6**, pay the premiums therefor and adjust and settle any claims thereunder.

(k) Pay the cost of all authorized services rendered to the Association and not billed to Unit Owners of individual units or otherwise provided for in **Sections 5.1** and **5.2**.

(l) In accordance with **Section** 42-1903.14 of the Condominium Act, keep books with detailed accounts in chronological order of the receipts and expenditures of the Association, and the administration of the Condominium, specifying the expenses of maintenance and repair of the common elements and any other expenses incurred. Such books and vouchers accrediting the entries therein shall be available for examination by the Unit Owners, their attorneys, accountants, Mortgagees and authorized agents during general business hours on business days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Unit Owners. All books and records shall be kept in accordance with generally accepted accounting principles, and the same shall be reviewed at least once each year by an independent accountant retained by the Board of Directors who shall not be a resident of the Condominium, a tenant of or affiliated with a Unit Owner. The cost of such review shall be a common expense.

(m) Notify a Mortgagee of any default hereunder by the Unit Owner of the unit subject to such Mortgage, if such default continues for more than sixty days.

(n) Borrow money on behalf of the Condominium when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the common elements; provided, however, that (except during the Declarant Control Period), either a Majority Vote obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws or by the written approval of Unit Owners of units to which more than fifty percent of the votes in the Association appertain, shall be required to borrow any sum in excess of fifty percent of the total annual assessment for common expenses for that fiscal year or \$25,000, whichever is greater. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this **Subsection** (n) is not repaid by the Association, a Unit Owner who pays to the creditor a percentage of the total amount due equal to such Unit Owner's Common Element Interest in the Condominium shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against such Unit Owner's condominium unit, and the Association shall not be entitled to assess the unit for payment of the remaining amount due such creditor.

(o) Acquire, hold and dispose of Units and mortgage the same without the prior approval of the Association if the Board of Directors determines that such acquisition, holding, or disposition is in the best interests of the Association, and otherwise hold, acquire, encumber, or convey in the name of the Association, any right, title, or interest to real or personal property.

(p) In its sole discretion, from time to time, designate certain common elements as Reserved Common Elements and impose such restrictions and conditions on the use thereof as the Board of Directors deems appropriate.

(q) Grant and accept easements through or over the common elements in accordance with **Section** 42-1903.08 of the Condominium Act.

(r) Furnish the statement required by **Section** 42-1904.11 of the Condominium Act within ten days after the receipt of a written request therefor from any Unit Owner, substantially in the form set forth on **Exhibit A** to these Bylaws and designated Certificate for Resale.

(s) Establish from time to time a minimum term for which a Unit may be leased by a Unit Owner.

(t) Enforce obligations of the Unit Owners and take such other action as may be necessary or proper for the sound management of the Condominium. The Board of Directors shall have the power to levy fines against Unit Owners for violations of the Rules and Regulations, and/or for late payment of assessments. Collection of fines may be assessed against a Unit Owner as if the fines were an assessment for common expenses owed by the Unit Owner. If a Unit Owner persists in violating the Rules and Regulations, the Board of Directors may require him to post a bond, satisfactory to it, to secure future compliance with the Rules and Regulations.

(u) Do such other things and acts not inconsistent with the Condominium Act or the condominium instruments which the Board of Directors may be authorized to do by a resolution of the Association.

The foregoing delineation of powers are not intended in any manner to limit the powers set forth in **Section** 42-1903.01 of the Condominium Act.

Section 3.2. Managing Agent. The Board of Directors shall employ for the Condominium a "managing agent@ at a compensation to be established by the Board.

(a) **Requirements.** The managing agent shall be a bona fide business enterprise which manages common interest communities. Such firm or its principals shall have a minimum of two years experience in real estate community management and shall employ persons possessing a high level of competence in the technical skills necessary to proper management of the Condominium. The managing agent must be able to advise the Board of Directors regarding the administrative operation of the Condominium and shall employ personnel knowledgeable in the areas of condominium insurance, accounting, contract negotiation, labor relations and condominium regulation.

(b) **Duties.** The managing agent shall perform such duties and services as the Board of Directors shall direct. Such duties and services may include, without limitation, the duties listed in **Subsections** (a), (c), (d), (e), (h), (i), (j), (k), (l), (m), (r) and (s) of **Section 3.1.** The

Board of Directors may delegate to the managing agent all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in **Subsections** (b), (f), (g), (n), (o) (p), and (q) of **Section 3.1**. The managing agent shall perform the obligations, duties and services relating to the management of the property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these Bylaws.

(c) Standards. The Board of Directors shall impose appropriate standards of performance upon the managing agent. Unless the managing agent is instructed otherwise by the Board of Directors:

(1) the modified accrual method of accounting shall be employed and expenses required by the Declaration or these Bylaws to be charged to one or more than one but less than all Unit Owners shall be accounted for and reported separately;

(2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures;

(3) cash accounts of the Unit Owners Association shall not be commingled with any other entity's accounts;

(4) no remuneration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association;

(5) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and

(6) a monthly financial report shall be prepared for the Association containing:

(A) an "income statement" reflecting all income and expense activity for the preceding period on a modified accrual basis;

(B) an "account activity statement" reflecting all receipt and disbursement activity for the preceding period on a cash basis;

(C) an "account status report" reflecting the status of all accounts in an "actual" versus "projected" (budget) format;

(D) a "balance sheet" reflecting the financial condition of the Association on an unaudited basis;

(E) a "budget report" reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten

percent of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and

(F) a "delinquency report" listing all Unit Owners who are delinquent in paying condominium assessments and describing the status of any actions to collect such assessments.

(7) an annual audited statement of each full fiscal year shall be made available to each Unit Owner, each Mortgagee, each insurer or guarantor of any Mortgage on submission of written request therefore. Such statement shall be available within 120 days of the Association's fiscal year-end.

(d) Limitations. During the Declarant Control Period, the Board of Directors shall employ a managing agent which may be affiliated with Declarant for an initial term not to exceed two years. The Association and the Board of Directors shall not undertake "self-management" or fail to employ a managing agent without the consent of at least sixty-seven percent of the Unit Owners and at least fifty-one percent of the Mortgagees. Any contract with the managing agent may not exceed three years and must provide that it may be terminated, without payment of a termination fee, without cause on no more than ninety days written notice and with cause on no more than thirty days written notice. The managing agent must maintain separate books and records for the Unit Owners Association and shall have no authority to draw on the reserve accounts maintained by the Unit Owners Association.

(e) Division of Management Duties. Notwithstanding any other provision of this **Section 3.2**, the Board of Directors may employ two managing agents or may permit a single managing agent to subcontract that portion of the duties of the managing agent relating to the Commercial Units or Residential Units and the Parking Units. If the management duties are divided between two managing agents, then one such managing agent shall have primary responsibility for budgeting and financial reporting and the other shall provide such information as is required to facilitate preparation of the budget for financial reports. Further, the Board of Directors shall not terminate the managing agent which has primary responsibility for the residential or commercial component of the Condominium unless a majority of the members of the Board who are Unit Owners of Units in that particular component of the Condominium agree to terminate such managing agent.

Section 3.3. Number and Term of Office.

(a) **Designated Members.** During the Declarant Control Period, the Declarant shall be entitled to designate directors not elected pursuant to **Section 2.4**. The initial Board of Directors shall consist of no less than three nor more than five persons, all of whom shall be designated by the Declarant. The term of office of at least two directors shall expire at the third annual meeting after the special meeting held pursuant to **Section 2.4(b)**; the term of office of up to three additional directors shall expire at the second annual meeting after the special meeting held pursuant to **Section 2.4(b)**; and the term of office of any other directors shall expire at the first annual meeting after the special meeting held pursuant to **Section 2.4(b)**. The term of each designee shall be fixed by the Declarant. At the special meetings required by **Subsections (c) and (d) of Section 2.4**, a number of the directors designated by the Declarant shall resign if necessary so that the requisite percentage of directors shall have been elected in accordance with **Subsections (c) and (d) of Section 2.4**. The persons elected shall serve for the remainder of the terms of office of the resigning directors who such persons replace, or if no resignation was required, for the terms of office necessary so that the term of office of one-third of the directors shall expire at each of the first three annual meetings after their election. The directors receiving the greatest vote shall be elected for the longest available terms. At the expiration of the term of office of all directors designated by the Declarant or elected at the special meetings held pursuant to **Section 2.4(c) and (d)**, all successor directors shall be elected to serve for a term of three years.

(b) **Elected Members.** No later than the first annual meeting of the Unit Owners Association after the special meeting held pursuant to **Section 2.4(b)**, the Board of Directors shall be composed of five persons, (i) three of whom shall be the Unit Owners of Residential Units (then created on the convertible land and added to the Condominium) and Parking Units, (ii) one of whom shall be Unit Owners or agents (officer, partner, etc.) or employees of Unit Owners of Commercial Units (elected by the Unit Owners of Commercial Units), and (iii) the other shall be either an agent, officer, partner, or employee of Mortgagees (or designees of Mortgagees) or a designee of the Declarant, as determined by the Declarant. An elected director shall serve for a term of three years unless elected to fill a vacancy, in which case such director shall serve as provided in **Section 3.6**. Except for resignation or removal, the directors shall hold office until their respective successors shall have been elected by the Association. In considering matters which affect solely the interest of either owners of Residential Units and/or a Parking Unit or owners of Commercial Units and, subject to carrying out its fiduciary obligations, the Board of Directors shall defer to the position of the members of the Board of Directors representing the Unit Owners affected.

Section 3.4. Election of Directors.

(a) **Elections Committee.** At least sixty-five days prior to the special meetings required by **Section 2.4(c) and (d)** and each annual meeting of the Unit Owners Association, the Board of Directors may appoint an Elections Committee consisting of a member of the Board whose term is not then expiring and at least two other Unit Owners one of whom shall be the Unit Owner of a Residential Unit or a Parking Unit and one of whom shall be the Unit Owner or an agent or an employee of a Commercial Unit. The Elections Committee shall develop election

procedures and administer such procedures as are approved by the Board providing for election of directors by ballot of the Unit Owners at annual meetings and, where appropriate, special meetings.

(b) Nominations. Persons qualified to be directors may be nominated for election by a nominating petition submitted to the chairman of the Elections Committee at least thirty-five days before the meeting at which the election is to be held signed by persons owning fee simple interests in and representing in the aggregate at least ten units and either signed by the nominee or accompanied by a document signed by the nominee indicating the willingness to serve as a director; provided, however, that additional nominations may be made from the floor at the meeting at which the election is held for each vacancy on the Board of Directors for which no more than one person has been nominated by petition. The nominee must either be present and consent to the nomination or have indicated in writing the willingness to serve. This **Subsection (b)** does not apply to persons appointed to the Board by the Declarant.

(c) Qualifications. No person shall be eligible for election as a member of the Board of Directors unless such person is (alone or together with one or more other persons) a Unit Owner or in the case of a Commercial Unit an agent (officer, member, stockholder, partner, etc.) or an employee of a Unit Owner, a Mortgagee (or a designee of a Mortgagee) or a designee of the Declarant. No person affiliated with a Unit Owner nor any Unit Owner shall be elected as a director or continue to serve as a director if such person is more than sixty days delinquent in meeting financial obligations to the Association and a lien has been filed against such person's unit.

Section 3.5. Removal or Resignation of Directors. Except with respect to directors designated by the Declarant or an owner of a Commercial Unit, at any regular or special meeting of the Unit Owners Association duly called, any one or more of the directors may be removed with or without cause by a Majority Vote of the Unit Owners (as defined in **Section 1.3(f)**) and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners shall be given at least seven days notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A director may resign at any time (i) in person at a meeting of the Board or the Association or (ii) by giving written notice to an Officer. Resignation of a director is effective when delivered unless the notice specifies an effective date which is not more than thirty days after the date of the notice. Except for directors who are designees of the Declarant, a director shall be deemed to have resigned automatically and without notice upon disposition of the unit which made such person eligible to be a director as provided for officers in **Section 42-1903.06(a)** of the Condominium Act, or if not in attendance at three consecutive regular meetings of the Board, if the minutes reflect the Board's removal of such director for such absence.

Section 3.6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Unit Owners shall be filled by a vote of a majority of the remaining directors at a special meeting of the Board held for such purpose promptly after the occurrence of any such vacancy, even though the directors present at such meeting may constitute less than a quorum because a quorum is impossible to obtain. Each person so elected

shall be a director until a successor shall be elected by the Unit Owners at the next annual meeting of the Unit Owners Association. The term of the replacement director so elected shall expire so that the staggered terms of directors shall remain unaffected. During the Declarant Control Period, the Declarant shall designate the successor to any director previously designated by the Declarant who resigns or is removed.

Section 3.7. Meetings of Directors.

(a) Organization Meeting. The first meeting of the Board of Directors following the annual meeting of the Unit Owners Association shall be held within thirty days thereafter at such time and place as shall be determined by a majority of the directors at the annual meeting.

(b) Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but such meetings shall be held at least quarterly during each fiscal year.

(c) Special Meetings. Special meetings of the Board of Directors may be called by the President on three business days notice to each director, given personally or by mail, telegraph or telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three directors.

(d) Executive Session. All meetings of the Board of Directors shall be open to Unit Owners as observers, except that the President or presiding officer may call the Board into executive session on sensitive matters such as personnel, litigation strategy or hearings for violations of the condominium instruments. Any final action taken by the Board in executive session shall be recorded in the minutes.

(e) Notice. Notice of meetings of the Board of Directors shall be given to each director, personally or by mail, facsimile, or telephone, at least three business days prior to the day named for such meeting. No notice of the organizational meeting shall be necessary if such meeting is held immediately following the annual meeting.

(f) Waiver of Notice. Any director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director, in person or by telephone communication, at any meeting of the Board of Directors shall constitute a waiver of notice by such director of the time, place and purpose of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

(g) Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If, at any meeting of the Board of Directors, there shall be less than a quorum present, a majority of those present may adjourn or recess the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business

which might have been transacted at the meeting originally called may be transacted without further notice. A director who participates in a meeting by means of telephone communication shall be deemed present at the meeting for all purposes.

(h) Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order, Revised, shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Condominium Act or the condominium instruments.

Section 3.8. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the directors shall individually or collectively unanimously consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 3.9. Compensation. No director shall receive any compensation from the Condominium for acting as such.

Section 3.10. Board of Directors as Agent. The Board of Directors shall have the power to act as agent for the Unit Owners of all of the units and for each of them, to manage, control and deal with the interests of such Unit Owners in the common elements of the Condominium to permit the Board of Directors to fulfill all of its powers, rights, functions and duties. The Board of Directors shall have the power to act as agent for each Unit Owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to: (i) adjust and settle all claims arising under insurance policies purchased by the Board of Directors, (ii) execute and deliver releases upon the payment of claims and (iii) act on their behalf in any condemnation proceeding or action of eminent domain pursuant to **Section 42-1901.06** of the Condominium Act; provided, however, that the consent of a Mortgagee shall be required if such Mortgagee notifies the Board of Directors pursuant to **Section 11.1** within thirty days after receipt of notice of the damage pursuant to **Section 6.2(c)** or notice of the taking in condemnation or by eminent domain pursuant to **Section 8.2**. The Board of Directors may grant and accept easements and licenses pursuant to **Section 42-1903.08(b)** of the Condominium Act.

Section 3.11. Liability of the Board of Directors, Officers, Unit Owners and Unit Owners Association.

(a) The Officers, directors and members of the covenants committee (the "Covenants Committee") shall not be liable to the Unit Owners Association or any Unit Owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the Officers and directors from and against all contractual liability to others arising out of contracts made by the Officers or the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Condominium Act or the condominium instruments, except to the extent that such liability is satisfied by directors and

officers liability insurance. Officers and directors shall have no personal liability with respect to any contract made by them on behalf of the Association. The liability of any Unit Owner arising out of any contract made by the Officers or Board of Directors, or out of the indemnification of the Officers or directors, or for damages as a result of injuries arising in connection with the common elements solely by virtue of ownership of a Common Element Interest therein or for liabilities incurred by the Association, shall be limited to the total liability multiplied by such Unit Owner's Common Element Interest. Every agreement made by the Officers, the Board of Directors or the managing agent on behalf of the Association shall, if obtainable, provided that the Officers, the directors or the managing agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to the total liability thereunder multiplied by such Unit Owner's Common Element Interest. The Association shall indemnify and hold harmless each of the members of the Covenants Committee from and against all liability to others arising out of the due exercise of their responsibilities unless their action shall have been taken in bad faith or contrary to the provisions of the Condominium Act or the condominium instruments. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that such person is or was an Officer or director of the Association or a member of the Covenants Committee against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Condominium.

(b) The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a common expense, or for injury or damage to person or property caused by the elements or by the Unit Owner of any unit, or any other person, or resulting from electricity, water, snow or ice which may leak or flow from or over any portion of the common elements or from any pipe, drain, conduit, appliance or equipment. The Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the common elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the common elements or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any governmental authority.

Section 3.12. Common or Interested Directors. Each director shall exercise such director's powers and duties in good faith and with a view to the interests of the Condominium. No contract or other transaction between the Unit Owners Association and any of its directors, or between the Association and any corporation, firm or association (including the Declarant) in which any of the directors of the Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because such director's vote is counted for such purpose, if any of the conditions specified in any of the following **Subsections** exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to at least a majority of the Unit Owners, and the Unit Owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at the meeting to authorize any contract or transaction with like force and effect as if such director of the Association were not an officer or director of such other corporation, firm or association or not so interested.

Section 3.13. Covenants Committee.

(a) Purpose. The Board of Directors shall establish a Covenants Committee, consisting of at least three members appointed by the Board, one of whom shall be a Unit Owner of a Commercial Unit appointed by the director elected by the Unit Owners of the Commercial Units, each to serve for a term of one year, in order to assure that the Condominium shall always be maintained in a manner: (1) providing for visual harmony and soundness of repair; (2) avoiding activities deleterious to the esthetic or property values of the Condominium; (3) furthering the comfort of the Unit Owners, their guests, employees and tenants; and (4) promoting the general welfare and safety of the Condominium community.

(b) Powers. The Covenants Committee shall regulate the external design, appearance, use and maintenance of the units and the common elements. The Covenants Committee shall have the power to impose reasonable application fees as well as the costs of reports, analyses, or consultations required in connection with improvements or changes proposed by a Unit Owner. The Covenants Committee shall have the power to impose reasonable charges (pursuant to **Section 9.1(g)**) upon, and issue a cease and desist request to, a Unit Owner, a member of such Unit Owner's household or company, or such Unit Owner's guests, invitees, or tenants, agents or employees whose actions are inconsistent with the provisions of the Condominium Act, the condominium instruments, the rules and regulations or resolutions of the Board of Directors (upon petition of any Unit Owner or upon its own motion). The Covenants Committee shall from time to time, as required, provide interpretations of the condominium instruments, rules and regulations and resolutions pursuant to the intents, provisions and qualifications thereof when requested to do so by a Unit Owner or the Board of Directors. Any action, ruling or decision of the Covenants Committee may be appealed to the Board of Directors by any party deemed by the Board to have standing as an aggrieved party and the Board may modify or reverse any such action, ruling or decision.

(c) Authority. The Covenants Committee shall have such additional duties, powers and authority as the Board of Directors may from time to time provide by resolution. The Board of Directors may relieve the Covenants Committee of any of its duties, powers and authority either generally or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the rules and regulations or by resolution of the Board of Directors. The Covenants Committee shall act on all matters properly before it within forty-five days; failure to do so within the stipulated time shall constitute an automatic referral of such matters to the Board of Directors for consideration.

(d) Commercial Units. The Covenants Committee shall not exercise its powers and authority to interfere with the reasonable conduct of business in, or permitted use of, the Commercial Units. Reasonable signs, modifications, alterations and changes of use by Unit Owners of Commercial Units which are needed for the proper conduct of business shall be permitted.

(e) Deference. The members of the Covenants Committee shall defer to the Commercial Unit Owner members with respect to matters affecting primarily Commercial Units and to the Residential Unit Owner members with respect to matters affecting primarily Residential Units.

ARTICLE 4

Officers

Section 4.1. Designation and Duties. The principal Officers of the Unit Owners Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other Officers as in its judgment may be necessary. The President and Vice President shall be members of the Board of Directors. Any other Officers may, but need not, be directors. Each Officer shall perform such duties as are normally associated with such office in parliamentary organizations, except to the extent (if any) inconsistent with the Condominium Act or the condominium instruments, and shall perform such other duties as may be assigned to such office by resolution of the Board of Directors. If any Officer is unable for any reason to perform the duties of the office, the President (or the Board of Directors if the President fails to do so) may appoint another qualified person to act in such Officer's stead on an interim basis.

Section 4.2. Election of Officers. The Officers of the Unit Owners Association shall be elected annually by a majority of all the members of the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board. Any Officer may hold more than one position; provided, however, that the offices Of President, Vice President and Secretary shall be held by three different individuals and provided further, that the President shall not simultaneously serve as Treasurer. Except for death, resignation or removal, the Officers shall hold office until their respective successors shall have been elected by the Board.

Section 4.3. Removal or Resignation of Officers. Upon the affirmative vote of a majority of all members of the Board of Directors, any Officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose. An Officer may resign as provided for a director in **Section 3.5.**

Section 4.4. President. The President shall: be the chief executive officer of the Unit Owners Association; preside at all meetings of the Association and of the Board of Directors; have general and active direction of the business of the Association subject to the control of the Board; see that all orders and resolutions of the Board are carried into effect; and appoint committees from time to time as the President may decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other director to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed by the Board of Directors or by the President.

Section 4.6. Secretary. The Secretary shall: keep the minutes of all meetings of the Unit Owners Association and of the Board of Directors; have charge of such books and papers as the Board may direct; give or cause to be given all notices required to be given by the Association; maintain a register setting forth the place to which all notices to Unit Owners and Mortgagees hereunder shall be delivered; and, in general, perform all the duties incident to the office of Secretary.

Section 4.7. Treasurer. The Treasurer shall (together with the managing agent): be responsible for Unit Owners Association funds and securities; keep full and accurate financial records and books of account showing all receipts and disbursements; prepare all required financial data; deposit all monies and other valuable effects in the name of the Board of Directors, the Association or the managing agent, in such depositories as may from time to time be designated by the Board; and, in general, perform all the duties incident to the office of treasurer.

Section 4.8. Execution of Documents. Unless otherwise provided in the resolution of the Board of Directors:

(a) all agreements, contracts, deeds, leases, checks and other instruments of the Unit Owners Association for expenditures or obligations in excess of twenty percent (20%) of the total annual assessment for common expenses for that fiscal year or \$25,000, whichever is less, and all checks drawn upon reserve accounts, shall be executed by any two members of the Board of Directors; and

(b) all such instruments for expenditures or obligations of twenty percent (20%) or less of the total annual assessment for common expenses for that fiscal year or \$25,000,

whichever is less, except from reserve accounts, may be executed by any one person designated by the Board of Directors.

(c) any Officer of the Association may be designated by Board resolution to sign Certificates for Resale on behalf of the Association. Any Officer may also be designated by Board resolution to sign any amendment to subdivide a unit or relocate boundaries between units on behalf of the Association or at the request of a Unit Owner, pursuant to **Sections** 42-1902.25 or 42-1902.26 of the Condominium Act.

Section 4.9. Compensation of Officers. No Officer who is also a director shall receive any compensation from the Unit Owners Association for acting as such Officer.

ARTICLE 5

Operation of the Property

Section 5.1. Determination of Common Expenses and Assessments Against Unit Owners.

(a) Fiscal Year. The fiscal year of the Unit Owners Association shall be the calendar year unless otherwise determined by the Board of Directors. The first fiscal year of the Unit Owners Association shall commence on the date the first Unit is conveyed to a Unit Owner other than the Declarant.

(b) Preparation and Approval of Budget.

(1) At least seventy-five days before the beginning of each fiscal year, the Board of Directors shall adopt one budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the common elements and those parts of the Units as to which it is the responsibility of the Association to maintain, repair and replace, and the cost of wages, materials, insurance premiums' services, supplies and other expenses that may be declared to be common expenses by the Condominium Act, the condominium instruments or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. The one budget shall also reflect the separate assessment of Limited Common Expenses including without limitation certain expenses relating to Residential Units only, Parking Units only, and Commercial Units only, as set forth in **Section 5.1(h)**.

(2) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. At least sixty-five days before the beginning of each fiscal year, the Board of Directors shall send to each Unit Owner a copy of the one budget in a reasonably itemized form which sets forth the amount of the common expenses and any special assessment payable by each Unit Owner. Such budget shall constitute the basis for determining each Unit Owner's assessment for the common expenses of the Condominium.

(c) Assessment and Payment of Common Expenses.

(1) Subject to the provisions of **Section 9.1(a)**, the total amount of the estimated funds required from assessments for the operation of the Property set forth in the budget adopted by the Board of Directors shall be assessed against each Unit Owner in proportion to such Unit Owner's respective Common Element Interest, except for: (i) Limited Common Expenses, which shall be assessed against each Unit Owner benefited in proportion to the relative Common Element Interest of such units inter se, or in accordance with use of the services, as appropriate, and (ii) Limited Common Expenses payable by Unit Owners of Residential Units only, Parking Units only, or Commercial Units only, as provided in **Section 5.1(h)**. The assessment for common expenses, including Limited Common Expenses, shall be a lien against each Unit Owner's unit as provided in **Section 9.2**. On or before the first day of each fiscal year commencing with first fiscal year, and the first day of each of the succeeding eleven months in such fiscal year (unless the first fiscal year is not a calendar year), each Unit Owner shall be obligated to pay to the Board of Directors or the managing agent (as determined by the Board), one-twelfth of such assessment or such lesser number of installments as may be determined by the Board of Directors if the first fiscal year is not a calendar year. Within ninety days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners, and to each Mortgagee requesting the same, an itemized accounting of the common expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Board of Directors, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the Unit Owners, be credited according to each Unit Owner's Common Element Interest to the next periodic installments due from Unit Owners under the current fiscal year's budget, until exhausted, or distributed to the Unit Owners. Unless the Board of Directors directs otherwise, any net shortage shall be assessed promptly against the Unit Owners in accordance with their Common Element Interests and shall be payable either: (1) in full with payment of the next periodic assessment which is due more than ten days after delivery of notice of such further assessment; or (2) in not more than six equal periodic installments, as the Board of Directors may determine.

(2) Any common expenses paid or incurred in making available the same off-site amenities or paid subscription television service to some or all of the Unit Owners shall be assessed equally against the Units involved, and any common expenses paid or incurred in providing metered utility services to some or all of the units shall be assessed against each unit involved based on its actual consumption of such services.

(d) Reserves. The Board of Directors shall build up and maintain reasonable reserves for working capital, operations (including losses due to insurance deductibles), contingencies and replacements. Reserves for items serving Residential Units only, reserves for items serving Commercial Units only, and reserves for items serving Parking Units only, shall be maintained for and funded solely by (as a Limited Common Expense) the units served by such item. Such reserves shall be maintained and funded separately from reserves for items serving all Units.

Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. Except for normal maintenance expenses shown in the annual operating budget, all expenses for repair and replacement of physical assets maintained by the Association shall be charged first against such reserves. Unless otherwise determined by a vote of three-fourths of the directors, the amount held as reserves shall not substantially exceed the amount reasonably required to assure the Association's ability to replace components as they reach the end of their useful lives. If regular annual maintenance extends the useful life of components so that reserves are excessive, the reserves shall be adjusted by reallocation to other budget items or by distribution to the Unit Owners. If the reserves are inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Unit Owners according to their respective Common Element Interests, and which may be payable in a lump sum or in installments as the Board may determine. The Board of Directors shall serve notice of any such further assessment on Unit Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall, unless otherwise specified in the notice, become effective with the next periodic payment which is due more than ten days after the delivery of such notice of further assessment. All Unit Owners so notified shall be obligated to pay the adjusted periodic amount or, if such further assessment is not payable in installments, the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in **Section 5.1(c)**.

(e) Initial Budget and Initial Capital Payment.

(1) Upon taking office, the first Board of Directors elected or designated pursuant to these Bylaws shall determine the one budget, as defined in this **Section**, for the period commencing thirty days after such election and ending on the last day of the fiscal year in which such election occurs. Assessments shall be levied and become a lien against the Unit Owners during such period as provided in **Section 5.1(c)**.

(2) The Declarant, as the agent of the Board of Directors, will collect from each initial purchaser at the time of settlement an "initial capital payment" equivalent to twice the estimated periodic installment of the annual assessment for common expenses for such purchaser's unit. Upon or before the expiration of the Declarant Control Period, the Declarant will deliver the funds so collected to the Board of Directors for deposit in a separate segregated fund to provide the necessary working capital for the Association and not as advance payments of regular assessments. Such funds may be used for certain prepaid items, initial equipment, supplies, organizational costs and other start-up costs, and for such other purposes as the Board of Directors may determine. The Declarant shall not use such funds to defray any of Declarant's expenses, reserve contributions, construction costs or make up any budget deficits during the Declarant Control Period.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay the allocable share of the common expenses as provided in these Bylaws whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each periodic

installment at the rate established for the previous fiscal year until notified of the periodic payment which is due more than ten days after such new annual or adjusted budget is adopted.

(g) Accounts. All sums collected by the Board of Directors with respect to assessments against the Unit Owners or from any other source may not be commingled into a single fund. The Association (or the management agent) must maintain separate bank accounts for a working account and a reserve account, each with appropriate access controls, and the bank in which funds are deposited must send copies of monthly bank statements directly to the Unit Owners Association.

(h) Expenses Payable by Either Residential Unit Owners Only or Commercial Unit Owners Only or Parking Unit Owners Only. Pursuant to **Section 5.1(c)** certain expenses and reserves benefiting Residential Units only shall be assessed against Residential Units only ("Residential Expenses"), certain expenses and expenses benefiting Parking Units only shall be assessed against Parking Units only ("Parking Expenses"), and certain expenses and reserves benefiting Commercial Units only shall be assessed against Commercial Units only ("Commercial Expenses"). Residential Expenses shall consist of the cost of utilities and other services provided exclusively to the Residential Units and residential limited common elements appurtenant to all Residential Units which may be separately allocated to the Residential Units, the cost of maintenance, repair and replacement of the limited common elements appurtenant to all Residential Units which may be separately allocated to the Residential Units, and such expenses as are shown as Residential Expenses on the Maintenance Responsibilities Chart attached to these Bylaws as **Exhibit B**. Commercial Expenses shall consist of the cost of utilities and other services provided exclusively to the Commercial Units and limited common elements appurtenant to Commercial Units which may be separately allocated to the Commercial Units, the cost of maintenance, repair and replacement of the limited common elements appurtenant to all Commercial Units which may be separately allocated to the Commercial Units, and such expenses as are shown as Commercial Expenses on the Maintenance Responsibilities Chart attached to these Bylaws as **Exhibit B**. Parking Expenses shall consist of the cost of utilities and other services provided exclusively to the Parking Units and limited common elements appurtenant to Parking Units which may be separately allocated to the Parking Units, the cost of maintenance, repair and replacement of the limited common elements appurtenant to all Parking Units which may be separately allocated to the Parking Units and such expenses as are shown as Parking Expenses on the Maintenance Responsibilities Chart attached to these Bylaws as **Exhibit B**. Residential Expenses shall be assessed against each Unit Owner of a Residential Unit in proportion to the relationship which the Common Element Interest of each Residential Unit bears to the Common Element Interest of all Residential Units ("Residential Only Share"), as set forth in **Exhibit E** to the Declaration. Commercial Expenses shall be assessed against each Unit Owner of a Commercial Unit in proportion to the relationship which the Common Element Interest of each Commercial Unit bears to the Common Element Interest of all Commercial Units ("Commercial Only Share"), as set forth in **Exhibit E** to the Declaration. Parking Expenses shall be assessed against each Unit Owner of a Parking Unit in proportion to the relationship which the Common Element Interest of each Parking Unit bears to the Common Element Interest of all Parking Units ("Parking Only Share"), as set forth in **Exhibit E** to the Declaration. It will not be necessary for any managing agent to maintain separate budgets or bank accounts in order to make the foregoing allocations.

Section 5.2. Payment of Common Expenses. Each Unit Owner shall pay the common expenses, including Limited Common Expenses, assessed by the Board of Directors pursuant to the provisions of **Section 5.1**. No Unit Owner may be exempted from liability for the assessment for common expenses by reason of waiver of the use or enjoyment of any of the common elements or by abandonment of the Unit. No Unit Owner shall be liable for the payment of any part of the common expenses assessed against that Unit subsequent to the date of recordation of a conveyance by such Unit Owner in fee of such Unit. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter for the proportionate share of the common expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefor; provided, however, that any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within five business days following a written request therefor to the Board of Directors or managing agent and such purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and provided, further, that each Mortgagee who comes into possession of a condominium unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the condominium unit free of any claims for unpaid assessments or charges against such unit which accrue prior to the time such Mortgagee or purchaser comes into possession thereof, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all condominium units including the mortgaged condominium unit.

Section 5.3. Collection of Assessments. The Board of Directors, or the managing agent at the request of the Board, shall take prompt action to collect any assessments for common expenses due from any Unit Owner which remain unpaid for more than thirty days after the due date. Any assessment, or installment thereof, not paid within ten days after due shall accrue a late charge in the amount of twenty-five dollars, or such other amount as may be established from time to time by the Board of Directors. The Declarant is prohibited from using working capital funds of the Unit Owners Association for other than the payment of common expenses and may not use such funds to defray any of the Declarant's expenses, reserve contributions, or construction costs or to make up any budget deficits during the Declarant Control Period.

Section 5.4. Statement of Common Expenses. The Board of Directors shall promptly provide any Unit Owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for common expenses due from such Unit Owner. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

Section 5.5. Maintenance, Repair, Replacement and Other Common Expenses.

(a) Chart of Maintenance Responsibilities. Notwithstanding the general provisions for maintenance set forth in **Section 5.5(b) and (c)**, specific maintenance responsibilities and the

costs attributable thereto shall, to the extent set forth thereon, be determined pursuant to the Chart of Maintenance Responsibilities attached as Exhibit B to these Bylaws.

(b) By the Unit Owners Association. The Unit Owners Association shall be responsible for the maintenance, repair and replacement of all of the common elements (including the limited common elements) as defined in the condominium instruments, whether located inside or outside of the units, the cost of which shall be charged to all Unit Owners as a common expense; provided, however, that the Board of Directors may elect not to do so, if in the opinion of a majority of the Board of Directors, such maintenance, repair or replacement was necessitated by the act, neglect or carelessness for which a Unit Owner is responsible pursuant to **Section 9.1(a)**; and provided, further, that each Unit Owner shall perform normal maintenance on the limited common elements appurtenant to such Unit Owner's unit and any portion of the remaining common elements which the Board of Directors pursuant to the rules and regulations has given such Unit Owner permission to utilize, including without limitation the items enumerated in **Subsection (c)**.

(c) By the Unit Owner.

(1) Each Unit Owner shall keep the unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition. Each Unit Owner shall perform this responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the managing agent any defect or need for repairs for which the Association is responsible.

(2) The Unit Owner of any unit to which a limited common element balcony or terrace is appurtenant, if any, shall perform the normal maintenance for such limited common element, including keeping it in a clean and sanitary condition, free and clear of snow, ice and any accumulation of water and shall also make all repairs thereto caused or permitted by such Unit Owner's negligence, misuse or neglect. All structural repair or replacement shall be made by the Association as a common expense, as provided in **Subsection (b)**.

(3) Any Unit Owner permitted by the Board of Directors to use a specific portion of the common elements for storage is responsible for the maintenance and care of such portion and shall use such portion in a safe and sanitary manner.

(d) Manner of Repair and Replacement. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be done with contemporary building materials and equipment. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board of Directors.

Section 5.6. Additions, Alterations or Improvements by the Board of Directors. Except during the Declarant Control Period, whenever in the judgment of the Board of Directors the common elements shall require additions, alterations or improvements costing in excess of twenty-five (25%) of the total annual assessment for common expenses for that fiscal year during any period

of twelve consecutive months, or \$25,000, whichever is less, the making of such additions, alterations or improvements requires a Majority Vote, and the Board of Directors shall assess all Unit Owners benefited for the cost thereof as a common expense (or limited common expense). Any additions, alterations or improvements costing twenty-five percent of the total annual assessment for common expenses for that fiscal year during any period of twelve consecutive months, or \$25,000, whichever is less, may be made by the Board of Directors without approval of the Unit Owners and the cost thereof shall constitute a common expense or Limited Common Expense, depending on the nature of the additions, alterations or improvements. Notwithstanding the foregoing, if, in the opinion of not less than eighty percent of the directors, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the Unit Owners requesting the same, such requesting Unit Owners shall be assessed therefor in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportion as may be determined by the Board of Directors.

Section 5.7. Additions, Alterations or Improvements by the Unit Owners. No Unit Owner shall make any structural addition, alteration or improvement in or to the unit without the prior written consent of the Board of Directors or the Covenants Committee, as appropriate. No Unit Owner shall paint or alter any common element or the exterior of the unit, including the doors and windows, nor shall any Unit Owner paint or alter the exterior of the building, without the prior written consent of the Board of Directors or the Covenants Committee, as appropriate. Except when a request is being handled by the Covenants Committee, the Board of Directors shall be obligated to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's unit within forty-five days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed structural addition, alteration or improvement. Any application to the Board of Directors or the Covenants Committee for a structural change shall include an analysis of the proposed change by a qualified engineer. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement in or to any unit requires execution by the Unit Owners Association, and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the Association by an authorized Officer only, without however incurring any liability on the part of the Board of Directors, the Association or any of them to any contractor, subcontractor or material man on account of such addition, alteration or improvement, or to any person having claim for injury to person or damage to property arising therefrom. Subject to the approval of any Mortgagee of such affected units, the Board of Directors and any Unit Owner directly affected, any unit may be subdivided or may be altered so as to relocate the boundaries between such unit and any adjoining units. The Secretary shall record any necessary amendment to the Declaration to effect such action as provided in **Sections** 42-1902.25 or 42-1902.26 of the Condominium Act. The provisions of this **Section 5.7** shall not apply to units owned by the Declarant until deeds of conveyance of such units shall have been recorded; provided, however, that the Declarant's construction or alterations shall be architecturally compatible with existing units. Notwithstanding the foregoing, (i) the Declarant shall have the right to make such alterations or subdivisions without the consent of the Board of Directors, and an authorized Officer shall execute any such application required, and (ii) the Commercial Units Owners shall have the right to make alterations to the Commercial Units without the consent of the Board of Directors, provided that such alterations do not constitute structural changes to the building or affect

mechanical systems, utility systems or apparatus (such as HVAC) which serve other Units or are or serve common elements. The Declarant shall also have the right to make improvements to the common elements to complete development of the Property, including construction of Units, general common elements and limited common elements in convertible land, without approval from the Board of Directors or the Covenants Committee.

Section 5.8. Restrictions on Use of Units and Common Elements: Rules and Regulations.

(a) Restrictions. Each unit and the common elements shall be occupied and used as follows:

(1) Residential Units may be used for any purposes permitted by the applicable zoning, subject to the restrictions set forth in the condominium instruments. Commercial Units may be used for any purposes permitted by the applicable zoning subject to the restrictions set forth in the condominium instruments. Parking Units shall be used primarily for the parking of vehicles, provided that incidental use of the Parking Units for storage of personal property shall be permitted at such Parking Unit owner's sole risk, and subject to any reasonable rules and regulations which may be promulgated by the Board of Directors or the Association. Those portions of the parking area leading to and from the Parking Units (the "Parking Area") shall remain unobstructed, and no party shall have the right to place any personal property, trash, equipment or goods in such areas, or otherwise park any vehicles in such areas. All costs associated with the maintenance of the Parking Area shall be a Parking Expense that is to be paid for by the Parking Unit Owners. Nothing in these Bylaws shall be construed to prohibit the Declarant from using any unit owned by the Declarant for promotional, marketing or display purposes or from using any appropriate portion of the common elements for settlement of sales of condominium units and for customer service purposes. Further, the Declarant specifically reserves the right to operate a rental, brokerage and management office at any time, to the extent permitted by law. At or prior to the sale by the Declarant of any Parking Unit, the Declarant may designate such Parking Unit as a compact size unit (which will allow parking only by one compact car), as a full size unit (which will allow parking by a full size car), as a horizontal tandem unit (which will allow parking of two cars horizontally), or as a lift unit (which will allow parking of two cars vertically). Such designations may be added as a restriction to any deed of conveyance for a Parking Unit after such designation.

(2) Nothing shall be done or kept in any unit or in the common elements which will increase the rate of insurance for the Property or any part thereof applicable for residential, commercial or other permitted uses without the prior written consent of the Board of Directors. No Unit Owner shall permit anything to be done or kept in the unit or in the common elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste will be committed on the common elements.

(3) No improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of

the Property shall be complied with, by and at the sole expense of the Unit Owner or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Property, and, if the latter, then the cost of such compliance shall be a common expense.

(4) No Unit Owner shall obstruct any of the common elements nor shall any Unit Owner place or cause or permit anything to be placed on or in any of the common elements (except those areas designated for such storage by the condominium instruments or the Board of Directors) without the approval of the Board. Nothing shall be altered or constructed in or removed from the common elements except with the prior written consent of the Board of Directors or the Covenants Committee, as appropriate (subject, however, to the applicable provisions of the Fair Housing Amendments Act of 1988 regarding modifications by handicapped residents).

(5) The common elements shall be used only for the furnishing of the services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the units. The lobbies, vestibules, hallways and stairways shall be used for no purpose other than for normal transit.

(6) No clothing, laundry, rugs or wash shall be hung from or spread upon or from any window or exterior portion of a Unit or in or upon any common element. All refuse and trash shall be placed in plastic bags and deposited in bins or chutes designated for such purposes.

(7) Household pets may be kept at the Units; provided, that, no pet may weigh more than seventy pounds. Any Unit Owner or guest who keeps or maintains any pet in a Unit shall be responsible and may be assessed by the Board of Directors for any costs incurred by the Condominium in enforcing the applicable Rules and Regulations and for the cost of repairing any damage caused by such pet to the common elements.

(8) Unit Owners, residents, and lessees shall exercise extreme care to avoid unnecessary noise or the use of musical instruments, radios, televisions and amplifiers that may disturb other Unit Owners. Notwithstanding the immediately preceding sentence, this subparagraph 5.8(a)(8) shall not be applied in such a manner so as to unreasonably limit the permitted use of Commercial Units by the Unit Owners of Commercial Units (or their tenants) consistent with applicable zoning regulations and applicable law;

(9) No Unit Owner, resident or lessee may install wiring for electrical or telephone installation, television antennae or other equipment, which protrudes through the walls or the roof of the Condominium or is otherwise visible on the exterior of the Condominium except as authorized by the Declarant prior to the expiration of the Declarant Control Period and, thereafter, by the Board of Directors.

(10) No Unit or common element of the Condominium may be used for any unlawful, immoral or improper purpose. No Unit may be used for any sexually oriented business or for the sale of food or for the preparation of food for sale.

(11) No Residential Unit shall be used or occupied for transient or hotel purposes or in any event for a period of less than one year. A reasonable number of roommates is permitted. No Unit Owner shall lease, or allow any sublease of, a unit other than on a written form of lease or sublease: (i) requiring the lessee and sublessee to comply with the condominium instruments and rules and regulations; (ii) providing that failure to comply constitutes a default under the lease and sublease, and (iii) providing that the Board of Directors has the power to terminate the lease and/or sublease or to bring summary proceedings to evict the tenant and/or subtenant in the name of the lessor after forty-five days prior written notice to the Unit Owner, in the event of a default by the tenant and/or subtenant in the performance of the lease or sublease. The Board of Directors may suggest or require a standard form lease and/or sublease for use by Unit Owners. Each Unit Owner shall, promptly after entering into any lease of a condominium unit, forward a conformed copy of the lease to the Board of Directors. The foregoing provisions of this paragraph, except the restriction against use or occupancy for hotel or transient purposes, shall not apply to units owned by the Association, to the Declarant, or to a Mortgagee in possession of a unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure. No Unit Owner shall lease, or allow any sublease of, his Unit if it results in more than twenty percent (20%) of the Units at the Condominium being occupied by non-owners.

(12) Trailers, campers, recreational vehicles, boats and other large vehicles may not be parked on the Property. All vehicles shall be parked wholly within the Parking Units. The Parking Units designated on the Plans as a parking area shall be used only for parking. Other than as provided above, nothing may be stored, erected, attached to or otherwise placed on the common elements without the prior written consent of the Board of Directors or the Covenants Committee, as appropriate. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any of the common elements. Except in areas designated by the Board of Directors, vehicle repairs other than: (i) emergency maintenance, (ii) ordinary light maintenance (excluding fluid changes and other operations which might soil the common elements) and (iii) normal cleaning (in areas designated by the Board, if any) are not permitted on the common elements.

(13) The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited within any unit or upon the common elements.

(14) Except for such signs as may be posted by the Association or by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from or about any unit or common element without the prior written approval of the Board of Directors.

The foregoing provisions of this paragraph shall not apply to a Mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure. The Board of Directors shall permit the owner of a Commercial Unit to post reasonable signs on the exterior of the unit necessary for the proper conduct of business.

(15) Sufficient carpeting or rugs shall be maintained on a minimum of eighty percent of the floor surfaces (except marble-floored foyers, kitchens, closets and bathrooms) in

Units located over other Units to adequately reduce transmission of sound between Units. The foregoing sentence shall not apply to the Unit Owner of Unit 101. Additional washers, dryers and other major appliances may not be installed in a Unit without the prior written approval of the Covenants Committee.

(16) No Unit shall be subjected to or used for any timesharing, cooperative, licensing or other arrangement that would entail weekly, monthly or any other type of revolving or periodic occupancy by multiple Unit Owners, cooperators, licensees or timesharing participants.

(17) No Commercial Unit shall be used for (nor shall any Unit Owner of a Commercial Unit permit its Unit to be used by a tenant or any other person for) any use not allowable under applicable zoning and/or land use law or any of the following uses: (i) any retail use (except that a Unit Owner of a Commercial Unit may devote up to five percent (5%) of its space for sale of products in the ordinary course of and consistent with its permitted use), (ii) any sexually oriented business (including any business in which any portion of the inventory is not available for sale or rental to children under 18 years old because such inventory explicitly deals with or depicts human sexuality), (iii) any use/business referenced in Section 144(c)(6)(B) and 147(e) of the Internal Revenue Code, as currently in effect and hereafter amended from time to time, (iv) a restaurant, night club, coffee shop or other business involving food or beverage service, (v) any use that would involve the use, storage or disposal of hazardous substances (beyond amounts used or stored for typical household cleaning purposes, general office purposes or incident to a permitted use), or (vi) use by a foreign governmental agency or entity. In addition, no Commercial Unit shall be used for (nor shall any Unit Owner of a Commercial Unit permit its Unit to be used by a tenant or any other person for) any uses which would have a material adverse affect on the image of the Property as a first-class mixed use commercial and residential condominium, in the Board's discretion and subject to Board approval, which discretion and approval will not be unreasonably withheld, conditioned or delayed.

Notwithstanding the first sentence of subparagraph 5.8(a)(8), the Unit Owner of Unit 101 shall be permitted to conduct music instruction classes, rehearsals, recitals and other performances in its Unit between the hours of 8:00 am through 11:59 pm daily. Such Unit Owner will install, at such Unit Owner's sole cost and expense, reasonable sound abatement equipment in its Unit, and will use commercially reasonable efforts to utilize other sounds abatement techniques within its Unit so as to minimize disruption to other Unit Owners as a result of its activities.

(b) Changes to Rules and Regulations. Each Unit and the common elements shall be occupied and used in compliance with the rules and regulations which may be promulgated and changed by the Board of Directors. Copies of the rules and regulations shall be furnished by the Board of Directors to each Unit Owner. Changes to the rules and regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request. The rules and regulations shall not unreasonably interfere with the reasonable conduct of business in the Commercial Units.

Section 5.9. Right of Access. By acceptance of the deed of conveyance, each Unit Owner thereby grants a right of access to the unit, as provided by **Section 42-1903.07(a)** of the Condominium Act and **Section 4.2(a)** of the Declaration, to the Board of Directors or the managing agent, or any other person authorized by the Board or the managing agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities, including without limitation making inspections, correcting any condition originating in the unit or in a common element to which access is obtained through the unit and threatening another unit or the common elements, performing installations, alterations or repairs to the mechanical or electrical systems or the common elements in the unit or elsewhere in the Property or to correct any condition which violates any Mortgage; provided, however, that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right of entry shall be immediate, whether or not the Unit Owner is present. Each Unit Owner shall provide a working copy of all unit keys to the Unit Owners Association. Each Unit Owner shall have an unrestricted right of ingress and egress to his or her Unit subject to the provisions of the condominium instruments and the Condominium Act. (This right is perpetual and shall pass to the transferee of the unit when ownership of the unit is transferred).

Section 5.10. Utility Charges; User Fees. The cost of utilities serving the Condominium not individually metered or submetered to specific units shall be common expenses allocated pursuant to **Section 5.1**. The Board of Directors may impose reasonable user fees, whether or not designated as limited common expenses, for the use of Reserved Common Elements or personal property of the Unit Owners Association or services provided by or arranged for through the Association.

Section 5.11. Storage; Disclaimer of Bailee Liability. The Board of Directors, the Unit Owners Association, any Unit Owner and the Declarant shall not be considered a bailee of any personal property stored on the common elements (including property located in storage areas or cubicles and vehicles parked in the parking garage), whether or not exclusive possession of the particular area is given to a Unit Owner for storage or parking purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

ARTICLE 6

Insurance

Section 6.1. Authority to Purchase; Notice.

(a) Except as otherwise provided in **Section 6.5**, all insurance policies relating to the Property shall be purchased by the Board of Directors. The Board of Directors, the managing agent and the Declarant shall not be liable for failure to obtain any coverages required by this **Article 6** or for any loss or damage resulting from such failure: (i) if such failure is due to the unavailability of such coverages from reputable insurance companies; (ii) if such coverages are so available only at demonstrably unreasonable cost; or (iii) if the Unit Owners Association's

insurance professionals advise that the coverages required by paragraph (2) of **Section 6.2(b)** are not necessary. The Board of Directors shall promptly furnish to each Unit Owner written notice of the procurement of, subsequent changes in, or termination of, insurance coverages obtained on behalf of the Association, in compliance with **Section 42-1903.10** of the Condominium Act.

(b) Each such policy shall provide that:

(1) The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Board of Directors, the managing agent or the Unit Owners, and their respective guests, invitees, tenants, agents and employees and, in the case of the Unit Owners of Residential Units, the members of their households;

(2) Such policy shall not be canceled, invalidated or suspended due to the conduct of any Unit Owner (including such Unit Owner's guests, invitees, tenants, agents and employees and, in the case of Unit Owners of Residential Units, the members of such Unit Owner's household) or of any member, officer or employee of the Board of Directors or the managing agent without a prior demand in writing that the Board or the managing agent cure the defect and neither shall have so cured such defect within sixty days after such demand; and

(3) Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty days prior written notice to the Board of Directors, the managing agent and all Mortgagees.

(c) The Declarant, so long as Declarant shall own any unit, shall be protected by all such policies as a Unit Owner. The coverage provided to the Declarant under the insurance policies obtained in compliance with this **Article 6** shall not be deemed to protect or be for the benefit of any general contractor engaged by the Declarant nor shall such coverage be deemed to protect the Declarant against liability for (or waive any rights with respect to) warranty claims.

(d) All policies of insurance shall be written by reputable companies licensed or qualified to do business in the District of Columbia and which holds a rating of "A" or better general policyholder's rating and financial size category of "VIII" or better in the current edition of A.M. Best Company's Insurance Reports - International Edition or a "B" or better general policy holder's rating or a "6" or better financial index rating in Best's Insurance Reports. Physical damage policies shall be in form and substance and with carriers acceptable to a majority of the Mortgagees.

(e) The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a common expense; provided, however, that the Association may, pursuant to **Section 9.1(a)**, assess any deductible amount necessitated by the act, neglect or carelessness for which a Unit Owner is responsible against such Unit Owner.

Section 6.2. Physical Damage Insurance.

(a) The Board of Directors shall obtain and maintain a blanket "all-risk" form policy of fire insurance with standard extended coverage, vandalism, malicious mischief, sprinkler

leakage (if applicable), debris removal and water damage endorsements, insuring the entire Property (including without limitation all of the common elements and units and the fixtures initially installed in Residential Units by the Declarant, and replacements thereof up to the value of those initially installed by the Declarant, but not including (i) fixtures installed in Commercial Units and (ii) furniture, wall coverings, improvements and additions, furnishings or other personal property supplied or installed by Unit Owners), together with all air conditioning and heating equipment and other fixtures, building service equipment, common personal property and supplies and other service machinery contained therein and/or covering the interests of the Unit Owners Association, the Board of Directors and all Unit Owners and their Mortgagees, as their interests may appear, (subject, however, to the loss payment and adjustment provisions in favor of the insurance trustee), in an amount equal to one hundred percent of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined annually by the Board with the assistance of the insurance company affording such coverage). The Board of Directors shall also obtain and maintain such coverage on all real and personal property owned by the Association. The maximum deductible shall not exceed the lesser of \$10,000 or 1% of the policy face amount.

(b) Such policy shall also provide:

(1) a waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these Bylaws not to do so;

(2) the following endorsements (or equivalent): (i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents when such act or neglect is not within the control of the insured, or the Unit Owners collectively; nor by any failure of the insured, or the Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control); (ii) "cost of demolition"; (iii) "contingent liability from operation of building laws or codes"; (iv) "increased cost of construction"; (v) "condominium replacement cost"; (vi) "agreed amount" or "guaranteed replacements cost" or elimination of coinsurance clause; and (vii) "steam boiler and machinery coverage", if applicable.

(3) That any "no other insurance" clause expressly exclude individual Unit Owners' policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees, unless otherwise required by law.

(c) A duplicate original of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Mortgagee requesting the same, at least thirty days prior to expiration of the then current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof the Board of Directors shall obtain

an appraisal from an insurance company, or such other source as the Board may determine, of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this **Section**. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy arising from damage to the common elements in excess of one percent of the then current replacement cost of the Property. The Mortgagee of a unit shall be notified promptly of any event giving rise to a claim under such policy arising from damage to such unit. Premiums for this physical damage insurance shall be a common expense.

Section 6.3. Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability (including libel, slander, false arrest and invasion of privacy coverage) and property damage liability insurance in such limits as the Board may from time to time determine, insuring each director, the managing agent, each Unit Owner and the employees of the Unit Owners Association against any liability to the public or to the Unit Owners (and their guests, invitees, tenants, agents and employees) arising out of, or incident to the ownership, operation, maintenance or use of the common elements. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Association; and (v) a "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to a Unit Owner because of negligent acts of the Association or of another Unit Owner. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than two million dollars covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained so that the total of the primary and excess limits are in an amount not less than five million dollars.

Section 6.4. Other Insurance. The Board of Directors shall obtain and maintain:

(a) adequate blanket fidelity coverage to protect against dishonest acts on the part of Officers, directors, trustees and employees of the Unit Owners Association and all others who handle, or are responsible for handling, funds of the Association, whether or not that individual receives compensation for services, including the managing agent. Such fidelity bonds shall:

- (1) name the Association as an obligee;
- (2) be written in an amount not less than one-half the total annual condominium assessments for the year or the amount required by the Mortgagees, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greatest; and
- (3) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(b) if required by any governmental or quasi-governmental agency, including without limitation the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, flood or other insurance in accordance with the then applicable regulations and guides of such agency;

(c) workers' compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement);

(d) if applicable, pressure, mechanical and electrical equipment including air conditioning equipment coverage on a comprehensive form in an amount not less than five hundred thousand dollars per accident per location;

(e) directors and officers liability insurance in an amount not less than two million dollars;

(f) "master" or "blanket" policy of flood insurance coverage, if required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, pursuant to a Residential Condominium Building Association policy with premiums to be paid as a common expense.

(g) such other insurance as the Board of Directors may determine or as may be requested from time to time by a Majority Vote; and

(h) such additional requirements with respect to insurance required to be carried pursuant to **Section** 6.1 through this **Section** 6.4, as may from time to time be required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(i) all insurance policies described in Section 6.1 through this Section 6.4 shall show the Unit Owners Association as the named insured and the "loss payable" clause should show the insurance trustee as trustee for each Unit Owner and each Mortgagee of each Unit.

Section 6.5. Separate Insurance. Each Unit Owner shall have the right to obtain insurance for such Unit Owner's benefit, at such Unit Owner's expense, covering the unit and such Unit Owner's personal property and personal liability, as well as any improvements made to the unit by such Unit Owner (under coverage normally called "improvements and betterments coverage"); and in the case of Commercial Units for fixtures installed in Commercial Units and for such other risks as are normally insured; provided, however, that no Unit Owner shall be entitled to exercise this right to acquire or maintain such insurance coverage so as to decrease the amount which the Board of Directors, on behalf of all Unit Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution within insurance coverage obtained by a Unit Owner. Each Unit Owner of a Commercial Unit shall obtain general liability insurance with a combined single limit amount of two million dollars and, upon request, shall provide a new certificate of insurance to the Board of Directors two weeks prior to the expiration date of such insurance. No

Unit Owner shall obtain separate insurance policies on the Condominium except as provided in this **Section**.

Section 6.6. Insurance Trustee.

(a) All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Unit Owners Association, the Unit Owners, their Mortgagees and the Declarant, as their interests may appear, and shall provide that all proceeds of such policies shall be paid in trust to the Board as "insurance trustee" to be applied pursuant to the terms of **Article 7**.

(b) The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the insureds and their beneficiaries.

ARTICLE 7

Repair and Reconstruction After Fire or Other Casualty

Section 7.1. When Repair and Reconstruction are Required. Except as otherwise provided in **Section 7.4**, if all or any part of the building is damaged or destroyed as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration thereof (including without limitation any damaged units, and the floor coverings, fixtures in Residential Units and appliances initially installed therein by the Declarant, and replacements thereof installed by the Unit Owners up to the value of those initially installed by the Declarant, but not including (i) fixtures installed in Commercial Units and (ii) any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Unit Owners in the units unless covered by insurance obtained by the Unit Owners Association). Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the redecorating of his unit.

Section 7.2. Procedure for Reconstruction and Repair.

(a) **Cost Estimates.** Immediately after a fire or other casualty causing damage to any portion of the building, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion (including without limitation any damaged units and any floor coverings and fixtures in Residential Units and appliances initially installed by the Declarant, and the replacements thereof installed by the Unit Owners up to the value of those initially installed by the Declarant, but not including (i) fixtures installed in Commercial Units and (ii) any other furniture, furnishings, fixtures or equipment installed by the Unit Owner in the unit unless covered by insurance obtained by the Unit Owners Association) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the insurance trustee determines to be necessary.

(b) **Assessments.** If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair the funds for the payment of the costs are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve for replacement funds

and/or shall be deemed a common expense and a special assessment for such amount shall be levied.

(c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the original construction of the Property, subject to any modifications required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible; provided, however, that other action may be taken if approved by at least fifty-one percent of the Mortgagees.

(d) Encroachments. Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Unit Owner upon whose property such encroachment exists. Such encroachments shall be allowed to continue in existence for so long as the reconstructed Condominium shall stand.

Section 7.3. Disbursements of Construction Funds.

(a) Construction Fund and Disbursement. The proceeds of insurance collected on account of casualty, and the sums received by the insurance trustee from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) If the estimated cost of reconstruction and repair is less than five percent of the total annual assessment for common expenses for that fiscal year, then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of twenty percent of the Mortgagees, such fund shall be disbursed pursuant to paragraph (2).

(2) If the estimated cost of reconstruction and repair is five percent of the total annual assessment for common expenses for that fiscal year or more, then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in the District of Columbia and employed by the insurance trustee to supervise such work and upon obtaining a release of liens from all contractors and subcontractors being paid, payment to be made monthly as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work stating that: (i) the sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(b) Surplus. The first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds and, if there is a balance in the construction fund after

the payment of all of the costs of the reconstruction and repair for which the fund is established, such balance shall be either allocated to replacement reserves if the Board so determines or allocated among all Unit Owners in proportion to their Common Element Interests and shall be distributed in accordance with the priority of interests at law or in equity in each unit.

(c) Common Elements. When the damage is to both common elements and units, the insurance proceeds shall be applied first to the cost of repairing those portions of the common elements which enclose and service the units, then to the cost of repairing the other common elements and thereafter to the cost of repairing the units.

(d) Certificate. The insurance trustee shall be entitled to rely upon a certificate executed by the President or Vice President, and the Secretary, certifying: (i) whether the damaged Property is required to be reconstructed and repaired; (ii) the name of the payee and the amount to be paid with respect to disbursement from any construction fund or whether surplus funds to be distributed are less than the assessments paid by the Unit Owners; and (iii) all other matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the insurance trustee promptly after request.

Section 7.4. When Reconstruction Is Not Required. Unless the Condominium is terminated, if the Board of Directors elects not to repair insubstantial damage to the common elements, the Board of Directors shall use the insurance proceeds to remove all remains of the damaged improvements and restore the site to an acceptable condition compatible with the remainder of the Condominium, and distribute the balance of any insurance proceeds received on account of such damage to all Unit Owners in proportion to their respective Common Element Interests. If the Condominium is terminated pursuant to **Section 42.1902-28** of the Condominium Act, the net assets of the Condominium together with the net proceeds of insurance policies, if any, shall be divided by the insurance trustee among all Unit Owners in proportion to their respective Common Element Interests, after first paying out of the share of each Unit Owner, to the extent sufficient therefor, the amount of any unpaid liens on the unit in the order of priority of such liens.

ARTICLE 8

Mortgages

Section 8.1. Notice to Board of Directors. A Unit Owner who mortgages the unit shall notify the Board of Directors of the name and address of the Mortgagee.

Section 8.2. Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any Unit Owner of a default in paying an assessment for common expenses (which remains uncured for sixty days) or any other default, shall simultaneously send a copy of such notice to the Mortgagee of such unit. Each Mortgagee, insurer or guarantor of the Mortgage, shall also be notified within ten days of any casualty, when required by **Section 6.2(c)**, or at least ten days before any lapse, cancellation or material modification of any insurance policy required to be maintained by the Board of Directors, or ten days after all actions taken under **Article 7** and of any taking in condemnation or by eminent domain pursuant to

Section 42-1901.06 of the Condominium Act and actions of the Unit Owners Association with respect thereto.

Section 8.3. Notice of Amendment of Condominium Instruments. The Board of Directors shall give notice to all Mortgagees, insurers or guarantors of Mortgages at least seven days prior to the date on which the Unit Owners, in accordance with the provisions of these Bylaws, materially amend the condominium instruments or take any other action requiring the consent of a specified percentage of Mortgagees.

Section 8.4. Notice of Change in Managing Agent. The Board of Directors shall give notice to all Mortgagees requesting such notice at least thirty days prior to changing the managing agent.

Section 8.5. Mortgagees' Approvals. Subject to any greater requirements of **Section 42-1902.28** of the Condominium Act or **Section 10** of these Bylaws:

(a) Two-Thirds Vote. Unless at least sixty-seven percent of the Mortgagees (based on one vote for each Mortgage owned) and at least sixty-seven percent of the Unit Owners (other than the Declarant) have given their prior written approval, the Unit Owners Association shall not: (i) (except following destruction or condemnation) change any unit's Common Element Interest except as provided in **Section 42-1901.06** of the Condominium Act; (ii) (except following destruction or condemnation) partition, subdivide, abandon, encumber, sell or transfer the common elements of the Condominium by act or omission (except for the granting of utility easements, etc. pursuant to the Condominium Act) or partition or subdivide any unit (except in accordance with the provisions of these Bylaws); (iii) (except following destruction or condemnation) by act or omission, withdraw or terminate the submission of the Property to the Condominium Act, except as provided by **Section 42-1902.28** of the Condominium Act; (iv) modify the method of determining and collecting assessments or allocating distributions of casualty insurance proceeds or condemnation awards; or (v) use hazard insurance proceeds for losses to the Condominium (whether units or common elements) for any purpose other than repair, replacement or restoration except as provided in **Section 7.4.**

(b) Majority Vote. Unless at least fifty-one percent of the Mortgagees (based on one vote for each Mortgage owned) and at least sixty-seven percent of the Unit Owners (other than the Declarant) have given their prior written approval, the Association shall not: (i) following destruction or condemnation, change any unit's Common Element Interest except as provided in **Section 42-1901.06** of the Condominium Act; (ii) following destruction or condemnation, by act or omission, abandon, terminate or withdraw the submission of the Property to the Condominium Act, except as provided by **Section 42-1902.28** of the Condominium Act; and (iii) add or amend any material provisions of the condominium instruments which establish, provide for, govern or regulate any of the following: (1) voting rights; (2) assessments, assessment liens or priority or subordination of such liens; (3) reserves for maintenance, repair and replacement of the common elements (or units if applicable); (4) insurance or fidelity bonds; (5) reallocation of interests in, or rights to use of, the general or limited common elements; (6) maintenance and repair responsibility; (7) expansion or contraction of the Condominium or conversion of convertible land; (8) redefinition of boundaries of any unit; (9) the interests in the common elements or limited common elements or rights to their use; (10) convertibility of units into common

elements or of common elements into units; (11) imposition of any restrictions on the leasing of units; (12) imposition of any right of first refusal or other restriction on the right of a Unit Owner to sell, transfer, or otherwise convey the unit; (13) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the condominium instruments; or (13) any provisions which are for the express benefit of Mortgagees; or (14) hazard or fidelity insurance requirements.

(c) Non-Material Amendments. Any addition or amendment to the condominium instruments shall not be considered material if it is for the purpose of correcting technical errors or for clarification only.

(d) Presumptive Approval. A Mortgagee who is notified of additions or amendments and who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

Section 8.6. Other Rights of Mortgagees. All Mortgagees or their representatives shall have the right to attend and to speak at meetings of the Unit Owners Association. All such Mortgagees, Unit Owners, insurers and guarantors of Mortgages shall have the right to examine the condominium instruments, rules and regulations and books and records of the Condominium, to receive any annual report filed by Declarant pursuant to **Section 42-1904.07** of the Condominium Act and to require the submission of annual financial reports and other budgetary information. These documents shall be made available during normal business hours.

ARTICLE 9

Compliance and Default

Section 9.1. Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Condominium Act, condominium instruments and rules and regulations, as any of the same may be amended from time to time. In addition to the remedies provided in **Section 42-1903.13** of the Condominium Act, a default by a Unit Owner shall entitle the Unit Owners Association, acting through its Board of Directors or through the managing agent, or any aggrieved Unit Owner, to the following relief.

(a) Additional Liability. Each Unit Owner shall be liable to the Association or to any affected Unit Owner for the expense of all maintenance, repair or replacement rendered necessary by such Unit Owner's act, neglect or carelessness or the act, neglect or carelessness of any of such Unit Owner's guests, invitees, tenants, agents or employees or, in the case of a Unit Owner of a Residential Unit, members of such Unit Owner's household, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation. Any costs, including without limitation, legal fees, incurred as a result of a failure to comply with the Condominium Act, the condominium instruments and the rules and regulations by any Unit Owner (or any of such Unit Owner's guests, invitees, tenants, agents or

employees or, in the case of a Unit Owner of a Residential Unit, members of such Unit Owner's household) may be assessed against such Unit Owner's Unit.

(b) Costs and Attorney's Fees. In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney's fees as may be determined by the court.

(c) No Waiver of Rights. The failure of the Unit Owners Association, the Board of Directors or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the condominium instruments or the Condominium Act shall not constitute a waiver of the right of the Association, the Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Unit Owner pursuant to any term, provision, covenant or condition of the condominium instruments or the Condominium Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the condominium instruments or the Condominium Act or at law or in equity.

(d) Interest. In the event of a default by any Unit Owner in paying any sum assessed against the condominium unit other than for common expenses which continues for a period in excess of fifteen days, interest from the due date at a rate not to exceed the lower of the maximum permissible interest rate which may be charged by a Mortgagee under a Mortgage at such time or eighteen percent per annum may be imposed in the discretion of the Board of Directors on the principal amount unpaid from the date due until paid.

(e) Abating and Enjoining Violations by Unit Owners. The violation of any of the rules and regulations adopted by the Board of Directors or the breach of any provision of the condominium instruments or the Condominium Act shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws: (i) to enter the unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; (ii) to use self-help to remove or cure any violation of the condominium instruments or the rules and regulations on the common elements (including without limitation the towing of vehicles) or in any unit; or (iii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; provided, however, that before any construction may be altered or demolished (except in emergencies) judicial proceedings shall be instituted.

(f) Legal Proceedings. Failure to comply with any of the terms of the condominium instruments and the rules and regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of

which relief may be sought by the Association, the Board of Directors, the managing agent or, if appropriate, by any aggrieved Unit Owner and shall not constitute an election of remedies.

(g) Charges. The Board of Directors and the Covenants Committee may levy reasonable charges against Unit Owners for violations of the Condominium Act, the condominium instruments or the rules and regulations by the Unit Owner, the members of such Unit Owner's guests, invitees, tenants, agents or employees or in the case of a Unit Owner of a Residential Unit, such Unit Owner's household. No charge may be levied for a single violation in an amount more than the lesser of (i) the maximum amount permitted by the maximum amount permitted by law or (ii) one percent of such Unit Owner's annual assessment. Each day a violation continues, after notice is given to the Unit Owner, is a separate violation. If a Unit Owner requests in writing a hearing before the charge is imposed, the imposition of the charge shall be suspended until the hearing is held. Charges are special assessments and shall be collectible as such.

(h) Other Remedies. The Board of Directors may suspend or revoke a Unit Owner's privileges for a reasonable period not to exceed the duration of the default or violation if payment of the assessment on the unit is delinquent more than thirty days or for any other violation of the condominium instruments or the rules and regulations. Unit Owners shall have the rights set forth above in this Section 9.1 against the Association.

Section 9.2. Lien for Assessments.

(a) Lien. The total annual assessment of each Unit Owner for common expenses or any special assessment, or any other sum duly levied (including without limitation charges, interest, late charges, etc.), made pursuant to these Bylaws, is hereby declared to be a lien levied against the condominium unit of such Unit Owner as provided in **Section 42-1903.13** of the Condominium Act, which lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Condominium and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than seven days after delivery to the Unit Owner of notice of such special assessment or levy. The Board of Directors or the managing agent may file or record such other or further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien.

(b) Acceleration. In any case where an assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment of any two consecutive - installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Unit Owner and such Unit Owner's Mortgagee by the Board of Directors or the managing agent.

(c) Enforcement. The lien for assessments may be enforced and foreclosed in any manner permitted by the laws of the District of Columbia, by power of sale (pursuant to the Condominium Act) or action in the name of the Board of Directors, or the managing agent, acting on behalf of the Unit Owners Association. During the pendency of such suit the Unit

Owner shall be required to pay a reasonable rental for the unit for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the District of Columbia.

(d) Posting of Lien; Voting Rights. The Board of Directors may post a list of Unit Owners who are delinquent in the payment of any assessment or other fees which may be due to the Association, including any installment thereof which becomes delinquent, in any prominent location within the Condominium. The Unit Owner who is delinquent shall be prohibited from voting at any meeting of the Unit Owners Association until the amount past due has been paid in full.

(e) Remedies Cumulative. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

Section 9.3. Supplemental Enforcement of the Lien. In addition to the proceedings at law or in equity or the enforcement of the lien established by the condominium instruments or the Condominium Act, all of the Unit Owners may be required by the Declarant or the Board of Directors to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established thereby and may likewise be required to secure the payment of such obligations by recording a declaration of trust in the land records where the condominium instruments are recorded granting unto one or more trustees appropriate powers to the end that, upon default in the performance of such bond such declaration of trust may be foreclosed by such trustees acting at the direction of the Board of Directors. If any such bonds have been executed and such declaration of trust is recorded, then any subsequent purchaser of a unit shall take title subject to such declaration of trust and shall assume the obligations provided for therein.

Section 9.4. Subordination and Mortgage Protection. Notwithstanding any other provisions of these Bylaws to the contrary, the lien of any assessment levied pursuant to these Bylaws upon any unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, shall in no way affect the rights of the holder of a Mortgage made in good faith for value received and such holder shall not be liable therefor; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such unit pursuant to foreclosure, or any proceeding in lieu of foreclosure, which assessments shall be extinguished upon foreclosure. Such sale or transfer shall not relieve the purchaser of the unit at such sale from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

ARTICLE 10

Amendments to Bylaws

Section 10.1. Amendments. These Bylaws may not be modified or amended except by a vote of Unit Owners owning Units to which at least two-thirds of the Common Element Interests are appurtenant; provided, however, that until the expiration of the Declarant Control Period, **Sections 2.4, 2.9, 3.3, 3.4, 3.5, 3.6** and this **Section 10.1** may not be amended without the prior written consent of the Declarant. All amendments to the Bylaws shall be prepared and recorded by the Secretary.

Section 10.2. Approval of Mortgagees. These Bylaws contain provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such provisions are to be construed as covenants for the protection of such Mortgagees on which they may rely in making loans secured by Mortgages. Accordingly, no amendment or modification of these Bylaws impairing or affecting such rights, priorities, remedies or interests of a Mortgagee shall be adopted without the prior written consent of such Mortgagee.

ARTICLE 11

Miscellaneous

Section 11.1. Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid (pursuant to the Condominium Act), or if notification is of a default or lien, sent by registered or certified United States mail, return receipt requested, postage prepaid, (i) if to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of such Unit Owner's unit, or (ii) if to the Unit Owners Association, the Board of Directors or to the managing agent, at the principal office of the managing agent or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this **Section**. If a unit is owned by more than one person, each such person who so designates an address in writing to the Secretary shall be entitled to receive all notices hereunder.

Section 11.2. Captions. The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision.

Section 11.3. Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 11.4. Construction. These condominium instruments are intended to comply with all of the applicable provisions of the Condominium Act and shall be so interpreted and applied. The failure to comply strictly with the time periods required by the condominium instruments, unless also required by the Condominium Act, shall not invalidate any action of the Board of Directors or the Unit Owners Association in the absence of a written objection by the Declarant, a Unit Owner or a Mortgagee within ten days after the failure to comply.

Section 11.5 Severability. These Bylaws are adopted to comply with the laws and regulations of the District of Columbia. If any provision of these Bylaws or the application thereof in any circumstances is held invalid, the validity of the remainder of these Bylaws shall not be affected thereby, and to this end the provisions of these Bylaws are declared to be severable.

Section 11.6 Conflict. These Bylaws are subordinate and subject to the Condominium Act, the Declaration and the Plat, and Plans. In the event of any conflict between these Bylaws and the other condominium instruments, the provisions of the other condominium instruments shall control.

Section 11.7 Notice of Loss to or Taking of Common Elements. The Board of Directors shall give written notice to the Federal Home Loan Mortgage Corporation (c/o its servicer) of any loss to or taking of the common elements of the Condominium, if such loss or taking exceeds \$10,000 or, with respect to a Unit covered by a mortgage which has been purchased, in whole or in part, where the loss or taking exceeds \$1,000.

ARTICLE 12

Commercial Units; Arbitration

Section 12.1. Protection of Commercial Unit Owners. If at any meeting of the Board of Directors, the directors determine to take a particular action and a director who is a Unit Owner of a Commercial Unit (or officer, employee or designee thereof) votes against such action because such director reasonably believes that such action shall adversely affect the conduct of business in, or the permitted use of a Commercial Unit, upon the written request of such director, the proposed action shall be submitted to arbitration as provided in **Section 12.2** to determine whether the interests of the Unit Owner of a Commercial Units are unreasonably prejudiced by such action contrary to **Article 5** of the Declaration or any other provision of the Condominium Instruments. If the arbitrators determine that the action of the Board of Directors or the Unit Owners Association violates the above-referenced **Section** of the Declaration or other provisions of the Condominium Instruments or has so prejudiced such Unit Owners' interests, such action may not be taken and the parties shall bear their own attorney's fees and costs in connection with such arbitration proceeding. If the arbitrators determine that the action of the Board of Director or the Unit Owner Association does not violate the above-referenced Section of the Declaration or other provisions of the Condominium Instruments or has not prejudiced such Unit Owners' interests, such action may be taken and the director which caused the matter to be submitted to arbitration shall pay the attorney's fees and other costs of the Board of Directors and the Unit Owner Association, as well as the attorney's fees and other costs incurred by such director, in connection with such arbitration proceeding.

Section 12.2. Arbitration. All disputes pursuant to these Bylaws shall be resolved solely by arbitration pursuant to the United States Arbitration Act, 9 U.S.C. Section 1 *et seq.* All disputes as to whether any dispute is subject to arbitration shall also be settled by binding arbitration. Any arbitration shall be conducted in the Washington, D.C. metropolitan area (or such other area mutually agreeable to all parties). The three person arbitration panel shall consist of one arbitrator selected by the members of the Board of Directors who are Residential Unit Owners,

one arbitrator selected by the members of the Board of Directors who are Units Owners of a Commercial Unit and one arbitrator selected by the first two arbitrators. The presentation of evidence shall be governed by the Federal Rules of Evidence. Discovery shall be controlled by the panel. The panel's decision shall be final and binding upon the Unit Owners, without any right of further appeal absent fraud or intentional malfeasance by the panel, and may be entered for enforcement in any court of competent jurisdiction, or an application may be made to any such court for a judicial acceptance of any monetary award and an order of enforcement or a declaratory judgment, as the case may be. Any monetary award shall set forth any damages awarded in U.S. dollars and shall be promptly paid by the losing party to the prevailing party in U.S. dollars, free of deduction or offset except as provided for in the award. To the extent allowed by applicable law, any losing party resisting enforcement of any such award shall also be responsible for reimbursing the prevailing party for any fees and expenses incurred by such prevailing party incident to the enforcement thereof. This **Section 12.2** shall be a complete defense to any suit, action or proceeding instituted before any court or agency with respect to any matter resolvable hereunder; provided, however, that, notwithstanding this provision, any party may seek interim judicial relief (including without limitation injunctive relief) in aid of arbitration, to prevent violation of these Bylaws pending arbitration or to enforce any arbitration award.

1700 KALORAMA LOFTS, A CONDOMINIUM
CERTIFICATE FOR RESALE

TO: _____

FROM: _____ Unit Owners Association

RE: Condominium Unit No. _____
1700 Kalorama Lofts, a Condominium
1700 Kalorama Road, N.W.
Washington, D.C. 20009

Pursuant to **Section** 42-1904.11 of the Condominium Act, as amended, we certify that as of the date hereof, except as herein stated:

A. The status of assessments with respect to the condominium unit is as follows:

Current assessment due _____	\$ _____
Assessment in arrears _____	\$ _____
Other fees or charges due _____	\$ _____
Fees or charges in arrears _____	\$ _____
TOTAL DUE	\$ _____
Assessments, fees and charges for the current fiscal year not yet due	\$ _____

The Association levies annual assessments, payable in equal monthly installments, to pay common expenses. Special assessments may also be levied for the same purpose. A fee of up to _____ Dollars is currently charged by the Association for the preparation of a Certificate for Resale (such as this one). A late charge of _____ Dollars is currently applied to any assessment or installment thereof not paid within ten days after the date it becomes due. There are no other fees or charges imposed by the Association except:

[Fill in if applicable.]

B. The condominium instruments do not create any rights of first refusal or other restraints on free alienability of any of the condominium units.

C. The following, if any, is a list of all capital expenditures anticipated by the Unit Owners Association within the current or succeeding two fiscal years:

[Fill in if applicable.]

D. As of the date of this certificate, there is an outstanding balance in the reserve for replacement fund (reserve account) of approximately \$_____. Of that balance, the following amounts, if any, have been designated by the Board of Directors for the following specific projects:

[Fill in if applicable.]

E. Attached to this certificate is a copy of the statement of financial condition (balance sheet) an income and expense statement (if any), and the current operating budget of the Unit Owners Association for the year ended _____, _____, the most recent fiscal year for which such statement is available.

F. There are no unsatisfied judgments against the Unit Owners Association nor any pending suits in which the Unit Owners Association is a party except as follows:

[Fill in status and nature if applicable.]

G. The Unit Owners Association holds hazard, property damage and liability insurance policies covering the common elements and the units as required by the Bylaws. It is suggested that each Unit Owner obtain insurance covering property damage to betterments and improvements installed in the unit and personal property contained therein (not covered by the Unit Owners Association policy) as well as insurance covering personal liability. You are urged to consult with your insurance agent.

H. The Unit Owners Association has no knowledge of whether improvements or alterations made to the condominium unit or the limited common elements assigned thereto are in violation of the condominium instruments except as follows:

[Fill in if applicable.]

I. There is no leasehold estate affecting the Condominium.

J. Attached to this certificate is a copy of the Bylaws and Rules and Regulations of the Condominium including all amendments.

The information contained in this Certificate for Resale, issued pursuant to **Section 42-1904.11** of the Condominium Act, as amended, based on the best knowledge and belief of the Unit Owners Association, is current as of the date hereof.

The name and address of the President of the Unit Owners Association is

_____.

The Unit Owners Association may charge a fee for the preparation of this Certificate for Resale as allowed by law.

Dated _____, _____.

_____ UNIT
OWNER'S ASSOCIATION

By _____
Officer:

I hereby acknowledge that I received this Certificate for Resale on _____,
_____.

Unit Owner

I hereby acknowledge that I have received and read the information contained in this Certificate for Resale on _____, _____.

Purchaser

Purchaser

1700 Kalorama Lofts, a Condominium
Maintenance Responsibilities

I ITEMS	II COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	III LIMITED COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	IV UNIT COMPONENTS UNDER ASSOCIATION RESPONSIBILITY	V RESIDENTIAL COMMON ELEMENTS
Plumbing & related systems & components thereof.	All maintenance, repair & replacement of portions of plumbing serving more than unit. Water damage to common elements or units other than the one which is the primary source of the problem through negligence of the occupants of such units.	If any, same as in Column II.	Only to the extent that a malfunction originates outside the unit in which the malfunction occurs or may occur.	All p inclu attach to a sour thro occu
Electrical & related systems & components thereof excluding appliances, fixtures & lights serving only one unit.	All, in all regards.	All, in all regards, from the common side of the unit panel.	—	All, serv local unit pane itself
Heating, ventilation & cooling systems & components thereof.	All, in all regards, serving more than one unit, as a common expense.	All, in all regards, serving more than one unit.	—	All, one
Storage Cubicles (if any).	All, in all regards, except routine cleaning, unless cubicle is a limited common element.	—	—	Rou com com all r
Refuse collection system.	All, in all regards.	—	—	--
Grounds, including all paved areas and other improvements thereon lying outside the main walls of the building and all underground utility systems, other than Parking Units.	All, in all regards.	—	—	--
Building, exterior roof, exterior vertical walls, foundation.	All, in all regards.	—	—	--
Windows.	All which do not serve a unit, in all regards.	All, in all regards except routine cleaning of interior windows, and exterior cleaning of movable windows appurtenant to Residential Units and Commercial Units.	—	Rou exte wind Resi Com

I ITEMS	II COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	III LIMITED COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	IV UNIT COMPONENTS UNDER ASSOCIATION RESPONSIBILITY	V RESIDENTIAL ELEMENTS RESPONSIBILITY
Doors, main entry to units.	—	All surfaces exposed to corridor including door panel, buck, trim & sill.	—	Interior trim, lock and
Balcony and terrace doors.	—	In all regards except routine cleaning, latch mechanism and weatherstripping.	—	Routine mechanical wear
Balconies, terraces & railings and place arcade.	All which do not serve a unit, in all regards.	In all regards except routine cleaning.	—	Routine
Screens (balcony doors, terrace doors and windows).	All which do not serve a unit, in all regards.	—	—	
Entrances to Parking	All, in all regards.	—	—	
Elevator and Elevator Shafts	All, in all regards (except Residential Expenses)	Appurtenant to all Residential Units	—	All Residential
Stairways	All, in all regards (except Residential Expenses)	Appurtenant to all Residential Units	—	All Residential
Lobbies (Two Separate Lobbies)	—	One Lobby Appurtenant to all Residential Units	—	All Residential
	—	One Lobby Appurtenant to all Commercial Units	—	All Commercial
Roof Terraces:				
(a) If Limited Common Elements for certain Residential Units	—	All, in all regards, except as shown.	—	If Limited Common Elements for certain Residential Units
(b) If Limited Common Element for all Residential Units	—	All, in all regards, except as shown.	—	If Limited Common Element for all Residential Units

NOTES

MAINTENANCE RESPONSIBILITIES

This chart and the titles and headings used herein are not intended to describe or encompass all maintenance functions nor to delineate all respective responsibilities between the Unit Owners, severally, and the Association. The placement of responsibility under any specific column does not always accurately reflect the precise character and nature of ownership. The appropriate **Sections** of the Declaration determine ownership. In many cases maintenance responsibility is allocated to the Unit Owners Association to ensure central maintenance responsibility, uniformity and quality of repair and to protect community health and safety. Where such maintenance is required due to the negligent or wrongful act or omission of a Unit Owner (or such Unit Owner's tenants employees, agents, visitors, guests or members of such Unit Owner's household), the Association will perform the necessary maintenance at the sole expense of the Unit Owner.

Column I: Items. Items appearing in this column are illustrative and not exhaustive.

Column II. Common Elements Under Association Responsibility. Responsibility for determining and providing for the maintenance, repair and replacement requirements of the common elements (excluding the limited common elements) and determining the costs thereof shall be primarily the responsibility of the Board of Directors and such designees to which it may delegate certain such responsibilities.

Column III. Limited Common Elements Under Association Responsibility. Responsibility for determining the maintenance, repair and replacement requirements of the limited common elements shall be a shared responsibility between the Board of Directors and the Unit Owner of a unit to which a specific limited common element is exclusively appurtenant; provided, however, that the Board shall have the final responsibility for determining the need for and accomplishing such maintenance repair and replacement activities. Costs associated with limited common elements appurtenant to more than one Residential Unit, Parking Unit or Commercial Unit but less than all Residential Units, Parking Units or Commercial Units shall be paid for by the Unit Owners of the units to which such limited common elements appertain. Costs associated with limited common elements appurtenant to all Residential Units (such as the certain stairways, the elevator and elevator shaft) shall be a Residential Expense. Costs associated with limited common elements appurtenant to all Commercial Units shall be a Commercial Expense. Costs associated with limited common elements appurtenant to all Parking Units shall be Parking Expenses.

Column IV. Unit Components Under Association Responsibility. The items in this column are legally and by definition a part of the unit but are attached or directly connected to or associated with the general common elements and common expense items in such a way that a clear distinction between Unit Owner and Association responsibility cannot be made. Moreover, such items frequently involve matters of concern relative to the general health, safety and welfare of all of the occupants of the building. Thus, certain costs which appear to benefit a single Unit Owner but which affect other units owners are declared a common expense, especially when the correct functioning of an activity or element is integral to or supportive of the legally defined common elements and common expenses. Heating, cooling and ventilating systems and components thereof are an exception due to the split system being used; the only practical method is to provide for central maintenance responsibility at the individual Unit Owner's expense.

Column V. Certain Other Components Under Unit Owner's Responsibility Without Respect to Ownership of the Component. The items in this column are not intended to be exclusive and all-encompassing and do not affect responsibilities expressly provided for otherwise.

PLATS

Exhibit D-1
to the Declaration

PLANS FOR SUBMITTED LAND

Exhibit D-2
to the Declaration

PLANS FOR CONVERTIBLE LAND

Exhibit E
to the Declaration

1700 KALORAMA LOFTS, A CONDOMINIUM
COMMON ELEMENT INTEREST TABLE

SUBMITTED LAND
(PHASE 1)

1700 Kalorama Lofts Phase I Common Element Interest Table

Unit #	Par Values	Common Element Interest Per Unit	Residential Only Common Element Interest	Commercial Only Common Element Interest	Parking Only Common Element Interest
First Floor - Commercial					
101	34.76	34.76%	0.00%	81.12%	0.00%
102	8.09	8.09%	0.00%	18.88%	0.00%
Sub Total		42.85%	0.00%	100.00%	0.00%
Second Floor - Residential					
201	3.73	3.73%	10.83%	0.00%	0.00%
202	4.51	4.51%	13.11%	0.00%	0.00%
203	3.53	3.53%	10.26%	0.00%	0.00%
204	4.83	4.83%	14.02%	0.00%	0.00%
205	3.48	3.48%	10.12%	0.00%	0.00%
206	3.30	3.30%	9.58%	0.00%	0.00%
207	3.37	3.37%	9.78%	0.00%	0.00%
208	2.53	2.53%	7.35%	0.00%	0.00%
209	2.53	2.53%	7.35%	0.00%	0.00%
210	2.62	2.62%	7.60%	0.00%	0.00%
Sub Total		34.43%	100.00%	0.00%	0.00%
First Floor - Parking					
P101	0.55	0.55%	0.00%	0.00%	2.50%
P102	0.47	0.47%	0.00%	0.00%	2.20%
P103	0.55	0.55%	0.00%	0.00%	2.50%
P104	0.49	0.49%	0.00%	0.00%	2.20%
P105	0.47	0.47%	0.00%	0.00%	2.10%
P106	0.53	0.53%	0.00%	0.00%	2.10%
P107	0.55	0.55%	0.00%	0.00%	2.50%
P108	0.49	0.49%	0.00%	0.00%	2.20%
P109	0.55	0.55%	0.00%	0.00%	2.50%
P110	0.55	0.55%	0.00%	0.00%	2.50%
P111	0.42	0.42%	0.00%	0.00%	2.50%
P112	0.46	0.46%	0.00%	0.00%	2.50%
P113	0.51	0.51%	0.00%	0.00%	3.00%
P114	0.76	0.76%	0.00%	0.00%	3.00%
P115	0.75	0.75%	0.00%	0.00%	3.30%
P116	0.67	0.67%	0.00%	0.00%	3.00%
P117	0.76	0.76%	0.00%	0.00%	3.30%
P118	0.67	0.67%	0.00%	0.00%	3.00%
P119	0.76	0.76%	0.00%	0.00%	3.30%
P120	0.76	0.76%	0.00%	0.00%	3.30%

Second Floor - Parking					
P201	0.86	0.86%	0.00%	0.00%	2.50%
P202	0.86	0.86%	0.00%	0.00%	2.50%
P203	0.55	0.55%	0.00%	0.00%	2.50%
P204	0.55	0.55%	0.00%	0.00%	2.50%
P205	0.55	0.55%	0.00%	0.00%	2.50%
P206	0.42	0.42%	0.00%	0.00%	2.50%
P207	0.42	0.42%	0.00%	0.00%	1.80%
P208	0.42	0.42%	0.00%	0.00%	1.80%
P209	0.42	0.42%	0.00%	0.00%	1.80%
P210	0.47	0.47%	0.00%	0.00%	1.80%
P211	0.42	0.42%	0.00%	0.00%	2.50%
P212	0.68	0.68%	0.00%	0.00%	3.40%
P213	0.76	0.76%	0.00%	0.00%	3.40%
P214	0.76	0.76%	0.00%	0.00%	3.40%
P215	0.76	0.76%	0.00%	0.00%	3.40%
P216	0.70	0.70%	0.00%	0.00%	3.20%
P217	0.70	0.70%	0.00%	0.00%	2.50%
P218	0.70	0.70%	0.00%	0.00%	2.50%
Sub Total		22.72%	0.00%	0.00%	100.00%

Totals		100.00%	100.00%	100.00%	100.00%
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CONVERTIBLE LAND
(PHASE 1 and PHASE 2)

1700 Kalorama Lofts Phase I and II Common Element Interest Table

Unit #	Par Values	Common Element Interest Per Unit	Residential Only Common Element Interest	Commercial Only Common Element Interest	Parking Only Common Element Interest
First Floor - Commercial					
101	16.25	16.25%	0.00%	81.12%	0.00%
102	3.78	3.78%	0.00%	18.88%	0.00%
Sub Total		20.03%	0.00%	100.00%	0.00%
Second Floor - Residential					
201	1.74	1.74%	2.51%	0.00%	0.00%
202	2.11	2.11%	3.04%	0.00%	0.00%
203	1.65	1.65%	2.38%	0.00%	0.00%
204	2.26	2.26%	3.25%	0.00%	0.00%
205	1.63	1.63%	2.35%	0.00%	0.00%
206	1.54	1.54%	2.22%	0.00%	0.00%
207	1.57	1.57%	2.27%	0.00%	0.00%
208	1.18	1.18%	1.71%	0.00%	0.00%
209	1.18	1.18%	1.71%	0.00%	0.00%
210	1.22	1.22%	1.76%	0.00%	0.00%
Sub Total		16.08%	23.20%	0.00%	0.00%
Third Floor - Residential					
301	1.74	1.74%	2.51%	0.00%	0.00%
302	2.11	2.11%	3.04%	0.00%	0.00%
303	1.65	1.65%	2.38%	0.00%	0.00%
304	2.26	2.26%	3.25%	0.00%	0.00%
305	1.63	1.63%	2.35%	0.00%	0.00%
306	1.54	1.54%	2.22%	0.00%	0.00%
307	1.57	1.57%	2.27%	0.00%	0.00%
308	2.13	2.13%	3.08%	0.00%	0.00%
309	2.17	2.17%	3.14%	0.00%	0.00%
310	2.14	2.14%	3.08%	0.00%	0.00%
311	1.98	1.98%	2.86%	0.00%	0.00%
312	1.99	1.99%	2.87%	0.00%	0.00%
Sub Total		22.91%	33.05%	0.00%	0.00%

Fourth Floor - Residential					
401	1.99	1.99%	2.87%	0.00%	0.00%
402	2.25	2.25%	3.25%	0.00%	0.00%
403	1.88	1.88%	2.71%	0.00%	0.00%
404	2.50	2.50%	3.60%	0.00%	0.00%
405	1.90	1.90%	2.74%	0.00%	0.00%
406	1.76	1.76%	2.54%	0.00%	0.00%
407	1.79	1.79%	2.59%	0.00%	0.00%
408	2.52	2.52%	3.64%	0.00%	0.00%
409	2.37	2.37%	3.42%	0.00%	0.00%
410	2.60	2.60%	3.75%	0.00%	0.00%
411	1.98	1.98%	2.86%	0.00%	0.00%
412	1.99	1.99%	2.87%	0.00%	0.00%
Sub Total		25.53%	36.84%	0.00%	0.00%
Fifth Floor - Residential					
501	2.42	2.42%	3.49%	0.00%	0.00%
502	2.37	2.37%	3.42%	0.00%	0.00%
Sub Total		4.79%	6.91%	0.00%	0.00%
First Floor - Parking					
P101	0.26	0.26%	0.00%	0.00%	2.50%
P102	0.22	0.22%	0.00%	0.00%	2.20%
P103	0.26	0.26%	0.00%	0.00%	2.50%
P104	0.23	0.23%	0.00%	0.00%	2.20%
P105	0.22	0.22%	0.00%	0.00%	2.10%
P106	0.25	0.25%	0.00%	0.00%	2.10%
P107	0.26	0.26%	0.00%	0.00%	2.50%
P108	0.23	0.23%	0.00%	0.00%	2.20%
P109	0.26	0.26%	0.00%	0.00%	2.50%
P110	0.26	0.26%	0.00%	0.00%	2.50%
P111	0.19	0.19%	0.00%	0.00%	2.50%
P112	0.22	0.22%	0.00%	0.00%	2.50%
P113	0.24	0.24%	0.00%	0.00%	3.00%
P114	0.35	0.35%	0.00%	0.00%	3.00%
P115	0.35	0.35%	0.00%	0.00%	3.30%
P116	0.32	0.32%	0.00%	0.00%	3.00%
P117	0.35	0.35%	0.00%	0.00%	3.30%
P118	0.32	0.32%	0.00%	0.00%	3.00%
P119	0.35	0.35%	0.00%	0.00%	3.30%
P120	0.35	0.35%	0.00%	0.00%	3.30%

Second Floor - Parking					
P201	0.40	0.40%	0.00%	0.00%	2.50%
P202	0.40	0.40%	0.00%	0.00%	2.50%
P203	0.26	0.26%	0.00%	0.00%	2.50%
P204	0.26	0.26%	0.00%	0.00%	2.50%
P205	0.26	0.26%	0.00%	0.00%	2.50%
P206	0.19	0.19%	0.00%	0.00%	2.50%
P207	0.19	0.19%	0.00%	0.00%	1.80%
P208	0.19	0.19%	0.00%	0.00%	1.80%
P209	0.19	0.19%	0.00%	0.00%	1.80%
P210	0.22	0.22%	0.00%	0.00%	1.80%
P211	0.19	0.19%	0.00%	0.00%	2.50%
P212	0.32	0.32%	0.00%	0.00%	3.40%
P213	0.36	0.36%	0.00%	0.00%	3.40%
P214	0.36	0.36%	0.00%	0.00%	3.40%
P215	0.36	0.36%	0.00%	0.00%	3.40%
P216	0.34	0.34%	0.00%	0.00%	3.20%
P217	0.34	0.34%	0.00%	0.00%	2.50%
P218	0.34	0.34%	0.00%	0.00%	2.50%
Sub Total		10.66%	0.00%	0.00%	100.00%
Totals		100.00%	100.00%	100.00%	100.00%

NOTES TO COMMON ELEMENT INTEREST TABLE

1. The identifying number for each Residential Unit includes the floor number as set forth above on this **Exhibit E**. The identifying number is a sufficient legal description of the Unit for all purposes when set forth together with the name of the Condominium, the name of the jurisdiction in which the Condominium is situated and the instrument number and date of recordation of the Declaration and the condominium book and page number where the first page of the Plats and Plans is recorded.
2. Par Value is the number of points assigned by the Declarant based upon the Declarant's estimate of the approximate value of the Unit. Common Element Interests will change as Residential Units and any Commercial Units are constructed and completed and added to the Condominium pursuant to Article 8 of the Declaration. The currently contemplated changes in Common Element Interests for adding a second phase are set forth in the Common Element Interest Table, as the same may be amended by the Declarant in accordance with the Condominium Act. Parking Units are all equal in size and value and therefore all have the same par value. All par values for all Units are totaled as the convertible land is converted and each Unit's Common Element Interest is re-calculated by dividing such Unit's par value by the total number of points and multiplying by 100 to convert to a percentage. Each Unit's residential only, or commercial only, or parking only Common Element Interest is calculated by dividing each Unit's par value by the total number of points of all Residential Units or Commercial Units or Parking Units, as applicable, and multiplying by 100 to convert to a percentage.
3. The Common Element Interest shown for each Unit is subject to change if the Declarant converts any portion of the convertible land and adds it to the Condominium or the Unit is subdivided or its boundaries are relocated. Declarant or the Board of Directors at the request of any Unit Owner changes the Common Element Interest allocated to a Unit pursuant to the procedures set forth in **Sections** 42-19.02.25 or 42-19.02.26 of the Condominium Act and as permitted by the Bylaws of the Condominium.
4. The Common Element Interest also is the percentage appurtenant to each Unit for votes and common expense liability.