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**DECLARATION OF CONDOMINIUM OWNERSHIP
FOR BRANDEIS BUILDING CONDOMINIUMS**

PREPARED BY, RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

Kutak Rock LLP
The Omaha Building
1650 Farnam Street
Omaha, NE 68102
Attention: Brian C. Eades, Esq.

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**DECLARATION OF CONDOMINIUM OWNERSHIP
FOR BRANDEIS BUILDING CONDOMINIUMS**

**THIS DECLARATION OF CONDOMINIUM OWNERSHIP FOR BRANDEIS
BUILDING CONDOMINIUMS** (this "Declaration") is made and entered into by **BRANDEIS
LOFTS, LLC**, a Nebraska limited liability company (the "Declarant") as of this ____ day of August, 2005;

WITNESSETH:

WHEREAS, the Declarant is the fee simple owner of that certain parcel of real estate situated in the City of Omaha, Douglas County, Nebraska (hereinafter called the "Property") and legally described on Exhibit A attached hereto and by this reference made a part hereof; and

WHEREAS, the Property is a part of a larger mixed-use development; and

WHEREAS, the Declarant desires and intends by this Declaration to submit the Property, as hereinafter defined, to the provisions of Sections 76-825 to 76-894, inclusive, of the Revised Statutes of Nebraska, commonly known as the Nebraska Condominium Act, as amended from time to time (hereinafter called the "Act") as a condominium, as defined in the Act, and is further desirous of establishing, for its own benefit and that of all future owners or occupants of the Property, and each part thereof, certain easements and rights in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the use and maintenance thereof; and

WHEREAS, the name of the Condominium shall be "Brandeis Building Condominiums"; and

WHEREAS, the Declarant desires and intends that the several owners, mortgagees, occupants and other persons acquiring any interest in the Property shall at all times enjoy the benefits of, and shall at all times hold their interests subject to, the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of ownership and to facilitate the proper administration of such Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property; and

NOW, THEREFORE, the Declarant, as fee simple owner of the Property, and for the purposes above set forth, declares as follows:

ARTICLE I

DEFINITIONS

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

“*Act*” shall have the meaning provided on the recitals of this Declaration.

“*Association*” means the Brandeis Building Owners Association, Inc., a Nebraska nonprofit corporation.

“*Board*” means the persons determined pursuant to Article V hereof who are vested with the authority and responsibility of administering the Property.

“*Building*” means the building located on the Property and containing the Units, as shown by the Condominium Plan depicting the respective floors of such building.

“*By-Laws*” means the bylaws adopted by the Association to regulate the internal affairs of the Property as the same may be from time to time duly amended.

“*City*” means the City of Omaha, Nebraska, a Nebraska municipal corporation.

“*Commercial Committee*” shall mean that certain Committee, which consists of the three (3) Commercial Committee Members, which shall have the powers and duties set forth in this Declaration and the By-laws.

“*Commercial Committee Members*” shall collectively refer to the members of the Commercial Committee, who are elected solely by the Commercial Owners pursuant to Section 5.03 of this Declaration.

“*Commercial Owner*” means an owner of a Commercial Unit and its successors and assigns. The initial Commercial Owner shall be Brandeis Lofts, LLC, a Nebraska limited liability company. In the event that there is more than one Unit Owner of the Commercial Units, all such Unit Owners shall be collectively referred to herein as the “Commercial Owners”.

“*Commercial Unit*” means a Unit located within the Property, which is identified on the Condominium Plan as being used for commercial purposes. “*Commercial Units*” shall collectively refer to all such Units located in the Condominium.

“*Committee*” shall sometimes refer to either the Commercial Committee or the Residential Committee, as the context may require.

“*Committees*” shall collectively refer to the Commercial Committee and the Residential Committee.

“*Common Elements*” means all portions of the Property except the Units, more specifically described in Section 3.01 hereof.

“*Common Expenses*” means the proposed or actual expenses affecting the Property, including reserves, if any, lawfully assessed by the Board, including, without limitation, the expenses of maintenance, repair, administration and operation of the Common Elements.

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"Condominium" means the "Brandeis Building Condominiums" which condominium is submitted to the Act by this Declaration.

"Condominium Plan" means the plat and plans related to the Property and all of the Units in the Property submitted to the provisions of the Act as required by Neb. Rev. Stat. § 76-846, such Condominium Plan being attached hereto as Exhibit B and made a part hereof and recorded with the recording of this Declaration.

"Declarant" means Brandeis Lofts, LLC, a Nebraska limited liability company, and its successors and assigns.

"Declaration" means this instrument by which the Property is submitted to the provisions of the Act, including such amendments, if any, to this instrument as may from time to time be adopted pursuant to the terms hereof.

"Development Guidelines" shall mean the architectural, design and development guidelines and standards and the review and approval procedures that may be prepared and issued from time to time by the Committees pursuant to Article XV.

"Director" shall refer to an individual member of the Board.

"Directors" shall collectively refer to the members of the Board.

"Eligible Mortgagee" means each holder of a recorded first mortgage on a Unit that has requested in writing that the Association notify it of any proposed action that requires consent of a specified percentage of mortgage holders.

"Limited Common Elements" means a portion of the Common Elements so designated in this Declaration or on the Condominium Plan, as hereinafter defined, as being reserved for the use of a certain Unit or Units to the exclusion of other Units. Any portion of the Common Elements which by the terms of this Declaration or by its nature or location is clearly intended to serve exclusively a certain Unit or Units (but less than all of the Units) or the owner or owners thereof shall be deemed a Limited Common Element.

"Majority of the Unit Owners" means those Unit Owners, without regard to their number, who own more than fifty percent (50%) of the Unit Ownerships (by percentage interest in the Common Elements). Any specified percentage of the Unit Owners shall mean those Unit Owners who, in the aggregate, own such specified percentage of the entire undivided ownership interest in the Common Elements.

"Occupant" means a Person or Persons, other than a Unit Owner, in possession of or occupying a Unit.

"Person" means a natural individual, corporation, partnership, limited liability company, trustee or other legal entity capable of holding title to real property.

“Property” means the land, property and space described on Exhibit A attached hereto together with all improvements and structures erected, constructed or contained therein or thereon including the Building, and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners submitted to the provisions of the Act pursuant to this Declaration or any amendment hereto, as a condominium.

“Residential Owner” means a Unit Owner of a Residential Unit and its successors and assigns. The initial Residential Owner shall be Brandeis Lofts, LLC, a Nebraska limited liability company. If there is more than one Unit Owner of the Residential Units, then all such Unit Owners shall be collectively referred to herein as the “Residential Owners.”

“Residential Committee” shall mean that certain Committee, which consists of the three (3) Residential Committee Members, which shall have the powers and duties set forth in this Declaration and the By-laws.

“Residential Committee Members” shall mean the members of the Residential Committee, who are elected solely by the Residential Owners pursuant to Section 5.03 of this Declaration.

“Residential Unit” means a Unit designed and intended for a single-family dwelling, or such other residential uses permitted by this Declaration, but specifically excluding a Unit constituting a Commercial Unit.

“Residential Units” means the Units within the Property which are intended to be sold to a Residential Owner.

“Transfer Date” means the date, which is the earlier of (a) sixty (60) days after the date the Declarant has sold and delivered its deed for at least seventy percent (70%) of the Unit Ownerships, (b) two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business or (c) the voluntary surrender of any such power by the Declarant, which shall be accomplished by the Declarant’s delivery of written notice of such surrender to each Unit Owner; provided, however, that the words “seventy percent (70%) of the Unit Ownerships” as used in this definition shall mean seventy percent (70%) of the sum of each Unit Ownership listed on Exhibit C attached hereto.

“Unit” means a part of the Property more specifically described in Article II. Except as otherwise provided herein, the term “Unit” shall mean a Residential Unit or a Commercial Unit.

“Unit Owner” means the Person or Persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit Ownership.

“Unit Ownership” means a part of the Property consisting of one Unit and its undivided interest in the Common Elements appurtenant thereto. A Unit Ownership shall include (a) a fee simple interest in the Unit, and (b) an undivided interest in the Common Elements of the Condominium.

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"Voting Member" means one Person with respect to each Unit Ownership designated pursuant to Section 5.03 of this Declaration who shall be entitled to vote at any meeting of the Unit Owners.

ARTICLE II

UNITS

Section 2.01. Description and Ownership.

(a) All Units are delineated on the Condominium Plan and listed on Exhibit B. The Condominium is situated entirely within Douglas County, Nebraska.

(b) Each Unit consists of the space enclosed and bounded by the horizontal and vertical planes set forth in the Condominium Plan including, without limitation, the following as it relates to Residential Units and Commercial Units: pipes, ducts, flues, chutes, conduits, wires, and other utility, heating, cooling or ventilation systems or equipment to the extent and only to the extent serving only such Unit; and (anything herein to the contrary notwithstanding) excluding all structural components of the Building, the term "structural components" including structural columns or pipes, wires, conduits, ducts, flues, shafts, or public utility lines running through the Unit and forming a part of any system serving more than the Unit, or any components of communication, cable television systems, or internet service systems, if any, located in the Unit, whether or not any such items shall be located in the floors, ceilings or perimeter or interior walls of the Unit. The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on Exhibit B. Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on Exhibit B, and every such description shall be deemed good and sufficient for all purposes.

(c) To the extent such data is available to the Declarant at the time this Declaration is filed, the Condominium Plan sets forth the measurements, elevations, locations and other data, as required by the Act, with respect to (i) the Property and its exterior boundaries; (ii) the Building and each floor thereof; and (iii) each Unit in the Building and such Unit's horizontal and vertical dimensions. However, the Declarant hereby reserves unto itself and the Declarant, the right, from time to time, as further data becomes available, to amend the Condominium Plan so as to set forth the measurements, elevations, locations and other data required by the Act, with respect to the Building and the Units now or hereafter constructed on the Property. In furtherance of the foregoing, a power coupled with an interest is hereby granted to the Declarant, acting by or through its duly authorized officers, its successors, or its designee, as attorney-in-fact, to amend the Condominium Plan, as described above, without notice to any Unit Owner or Eligible Mortgagee. Each deed, mortgage or other instrument with respect to a Unit, and the acceptance thereof, shall be deemed a grant of such power to each of these attorneys-in-fact, and acknowledgment of and consent to such power, and shall be

deemed to reserve to each of these attorneys-in-fact the power to amend the Condominium Plan, as described above.

(d) Except as provided by the Act or as provided elsewhere herein, no Unit Owner other than the Declarant shall, by deed, Condominium Plan, court decree or otherwise, subdivide or in any other manner cause such Unit Owner's Unit to be separated into any tracts or parcels different from the whole Unit as shown on Exhibit B. Notwithstanding the foregoing, and notwithstanding anything else to the contrary contained in this Declaration, in accordance with and pursuant to the Act, Unit Owners may, at their own expense, subdivide or combine Residential Units or Commercial Units owned by such Unit Owners and locate or relocate Common Elements (and Limited Common Elements) affected or required thereby, subject to approval by the Board (which approval shall not be unreasonably withheld, conditioned or delayed) all as more fully described below. In accordance with the Act, in connection with such subdivision or combination of such Unit(s), the percentage interests in the Common Elements allocated to such Unit(s) may be re-allocated or adjusted by amendment to this Declaration in the manner specified in the Act. Any Unit Owner other than the Declarant desiring to combine or subdivide Unit(s) in accordance herewith shall make written application to the Board with accompanying drawings identifying the proposed subdivision or combination of Units, and also setting forth the proposed re-allocation or adjustment to the percentage interests in the Common Elements allocated to such Unit(s); provided, however, that the aggregate percentage interest in the Common Elements allocated to such Unit(s) prior to such proposed subdivision or combination shall equal the aggregate percentage interest in the Common Elements allocable to the Unit(s) following such subdivision or combination of Units. Such drawings shall be prepared by an architectural or surveying firm selected by or reasonably acceptable to the Board. The Board shall have a period of thirty (30) days from the date of such submission to consider the proposed subdivision or combination of Unit(s), at which time the Board shall render its approval or disapproval of such proposal. If the Board approves such proposal, upon the Board rendering such approval either the Unit Owner or the Board (at the Board's sole discretion, and in either case at the Unit Owner's sole cost and expense) shall cause to be prepared a proposed form of amendment to this Declaration with a proposed amendment to the Condominium Plan attached hereto (amending those Condominium Plan sheets identifying the Units and Common Elements affected by such proposed subdivision or combination of Units) prepared by a licensed Nebraska land surveyor in accordance with the requirements set forth in the Act and consistent with the Condominium Plan appended to the recorded Declaration. Within thirty (30) days after the Board's receipt of such proposed form of amendment to this Declaration and proposed amendment to the Condominium Plan, the Board shall deliver to such Unit Owner its proposed revisions to the proposed amendment to this Declaration and the Condominium Plan, if any. Upon the Board's review and approval of a satisfactory amendment to this Declaration and the Condominium Plan, the Board shall execute and deliver for recordation (at such Unit Owner's sole cost and expense) such amendment and amended Condominium Plan. Nothing in this Section 2.01(d) shall be construed as requiring Declarant to obtain the Association's or the Board's consent to any subdivision or combination of Units owned

by the Declarant. Declarant expressly reserves the right to combine its Units, subdivide its Units, or convert its Units into Common Elements.

Section 2.02. Certain Structures Not Constituting Part of a Unit. Except as a tenant in common with all other Unit Owners, no Unit Owner shall own any structural components of the Building, including structural columns or pipes, wires, conduits, ducts, flues, shafts, or public utility lines running through that Unit Owner's Unit and forming a part of any system serving more than that Unit Owner's Unit, or any components of communication systems, cable television systems, or internet service systems, if any, located in that Unit Owner's Unit, whether or not any such items shall be located in the floors, ceilings or perimeter or interior walls of the Unit.

Section 2.03. Real Estate Taxes. It is understood that real estate taxes are to be separately taxed to each Unit Owner for that Unit Owner's Unit and its corresponding percentage of ownership in the Common Elements as provided in the Act; provided, however, until such time as separate real estate tax bills are issued with respect to each Unit, the real estate taxes imposed on the Property shall be included in the Common Expenses assessed pursuant to this Declaration and shall be paid to the Association.

Section 2.04. Sale of Units. The Declarant hereby expressly reserves to itself the right to make the initial sale of each and every Unit and to sell and grant each such Unit at such purchase price as the Declarant shall determine from time to time, and Declarant hereby reserves the right to change such purchase prices at any time and from time to time, at Declarant sole and absolute discretion.

ARTICLE III

COMMON ELEMENTS

Section 3.01. Description. The Common Elements shall consist of all portions of the Property, except the Units, and shall include the Limited Common Elements unless otherwise expressly specified herein. The Common Elements include, without limitation and if applicable, any of the following items located at the Property: the walls, roofs, hallways, interior and exterior stairways, elevators, common entrances and exits, the community room(s) or the Second Floor of the Building, the fitness rooms, movie rooms, the security system, if any, life safety equipment and systems, mechanical equipment areas, utility rooms, water heaters serving multiple Units, mail boxes, cable television system, internet service systems, if any, fire escapes, pipes, ducts, flues, shafts, electrical wiring and conduits (except pipes, ducts, flues, shafts, electrical wiring and conduits situated entirely within a Unit and serving only such Unit), central heating, cooling and ventilating systems servicing the Common Elements (but excluding those individual heating, cooling and ventilating systems or equipment situated entirely within a Residential Unit or Commercial Unit and serving only such Unit), public utility lines, structural parts of the Building, sidewalks and walkways, landscaped areas and all other portions of the Property except the individual Units. Structural columns located within the boundaries of a Unit shall be part of the Common Elements. Any references to "Common Elements" appearing on the Condominium Plan (except references to Limited Common Elements) shall be deemed solely for

purposes of general information and shall not be limiting in any way, nor shall any such reference define the Common Elements in any way.

Section 3.02. Ownership of Common Elements. Each Unit Owner shall be entitled to the percentage of ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, as set forth in Exhibit C attached hereto. The percentages of ownership interests set forth in Exhibit C have been computed and determined in accordance with the Act, and shall remain constant and shall not be changed, except as specifically permitted under the Act or this Declaration, without the written consent of sixty-seven percent (67%) of the Unit Owners and their respective Eligible Mortgagees. The ownership interest in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of ownership. The ownership of each Unit shall not be conveyed separate from the percentage of ownership in the Common Elements corresponding to such Unit. The undivided percentage of ownership in the Common Elements corresponding to any Unit shall always be deemed conveyed or encumbered with any conveyance or encumbrance of that Unit, even though the legal description in the instrument conveying or encumbering such Unit may refer only to that Unit.

Section 3.03. Limited Common Elements. The Limited Common Elements are such parts of the Common Elements serving exclusively a single Unit or adjoining Units as an inseparable appurtenance thereto, as designated as such in this Declaration, included in the Condominium Plan, or which by the nature or location thereof, or by the terms of this Declaration, are clearly intended to be reserved for or for the use of one or more Units to the exclusion of other Units. The Limited Common Elements appertaining to, or designated or reserved for or for the use of, or serving any Unit (alone or in conjunction with other Units) are hereinafter from time to time referred to as the Limited Common Elements of such Unit. The Limited Common Elements shall include, but shall not be limited to, the following: (a) the interior surface of the perimeter walls, ceilings and floors which define the boundary planes of a Residential Unit or Commercial Unit; (b) perimeter doors and windows, including skylights, if any, which serve exclusively a single Residential Unit or Commercial Unit (including, without limitation, the Commercial Unit plate glass windows); and (c) any system or component part thereof (including, without limitation, flues, furnaces, fittings, housings, ducts, flues, shafts, electrical wiring and conduits) which serves a Residential Unit or a Commercial Unit exclusively, to the extent that such system or component part is located outside the boundaries of a Unit.

Section 3.04. Use of Limited Common Elements. Each Unit Owner and Occupant shall have the right to (a) the exclusive use and possession of the Limited Common Elements serving exclusively the Unit of such Unit Owner or Occupant, which right shall be appurtenant to and shall run with title to such Unit, and shall not be separated from such Unit, and (b) the use and possession of the Limited Common Elements serving the Unit of such Unit Owner or Occupant in common with one or more (but not all) other Units, which use and possession shall be to the exclusion of all other persons except the Unit Owner or Occupant of any such other Unit to which such Limited Common Elements shall respectively appertain. The use of Limited Common Elements may be transferred between Unit Owners at their expense in accordance with the Act or as expressly provided in this Declaration.

ARTICLE IV

GENERAL PROVISIONS AS TO UNITS AND COMMON ELEMENTS

Section 4.01. Submission of Property to the Act. The Property is hereby submitted to the provisions of the Act, as a condominium.

Section 4.02. No Severance of Ownership. No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting title to such Unit Owner's Unit Ownership without including therein both such Unit Owner's interest in the Unit and such Unit Owner's corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

Section 4.03. Easements.

(a) ***Encroachments.*** In the event that (i) by reason of the construction, repair, settlement or shifting of the Building or any other improvements, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements, or any other Unit; or (ii) by reason of the design or construction of any Unit, it shall be necessary or advantageous to a Unit Owner to use or occupy any portion of the Common Elements for any reasonable use appurtenant to such Unit, which will not unreasonably interfere with the use or enjoyment of the Common Elements by any other Unit Owner; or (iii) by reason of the design or construction of utility and ventilation systems, any mains, pipes, ducts or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit; then in any such case, valid easements for maintenance of such encroachment and for such use of the Common Elements are hereby established and shall exist for the benefit of such Unit, or the Common Elements, as the case may be, so long as such reason for use exists and as all or any part of the Building shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Elements be created in favor of any Unit Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Property by any other Unit Owner or has been created by the Unit Owner or such Unit Owner's agent through intentional, willful or negligent conduct.

(b) ***Easements for Utilities and Commercial Entertainment.*** Omaha Public Power District, Metropolitan Utilities District, the City of Omaha and all other suppliers of utilities serving the Property and any person providing cable television, telecommunications or other similar services to any residents or Occupants of the Property, are hereby granted the right to install, lay, construct, operate, maintain, renew, repair or replace, conduits, cables, pipes and wires and other equipment into, over, under, along and on any portion of the Common Elements for the purpose of providing any

portion of the Property with utility services, cable television, telecommunications services or other related utility services, together with the reasonable right of ingress to and egress from the Property for such purpose; and the Declarant, Board or Association may hereafter grant other or additional easements for utility services, cable television, telecommunications facilities and for other similar purposes, including such easements as the Declarant may from time to time request, including, but not limited to, such easements as may be required to construct, keep and maintain improvements upon the Common Elements, for the benefit of the Property, over, under, along and on any portion of such Common Elements, and each Unit Owner hereby grants the Board or Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing (provided that with respect to all easements granted hereby or pursuant hereto, no Unit Owner shall be deprived of, or be subjected to material interference with, the use of such Unit Owner's Unit or any Limited Common Element serving such Unit, other than reasonably and temporarily). Each mortgagee of a Unit shall be deemed to consent to and be subordinate to any easement hereafter granted and also grants such power of attorney to the Board or Association to effectuate the foregoing. Easements are also hereby declared and granted to the Board and Association and to the suppliers of utilities, cable television, telecommunications services or other similar services described above in this paragraph to install, lay, operate, maintain, repair and replace any pipes, wire, ducts, conduits, cables, public utility lines, entertainment lines, components of the communications systems, if any, or structural components, which may run through the walls of a Residential Unit or a Commercial Unit and which constitute or will constitute Common Elements, whether or not such walls lie in whole or in part within the Unit boundaries.

The Declarant hereby reserves to itself and the Association, and their respective successors and assigns, the right, without notice to, or the consent of, any Unit Owner or mortgagee of a Unit Ownership: (i) to record a supplement to the Condominium Plan showing the location of any or all of such utility, cable television, telecommunication or other utility lines, conduits, pipes, electrical wiring, transformers and switching apparatus and other equipment (or such other equipment and facilities described in subparagraphs (iv) and (v) of Section 4.03(c) below) "as built," and (ii) to record, from time to time, additional supplements, showing additions, modifications and deletions to any or all of such conduits, pipes, electrical wiring, transformers and switching apparatus and other equipment. Once the location of the easement to any such utility or other entity is shown by any supplement or additional supplement to the Condominium Plan as aforesaid, the easement granted by this Section 4.03(b) to such utility or other entity shall be limited to the area or areas located within ten (10) feet on either side of the equipment of such utility or other entity shown on such supplement or additional supplement as such other area designated in the supplement by the Declarant or Association. A power coupled with an interest is hereby granted to the Declarant and the Association, acting by and through their respective duly authorized officers, their respective successors, assigns, agents and designees, and each of them singly without the other's concurrence, as attorney-in-fact to do or cause the foregoing to be done. The acceptance of each deed, mortgage, trust deed or other instrument with respect to a Unit Ownership shall be

deemed a grant of such power to each of such attorneys-in-fact, an acknowledgment of a consent to such power, and shall be deemed to reserve to each of such attorneys-in-fact the power to record any and all such supplements.

(c) ***Blanket Easement in Favor of Declarant and Other Parties.*** The right of the Unit Owners to use and possess the Common Elements as set forth in Section 4.04(a) hereof shall be subject to a blanket easement over the Common Elements in favor of the Declarant, and their respective representatives, agents, associates, employees, contractors, subcontractors, tenants, successors and assigns, for the purpose of (i) access and ingress to and egress from the Property or any part thereof, (ii) construction, installation, repair, replacement and restoration of utilities, the Building, landscaping and any other improvements on the Property or any part thereof, including the right to restrict and regulate access to the Common Elements for the purposes of completing construction of the Building, the Common Elements or Units in the Building, and (iii) the installation and maintenance of signs advertising the residences on the Property or any part thereof, as well as signs advertising any other portion of the Property, and signs directing potential purchasers to the sales office and models erected in connection with such Units and other components of the Property and for such purposes as described in Section 7.01(k) hereof. The foregoing easements in favor of the Declarant shall continue until such time as the Declarant does not hold legal title to any Unit Ownerships, at which time such easements shall cease and be of no further force and effect without the necessity of any further action.

(d) ***Easement in Favor of Association.*** A blanket easement over the Property is hereby granted in favor of the Association for the purpose of exercising its rights and performing its duties under this Declaration. The authorized representatives of the Association or the Board, or of the manager or managing agent for the Building, and any suppliers of water or utility services to the Property, shall be entitled to reasonable access to, over and through the individual Units as may be required in connection with the operation, maintenance, repairs, or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Units or the Common Elements, or to service and take readings of any utility meters located within a Residential Unit or Commercial Unit.

(e) ***Easements To Run With Land.*** All easements and rights described herein are easements appurtenant running with the land and, so long as the Property is subject to the provisions of this Declaration shall remain in full force and effect (except where early termination is otherwise provided in this Declaration) and shall inure to the benefit of and be binding on Declarant, its successors and assigns, and any Unit Owner, purchaser, mortgagee and other person having an interest in the Property, or any part or portion thereof.

(f) ***Easements for Commercial Unit Owners.*** A perpetual nonexclusive easement for ingress, egress and access is hereby provided to the Commercial Unit Owners and their respective representatives, employees, invitees, customers, tenants, vendors and other permittees for ingress, egress and access over, upon and through such

areas within the Property as are reasonably necessary for the operation of the Commercial Units.

Section 4.04. Use of the Common Elements.

(a) ***General.*** Subject to the provisions of this Declaration, each Unit Owner shall have the non-exclusive right to use the Common Elements (except the Limited Common Elements and portions of the Property subject to leases, easements or licenses made by or assigned to the Board) in common with the other Unit Owners, as may be required for the purpose of ingress and egress to, and use, occupancy and enjoyment of, the respective Unit Ownership owned by such Unit Owner, and such other incidental uses as are permitted by this Declaration. Use of Limited Common Elements shall be governed by Section 3.04 of this Declaration. Such rights to use and possess the Common Elements, including the Limited Common Elements, shall be subject to and be governed by the provisions of the Act, this Declaration, and rules and regulations of the Association. In addition, the Association shall have the authority to lease, grant licenses or concessions, or grant easements with respect to parts of the Common Elements, subject to the provisions of this Declaration and the By-Laws and any rights reserved to Declarant hereunder.

(b) ***Guest Privileges.*** The aforescribed rights shall extend to the Unit Owner and Occupants, members of the immediate family, guests, visitors, agents, servants, invitees, customers and licensees of the Unit Owner, subject to reasonable rules and regulations adopted or prescribed by the Association with respect thereto.

(c) ***Disclaimer of Bailee Liability.*** Notwithstanding anything to the contrary contained in this Declaration, neither the Board, the Association, any Unit Owner, the Declarant nor their respective members, managers, officers, Directors, agents, employees or representatives shall be considered a bailee of any personal property stored in the Common Elements 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.

Section 4.05. Maintenance, Repairs and Replacements.

(a) ***By the Association.*** The Association, at its expense, shall be responsible for the maintenance, repair and replacement of those portions, if any, of each Unit which contribute to the support of the Building (including, without limitation, windows) but excluding, however, all other exterior doors and the interior surfaces of walls, ceilings and floors. In addition, the Association shall maintain, repair, and replace all pipes, wires, conduits, ducts, shafts and other facilities for the furnishing of utility services which may be located within the Unit boundaries and forming part of any system servicing more than one Unit, as specified in Section 2.02 hereof, exclusive of any portions of the foregoing which may be located at or beyond the wall outlets, or which may be the responsibility of an individual Unit Owner under paragraph (b) below, or any other provision of this Declaration. Maintenance, repairs and replacements of the Common Elements (but not Limited Common Elements except as provided in

Section 4.05(b)(iii) hereof), shall be furnished by the Association acting by and through the Board as part of the Common Expenses, subject to the By-Laws or rules and regulations of the Association.

(b) *By the Unit Owner.* Except as otherwise provided in paragraph (a) above or paragraph (c) below, each Unit Owner shall furnish and be responsible for, at his or her own expense:

(i) All of the maintenance, repairs and replacements within such Unit Owner's Residential Unit or Commercial Unit, all interior and exterior doors appurtenant thereto, all screens, and all internal installations of such Unit such as refrigerators, ranges, and other kitchen appliances, lighting fixtures and other electrical fixtures and plumbing and any portion of any other utility service facilities located within the Unit; provided, however, that such maintenance, repairs and replacements as may be required for the bringing of water and electricity to the Units, shall be furnished by the Board as part of the Common Expenses. No Unit Owner may change the appearance of any exterior doors without prior written approval by the Commercial Committee or Residential Committee, as applicable.

(ii) All of the decorating within such Unit Owner's Residential Unit or Commercial Unit (initially and thereafter from time to time), including, but not limited to, painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the common walls and the interior surfaces of the vertical perimeter walls, floors and ceiling of such Unit Owner's Residential Unit or Commercial Unit, and such Unit Owner shall maintain such portions in good condition at his or her sole expense as may be required from time to time. Each Unit Owner who shall elect to alter such Unit Owner's Unit by installing in any portion of that Unit (other than in bathrooms) hard surface floor covering (i.e., tile, slate, ceramic, parquet, etc.) shall be first required to install a sound absorbent undercushion of such kind and quality as to prevent the transmission of noise to another Unit or as may otherwise be required by the Association. The Board may, in addition to exercising all of the other remedies provided for in this Declaration for breach of any of the provisions hereof, require such Unit Owner to cover all non-conforming work with carpeting, or may require removal of such non-conforming work, at the expense of the offending Unit Owner. The interior surfaces of all windows forming part of a perimeter wall of a Residential Unit or Commercial Unit shall be cleaned or washed by and at the expense of each respective Unit Owner. The use of and the covering of the interior surfaces of such windows, whether by draperies, shades, or other items visible on the exterior of either of the Building, shall be subject to the rules and regulations of the Board as may be imposed from time to time, which shall provide for notice to the management company prior to any such installation and the management company's approval of the method of installation prior to any such installation.

(iii) All of the maintenance, repair, and replacements of the Limited Common Elements benefiting such Unit Owner's Unit, in whole or in part, except to the extent as otherwise directed by the Board or as is otherwise provided herein. In addition, each Unit Owner shall be individually responsible for the repair, maintenance and replacement of all door and window locks and hardware with respect to which each Unit Owner is entitled to the exclusive use. At the discretion of the Board, the Board may perform, or cause to be performed, such maintenance, repairs, and replacements of the Limited Common Elements and the cost thereof shall be assessed in whole or in part to the Unit Owners benefited thereby, and further, at the discretion of the Board, the Board may direct such Unit Owners, in the name and for the account of such Unit Owners, to arrange for such maintenance, repairs, and replacements, to pay the cost thereof with the funds of the Unit Owner, and to procure and deliver to the Board such lien waivers and contractor's or subcontractor's sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

(c) **Common Elements.** In the event that any repair or replacement to the Common Elements (including the Limited Common Elements) is made necessary by reason of any act or occurrence for which insurance is maintained by the Board pursuant to Section 5.09 hereof and for which insurance proceeds are available as provided in Section 8.01 hereof, the Association, at its expense to the extent of such proceeds, and subject to Section 4.06 hereof, shall be responsible for the repair or replacement of such Common Elements. All such occurrences shall promptly be reported to the insurance carriers and agents which may be responsible for paying claims thereon.

(d) **Nature of Obligation.** Nothing herein contained shall be construed to impose a contractual liability upon the Association for maintenance, repair and replacement of the Common Elements or the Units or any portion or parts thereof. The respective obligations of the Association and Unit Owners set forth in this Declaration shall not be limited, discharged or postponed by reason of the fact that any such maintenance, repair or replacement is required to cure a latent or patent defect in material or workmanship in the construction of the Building, nor because they may become entitled to proceeds under policies of insurance. In addition, and notwithstanding anything hereinabove to the contrary, no Unit Owner shall have a claim against the Board or Association (or against the Declarant) for any work ordinarily the responsibility of the Board or Association, but which the Unit Owner himself has performed or paid for, unless the same shall have been agreed to in advance by the Board or Association or the Declarant.

Section 4.06. Negligence of Unit Owner. If, due to the willful misconduct or negligent act or omission of a Unit Owner, or of a member of such Unit Owner's family or household pet or of a guest or other authorized Occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements or to a Unit owned by others, or maintenance, repairs or replacements shall be required which would otherwise be charged as a Common Expense, then such Unit

Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Board.

Section 4.07. Joint Facilities. To the extent that equipment, facilities and fixtures within any Unit or Units shall be connected to similar equipment, facilities or fixtures affecting or serving other Units or the Common Elements, then the use thereof by the individual Unit Owner shall be in all respects reasonable as it affects the other Unit Owners.

Section 4.08. Additions, Alterations or Improvements.

(a) The Board may authorize and charge as a Common Expense (or in the case of Limited Common Elements may charge the Unit Owners benefited thereby) the cost of any additions, alterations or improvements to the Common Elements. The cost of any such work to the Common Elements may be paid out of a special assessment.

(b) Except as otherwise provided in Section 7.01(a) hereof, no additions, alterations or improvements shall be made by a Unit Owner to any part of the Common Elements, and no additions, alterations or improvements shall be made by a Unit Owner to such Unit Owner's Residential Unit or Commercial Unit where such work alters any wall or partition, configuration, ceiling, perimeter doors or windows, balcony, floor load or otherwise affects the structure of the Unit or increases the cost of insurance required to be carried by the Board hereunder without the prior written consent of the Board, which may be withheld by the Board in its sole and absolute discretion. Any addition, alteration or improvement of a Unit by the Unit Owner which shall affect the structure of the Unit or the Common Elements shall, further, conform with structural or engineering drawings prepared or reviewed and approved by an architectural or engineering firm selected by the Declarant or the Board. The cost of such drawings or review and approval shall be paid by the Unit Owner. The Board may (but shall not be required to) condition its consent to the making of an addition, alteration or improvement by a Unit Owner under this Section 4.08(b) upon the Unit Owner's agreement either (i) to be solely responsible for the maintenance of such addition, alteration or improvement, subject to such standards as the Board may from time to time set, or (ii) to pay to the Association from time to time the additional costs of maintenance or insurance as a result of the addition, alteration or improvement. If an addition, alteration or improvement is made by a Unit Owner without the prior written consent of the Board, then the Board may, in its discretion, take any of the following actions, which actions shall not be exclusive of the remedies available to the Board under Section 10.02 hereof:

(i) Require the Unit Owner to remove the addition, alteration or improvement and restore the Property to its original condition, all at the Unit Owner's expense; or

(ii) If the Unit Owner refuses or fails to properly perform the work required under (i) above, the Board may cause such work to be done and may charge the Unit Owner for the cost thereof as determined by the Board; or

(iii) Ratify the action taken by the Unit Owner, and the Board may (but shall not be required to) condition such ratification upon the same conditions which it may impose upon the giving of its prior consent under this Section.

The provisions of this Section 4.08(b) shall not apply to the Declarant.

ARTICLE V

ADMINISTRATION

Section 5.01. Administration of Property. The direction and administration of the Property shall be vested in the executive board (herein sometimes referred to as the "Board"), which shall consist of five(5) persons who shall be elected in the manner hereinafter set forth; provided, however, that, irrespective of anything else contained in this Declaration, for a period commencing on the date this Declaration is executed and ending upon the initial meeting of Unit Owners described in Section 5.04(b) of the Declaration, the Board shall consist of five (5) persons and the Declarant shall have the right to designate and select the persons who shall serve as members of the Board or to exercise the powers of the Board as provided in the Act. Except for Directors so designated by the Declarant, each Director shall be one of the Unit Owners; provided, however, that in the event a Unit Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any designated agent of such corporation, partnership, limited liability company or other legal entity or beneficiary of such trust shall be eligible to serve as a Director. If a Unit Owner owns more than one Unit Ownership and is a corporation, partnership, limited liability company, trust or other legal entity, other than a natural person, then any number of agents or beneficiaries of such Unit Owner may be Directors, provided that the number of such Unit Owner's agents or beneficiaries who become Directors shall not exceed the number of Unit Ownerships owned by such Unit Owner. If a Director fails to meet such qualifications during such Director's term, he or she shall thereupon cease to be a Director, and his or her place on the Board shall be deemed vacant.

Section 5.02. Association.

(a) The Association has been, or will be, formed as a non-profit corporation under the statutes governing non-profit corporations in the State of Nebraska and for the purposes and having the powers prescribed in the Act, and having the name (or a name similar thereto) Brandeis Building Owners Association and shall be the governing body for all of the Unit Owners for the maintenance, repair, replacement, administration and operation of the Property. The Board shall be deemed to be the "executive board" for the Unit Owners referred to in the Act. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners in accordance with the provisions contained herein. Each Unit Owner shall be a member of the Association so long as he or she shall be a Unit Owner, and such membership shall automatically terminate when he or she ceases to be a Unit Owner, and upon the transfer of his or her ownership interest the transferee thereof shall likewise succeed to such membership in the Association.

(b) There shall be two(2) Committees as follows: (i) a Residential Committee, which shall have the responsibility for preparing the Development Guidelines and approving certain improvements to the Residential Units and related Limited Common Elements and (ii) a Commercial Committee, which shall have the responsibility for preparing the Development Guidelines and approving certain improvements to the Commercial Units and related Limited Common Elements.

Section 5.03. Voting Rights.

(a) There shall be one Voting Member for each Unit Ownership. Such Voting Member may be the Unit Owner or one of the group composed of all the owners of a Unit Ownership, or be some person designated by such Unit Owner or Unit Owners or such Unit Owner's or Unit Owners' duly authorized attorney-in-fact to act as proxy on his, her or their behalf and who must be a Unit Owner. Such designation shall be made in writing to the Board, shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Unit Owner or his or her duly authorized attorney-in-fact, shall bear the date of its execution and shall be invalid after eleven (11) months from date of execution unless otherwise provided in the proxy. Any or all such Unit Owners may be present at any meeting and, furthermore, may vote or take any other action as a Voting Member to the extent provided in Section 5.03(b) hereof. The person(s) designated by the Declarant with respect to any Unit Ownership owned by the Declarant shall also have the right to vote at any meetings of the Board for so long as the Declarant shall retain the right to so designate a Board member. If a Unit Owner is a trust, then the voting rights of such Unit Owner may be exercised by a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation, limited liability company or partnership, then the voting rights of such Unit Owner or beneficiary may be exercised by an officer, member, manager, partner or employee of such Unit Owner or beneficiary.

(b) The total number of votes of all Voting Members shall be one hundred percent (100%). In all elections for Directors and in all other actions requiring a vote of the members of the Association, each Unit Owner shall be entitled to the number of votes equal to the percentage of ownership in the Common Elements applicable to such Unit Owner as set forth in Exhibit C. The percentages described in Exhibit C shall be calculated by dividing the square footage of each Unit by the total square footage of all Units in the Condominium.

(c) In the event the Voting Member is other than the Unit Owner, is not present at a meeting of the Association and has not voted by proxy, then if the Unit Owner is present, such owner shall be entitled to cast all of the votes allocated to the Unit. In the event the ownership of a Unit is composed of multiple owners and the Voting Member is not present and has not voted by proxy, then if only one of the multiple owners of a Unit is present, such owner shall be entitled to cast all of the votes allocated to that Unit Ownership. In the event more than one owner of a Unit Ownership is present, but not the Voting Member, who has not voted by proxy, the votes allocated to that Unit Ownership may be cast only in accordance with the agreement of a majority in

interest of the group of owners comprising the Unit Owner who are present. Majority agreement shall be deemed to have occurred if any one of the multiple owners casts the votes allocated to that Unit Ownership without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit Ownership.

(d) The Committee Members shall be selected as follows:

(i) Prior to the Transfer Date, the Declarant shall have the right to appoint and remove all Committee Members on both of the Committees. The Declarant may temporarily or permanently relinquish its right to appoint all or some of the Committee Members at any time.

(ii) Following the Transfer Date, elections of Committee Members on the Committees shall be conducted on a class basis whereby the Commercial Owners constitute one class and the Residential Owners constitute another class. The class consisting of the Commercial Owners shall be entitled to elect the three (3) Committee Members on the Commercial Committee. The class consisting of the Residential Owners shall be entitled to elect the three (3) Committee Members on the Residential Committee (the "Residential Committee Members").

Section 5.04. Meetings.

(a) ***Quorum.*** Meetings of the Unit Owners shall be held at the Property or at such other place in the City of Omaha, Nebraska, as may be designated in any notice of a meeting. The presence in person or by proxy at any Unit Owners' meeting of Voting Members or other Unit Owners representing at least twenty-five percent (25%) of the Unit Ownerships (by percentage interest in the Common Elements) shall constitute a quorum unless the Unit Owners, in accordance with the Act, provide otherwise. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Unit Owners at which a quorum is present upon the affirmative vote of the Voting Members (or Unit Owners pursuant to Section 5.03) having a majority of the total votes present at such meeting.

(b) ***Initial and Annual Meeting.*** The initial meeting of the Unit Owners shall be held on the earlier of the Transfer Date or the date in which the Unit Owners first have the right to elect Directors pursuant to Section 5.06(f). The Declarant shall provide no less than twenty-one (21) and no more than thirty (30) days' written notice to the Unit Owners of such initial meeting. Thereafter, there shall be an annual meeting of the Unit Owners on the second Tuesday of March following such initial meeting, and on the second Tuesday of March of each succeeding year thereafter at 7:30 p.m., or at such other reasonable time or date as may be designated by written notice of the Board delivered to the Unit Owners in accordance with Section 13.03 hereof.

(c) ***Special Meetings.*** Special meetings of the Unit Owners may be called at any time after the initial meeting provided for in Section 5.04(b) hereof for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or

some of the Voting Members, or for any other reasonable purpose; provided, however, that the following matters shall require the approval of Voting Members (or Unit Owners pursuant to Section 5.03(b) hereof) having not less than sixty-seven percent (67%) of the total votes: (i) the merger or consolidation of the Association; (ii) the sale, lease, exchange or other disposition (excluding the mortgage or pledge) of all, or substantially all of the property and assets of the Association; and (iii) the purchase or sale or lease of Units or other real estate by the Association on behalf of all Unit Owners. Special meetings may be called by written notice authorized by a majority of the Board, the President of the Board, or by Unit Owners owning at least twenty percent (20%) of the votes of the Association (by percentage interest in the Common Elements), and delivered not less than ten (10) days and no more than thirty (30) days prior to the date fixed for such meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered. Matters to be submitted to the Unit Owners at special membership meetings shall be submitted by the Board.

Section 5.05. Notices of Meetings. Notices of meetings of the Unit Owners required to be given herein may be delivered either personally or by mail to the designated Voting Member, addressed to each such person at the address given by the Unit Owner to the Board for the purpose of service of such notice, or to the Residential Unit or Commercial Unit of the Unit Owner with respect to which such voting right appertains, if no address has been given to the Board by the Voting Members, provided that any such notice shall be delivered no less than ten (10) and no more than thirty (30) days prior to the date fixed for such meeting and shall state the time, place and purpose of such meeting. The Association (or the Declarant, in the exercise of the powers set forth in Section 13.01 hereof) shall furnish any Unit Owner, within ten (10) days of receipt by it of a request therefor, the names, addresses and the number of votes of each Unit Owner entitled to vote at each meeting to elect members of the Board. For purposes of this Section 5.05, a notice shall be deemed "delivered" upon compliance with the notice provisions set forth in Section 13.02 hereof.

Section 5.06. The Board.

(a) The initial Board designated by the Declarant pursuant to Section 5.01 hereof shall consist of five (5) Directors who shall serve without compensation. Such initial Board shall serve for a period commencing on the date this Declaration is executed and ending upon the qualification of the Directors elected at the initial meeting held as provided in Section 5.04(b) hereof. Such initial Board may, on behalf of the Declarant, exercise the rights reserved in Section 13.01. At the initial meeting held as provided in Section 5.04(b) hereof, the Voting Members shall be entitled to elect the number of Directors permitted under Section 5.06(f) hereof. In all elections for Directors, votes shall be tabulated pursuant to Section 5.03 above, each Voting Member shall be entitled to vote on a non-cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Upon the adoption of appropriate rules by the Board (including rules to verify the status of the Unit Owner issuing a proxy or casting a ballot), elections may be conducted by secret ballot, whereby the voting ballot is marked only with the percentage interest for the Unit and the vote itself. Upon the expiration of the terms of office of the Board members

so elected at the initial meeting and thereafter, all successors shall be elected for a term of two (2) years each. The Unit Owners owning at least two thirds (2/3) of the Unit Ownerships (by percentage interest in the Common Elements) may from time to time at any annual or special meeting increase or decrease the term of office of the Directors. Vacancies in the Board, shall be filled by a vote of the Voting Members entitled to vote for such Director at the meeting at which the vacancy occurs, the next annual meeting or a special meeting of the Unit Owners called for such purpose. Vacancies may also be filled by the Board by a two-thirds (2/3) vote of the remaining members thereof at a special meeting of the Board which vacancy shall be filled until the next annual meeting of the Unit Owners or for a period terminating no later than thirty (30) days following the filing of a petition signed by Voting Members holding twenty percent (20%) of the votes of the Association (by percentage interest in the Common Elements) requesting a meeting of the Unit Owners to fill the vacancy for the balance of the term. A meeting of the Unit Owners shall be called for purposes of filling a vacancy on the Board no later than thirty (30) days following the filing of a petition signed by Voting Members with twenty percent (20%) of the votes of the Association (by percentage interest in the Common Elements) requesting such a meeting. Except as otherwise provided in this Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present at its meetings when a quorum exists. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt; provided, however, that (i) each Unit Owner shall be entitled to notice, in the same manner as provided in Section 5.05 hereof, of any meeting of the Board called for the purpose of considering the adoption of the proposed annual budget or any increase or establishment of an assessment; and (ii) the Board shall meet no less than four (4) times each year. Two-thirds (2/3) of the total number of members on the Board shall constitute a quorum. Any Director may succeed himself or herself.

(b) The Board shall elect from amongst its members a President who shall preside over both its meetings and those of the Unit Owners, and who shall be the chief executive officer of the Board and the Association and who shall be designated to mail and receive all notices and execute all amendments hereto as provided herein and in the Act, a Secretary who shall keep the minutes of all meetings of the Board and of the Unit Owners and who shall, in general, perform all the duties incident to the office of the Secretary, and a Treasurer to keep the financial records and books of account, and such additional officers as the Board shall see fit to elect from amongst the Directors. The term of office for each officer shall be until the next succeeding annual meeting of the Board, and until such officer's successor shall be duly elected or appointed and qualified pursuant hereto. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of the Board. Any Director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he or she succeeds. Any officer may be removed for cause at any time by a vote of sixty-seven percent (67%) of the total membership of the Board at a special meeting hereof. Any officer may succeed himself or herself.

(c) Written notice stating the place, date and hour of any meeting of the Board shall be delivered to each Director not less than five (5) days prior to the date of such meeting. The purpose for which the meeting is called shall be stated in the notice.

(d) All meetings of the Board or either of the Committees, except as otherwise provided by the Act, shall be open to attendance by any Unit Owner, and notice thereof, except as otherwise provided herein, shall be mailed or delivered to each Unit Owner not less than forty-eight (48) hours prior thereto unless a written waiver of such notice is signed by such Unit Owner before the meeting is convened. A copy of such notice of meeting required to be given hereunder shall be posted in a conspicuous place in the Building at least forty-eight (48) hours prior to the time fixed for such meeting. Any vote on matters which may, under the Act, be discussed in a meeting not open to attendance by any Unit Owners, shall be taken at a meeting or portion thereof open to any Unit Owners. Any Unit Owner may record the proceedings at meetings or portions thereof required to be open under the Act by tape, film, or other means provided, however, that the Board may prescribe reasonable rules and regulations to be given the right to make such recordings.

(e) Within sixty (60) days following the initial meeting of Unit Owner described in Section 5.04(b) of the Declaration, the Declarant shall deliver to the Board the following:

(i) All original documents as recorded or filed pertaining to the Property, its administration, and the Association, such as this Declaration, Articles of Incorporation for the Association, other condominium instruments, annual reports, a minute book containing the minutes of any meetings held by the Association and any rules and regulations governing the Property, contracts, leases, or other agreements entered into by the Association. If any original documents are unavailable, copies may be provided if certified by affidavit of the Declarant, or an officer or agent of the Declarant, as being a complete copy of the actual document recorded as filed;

(ii) A detailed accounting by the Declarant, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the Property and copies of all insurance policies and a list of any loans or advances to the Association which are outstanding;

(iii) Any Association funds on hand which shall have been at all times segregated from any other funds of the Declarant;

(iv) A schedule of all real or personal property, equipment and fixtures owned by the Association, including documents such as invoices or bills of sale, if available, evidencing transfer of title to such property, warranties, if any, for all real and personal property and equipment, deeds, title insurance policies, and all tax bills; and

(v) A list of all litigation, administrative action and arbitrations involving the Association, any notices of governmental bodies involving actions taken or which may be taken by the Association, engineering and architectural drawings and specifications as approved by any governmental authority, all other documents filed with any other governmental authority, all governmental certificates, correspondence involving enforcement of any Association requirements, copies of any documents relating to disputes involving Unit Owners and originals of all documents relating to everything listed in this subparagraph.

(vi) Except for Directors designated by Declarant pursuant to Section 5.01 hereof, any Board member may be removed from office, at any time after the election of Directors at the initial meeting of Unit Owners pursuant to Section 5.06(a) hereof, by affirmative vote of the Voting Members representing at least sixty-seven percent (67%) of the Unit Ownerships (by percentage interest in the Common Elements), at any special meeting called for the purpose. A successor to fill the unexpired term of a Board member removed may be elected by the Voting Members at the same meeting or any subsequent meeting called for that purpose.

(f) For the benefit and protection of the Owners and any Eligible Mortgagees, the Declarant shall have the sole power to appoint and remove all Directors prior to the Transfer Date. Notwithstanding anything in the foregoing sentence to the contrary, (i) not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Unit Owners other than the Declarant, one Director shall be elected by Unit Owners other than the Declarant; and (ii) not later than sixty (60) days after conveyance of fifty percent (50%) of the Units to Unit Owners other than the Declarant, a second Director shall be elected by Unit Owners other than the Declarant. Upon the Transfer Date, the Unit Owners shall have the sole power to appoint and remove all Directors. If necessary to create a vacancy in the Board to be filled by the Director(s) elected by the Unit Owners as set forth in the preceding sentence, the Declarant shall remove one of the Directors that it has designated pursuant to Section 4.02(a) above to create such vacancy.

Section 5.07. General Powers of the Board. The Board shall have the following general powers:

(a) Subject to the rights reserved by the Declarant pursuant to Section 13.01 hereof, the Board may engage the services of an agent to manage the Property for which the Board is responsible pursuant to this Declaration (which management agent may be an affiliate of Declarant), to the extent deemed advisable by the Board; provided, however, that any agreement for professional management, except as hereinafter provided, shall provide for termination by the Board without cause upon ninety (90) days' written notice without payment of a termination fee, and shall provide for termination by the Board with cause on thirty (30) days' written notice without payment of a termination fee. Subject to the provisions of the Act, the initial agreement for professional management entered into prior to the initial meeting of the Unit Owners may be with the Declarant or an affiliate of the Declarant, subject to termination by the Board

without cause at any time after the initial meeting of the Unit Owners without payment of a termination fee.

(b) The Board or its agents, upon reasonable notice and, subject to the terms and conditions of any applicable leases, may enter any Unit when necessary in connection with any maintenance, repair or replacement or construction for which the Board is responsible or to make emergency repairs as may be necessary to prevent damage to the Common Elements or to any other Unit or Units.

(c) Except as otherwise provided in the budget, the Board's powers hereinafter enumerated shall be limited in that the Board shall have no authority to acquire and pay for from the maintenance fund any structural alterations to, capital additions to, or capital improvements of, the Common Elements (other than for purposes of replacing or restoring portions of the Common Elements, subject to all the provisions of this Declaration or unless required for emergency repair, protection or operation of the Common Elements) requiring an expenditure in excess of \$150,000 without in each case the prior written approval of Voting Members representing at least sixty-seven percent (67%) of the Unit Ownerships (by percentage interest in the Common Elements). Notwithstanding the foregoing or anything to the contrary contained in this Declaration, the foregoing limitations of this Section 5.07(c) shall not be applicable to expenditures for repair, replacement, or restoration of existing portions of the Common Elements. For the purposes of this Section 5.07(c) only, the phrase "repair, replacement, or restoration" means expenditures to deteriorated or damaged portions of the Property related to the existing decorating, facilities, or structural or mechanical components, interior or exterior surfaces, or energy systems and equipment with the functional equivalent of the original portions of such area. Replacement of the Common Elements may result in an improvement over the original quality of such Common Elements or facilities; provided that, if the improvement results in a proposed expenditure exceeding five percent (5%) of the annual budget, the Board, upon written petition by the Voting Members with twenty percent (20%) of the votes of the Association (by percentage interest in the Common Elements) delivered to the Board within fourteen (14) days of the Board action to approve the expenditure, shall call a meeting of the Unit Owners within thirty (30) days of the date of delivery of the petition to consider the expenditure. Unless a majority of the votes of the Voting Members present are cast at the meeting to reject the expenditure, the expenditure shall be deemed to be ratified, regardless of whether or not a quorum is present.

(d) All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President of the Board and countersigned by the Treasurer or Secretary.

(e) The Board shall have the power and duty to provide for the designation, hiring, and removal of employees and other personnel, including lawyers and

accountants, engineers or architects, to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management, and operation of the Property, and to delegate any such powers to the manager or managing agent (and any such employees or other personnel as may be employees of the managing agent).

(f) The Board shall have the power to exercise all other powers and duties of the Unit Owners as a group referred to in this Declaration or the "executive board" referred to in the Act. More specifically, the Board shall exercise for the Association all powers, duties and authority vested in it by law or this Declaration except for such powers, duties and authority reserved thereby to the members of the Association. The powers and duties of the Board shall include, but shall not be limited to, the following matters:

- (i) Operation, care, upkeep, maintenance, replacement and improvement of the Common Elements in a neat and orderly manner;
- (ii) Preparation, adoption and distribution of the annual budget for the Property;
- (iii) Levying of assessments and collection thereof from Unit Owners and expenditure of amounts collected;
- (iv) Borrowing funds;
- (v) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Common Elements;
- (vi) Obtaining adequate and appropriate kinds of insurance;
- (vii) Purchasing and receiving conveyances of Unit Ownerships and owning, conveying, mortgaging, encumbering, leasing and otherwise dealing with Unit Ownerships conveyed to or purchased by it;
- (viii) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property (including, but not limited to, rules authorizing elections of Board members by secret ballot, whereby the voting ballot is marked only with the percentage interest for the Unit and the vote itself, including rules to verify the status of the Unit Owner issuing a proxy or casting a ballot), after a meeting of the Unit Owners called for the specific purpose of discussing the proposed rules and regulations, notice of which contains the full text of the proposed rules and regulations.
- (ix) Keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;

- (x) To have access to each Unit from time to time as may be necessary for the maintenance, repair or replacement of any Common Elements (to the extent the Association is responsible for such maintenance, repair or replacement) therein or accessible therefrom, or for making repairs therein necessary to prevent damage to the Common Elements or to other Unit or Units;
- (xi) Pay real property taxes, special assessments, and any other special taxes or charges of the State of Nebraska or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property of the Condominium and are not payable by Unit Owners directly;
- (xii) Impose charges for late payments of a Unit Owner's proportionate share of the Common Expenses, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levy reasonable fines for violation of this Declaration and rules and regulations of the Association;
- (xiii) By a majority vote of the entire Board, assign the Association's right to future income from Common Expenses or other sources, and mortgage or pledge substantially all of the remaining assets of the Association;
- (xiv) Record the granting of an easement pursuant to the provisions of Section 4.03 hereof and any instruments required under Section 5.07(f)(vii) or Section 5.07(f)(xiii) hereof or elsewhere in this Declaration;
- (xv) Adoption and amendment of rules and regulations or a schedule for the purpose of coordinating and regulating construction and move-in by other Unit Owners and Occupants and other purposes permitted hereunder and under the Act;
- (xvi) To reasonably accommodate the needs of a handicapped Unit Owner as required by federal, state and any applicable local law with respect to the use of the Common Elements or approval of modifications in an individual Residential Unit or a Commercial Unit; and
- (xvii) Subsequent to the initial meeting of Unit Owners, except for (A) litigation seeking to enforce any remedy available to the Association at law or in equity, including those provided for in this Declaration, in the case of a violation of any provision of this Declaration, the By-Laws or the rules and regulations of the Association, including by way of example and not limitation, failure of a Unit Owner to pay such Unit Owner's proportionate share of Common Expenses, or (B) litigation in connection with real estate tax assessments on the Property, the Board shall have no authority to commence any litigation without the prior consent of not less than sixty-seven percent (67%) of all Unit Owners.

(g) Subject to the provisions of Section 4.06 and Section 6.09 hereof, the Board for the benefit of all the Unit Owners shall acquire and shall pay as Common Expenses, the following:

(i) Operating expenses of the Common Elements, including water, electricity, gas and telephone and other necessary utility service for the Common Elements and (if not separately metered or charged) for the Units.

(ii) Services of any person or firm to act on behalf of the Unit Owners in connection with real estate taxes and special assessments on the Unit Ownerships, and in connection with any other matter where the respective interests of the Unit Owners are deemed by the Board to be similar and nonadverse to each other.

(iii) Painting, cleaning, outside window washing, if any, tuckpointing, maintenance, decorating, striping, snow and ice removal, repair, and replacement of the Common Elements (but not including the interior surfaces of the Residential Units or Commercial Units and of the perimeter doors appurtenant thereto, and repair of windows which the Unit Owners shall paint, clean, decorate, maintain, and repair) and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper.

(iv) Any other materials, supplies, utilities, furniture, equipment, labor, services, maintenance, repairs or structural alterations which the Board is required to secure or pay for pursuant to the terms of this Declaration and By-Laws, or which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a first-class condominium development or for the enforcement of the restrictions contained herein.

(v) Any amount necessary to discharge any mechanics' lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Unit Owners. Where one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of such lien or liens shall be specifically assessed to such Unit Owners.

(vi) Maintenance and repair of any Residential Unit or Commercial Unit if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements or any other portion of the Building, or if a Unit Owner of any Unit has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of such maintenance or repair delivered by the Board to such Unit Owner, provided that the Board shall levy a special assessment against such Unit Owner for the cost of such maintenance or repair.

(h) Prior to the initial meeting of Unit Owner described in Section 5.04(b) of the Declaration, the Declarant shall, subject to the terms of this Declaration and the Act, have the authority to lease or to grant licenses, concessions, easements, leases and contracts with respect to any part of the Common Elements, all upon such terms as the Declarant deems appropriate. Upon the initial meeting of Unit Owner described in Section 5.04(b) of the Declaration, and thereafter, the Board by a vote of at least two thirds (2/3) of the persons on the Board shall have the same authority as aforesaid.

(i) The Board shall have the power to bid for and purchase any Unit Ownership at a sale pursuant to a mortgage foreclosure, or a foreclosure of the lien for Common Expenses under the Act, or at a sale pursuant to an order of direction of a court, or other involuntary sale, upon the consent or approval of Voting Members representing not less than sixty-seven percent (67%) of the total votes.

(j) The Association shall have no authority to forebear the payment of assessments by any Unit Owner.

Section 5.08. Committees.

(a) The term of all Committee Members appointed by Declarant shall be set by Declarant in its sole discretion; provided that under no circumstances shall such term extend beyond the Transfer Date. The term of all Committee Members appointed by the Unit Owners shall be two (2) years and shall have staggered terms as set forth in the Bylaws. Any new Committee Member, who is appointed to replace a Committee Member that has resigned or has been removed, shall serve such Committee Member's unexpired term. Members whose terms have expired may be reappointed. A member of the Committee shall not be required to satisfy any particular qualifications for membership and may be a Director on the Board, an officer of the Association, an officer or employee of Declarant or a Person who is not otherwise affiliated with the Property.

(b) The Board shall determine the compensation, if any, to be paid to Committee Members of either Committee.

(c) Any member of a Committee may, at any time, resign from the Committee upon written notice to (i) the Declarant (if such resignation is prior to the Transfer Date) or (ii) to the Board (if such resignation is after the Transfer Date). Prior to the Transfer Date, any vacancy on a Committee shall be filled by Declarant. Following the Transfer Date, vacancies on a Committee shall be filled by a vote of the Unit Owners entitled to vote for Committee Members of such Committee.

(d) The Residential Committee shall have the following general powers, duties and responsibilities:

(i) The Residential Committee shall have all of the powers and authority conferred upon it by this Declaration and the Bylaws and shall perform the functions required of such Committee by this Declaration and the Bylaws;

(ii) The Residential Committee may hire and retain services of engineers or other consultants and professionals as they deem necessary to perform the duties of the Residential Committee;

(iii) The Residential Committee shall consider and act upon all Applications (including the plans, specifications and other documents submitted to it pursuant to Article XV below) with respect to the Residential Units and related Limited Common Elements thereto;

(iv) The Residential Committee shall adopt the Development Guidelines for the Residential Units and related Limited Common Elements thereto; and

(v) The Residential Committee may make and enforce reasonable rules and regulations governing the use of the Residential Units and related Limited Common Elements thereto.

(e) The Commercial Committee shall have the following general powers, duties and responsibilities:

(i) The Commercial Committee shall have all of the powers and authority conferred upon it by this Declaration and the Bylaws and shall perform the functions required of such Committee by this Declaration and the Bylaws;

(ii) The Commercial Committee may hire and retain services of engineers or other consultants and professionals as they deem necessary to perform the duties of the Committee;

(iii) The Commercial Committee shall consider and act upon all Applications (including the plans, specifications and other documents submitted to it pursuant to Article XV below) with respect to the Commercial Units and related Limited Common Elements thereto;

(iv) The Commercial Committee shall adopt the Development Guidelines for the Commercial Units and related Limited Common Elements thereto; and

(v) The Commercial Committee may make and enforce reasonable rules and regulations governing the use of the Commercial Units and related Limited Common Elements thereto.

(f) Each Committee shall meet as often as it, in its sole discretion, shall deem necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Committee Members on such Committee shall constitute an act by the Committee. Each Committee shall keep written records of all actions taken by it.

Section 5.09. Insurance.

(a) The Board shall have the authority to and shall obtain and maintain insurance for the Property as follows:

(i) Physical damage insurance on the Building and structures (including the Common Elements and the Units, as well as the Limited Common Elements, and except as otherwise determined by the Board, the bare walls, floors, and ceilings of the Residential Unit or Commercial Unit), subject to the following conditions:

(A) Such insurance shall be exclusive of additions, alterations, improvements and betterments made by the Declarant or a Unit Owner to such Unit Owner's Residential Unit or Commercial Unit. "Additions, alterations, improvements and betterments" means all decorating, fixtures, and furnishings installed or added to and located within the boundaries of the Residential Unit or Commercial Unit, including carpeting, flooring and coverings, paint, wall coverings and bathroom fixtures, electrical fixtures, appliances, air conditioning and heating equipment, water heaters, or built-in cabinets installed by Declarant or Unit Owners.

(B) The Property shall be insured for an amount not less than one hundred percent (100%) of its full insurable replacement cost on a blanket basis less deductibles but including coverage for additional debris removal in case of a total loss and including Building Code Ordinance and Law Coverage, Coverage A "Undamaged Portion of Building", Coverage B "Debris Removal" and Coverage C "Increased Costs of Construction", at the time the insurance is purchased and at each renewal date.

(C) Replacement cost values are to be reviewed annually, and the insurance policy or policies shall be endorsed with an agreed amount clause. The cost of any and all appraisals for insurance purposes shall be Common Expenses. The policies for such insurance shall contain an inflation guard endorsement and a percentage of increase cost based upon the last quarterly Marshall Swift Construction Costs Index;

(D) Such policies shall provide coverage for special form causes of loss agreed amount on real property and on personal property, and such other perils as may be deemed appropriate by the Board and special condominium endorsement, if required.

(E) Business Income, Extra Expense coverage to cover the loss of annual revenue from Association fees and any rental income from parking.

(ii) Commercial General Liability insurance insuring against claims and liabilities arising in connection with the ownership, existence, use or management of the Building or structures, hazards of premises/operation, products and completed operations, contractual liability, personal injury liability and advertising liability with the contractual exclusion deleted, if available, independent contractors and other extensions as deemed necessary by the Board. Such insurance shall provide limits of liability as deemed desirable by the Board, but in no event for less than One Million Dollars (\$1,000,000.00) with respect to each occurrence and Two Million Dollars (\$2,000,000.00) in the annual aggregate. Such policy shall be endorsed to cover cross-liability claims of one insured against the other, and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner on account of the negligent acts of the Association or another Unit Owner. Such insurance coverage shall insure the Board, the Association, the management agent, and their respective employees and agents and all persons acting as agents. The Declarant, as applicable, shall be included as an additional insured in its respective capacity as a Unit Owner, manager, Board member or officer; as well as Declarant's, as applicable, lenders and any insurers or guarantors thereof for so long as any of them have any insurable interest in the Property. The Unit Owners shall be included as additional insured parties but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

(iii) Automobile Liability for hired, borrowed, non-ownerships automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000.00), for each accident.

(iv) Umbrella Liability insurance in excess of the required Commercial General Liability, Auto Liability and Employer Liability policies in an amount deemed desirable by the Board. Such policy shall be no less than "following form" coverage of the primary liability policies.

(v) Worker's Compensation and Employer Liability as necessary to comply with applicable statutory laws.

(vi) A fidelity bond insuring the Association, the Board, the Unit Owners, and its employees who control or disburse funds of the Association, against loss of funds as a result of the fraudulent or dishonest acts of any employee of the Association or of any other person handling the funds of the Association, the Board or the Unit Owners in such amounts as the Board shall deem necessary but not less than the maximum amount of coverage available to protect funds in the custody or control of the Association at any time, plus reserves. All management companies that are responsible for the funds held or administered by the Association must be covered by a fidelity bond for the maximum amount of coverage available to protect those funds. The Association

has standing to make a loss claim against the bond of the managing agent as a party covered under the bond. Such fidelity bond of the managing agent must be in the full amount of Association funds and reserves in the custody of the Association. Such bond shall contain waivers of any defense based on the exclusion of persons who serve as volunteers or Directors without compensation from any definition of "employee" or similar expression. Such bond shall provide that it may not be canceled for non-payment of any premiums or otherwise substantially modified without at least ten (10) days' prior written notice to the Board and to all Eligible Mortgagees.

(vii) Directors and Officers Liability insurance in such amounts as the Board shall determine to be reasonable. Directors and Officers Liability coverage must extend to all contracts and other actions taken by the Board in their official capacity as Directors and officers, but this coverage shall exclude actions for which the Directors are not entitled to indemnification under Nebraska law or the Declaration and By-Laws of the Association.

(viii) Boiler and Machinery insurance on a comprehensive, blanket basis covering all Building equipment machinery and apparatus consisting of, but not limited to, boilers, heating apparatus, fired and unfired pressure vessels, and their appurtenant equipment, air conditioning equipment and elevator equipment on a repair or replacement basis. Limits of liability shall be determined by the Board.

(ix) Such other insurance, which may include, without limitation, any or all of the following, in such amounts as the Board shall deem desirable: Terrorism coverage; plate glass insurance coverage; environmental hazards coverage; and Medical Payments coverage for members of the public (excluding Unit Owners and Occupants) injured on the Property, without regard to liability of the Board or the Association.

The premiums for this insurance and bond, except as otherwise provided in this Section 5.09, shall be Common Expenses. The Board may, in the case of a claim for damage to a Unit or the Common Elements, (x) pay the deductible amount as a Common Expense, (y) after notice and an opportunity for a hearing, assess the deductible amount against the Unit Owners who caused the damage or from whose units the damage or cause of loss originated, or (z) require the Unit Owners of the Units affected to pay the deductible amount.

(b) All insurance provided for in this Section 5.09 shall be effected under valid and enforceable policies issued by insurance companies authorized and licensed to transact business in the State of Nebraska and holding a current Policyholder's Alphabetic and Financial Size Category Rating of not less than A-VIII according to Best's Insurance Reports - International Edition or a substantially equivalent rating from a nationally-recognized insurance rating service.

(c) All policies of insurance of the character described in Sections 5.09(a)(i) and (ii): (i) shall be without contribution as respects other such policies of insurance carried individually by the Unit Owners, whether such other insurance covers their respective Units or the additions and improvements made by such Unit Owners to their respective Unit; (ii) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the event the Unit Owners elect to sell the Property or remove the Property from the provisions of the Act; and (iii) shall contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums or substantially changed without at least ten (10) days' prior written notice to the Board and the Eligible Mortgagee(s) of each Unit Ownership. Notwithstanding the issuance of standard mortgage clause endorsements under the policies of insurance of the character described in Sections 5.09(a)(i) and (viii), any losses under such policies shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed, in accordance with the provisions of this Declaration.

(d) All policies of insurance of the character described in Sections 5.09(a)(i), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix) shall name as insureds the Association, the Board, and the other agents (not including contractors and subcontractors) and employees of such Association, Board and the Declarant and Declarant in its capacity as a Unit Owner and Board member, Declarant's lenders as their interest may appear and any insurer or guarantor thereof and shall also provide coverage for each Unit Owner (but as to the insurance described in Section 5.09(a)(ii) and 5.09(a)(iii), only with respect to those portions of the Property not reserved for their exclusive use). Insurance Policies carried pursuant to this Section 5.09 shall include each of the following provisions: (i) each Unit Owner and secured party (including, without limitation, any Eligible Mortgagee) is an insured person under the policy with respect to liability arising out of the Unit Owner's interest in the Common Elements or membership in the Association; (ii) the insurer waives its right to subrogation under the policy against any Unit Owner or members of the Unit Owner's household or other Occupants, the Association, Directors, the Declarant, the management company and their respective employees and agents; and (iii) the Unit Owner waives his or her right to subrogation under the Association policy against the Association and the Board.

(e) The Association, for the benefit of the Unit Owners and the Eligible Mortgagees, shall pay the premiums and obtain a binder on the policies of insurance described in Section 5.09(a) at least thirty (30) days prior to the expiration date of the respective policies, and upon written request therefor, shall notify all Eligible Mortgagees of such payment within ten (10) days after the date on which payment is made.

(f) Loss, if any, under any policies of insurance of the character described in Sections 5.09(a)(i), (vi), (vii), (viii) and (ix) shall be adjusted by and with the Board, which is hereby appointed as attorney-in-fact for each Unit Owner to represent the Unit Owners in any proceedings, negotiations, settlements and agreements relating to such loss, and the insurance proceeds on account of any such loss shall be paid to the Board, as trustee for each of the Unit Owners in their respective percentages of ownership in the

Common Elements as established in this Declaration and each of the Eligible Mortgagees.

The Association must hold any insurance proceeds in trust for Unit Owners and secured parties (including, without limitation, any Eligible Mortgagee) as their interests may appear. The proceeds must be disbursed first for the repair, or restoration of the damaged Common Elements, the bare walls, ceilings, and floors of the Residential Units or Commercial Units, and then to any additions, alterations, improvements and betterments the Association may insure. All insurance proceeds, less the actual cost, fees and expenses, if any, incurred by the Board in connection with the adjustment of the loss shall be applied to the payment of the cost of restoring the Property to substantially the same condition as it existed immediately prior to such damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before, free from vendor's, mechanics', materialman's, and other similar liens. Unit Owners are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Units have been completely repaired or restored or the Association has been terminated as trustee.

(g) Each Unit Owner shall be responsible for (i) physical damage insurance on the personal property in such Unit Owner's Unit and elsewhere on the Property, and any additions, alterations, improvements and betterments to such Unit Owner's Unit (whether installed by such Unit Owner or any prior Unit Owner or whether originally in such Unit); (ii) such Unit Owner's personal liability to the extent not covered by the policies of liability insurance obtained by the Board for the benefit of all of the Unit Owners as above provided; (iii) such Unit Owner's additional living expense and (iv) such Unit Owner's Assessment Liability Insurance. The Unit Owners of the Commercial Units shall maintain physical damage insurance for all exterior windows serving such Unit Owners' respective Commercial Units sufficient to cover the full replacement cost of such exterior windows. All policies of casualty insurance carried by each Unit Owner shall be without contribution with respect to the policies of casualty insurance obtained by the Board for the benefit of all of the Unit Owners as above provided. For the purposes of Sections 5.09(g) and 5.09(h), "additions, alterations, improvements and betterments" shall mean any property (excluding personal property readily removable without damage to the Unit) attached to the Residential Unit or Commercial Units, including without limitation, carpeting, flooring, wall covering, paint, paneling, bathroom fixtures, fixtures, and cabinetry and all other items identified as "additions, alterations, improvements and betterments" in Section 5.09(a)(i)(A) above.

(h) The Board shall not be responsible for obtaining physical damage insurance on any additions, alterations, improvements and betterments to a Residential Unit or a Commercial Unit or any personal property of a Unit Owner or any other insurance for which a Unit Owner is responsible pursuant to Section 5.09(g). In the event the Board does carry such insurance, and the premium therefor is increased due to additions, alterations, improvements and betterments of a Unit Owner, then the Board may assess against such Unit Owner such increased premium.

(i) The Board may, by rule, require Unit Owners to obtain insurance covering their personal liability and compensatory (but not consequential) damages to another Unit caused by the negligence of the Unit Owner or his or her guests, residents, or invitees, or regardless of any negligence originating from the Unit. The personal liability of a Unit Owner or Association member must include the deductible of the Unit Owner whose Unit was damaged, any damage not covered by insurance required by this subsection, as well as the decorating, painting, wall and floor coverings, trim, appliances, equipment, and other furnishings. If the Unit Owner does not purchase or produce evidence of insurance requested by the Board, the Directors may purchase the insurance coverage and charge the premium cost back to the Unit Owner. In no event shall the Board be liable to any person either with regard to its decision not to purchase the insurance, or with regard to the timing of its purchase of the insurance or the amounts or types of coverages obtained.

(j) Each Unit Owner hereby waives and releases any and all claims which such Unit Owner may have against any other Unit Owner, the Association, its officers, Directors, Declarant, the management company of the Property, if any, and their respective employees and agents, for any damage to the Common Elements, the Units, or to any personal property located in the Unit or Common Elements or any loss of income caused by fire or other casualty to the extent that such damage is covered by fire or other form of casualty insurance or would be covered by insurance for which such Unit Owner is responsible pursuant to Section 5.09(g).

(k) Contractors and vendors (except public utilities) doing business with the Association under either written or verbal contracts must provide certificates of insurance naming the Association, its Board and its managing agent as additional insured parties.

(l) Any insurer defending a liability claim against the Association must provide periodic reports on claim status to the Association of the terms of the settlement before settling the claim. The Association may not veto the settlement unless otherwise provided by contract or statute.

Section 5.10. Liability of the Executive Board and Officers of the Association.

Neither the Directors (in their capacity as a member of the Board) or the Committee Members as members of a Committee) nor the officers of the Association shall be liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Board members and officers, except for any acts or omissions finally adjudged by a court to constitute gross negligence or fraud. The Unit Owners (including the Directors and the officers of the Association in their capacity as Unit Owners) shall indemnify and hold harmless each of the Directors, the Committee Members and each of the officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board, the Committees and officers of the Association on behalf of the Unit Owners or arising out of their status as Board members, Committee Members or officers of the Association, unless any such contract or act shall have been finally adjudged by a court to have been made fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid or received in settlement) reasonably incurred

in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any Director, Committee Member or officers of the Association may be involved by virtue of such persons being or having been such member or officer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his or her duties as such member or officer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his or her duties as such member or officer. It is also intended that the liability of any Unit Owner arising out of any contract made by or other acts of the Board or officers of the Association, or out of the aforesaid indemnity in favor of the Directors, Committee Members or officers of the Association, shall be limited to such proportion of the total liability hereunder as such Unit Owner's percentage of interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements. Every agreement made by the Board on behalf of the Unit Owners shall be deemed to provide that the Directors are acting only as agents for the Unit Owners, and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as such Unit Owner's percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements.

Section 5.11. Limitations on Law Suits by Association. The Association shall not file or prosecute any litigation on behalf of a Unit Owner unless such litigation (a) relates to a matter that adversely effects or would be beneficial to all Unit Owners, (b) does not result in additional assessments against the Unit Owners unless such assessments are first disclosed to and approved by at least sixty-seven percent (67%) of the Unit Owners and (c) is approved by at least sixty-seven percent (67%) of the Unit Owners. The Association shall not pursue any claim for special, indirect or consequential damages against Declarant.

ARTICLE VI

COMMON EXPENSES AND ASSESSMENTS

Section 6.01. Covenant for Assessments. Declarant, for each Unit it owns (for so long as it owns such Units), hereby covenants, and each Unit Owner of a Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance instrument, is deemed to covenant and agree to pay to the Association all general and special condominium assessments levied by the Board for Common Expenses pursuant to this Declaration. Such assessments, together with such interest and late charges thereon and costs of collection thereof (including reasonable attorneys' fees), as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Unit against which each such assessment is made, subject to Article X hereof. Each such assessment, together with such interest, late charges and costs of collection, shall also be the personal obligation of the person who was the Unit Owner of such Unit at the time when the assessment fell due. Except as otherwise provided in this Declaration, such personal obligation shall pass to such Unit Owner's successors in title if not fully discharged by the transferor Unit Owner prior to any transfer of such Unit. In addition to the

annual assessments authorized above, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, maintenance or replacement item not contemplated in the annual budget. The foregoing special assessments may be levied notwithstanding the fact that the Association may have then accumulated a reserve. Upon acquisition of record title to a Unit from the Declarant, each purchaser of a Unit shall contribute to the working capital fund of the Association an amount equal to three (3) months of the then current monthly assessment for such Unit as determined by the Board. This amount shall be deposited by the purchaser of such Unit into an escrow established in connection with the closing of the purchase and sale of the Unit and disbursed therefrom to the Association, which shall hold such funds in a segregated interest-bearing account for the use and benefit of the Association. The Declarant shall have no obligation to make contributions to the working capital fund. The purpose of the working capital fund is to ensure that the Board will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board.

Section 6.02. Purpose and Use of Assessments. The assessments levied pursuant to this Declaration shall be used for the purpose of promoting the health, safety and welfare of the residents or occupants of the Property and in particular for the improvement and maintenance of the Property, services and facilities devoted to this purpose and related to the use and enjoyment of the Property, and of the Units situated upon the Property, and for such other purposes as may be described in this Declaration. Such uses shall include, but are not limited to, the cost to the Association of any and all insurance premiums with respect to, and the expense of operation, repair, replacement and maintenance of, the Building and other facilities and activities, including, but not limited to, caring for the grounds, landscaping, paving, equipment, sanitary and storm sewer and water service lines which service the Condominium, structures and appurtenances (other than facilities and activities maintained by any governmental authority or utility company), the expenses incurred by the Board in performing its activities authorized hereunder, the expenses incurred by the Committees in performing their respective activities authorized hereunder and other charges required by this Declaration or that the Board shall determine to be necessary or desirable to meet the primary purpose of the Association. In addition, water, waste removal and/or any utilities which are not separately metered or otherwise directly charged to individual Unit Owners shall be paid for by the Association from such assessments. The Board reserves the right to levy additional assessments against any Unit Owner to reimburse it for excessive use by such Unit Owner of any utility or other service. The Board shall, pursuant to Section 76-844(c) of the Act, have the power and authority to assess any Common Expenses benefitting fewer than all of the Units exclusively against the Units benefitted thereby. Notwithstanding anything herein to the contrary, the Board shall assess only the Commercial Units for the expenses incurred by the Commercial Committee and shall assess only the Residential Units for the expenses incurred by the Residential Committee.

Section 6.03. Preparation of Annual Budget. On or before November 1 of each calendar year, the Board shall cause to be prepared a detailed proposed budget for the ensuing calendar year. Such budget shall take into account the estimated annual Common Expenses and cash requirements for the year, including wages, materials, insurance, services, supplies and all other Common Expenses, together with a reasonable amount considered by the Board to be necessary for adequate reserves, including, without limitation, amounts to maintain a Capital

Reserve (as hereinafter defined in Section 6.04). The annual budget shall also take into account the estimated net available cash income for the year from the operation or use of the Common Elements and, to the extent that the assessments and other cash income collected from the Unit Owners during the preceding year are more or less than the expenses for the preceding year, the surplus or deficit shall also be taken into account. On or before December 1 of each year, the Board shall notify each Unit Owner in writing as to the proposed annual budget, with reasonable itemization thereof, including those portions intended for capital expenditures or repairs or payment of real estate taxes and containing each Unit Owner's respective assessment; provided, however, that such proposed annual budget shall be furnished to each Unit Owner at least thirty (30) days prior to its adoption by the Board. On or before January 1 of the ensuing calendar year, and the first day of each and every month of such year, each Unit Owner, jointly and severally, shall be personally liable for and obligated to pay to the Board (or as it may direct) one-twelfth (1/12) of such Unit Owner's proportionate share of the Common Expenses for each year as shown by the annual budget. Such proportionate share for each Unit Owner shall be in accordance with such Unit Owner's respective percentage of ownership in the Common Elements as set forth in Exhibit B attached hereto. On or before April 1 of each calendar year following the initial meeting of the Unit Owners, the Board shall supply to all Unit Owners an itemized accounting of the Common Expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenses plus reserves. Such accounting shall, upon the written request of any Unit Owner, be prepared by a certified public accountant, in which event such accounting shall be due as soon as reasonably possible after such request. Any net shortage or excess shall be applied as an adjustment to the installments due under the current year's estimate in the succeeding three (3) months after rendering of the accounting, subject, however, to the provisions of Section 6.04 hereof. Each Unit Owner shall receive notice, in the same manner as is provided for meetings of the Unit Owners, of any meeting of the Board concerning the adoption of the proposed annual budget.

Section 6.04. Capital Reserve; Supplemental Budget. The Association shall segregate and maintain a special reserve account to be used solely for making capital expenditures and paying for the costs of deferred maintenance in connection with the Common Elements (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of Improvements to the Common Elements and equipment owned by the Association as well as periodic projections of the cost of anticipated major repairs or improvements and maintenance, repairs and replacements necessary to the Common Elements or the purchase of equipment to be used by the Association in connection with its duties hereunder. Each budget shall disclose that percentage of the annual assessment which shall be added to the Capital Reserve, and each Unit Owner shall be deemed to make a capital contribution to the Association equal to such percentage multiplied by each installment of the annual assessment paid by such Unit Owner. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such portions of any specific contingency reserve or the Capital Reserve, as applicable, which remains unallocated. If the estimated Common Expenses contained in the budget prove inadequate for any reason or in the event a nonrecurring Common Expense is anticipated for any year, then the Board may prepare and approve a supplemental budget covering the estimated deficiency or nonrecurring expense for the remainder of such year, copies

of which supplemental budget shall be furnished to each Unit Owner, and thereupon a special or separate assessment shall be made to each Unit Owner for such Unit Owner's proportionate share of such supplemental budget. All Unit Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount. In addition to the foregoing, any Common Expense not set forth in the annual budget or any increase in assessments over the amount set forth in the adopted annual budget shall be separately assessed against all Unit Owners. Assessments for additions and alterations to the Common Elements or to property owned by the Association not included in the adopted annual budget shall be separately assessed against all Unit Owners and, except if relating to an utilities, insurance, emergency or as otherwise mandated by law, shall be subject to the affirmative vote of at least sixty-seven percent (67%) of the total votes of all Voting Members (by percentage interest in the Common Elements) at a meeting specifically called for the purpose of approving such special or separate assessment. The Board may adopt special or separate assessments payable over more than one fiscal year. Unless such multiyear assessment relates to an emergency or is mandated by law or is for an addition or alteration to the Common Elements or to the property owned by the Association and is not included in the adopted annual budget, the entire amount of such multiyear assessment shall be deemed considered and authorized in the first fiscal year in which such multiyear assessment is approved. Any separate or special assessment for expenditures relating to an emergency or mandated by law may be adopted by the Board without being subject to Unit Owner approval pursuant to Section 5.06(b) or otherwise. As used in this Section 6.04, "emergency" means an immediate danger to the structural integrity of the Common Elements or to the life, health, safety or property of the Unit Owners. Each Unit Owner shall receive notice, in the same manner as is provided for meetings of the Unit Owners, of any meeting of the Board concerning the adoption of any supplemental budget or any special or separate assessment.

Section 6.05. Initial Budget. The initial Board appointed by the Declarant shall determine and adopt, prior to the conveyance of the first Unit Ownership hereunder, an initial budget commencing with the first day of the month in which the sale of the first Unit Ownership is closed and ending on December 31 of the calendar year in which such sale occurs, and shall continue to determine the proposed annual budget for each succeeding calendar year until the initial meeting of Unit Owner described in Section 5.04(b) of the Declaration, and which may include such sums as collected from time to time at the closing of the sale of each Unit Ownership. The obligation to pay assessments provided for herein shall commence for all Units on the date on which this Declaration is recorded with the Douglas County Register of Deeds. Assessments shall be levied against the Unit Owners during such period as provided in Section 6.03 of this Article, except that if the closing of the sale of the first Unit Ownership is not on January 1, monthly assessments to be paid by Unit Owners shall be based upon the amount of the budget and the number of months and days remaining in such calendar year.

Section 6.06. Failure To Prepare Annual Budget. The failure or delay of the Board to give notice to each Unit Owner of the annual budget shall not constitute a waiver or release in any manner of such Unit Owner's obligation to pay such Unit Owner's respective monthly assessment, as herein provided, whenever the same shall be determined, and in the absence of the annual or adjusted budget, the Unit Owner shall continue to pay monthly assessment at the then existing monthly rate established for the previous period until the monthly assessment which is due more than ten (10) days after notice is given of such new annual budget.

Section 6.07. Records of the Association.

(a) The managing company or the Board shall maintain the following records of the Association available for inspection, examination and copying during normal business hours by the Unit Owners, Eligible Mortgagees, and their duly authorized agents or attorneys:

(i) Copies of this Declaration (including the By-Laws) and any amendments, Articles of Incorporation of the Association, annual reports and any rules and regulations adopted by the Association or its Board, and the Association's books, records and financial statements shall be available. Prior to the organization of the Association, the Declarant shall maintain and make available the records set forth in this subsection (i) for examination and copying.

(ii) Detailed accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing rents, the maintenance and repair expenses of the Common Elements and any other expense incurred.

(iii) Copies of all contracts, leases or other agreements entered into by the Association shall be maintained.

(iv) The minutes of all meetings of the Association and the Board shall be maintained.

(v) Ballots and proxies relating thereto for all elections to the Board and for any other matters voted on by the Unit Owners shall be maintained for a period of not less than one (1) year, provided that if the Association has adopted the secret ballot process under the Act and under this Declaration, unless directed by court order, only the voting ballot excluding a Unit number or symbol shall be subject to inspection and copying.

(b) A reasonable fee may be charged by the Association or its Board for the cost of copying.

(c) Upon ten (10) days' notice to the Board and payment of a reasonable fee, any Unit Owner shall be furnished a statement of such Unit Owner's account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

Section 6.08. Status of Collected Funds. All funds collected hereunder shall be held and expended for the purposes designated herein and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments or user charges) shall be deemed to be held for the benefit, use and account of all the Unit Owners in the percentages set forth in Exhibit B.

Section 6.09. User Charges. The Board, or the Declarant, acting pursuant to Section 13.01 hereof, may establish, and each Unit Owner shall pay, user charges to defray the expense of providing services, facilities or benefits which may not be used equally or proportionately by all of the Unit Owners or which, in the judgment of the Board, should not be charged to every Unit Owner. Such expense may include such services and facilities provided to Unit Owners which the Board determines should not be allocated among all of the Unit Owners in the same manner as the Common Expenses. Such user charges may be billed separately to each Unit Owner benefited thereby, or may be added to such Unit Owner's share of the Common Expenses, as otherwise determined, and collected as a part thereof. Nothing herein shall require the establishment of user charges pursuant to this Section 6.09, and the Board or the Declarant may elect to treat all or any portion thereof as Common Expenses.

Section 6.10. Nonuse and Abandonment. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or abandonment of his, her or their Units.

ARTICLE VII

COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

Section 7.01. Use/Occupancy Restrictions. The Property shall be occupied and used as follows:

- (a) Each Residential Unit (or any two or more adjoining Residential Units used together) shall be used for residential purposes only, each Commercial Unit shall be used for commercial or retail purposes. That part of the Common Elements separating any two or more adjoining Residential Units or Commercial Units which are owned by the same Unit Owner, including, without limitation, walls separating such Units and hallways serving only such Units, may be altered, removed or made part of such Units to afford ingress and egress to and from such adjoining Units, and new walls obstructing such hallways may be added to the Common Elements; provided, however, that (i) such alteration or removal shall not impair or weaken the structural integrity of any Unit or any portion of the Common Elements; (ii) the Unit Owner shall furnish to the Board not less than thirty (30) days prior to the date the Unit Owner desires to commence such work all plans detailing the work to be done; (iii) the Board consents to the performance of such work and grants permission to the Unit Owner to use such Common Elements as Limited Common Elements; (iv) the expense of such alterations shall be paid in full by the Unit Owner making such alterations; and (v) such Unit Owner shall pay in full the expense of restoring such Common Elements to their former condition prior to such alterations in the event such Units cease to be used together; provided, however, that the foregoing subsections (ii) through (v) shall not apply to the Declarant. The Commercial Units shall be used for any business or commercial use or purpose allowed under the City of Omaha zoning ordinances, at the sole option of the Unit Owner(s) of the Commercial Units.

(b) There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements (except in areas designed for such purpose, in areas which are Limited Common Elements serving exclusively the Unit of the Unit Owner obstructing same and in areas made part of a Unit in accordance with Section 7.01(a) hereof) without the prior consent of the Board, or except as hereinafter expressly provided. Each Unit Owner shall be obligated to maintain and keep in good order and repair such Unit Owner's own Unit.

(c) Nothing shall be done or kept in any Unit or in the Common Elements serving the Units which will increase the rate of insurance on any of the Building or contents thereof without the prior written consent of the Board. In any case, the Unit Owner shall be responsible for payment of any such increase. No Unit Owner shall permit anything to be done or kept in such Unit Owner's Unit or in the Common Elements which will result in the cancellation of insurance on any of the Building or contents thereof or which would be in violation of any law. No waste shall be committed in the Common Elements.

(d) In order to enhance the sound conditioning of the Building, the floor covering for all occupied Residential Units shall meet the minimum standard as may be specified by rules and regulations of the Residential Committee or Board and by Section 4.05(b)(ii) hereof; provided, however, that the floor covering existing in any Unit as of the date of the recording of this Declaration shall be deemed in compliance with any such rules and regulations.

(e) No animals, reptiles, livestock or poultry of any kind shall be raised, bred or kept in any Unit or the Common Elements, except each Unit Owner of a Residential Unit shall be entitled to keep two (2) domesticated pets in any Residential Unit (or any two or more adjoining Residential Units used together), that are not kept or bred for any commercial purpose, are not of a dangerous or violent nature, are not allowed to run loose on the Property, are kept in strict accordance with such other rules and regulations relating to household pets as may be from time to time adopted or approved by the Board (which rules and regulations may prohibit certain types or species of pets and may provide for limits on the size and the weight of permitted pets), and do not, in the judgment of the Board, constitute a nuisance to others. Each Unit Owner and each Occupant shall be responsible for picking up after any animal kept in such Unit Owner's or Occupant's respective Residential Unit, including, without limitation, removing any waste deposited by such animal anywhere on the Common Elements or anywhere on the Property.

(f) No nuisance, noxious, unlawful or offensive activity shall be carried on in any Unit or in the Common Elements (including, without limitation, discharge of firearms), nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or Occupants or which shall in the judgment of the Board cause unreasonable noise or disturbance to others.

(g) Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building, which would structurally change the Building, except as is otherwise provided herein. No Unit Owner shall overload the electric wiring in the Building, or operate machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others or connect any machines, appliances, accessories or equipment to the heating or plumbing system, without the prior written consent of the Board or the managing agent, acting in accordance with the Board's direction. No Unit Owner shall overload the floors of any Unit. Any furnishings which may cause floor overloads shall not be placed, kept or used in any Unit except only in accordance with advance written Board approval.

(h) No Unit Owner shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles, or any signage (including, without limitation, any "For Sale," "For Rent" or similar signage, or any other signage), billboards or any other unsightly objects, outside such Unit Owner's Unit, or which may be visible from the outside of such Unit Owner's Unit (other than draperies, curtains or shades of a customary nature and appearance, subject to the rules and regulations of the Board and the Committees), or paint or decorate or adorn the outside of such Unit Owner's Unit, or install outside such Unit Owner's Unit any canopy or awning, outside radio or television antenna, dish or other receptive or transmitting device, window screens, flower pots, bird feeders, or other equipment, fixtures or items of any kind, without the prior written permission of the Board or the managing agent, acting in accordance with the Board's direction; provided, however, that the foregoing shall not apply to the Declarant.

(i) Articles of personal property belonging to any Unit Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing and other articles, shall not be stored or kept in any area constituting part of the Common Elements.

(j) No use of a Unit shall be conducted, maintained or permitted to the extent same is in violation of the uses permitted hereunder or under any applicable laws, statutes, codes, regulations or ordinances governing the Property from time to time (including, without limitation, the relevant provisions of the City of Omaha zoning ordinances).

(k) During the period that the Declarant, or its respective agents, successors or assigns, is engaged in the marketing, sales or leasing of Units or the sales or leasing of any portion of the Property, or performing work in or about the Property, Declarant and its agents, employees, successors, assigns, contractors, subcontractors, brokers, licensees and invitees (and each of them) shall be entitled to (i) have access, ingress and egress to and from the Building and Common Elements and use such portion of the Building and Common Elements as may be necessary or desirable in connection with such marketing, sales, leasing of Residential Units or Commercial Units and other property within the Property or the performance of work in or about the Property; (ii) use or show one or more unsold and unconveyed Units or portion or portions of the Common Elements as a model Unit or Units (for sale or lease), sales office, construction or refurbishment office

or administrative or management office or for such other purposes deemed necessary or desirable in connection with such construction, refurbishment, administration, marketing, sales or leasing of Residential Units or Commercial Units or the performance of work in or about the Property; (iii) post and maintain such signs, banners and flags or other advertising material in, on or about the Building and Common Elements in such form as deemed desirable by Declarant, and as may be deemed necessary or desirable in connection with the marketing, sales, leasing or management of Residential Units or Commercial Units, or the performance of work in or about the Property or in connection with (i) and (ii) above; and (iv) complete or correct construction of, or make alterations of and additions and improvements to, the Units or the Common Elements in connection with any of the Declarant's activities in connection with the construction, promotion, marketing, sales or leasing of the Residential Units, Commercial Units or the performance of work in or about the Property. The foregoing are in addition to and not in limitation of the rights granted under Section 4.03(c) hereof. The foregoing and the rights granted under Section 4.03(c) hereof shall not be amended or modified in any manner without the express written consent of the Declarant, or its successors or assigns.

(l) The Unit restrictions in paragraph (a) of Section 7.01 shall not, however, be construed in such a manner as to prohibit a Unit Owner of a Residential Unit from: (i) maintaining his or her personal professional library therein; (ii) keeping his or her personal business or professional records or accounts therein; (iii) handling his or her personal business or professional telephone calls or correspondence therefrom; (iv) maintaining a computer or other office equipment within the Unit; or (v) utilizing secretarial help and having occasional business visitors. Such uses are expressly declared customarily incident to the principal resident use and not in violation of paragraph (a) of this Section 7.01. Notwithstanding the foregoing, no Unit Owner other than a Commercial Owner shall suffer or permit the regular or consistent entry of customers or clients.

(m) Each Unit Owner shall have the right to lease such Unit Owner's Unit in accordance with the requirements of this Section 7.01(m) of this Declaration. Every lease of a Unit shall be in writing, for a term of no more than one (1) year, and shall be made expressly subject to the requirements, rights, covenants, conditions, restrictions and easements of this Declaration, the By-Laws and the rules and regulations of the Association and the Unit Owner making such lease, and the failure of the lessee to comply therewith shall constitute a default under the lease. In such an event, the Association may elect to pursue any remedy as may be available against such lessee at law or in equity. The Unit Owner making such lease shall not be relieved thereby from any of said obligations. The provisions of the Act, this Declaration, the By-Laws and rules and regulations that relate to the use of the individual Unit or the Common Elements shall be applicable to any person leasing a Unit Ownership and shall be deemed to be incorporated in any lease executed in connection with a Unit Ownership. The Association may prohibit a tenant from occupying a Unit Ownership until the Unit Owner complies with the leasing requirements prescribed in this Declaration or as may be adopted by the Association. In addition to any other remedies provided for in this Declaration, by filing an action jointly against the tenant and the Unit Owner, the

Association may seek to enjoin such tenant from occupying a Unit or seek to evict such tenant under the provisions of Nebraska law for failure of the Unit Owner to comply with the leasing requirements prescribed by this Section or elsewhere in this Declaration, the By-Laws or the rules and regulations of the Association. The Board may proceed directly against such tenant, in law or in equity, or under the provisions of Nebraska law, for any other breach by such tenant of the provisions of this Declaration, the By-Laws or the rules and regulations of the Association.

(n) Each Unit Owner shall deposit with the Board duplicate keys for all locks required for entry to his or her Residential Unit or Commercial Unit.

(o) No Unit Owner shall do or permit to be done in such Unit Owner's Unit or anywhere else in the Property any act or thing which will impair any easement or hereditament granted to any other party, nor shall any Unit Owner create or permit to exist in such Unit Owner's Unit or anywhere else in the Property any condition which will adversely affect the use or enjoyment of the Property or any part or portion thereof by any party entitled to such use or enjoyment.

(p) All rubbish, trash and garbage shall be kept on the Property so as not to be seen from neighboring property and shall be regularly removed from the Property and shall not be allowed to accumulate thereon. In addition to the foregoing, all rubbish, trash and garbage shall be stored and removed in accordance with the rules and regulations adopted by the Board and City laws, codes and ordinances.

(q) In addition to the restrictions set forth in this Declaration, the Association may from time to time adopt such rules and regulations governing the use or enjoyment of the Units and the Common Elements as the Board, in its reasonable discretion, deems desirable, appropriate or necessary.

(r) Notwithstanding any provision in this Declaration to the contrary: (i) the Unit Owner, Occupant(s), and tenant(s) of the Commercial Units and their customers, employees, and invitees may use the Commercial Units in conformity with state and local law and their use of the Common Elements (including the lobby areas, halls, corridors, and other facilities) in the ordinary course of the commercial activities for which the Commercial Units are used; (ii) the Declarant reserves to itself and to the Unit Owner of the Commercial Units the right to make such improvements or alterations to the Commercial Units and to locate and relocate Common Elements from time to time as the Declarant or the Unit Owners of the Commercial Units may deem desirable for the purpose of improving the operation of and access to the Commercial Units and the Declarant reserves to itself and to the Unit Owners of the Commercial Units the right to install such utility lines in the Common Elements for the purpose of providing utility service to the Commercial Units as the Declarant or the Unit Owner of the Commercial Units may deem desirable; (iii) the Unit Owners of the Commercial Units may make alterations and improvements to the Limited Common Elements appurtenant to the Commercial Units without the consent or prior approval of the Board, provided such work does not affect the structure of the Common Elements or increase the cost of

insurance required to be carried by the Board hereunder; (iv) the Board shall not permit the obstruction of any lobby entrances, passageways, corridors, or other portions of the Common Elements or Limited Common Elements which serve the Commercial Units; (v) the Unit Owner of the Commercial Units shall have the right to install and maintain signs within the Commercial Units and exterior signs, awnings, and canopies in and on the Building, which signage, awnings and canopies may be installed only with the prior written approval of the Board (which approval shall not be unreasonably withheld, conditioned or delayed) and shall be subject to reasonable rules and regulations promulgated by the Board from time to time, shall not affect the structure of the Common Elements and shall not increase the cost of insurance required to be carried by the Board hereunder; (vi) the Unit Owner of the Commercial Units shall be eligible to be a Director, and no residency requirement for Board membership shall be applicable to the Commercial Owner; and (vii) notwithstanding any other provision of this Declaration, the By-Laws or any rules and regulations of the Board, all or any portion or portions of the Commercial Units may be leased by the Unit Owner of the Commercial Units in any manner and pursuant to any terms as such Unit Owner deems appropriate, in its sole and absolute discretion, all without the prior approval or consent of the Board or the Association, provided the proposed use of the Commercial Units is in accordance with all applicable laws, ordinances, rules and regulations, the terms and provisions of this Declaration. As provided in Section 6.09 above, the Board, or the Declarant, acting pursuant to Section 13.01 hereof, may establish user charges to defray the expense of providing services, facilities, or benefits which may not be used equally or proportionately by all of the Unit Owners or which, in the judgment of the Board, should not be charged to every Unit Owner. As the Commercial Units may require the provision of services, facilities or benefits that exceed the amount of such services, facilities or benefits required for Residential Units (taking into account the relative percentage interests in the Common Elements allocable to such Commercial Units as it relates to the Residential Units), the Board, or the Declarant, acting pursuant to Section 13.01 hereof, may establish user charges allocable to one or more of the Commercial Units to account for the provision of additional services, facilities or benefits to such Commercial Units. Such expenses may include such services and facilities provided to Unit Owners of the Commercial Units which the Board determines should not be allocated among all of the Unit Owners in the same manner as the Common Expenses. Such user charges may be billed separately to each Unit Owner of a Commercial Unit benefited thereby, or may be added to such Commercial Owner's share of the Common Expenses, as otherwise determined, and collected as a part thereof. Nothing herein shall require the establishment of user charges attributable to one or more Commercial Units, and the Board or the Declarant may elect to treat all or any portion thereof as Common Expenses. Neither this Section 7.01(r) nor Section 7.01(a) or any other provision of this Declaration or the By-Laws as it applies to the Commercial Units shall be amended or rescinded without the approval of all of the Commercial Owners.

(s) Each Unit Owner shall be obligated to pay any and all charges and assessments for electricity, other utilities, and taxes levied against its Unit. For reasons of efficiency in the Condominium and to avoid confusion and an unnecessary number of cables and lines in the Condominium, the Board shall have the right to designate specific

providers of utility services such as (but without limitation) electricity, gas, telephone, internet connection, fiber optic wiring, cable television and/or satellite television service. After the identity of such providers is approved by the Board (together with any changes which may be made from time to time), all Unit Owners shall utilize only the approved providers of such utility services. Any utility charges to the Association shall be assessed against all Unit Owners in accordance with this Declaration.

ARTICLE VIII

DAMAGE, DESTRUCTION, CONDEMNATION AND RESTORATION OF BUILDINGS

Section 8.01. Sufficient Insurance. In the event the improvements forming a part of the Property, or any portion thereof, including any Units, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, plus Capital Reserves, shall be sufficient to pay the cost of repair, restoration or reconstruction, then such restoration, repair, replacement or reconstruction shall be undertaken and the insurance proceeds and, if necessary, the Capital Reserve shall be applied by the Board or the payee of such insurance proceeds in payment therefor; provided, however, that in the event within one hundred eighty (180) days after such damage or destruction, the Unit Owners shall elect either to sell the Property as hereinafter provided in Article IX hereof or to withdraw the Property from the provisions of this Declaration and from the provisions of the Act as therein provided, then such restoration, repair, replacement or reconstruction shall not be undertaken. In the event such restoration, repair, replacement or reconstruction is not undertaken, the net proceeds of insurance policies shall be divided by the Board or the payee of such insurance proceeds among all Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements as set forth in Exhibit C, after first paying from the share of each Unit Owner the amount of any unpaid liens on such Unit Owner's Unit, in the order of the priority of such liens.

Section 8.02. Insufficient Insurance.

(a) If the insurance proceeds and the Capital Reserve are insufficient to reconstruct the affected Building or Building and the Unit Owners and all other parties in interest do not voluntarily make provision for reconstruction of the Building within one-hundred eighty (180) days from the date of damage or destruction, then the provisions of the Act and this Section 8.02 shall apply.

(b) In the case of damage or other destruction in which fewer than one-half ($\frac{1}{2}$) of the Residential Units and Commercial Units are rendered uninhabitable, upon the affirmative vote of eighty percent (80%) of the Voting Members at a meeting called for that purpose, the affected Building or Building or other portion of the Property shall be reconstructed. The meeting shall be held within thirty (30) days following the final adjustment of insurance claims, if any; otherwise, such meeting shall be held within ninety (90) days of the occurrence of the damage or other destruction. At such meeting the Board or its representatives shall present to the members present an estimate of the

cost of repair or reconstruction and the estimated amount of necessary assessments against each Unit Owner.

(c) In the case of damage or other destruction, upon the unanimous affirmative vote of the Voting Members at a meeting called for that purpose, any portion of the Property affected by such damage or destruction may be withdrawn from the Act. Upon the withdrawal of any Unit or portion thereof, the percentage of interest in the Common Elements appurtenant to such Unit or portion thereof shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, upon the basis of diminution in market value of the Unit, as determined by the Board. The payment of just compensation or the allocation of any insurance or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a Unit's percentage interest. Any insurance or other proceeds available in connection with the withdrawal of any portion of the Common Elements, not necessarily including the Limited Common Elements, shall be allocated on the basis of each Unit Owner's percentage interest therein. Any proceeds available from the withdrawal of any Limited Common Elements will be distributed in accordance with the interest of those entitled to their use. Upon the withdrawal of any Unit or portion thereof, the responsibility for the payment of assessments on such Unit or portion thereof by the Unit Owner shall cease.

Section 8.03. Eminent Domain. In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal of the portions so taken from the provisions of the Act may be made by the Board. Upon the withdrawal of any Unit or portion thereof due to eminent domain, the percentage of interest in the Common Elements appurtenant to such Unit or portion so withdrawn shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, upon the basis of diminution in market value of the Unit, as determined by the Board, and the other Unit Owners' percentages shall be correspondingly increased. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a Unit's percentage interest. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common Elements, not necessarily including the Limited Common Elements, shall be allocated on the basis of each Unit Owner's percentage interest therein. Proceeds available from the withdrawal of any Limited Common Element will be distributed in accordance with the interests of those entitled to their use. Upon the withdrawal of any Unit or portion thereof, the responsibility for the payment of assessments on such Unit or portion thereof by the Unit Owner shall cease. The Association shall represent the Unit Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the Common Elements or any part thereof, and the Association is hereby appointed as attorney-in-fact for each Unit Owner to represent the Unit Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority relating to such acquisitions of the Common Elements or any part thereof. In the event of the total taking of the Property by eminent domain, the condemnation award available in that connection shall be divided by the

Association among all Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements as set forth in Exhibit C, after first paying from the share of each Unit Owner the amount of any unpaid liens on such Unit Owner's Unit, in the order of the priority of such liens.

Section 8.04. Repair, Restoration or Reconstruction of the Improvements. As used in this Article, "restoration, repair, replacement or reconstruction" of improvements means restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and Common Element having the same vertical and horizontal boundaries as before, unless, if allowed by the Act, other action is approved by Unit Owners and their respective Eligible Mortgagees representing at least eighty percent (80%) of the votes in the Association (by percentage interest in the Common Elements). Any repair, restoration or reconstruction shall be in accordance with law and this Declaration and shall be made subject to the rights of the Eligible Mortgagees.

ARTICLE IX

SALE OF THE PROPERTY

Subject to the requirements of this Declaration, at a meeting duly called for such purpose and attended by all Unit Owners, the Unit Owners by affirmative vote of Unit Owners who own eighty percent (80%) or more in the aggregate of the entire percentage ownership interest in the Common Elements may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale is approved, the Board shall give written notice of such action to each Eligible Mortgagee. Such action shall be binding upon all Unit Owners, and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect such sale.

ARTICLE X

REMEDIES

Section 10.01. Violations. Upon the occurrence of any one or more of the following events, the Board shall have the rights and remedies set forth in Section 10.02 of this Declaration:

(a) Failure by a Unit Owner to pay when due any sums required to be paid by such Unit Owner pursuant to the provisions of this Declaration, for thirty (30) days after written notice of such nonpayment shall have been given such Unit Owner, provided that such defaulting Unit Owner shall not be entitled to written notice and opportunity to cure such failure if such Unit Owner has been given two (2) or more notices pursuant to this Section 10.01(a) during the twelve (12) month period immediately preceding the first day of such failure. If the assessment is not paid within thirty (30) days after the due date, then (i) the amount of the assessment shall bear interest from the date of delinquency at a rate reasonably determined by the Board, and (ii) in addition to such interest, the Association shall charge a delinquent Unit Owner a late fee of five percent (5%) of the

assessment for each month or portion thereof that such amount remains delinquent, such late charge to cover the Association's administrative costs in monitoring and collecting such amount. Such assessments, interest, late charges and all costs of collection shall be a continuing lien upon the Unit against each such assessment was made.

(b) Violation or breach by a Unit Owner or an Occupant of any provision, covenant or restriction of the Act, this Declaration, the By-Laws, contractual obligation to the Board or Association undertaken by such Unit Owner, or rules and regulations promulgated by the Board, and continuation of such violation or breach for thirty (30) days after written notice thereof shall have been given such Unit Owner, provided that such defaulting Unit Owner shall not be entitled to written notice and opportunity to correct such violation or breach if such Unit Owner has been given two (2) or more notices pursuant to this Section 10.01(b) during the twelve (12) month period immediately preceding the first day of such violation or breach.

Section 10.02. Remedies. Upon the occurrence of any one or more of the events described in Section 10.01, the Board shall have the following rights and remedies:

(a) For a violation or breach described in Section 10.01(b) hereof, the Board shall have the right: (i) to enter upon that part of the Property where such violation or breach exists and summarily abate and remove or do whatever else may be necessary to correct, at the expense of the defaulting Unit Owner, any such violation or breach or the cause of such violation or breach, and the Declarant or its successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass, or (ii) to enjoin, abate or remedy by a proceeding at law or in equity the continuance of any such violation or breach; provided, however, that no summary abatement shall be undertaken in connection with any alteration or demolition of improvements until judicial proceedings are instituted.

(b) Upon the occurrence of one of the events described in Section 10.01(a) hereof, including, without limitation, failure by a Unit Owner to pay such Unit Owner's percentage share of Common Expenses or user charges, the Board shall have a lien on the interest of the defaulting Unit Owner in such Unit Owner's Unit Ownership in the amount of any sums due from such Unit Owner; provided, however, that such lien shall be subordinate to the lien of any recorded mortgage encumbering the interest of such Unit Owner. Except as hereinafter provided, the lien provided for in this Section 10.02(b) shall not be affected by any transfer of title to the Unit Ownership. Where title to the Unit Ownership is transferred pursuant to a decree of foreclosure or by deed in lieu of foreclosure, such transfer of title shall, to the extent permitted by law, extinguish the lien described in this Section 10.02(b) for any sums which became due prior to (i) the date of the transfer of title or (ii) the date on which the transferee comes into possession of the Unit Ownership, whichever occurs first. However, the transferee of a Unit Ownership shall be liable for such Unit Owner's share of any sums with respect to which a lien against such Unit Owner's Unit Ownership has been extinguished pursuant to the preceding sentence which are reallocated among the Unit Owners pursuant to a subsequently adopted annual revised or special assessment, and nonpayment thereof by

such transferee shall result in a lien against the transferee's Unit Ownership as provided in this Section 10.02(b).

(c) The Board shall have the power to issue to the defaulting Unit Owner a ten (10) day notice in writing to terminate the right of such defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use, or control such Unit Owner's Unit Ownership and thereupon an action may be filed by the Board against the defaulting Unit Owner for a decree declaring the termination of the defaulting Unit Owner's right to occupy, use or control the Unit owned by him and, subject to the limitations of applicable law, ordering that all the right, title and interest of such defaulting Unit Owner in the Property shall be sold at a judicial sale, upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the defaulting Unit Owner from reacquiring such Unit Owner's interest in the Unit Ownership at such judicial sale. It shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Unit Ownership sold subject to this Declaration. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Unit Owner in such decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments or other sums due hereunder or any liens, shall be paid to the defaulting Unit Owner. Upon the confirmation of such sale, the purchaser at such sale shall be entitled to a deed to the Unit Ownership and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession.

(d) In addition to or in conjunction with the remedies set forth above, the Board or its agents shall have the right to bring an action at law or in equity against the Unit Owner or Occupant as permitted by law, including, without limitation, an action (i) to foreclose a lien against the Unit Ownership, (ii) for damages, injunctive relief or specific performance, (iii) for judgment or for the payment of money and the collection thereof, (iv) for any combination of the remedies set forth in this Article or (v) for any other relief which the Board may deem necessary or appropriate. Any and all rights and remedies provided for in the Act, this Declaration, the By-Laws, any contractual obligation to the Board or Association undertaken by such Unit Owner, or rules and regulations promulgated by the Board may be exercised at any time and from time to time cumulatively or otherwise by the Board in its discretion. The failure of the Board to exercise any such rights or remedies to enforce any provisions of this Declaration, the By-Laws or rules and regulations of the Board shall in no event be deemed a waiver of the right to do so thereafter.

(e) All expenses incurred by the Board in connection with any actions, proceedings or self-help in connection with the exercise of its rights and remedies under this Article, including, without limitation, court costs, reasonable attorneys' fees and all other fees and expenses, and all damages, together with interest thereon at the rate of eighteen percent (18%) per annum (or such lesser rate charged by law should eighteen percent (18%) be held to be in excess of the maximum legal rate allowable by law), shall be charged to and assessed against the defaulting Unit Owner, and shall be added to and

deemed part of such Unit Owner's respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Unit Owner and upon all of such Unit Owner's additions and improvements thereto.

Section 10.03. Enforcement by Unit Owners. Any aggrieved Unit Owner (including Declarant) may enforce the provisions of this Declaration, the By-Laws or any rules and regulations promulgated by the Board by an action at law or in equity against the defaulting Association or against the defaulting Unit Owner or Occupant upon a violation or breach described in Section 10.01(b) hereof against any person or persons either to restrain such violation or breach or to recover damages.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01. Miscellaneous Provisions Respecting Mortgages. The following provisions are intended for the benefit of Eligible Mortgagees, and to the extent, if at all, that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

(a) upon request in writing to the Association identifying the name and address of the Eligible Mortgagee and the Unit number, the Association shall furnish each Eligible Mortgagee a written notice of any default by the Unit Owner whose Unit is subject to the lien of such Eligible Mortgagee of that Unit Owner's obligations under this Declaration which is not cured within thirty (30) days. Any Eligible Mortgagee of a Unit, as well as any other holder of a prior recorded mortgage on a Unit Ownership, who comes into possession of the Unit Ownership pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure shall, to the extent permitted by law, take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Unit Ownership which become due prior to (i) the date of the transfer of title or (ii) the date on which the holder comes into possession of the Unit Ownership, whichever occurs first (except for any sums which are reallocated among the Unit Owners pursuant to the last sentence of Section 10.02(c) hereof);

(b) no provision of this Declaration, the By-Laws or the Articles of Incorporation of the Association or any similar instrument pertaining to the Property or the Units therein shall be deemed to give a Unit Owner or any other party priority over the rights of the Eligible Mortgagees pursuant to their mortgages in the case of distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of the Units, or the Common Elements, or any portion thereof or interest therein. In such event, the Eligible Mortgagees of the Units affected shall be entitled, upon specific written request, to timely written notice of any such loss;

(c) upon specific written request to the Association, each Eligible Mortgagee of a Unit Ownership shall be furnished notice in writing by the Association of any

damage to or destruction or taking of the Common Elements or the Unit Ownership that is subject to such Eligible Mortgagee's mortgage. In no event will the provisions of any document entitle a Unit Owner or other party to priority over such Eligible Mortgagee with respect to distribution to such Unit Ownership of the Proceeds of any award or settlement;

(d) if any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the Eligible Mortgagee of the Unit Ownership involved will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition and no provisions of any document will entitle the owner of a Unit Ownership or other party to priority over such Eligible Mortgagee with respect to the distribution of the proceeds of any award or settlement;

(e) whenever required, the consent of an Eligible Mortgagee shall be deemed granted unless the party seeking the consent is advised to the contrary in writing by the Eligible Mortgagee within thirty (30) days after making the request for consent, provided such request was delivered by certified or registered mail, return receipt requested; and

(f) Unless at least sixty-seven percent (67%) of the Unit Ownerships (by percentage interest in the Common Elements), and their respective Eligible Mortgagees, have given their prior written approval, neither the Association nor the Unit Owners shall be entitled to:

(i) by act or omission seek to abandon or terminate the Condominium regime, except for abandonment provided by the Act in case of substantial loss to or condemnation of the Units or the Common Elements;

(ii) change the pro rata interest or obligations of any Unit Owner for (A) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and (B) determining the pro rata share of ownership of each Unit Owner in the Common Elements or rights to their use, except as provided in Sections 8.02 and 8.03 and Article XII hereof; or

(iii) use hazard insurance proceeds for losses to any portion of the Property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such improvements, except as provided by the Act in case of substantial loss to the Units or the Common Elements.

ARTICLE XII

TRANSFER OF A UNIT

Section 12.01. Transfers. Subject the terms hereof, a Unit Owner may, without restriction under this Declaration, sell, give, devise, convey, mortgage, lease or otherwise

transfer such Unit Owner's entire Unit. Notice of such transfer shall be given to the Board, in the manner provided herein for the giving of notices, within five (5) days following consummation of such transfer.

Section 12.02. Financing of Purchase by Association. The Board shall have authority to make such mortgage arrangements and other financing arrangements, and to authorize such special assessments proportionately among the respective Unit Owners, as the Board may deem desirable, in order to close and consummate the purchase or lease of a Unit Ownership, or interest therein, by the Association.

Section 12.03. Effect of Noncompliance. If any sale, assignment, lease or sublease of a Unit Ownership is attempted or consummated without complying with the provisions of this Article XII, such sale, assignment, lease or sublease shall be subject to the rights and options of the Board, and remedies available to the Board, hereunder or otherwise, including, without limitation, denial or termination of possession of the Unit.

Section 12.04. Miscellaneous.

(a) The Association shall hold title to any Unit Ownership, pursuant to the terms hereof, in the name of the Association, or a nominee thereof delegated by the Board, for the sole benefit of all Unit Owners. The Board shall have the authority at any time to sell, mortgage, lease or sublease such Unit Ownership on behalf of the Association upon such terms as the Board shall deem desirable, but in no event shall a Unit be sold (other than pursuant to a foreclosure or deed in lieu of foreclosure) for less than the amount paid by the Association to purchase such Unit Ownership unless Unit Owners owning not less than eighty percent (80%) of the total ownership of the Common Elements (by percentage interest in the Common Elements) first authorize the sale for such lesser amount. All of the net proceeds from such a sale, mortgage, lease or sublease shall be applied in such manner as the Board shall determine.

(b) The Board may adopt rules and regulations, from time to time, not inconsistent with the provisions of this Article XII, for the purpose of implementing and effectuating such provisions.

ARTICLE XIII

GENERAL PROVISIONS

Section 13.01. Certain Rights of the Declarant.

(a) Until the earlier of the Transfer Date or the initial meeting of the Unit Owners described in Section 5.04(b) of the Declaration, the rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board in the Act and in this Declaration shall be held and performed by the Declarant, which may be exercised by the designation of an initial Board in accordance with the terms hereof. If the initial Board shall not be elected by the Unit Owners at the time established by this

Declaration, the Declarant shall continue in the aforesaid office for a period of thirty (30) days after written notice of its resignation is sent to all of the Unit Owners entitled to vote at such election. In exercising such rights, and the other rights reserved by the Declarant pursuant to this Declaration, the Declarant shall not be under any disability which would otherwise be imposed by law by reason of the Declarant's interest in the subject matter of any transaction; provided, however, that any such transaction shall have been entered into in good faith.

(b) Prior to the Transfer Date, notwithstanding any provision herein to the contrary, the Declarant shall have the following rights and privileges, which are hereby reserved only to itself and to its successors and assigns and their respective agents:

(i) The Declarant may exercise any of the "development rights" or "special declarant rights" described in Section 76-827 of the Act (collectively, the "Special Declarant Rights").

(ii) The Declarant may (i) relocate the boundaries of any Unit or Units, and (ii) further subdivide any one or more of the Units into additional Units, Common Elements or both, shall be exercisable by the Declarant, its successors and assigns, who shall have the unilateral right to reallocate percentages of undivided interests in the Common Elements, liability for payment of Common Expenses, allocation of Limited Common Elements, and allocation of votes in the Association, as to be done in accordance with this Declaration and the Act. The Declarant shall cause such relocation or subdivision by its adoption, execution or recordation of an amendment to this Declaration by recording such certificates and plans as required by the Act. Such amendment shall be adopted by the Declarant pursuant to the terms hereof without the consent of any Unit Owners. From time to time, as the Declarant shall file permitted amendments to this Declaration, each then owner and each Person or entity thereafter becoming a Unit Owner and its successors in title shall, upon the reallocation of such Common Elements or Limited Common Elements automatically be vested with the appropriate undivided percentage interest in such Common Elements and Limited Common Elements.

Section 13.02. Notices. All notices shall be in writing. Notices provided for in this Declaration and in the Act to be given to the Board or Association shall be addressed to the Residential Unit or Commercial Unit address of each Director or at such other address as otherwise provided herein. Notices provided for in this Declaration and in the Act to be given to any Unit Owner shall be addressed to the address such Unit Owner's Residential Unit or Commercial Unit, or at such other address as otherwise provided herein.

Any Unit Owner or other notice recipient may designate a different address or addresses for notices to it by giving written notice of its change of address to the Board or Association. Notices shall be deemed delivered when mailed by United States registered or certified mail or when delivered in person with written acknowledgment of the receipt thereof, or, if addressed to a Unit Owner, when deposited in such Unit Owner's mailbox at such Residential Unit or

Commercial Unit address as is designated pursuant hereto. Notices sent by nationally recognized overnight courier service (such as FedEx) shall be deemed delivered one (1) day after being sent by such courier service.

Section 13.03. Notice to Mortgagees. Upon written request to the Board, notices shall be given to an Eligible Mortgagee as required under Article XI.

Section 13.04. Notices of Estate or Representatives. Notices required to be given any devisee, heir or personal representative of a deceased Unit Owner may be delivered either personally or by mail to such party at his, her or its address appearing in the records of the court wherein the estate of such deceased Unit Owner is being administered.

Section 13.05. Conveyance and Leases. Each grantee of the Declarant, each subsequent grantee by the acceptance of a deed of conveyance, each purchaser under Articles of Agreement for Deed and each tenant under a lease for a Unit Ownership accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed, shall be deemed and taken to be covenants running with the land and shall bind any person having at any time an interest or estate in the Property and shall inure to the benefit of such Unit Owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.

Section 13.06. No Waivers. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 13.07. Change, Modification or Rescission. No provision of this Declaration affecting the rights, privileges and duties of the Declarant may be modified without the Declarant's prior written consent. Other provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission signed and acknowledged by the President or a Vice-President of the Board, and approved by the Unit Owners having, in the aggregate, at least sixty-seven percent (67%) of the votes of the Association (by percentage interest in the Common Elements), at a meeting called for that purpose; provided, however, that (a) all Eligible Mortgagees have been notified by certified mail of any change, modification or rescission, (b) an affidavit by the Secretary of the Board certifying to such mailing is made a part of such instrument and (c) any provisions herein which specifically grant rights to Eligible Mortgagees may be amended only with the written consent of all such Eligible Mortgagees except in those instances in which the approval of less than all Eligible Mortgagees is required. The change, modification or rescission shall be effective upon recordation of such instrument in the Office of the Register of Deeds of Douglas County, Nebraska.

Section 13.08. Partial Invalidity. Invalidation by judgment or court of any one of the covenants, restrictions, terms, provisions, etc. in this Declaration or the application thereof to any

particular person or circumstance shall in no way affect any other covenant, restriction, term, provision, etc. or the application of such covenant, restriction, term, provision, etc. to other persons or circumstances, and this Declaration in all such other respects shall remain in full force and effect.

Section 13.09. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class condominium development.

Section 13.10. Amendment. Except in connection with the exercise of Special Declarant Rights or as specifically provided otherwise in this Declaration or the Act, this Declaration may be amended only by an instrument in writing signed and acknowledged by Unit Owners representing sixty-seven percent (67%) of the votes of all Voting Members (by percentage interest in the Common Elements) in the Association. Any such amendment shall be effective upon its recording in the office of the Register of Deeds in Douglas County, Nebraska.

(a) Notwithstanding anything herein to the contrary, prior to the Transfer Date, the Declarant (subject to the rights of Eligible Mortgagees) shall have the right to amend this Declaration at any time, without notice to or the approval of any other Unit Owner, by recording the amendment in the office of the Register of Deeds in Douglas County, Nebraska.

(b) Except in connection with the exercise of Special Declarant Rights hereunder or as expressly permitted in the Act, no amendment may increase the number of Units, or change the boundaries of any Unit, the Common Element Interests of a Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners.

(c) All amendments to the Declaration required by the Act to be recorded by the Association shall be prepared, executed, and certified on behalf of the Association by the president of the Association.

Section 13.11. Special Amendment. Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time to amend the Condominium Map or to amend this Declaration (a) to correct clerical or typographical or similar errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto, (b) to exercise any of the Special Declarant Rights or (c) to relocate boundary lines of Units, subdivide or combines Unit(s) owned by Declarant pursuant to Section 2.01(d) of this Declaration. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make or consent to a Special Amendment on behalf of each Unit Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Unit Ownership, and the acceptance thereof, shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights

reserved or granted under this Section shall terminate at such time as the Declarant no longer holds or controls title to a Unit Ownership.

Section 13.12. Assignments by Declarant. All rights which are specified in this Declaration to be rights of the Declarant are mortgageable, pledgeable, assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure or otherwise) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No party exercising rights as Declarant hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

Section 13.13. Consent. If any consent is required under the provisions of this Declaration, the By-Laws or the rules and regulations of the Association, a consent shall be deemed granted if such a request for consent includes a notice that such consent shall be deemed granted if the person or entity required to provide the consent fails to respond within thirty (30) days of the date of the notice, and no response is received during such thirty (30) day period. Except as otherwise specified herein, any request for consent pursuant to or as otherwise contemplated by this Declaration shall not be unreasonably withheld, conditioned or delayed by any party from whom such consent is requested.

ARTICLE XIV

CONDOMINIUM REQUIREMENTS

Section 14.01. Background. The provisions of this Article are intended to comply with the provisions of the Act. The condominium created by this Declaration is a condominium under the Act. Declarant holds fee simple to the Property. Declarant as the fee simple owner of the Property expressly intends to, and by recording this Declaration, does hereby submit and subject the Property as a condominium to the provisions of the Act and to this Declaration.

Section 14.02. Association Representative of Unit Owners. The Association shall be the representative of the Unit Owners in all matters regarding the Condominium.

ARTICLE XV

ADDITIONAL REQUIREMENTS REGARDING IMPROVEMENTS

Section 15.01. Development Guidelines. In addition to any architectural and development standards set forth herein, the Residential Committee and the Commercial Committee may, from time to time, and in their reasonable discretion, draft, propose, adopt and amend their respective Development Guidelines. Such Development Guidelines, and any amendments thereto, shall supplement, interpret and implement the provisions hereof by setting forth: (a) the standards and procedures for Committee review, and (b) guidelines for improvements which shall include, but not be limited to, guidelines for architectural design of improvements, floor plans, landscape plans, color schemes, signage, exterior lighting, finishes

and materials for use in each portion of the Condominium. The Development Guidelines shall initially be adopted by the Declarant. After the Transfer Date, any amendment to the Development Guidelines must be approved by a majority vote of (x) the Residential Owners with respect to any Development Guidelines established for the Residential Units or (y) Commercial Owners with respect to any Development Guidelines established for the Commercial Units. The Committees shall, without further act or deed of the Declarant, exercise all rights of Declarant to enforce and implement the Development Guidelines and to perform Declarant's obligations under this Article XV.

Section 15.02. Approval of Plans. Except for any improvements constructed and installed by Declarant, no improvement shall be constructed, erected, placed, expanded, added to, maintained or permitted to remain within the Property (excluding the interior of any Unit), and no alterations or other work which alters the exterior appearance of any Unit, Limited Common Element or Common Elements, until the plans and specifications and other documentation as may be required by Development Guidelines for said improvements and alterations, which may include without limitation floor plans, materials, colors, signage, exterior lighting and any other information needed to accurately describe the exterior appearance or functional characteristics of such improvements (the "Application"), have been submitted to and approved in writing by the Residential Committee (for improvements to Residential Units or Limited Common Elements related thereto or the Commercial Committee for improvements to the Commercial Units or the Limited Common Elements related thereto). Three sets of the Application shall be filed with such Committee. Improvements approved in writing by Declarant prior to the recording of this Declaration shall be deemed to have been approved by the Committee.

(a) As a means of defraying its expenses, each Committee may institute and require a reasonable filing fee to accompany the Application for each building or other construction project submitted. If resubmission of an Application is necessary, the Committee may require an additional filing fee.

(b) All Applications for improvements submitted to each Committee hereunder shall comply with any and all laws, rules, regulations or ordinances applicable to the Property which have been promulgated by any local, state, federal or other governmental agency or authority.

(c) Each respective Committee shall have the right to disapprove the Application submitted to it, whether a preliminary or final submittal, if any part of it is:

(i) not in accordance with this Declaration or the Development Guidelines or the Plans;

(ii) incomplete;

(iii) not in compliance with relevant approval requirements or regulations of local, state, federal or other governmental agencies;

(iv) deemed by the Committee to be contrary to the best interests of the Condominium or the Owners; or

(v) incompatible with the architectural style, quality or aesthetics of existing improvements or development plans for proposed improvements.

(d) No Committee shall unreasonably withhold its approval of an Application submitted to such Committee. In this connection and in addition to Section 15.02(c), each Committee may also base its approval or disapproval on criteria which may include, but are not limited to, the following: (i) conformity and harmony of external design with neighboring Units or structures; (ii) effect of location of proposed improvements on the other Units within the Condominium; (iii) adequacy of screening of trash facilities, storage areas, mechanical and heating and air conditioning facilities and rooftop installations; and (iv) conformity of the Application to the purpose and general plan and intent of this Declaration. Any decision of the applicable Committee made after the Transfer Date, may be appealed to the Board. The decision of the Board shall be final. Prior to the Transfer Date, any decision of the Committee shall be final.

(e) Each respective Committee shall approve or disapprove each Application, whether a preliminary or final submittal, within thirty (30) days from the receipt thereof. If the Committee fails either to approve or disapprove the Application within said thirty (30) day period, then it shall be irrevocably deemed that the Committee has approved the Application. At least one set of the Application shall, with the approval or disapproval endorsed thereon, be returned to the submitting person and one set shall be retained by the Committee for its permanent files. Notwithstanding, no application or notice shall be deemed filed with the Committee until it is actually received by at least one Committee member by certified mail (return receipt requested).

(f) Upon receipt of approval from each Committee pursuant to this Section and upon receipt of approvals from the City, the Unit Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement and completion of all approved construction, refinishing, and alterations. In all cases, work shall be commenced within twelve (12) months of the date of such approval, or the approval given or deemed given pursuant to this Article shall be deemed revoked unless the Committee, upon request made prior to the expiration of said twelve (12) month period, extends the time for commencing work by written notice to the Owner, which may be withheld or conditioned in the Committee's discretion.

(g) All construction, refinishing, alteration or excavation of any improvements by Unit Owners other than the Declarant that are approved under this Section shall be undertaken and pursued diligently to completion, but in any event shall be completed within two (2) years after the date of approval by the Committee. However, the time for completion shall be extended for any period such completion is rendered impossible or would result in great hardship due to strikes, fires, national emergencies, natural calamities or other similar supervening forces beyond the control of the Owner or its lessees. Failure to comply with this Subsection 15.02(g) shall constitute a breach of this

Declaration and subject the defaulting party or parties to all enforcement procedures set forth herein or any other remedies provided by law or in equity.

(h) Neither Declarant, the Committees nor any member thereof, nor any agents, officers or employees of Declarant or of the Committees, shall be liable in any way for any damage, loss or prejudice suffered or claimed by an Owner, Lessee or any other Person who submits an Application; except to the extent of actual damages arising directly from the bad faith acts or intentional misconduct thereof. Any person or entity who submits an Application shall forever defend, indemnify and hold the Declarant, the Committees, the members thereof, and the employees, officers and agents of each, harmless from all damage, loss or liability (including reasonable attorneys' fees) suffered or claimed by any third party on account of (i) any defects in any plans, drawings, specifications or other documentation submitted in any Application, or revised or approved in accordance with the foregoing provisions, or for any structural or other defects in any work done according to such plans, drawings, specifications or other documentation; (ii) the approval or disapproval of any Application, whether or not defective; or (iii) the construction or performance of any work, whether or not pursuant to an approved Application, except to the extent of actual damages arising directly from the bad faith acts or intentional misconduct of the Declarant, a Committee or any Committee Member thereof, any agents, officers or employees of Declarant or of the Committee.

(i) In no event shall an approval by a Committee of any Application, or any written or oral statements made by the Board or any officer or employee of the Association, Declarant or any employee or officer or agent of Declarant, or the Committee or any member, agent or employee thereof, be deemed to constitute in any way any representations or warranties of any kind, express or implied, with regard to the Application and any plans, drawings, specifications or other documentation constituting a part of the Application, including without limitation representations or warranties regarding compliance with zoning, subdivision and land use laws, or compliance with any other applicable codes, regulations and laws, or with regard to fitness for a particular purpose.

(j) Any approvals given pursuant to this Article XV shall be personal to the Unit Owner submitting the Application and cannot be assigned or transferred by such Unit Owner without the prior written consent of the appropriate Committee, which shall not be unreasonably withheld. Without such consent, any subsequent Unit Owner for which a previous Unit Owner has obtained approval of an Application shall submit a new Application pursuant to this Article XV for review and approval as though no prior approvals had been received from the Committee with respect to such Unit.

(k) Each respective Committee is hereby authorized and empowered to grant variances for improvements or uses within the Condominium prohibited or regulated by this Declaration or the Development Guidelines and further to grant reasonable requests for relief from the provisions of this Declaration, or any portion hereof, in order to overcome practical difficulties and to prevent unnecessary hardship in the application of

the provisions contained herein. Notwithstanding the foregoing, the Committee shall not grant such a variance to any Unit Owner unless:

- (i) such Unit Owner has obtained all necessary governmental approvals;
- (ii) the construction of improvements or the uses which are called for under the request for the variance shall be consistent in design, character, appearance and quality of construction with the other improvements and uses within the Condominium;
- (iii) the variances do not materially injure, in the judgment of the Committee, any of the Units or Common Elements within the Property;
- (iv) the construction of improvements and/or the uses called for under the request for variance are otherwise subject to and conform with all applicable laws, ordinances, rules and regulations, including, but not limited to, zoning regulations of any governmental agency or political entity having jurisdiction over the Property.

(l) No variance granted pursuant to the authority granted herein shall constitute a waiver of any provision of this Declaration as applied to any other Person or portion of the Property, and the grant of a variance shall not obligate the Committee to grant other variances. In addition to the variance powers provided herein, the Committee shall be empowered to issue from time to time reasonable interpretations of the intent of the provisions of this Declaration or the Development Guidelines, which interpretations shall not constitute variances from the provisions of this Declaration, but shall be designed to further the implementation of this Declaration in a manner consistent with its provisions.

(m) All construction activities of any kind on any portion of the Property shall be governed by the provisions of this Article XV and corresponding provisions in the Development Guidelines. All construction activities shall be carried out in an orderly and timely manner and all partially completed improvements shall be kept in an orderly condition during construction. Dust from all construction shall be controlled at all times in a manner specified in the Development Guidelines. If trucks entering and leaving the Property deposit mud or dust on any streets or walkways, the Unit Owner on which or for whose benefit the construction is being performed shall be responsible for maintaining the streets and walkways (or causing the same to be maintained) in a clean condition on a daily basis. If the provisions hereof conflict with the provisions of the Development Guidelines with respect to construction activities, the more restrictive provision shall control. Any repairs or replacements to the Common Elements, including any Limited Common Elements, necessitated by a Unit Owner's construction shall be performed by a contractor approved by the respective Committee having authority thereof.

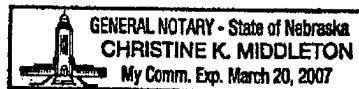
IN WITNESS WHEREOF, the undersigned has caused this Declaration to be signed this
11 day of August, 2005.

BRANDEIS LOFTS, LLC, a Nebraska limited
liability company

By Robert Thompson
Name Robert D. Thompson
Title Manager

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.
)

The foregoing instrument was acknowledged before me this 11th day of August, 2005 by ROBERT D. HAMPTON, the MANAGER of Brandeis Lofts, LLC, a Nebraska limited liability company, on behalf of the limited liability company.



Christine K. Middleton

Notary Public

My commission expires:

MARCH 20, 2007

CONSENT OF MORTGAGEE

Great Western Bank, holder of a Deed of Trust on the Property dated February 4, 2005, and recorded on February 8, 2005 as Instrument No. 2005014173, hereby consents to the execution and recording of the within Declaration of Condominium Ownership and agrees that such Deed of Trust is subject thereto and to the provisions of the Nebraska Condominium Act of the State of Nebraska.

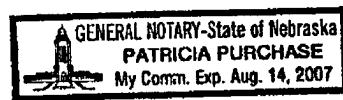
IN WITNESS WHEREOF, Great Western Bank has caused this Consent of Mortgagee to be signed by its duly authorized officers on its behalf, all done at Omaha, Nebraska on this 23 day of August, 2005.

GREAT WESTERN BANK

By Kolleen Hoover
 Name Kolleen Hoover
 Title Vice Pres

STATE OF NEBRASKA)
)
 COUNTY OF DOUGLAS)
) ss.
)

The foregoing instrument was acknowledged before me this 23rd day of August, 2005 by Kolleen Hoover, the Vice Pres of Great Western Bank, a Nebraska Corporation, on behalf of the corporation.



Patricia Purchase
 Notary Public
 My commission expires:

Aug 14, 2007

EXHIBIT A**LEGAL DESCRIPTION OF THE PROPERTY**

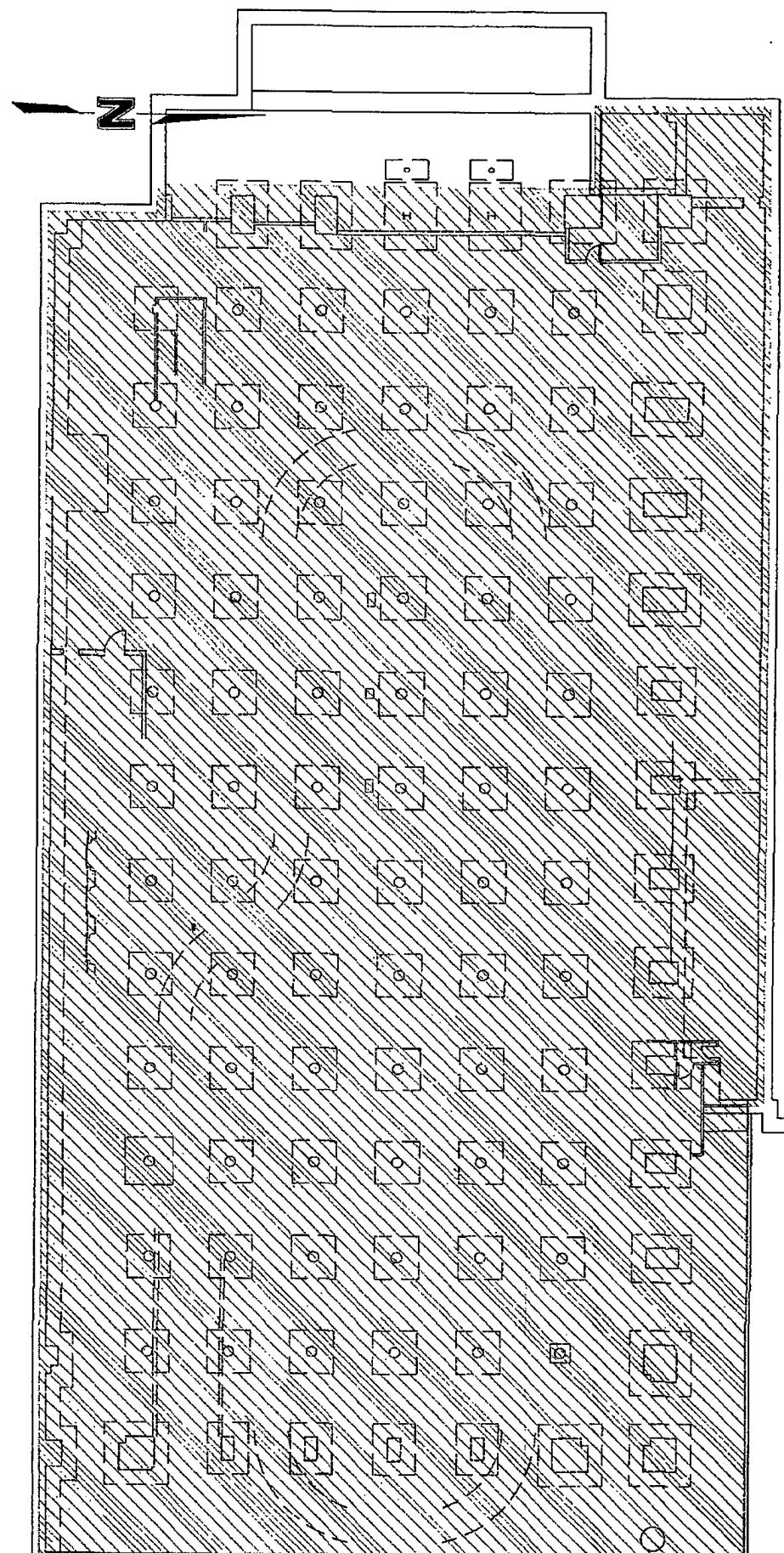
LOTS 1, 2, 3, AND 4 IN BLOCK 117 IN THE ORIGINAL CITY OF OMAHA, DOUGLAS COUNTY, NEBRASKA.

EXHIBIT B
CONDOMINIUM PLAN
[SEE ATTACHMENT]



0 16' 32'

SCALE: 1/32" = 1'-0"



LEGEND

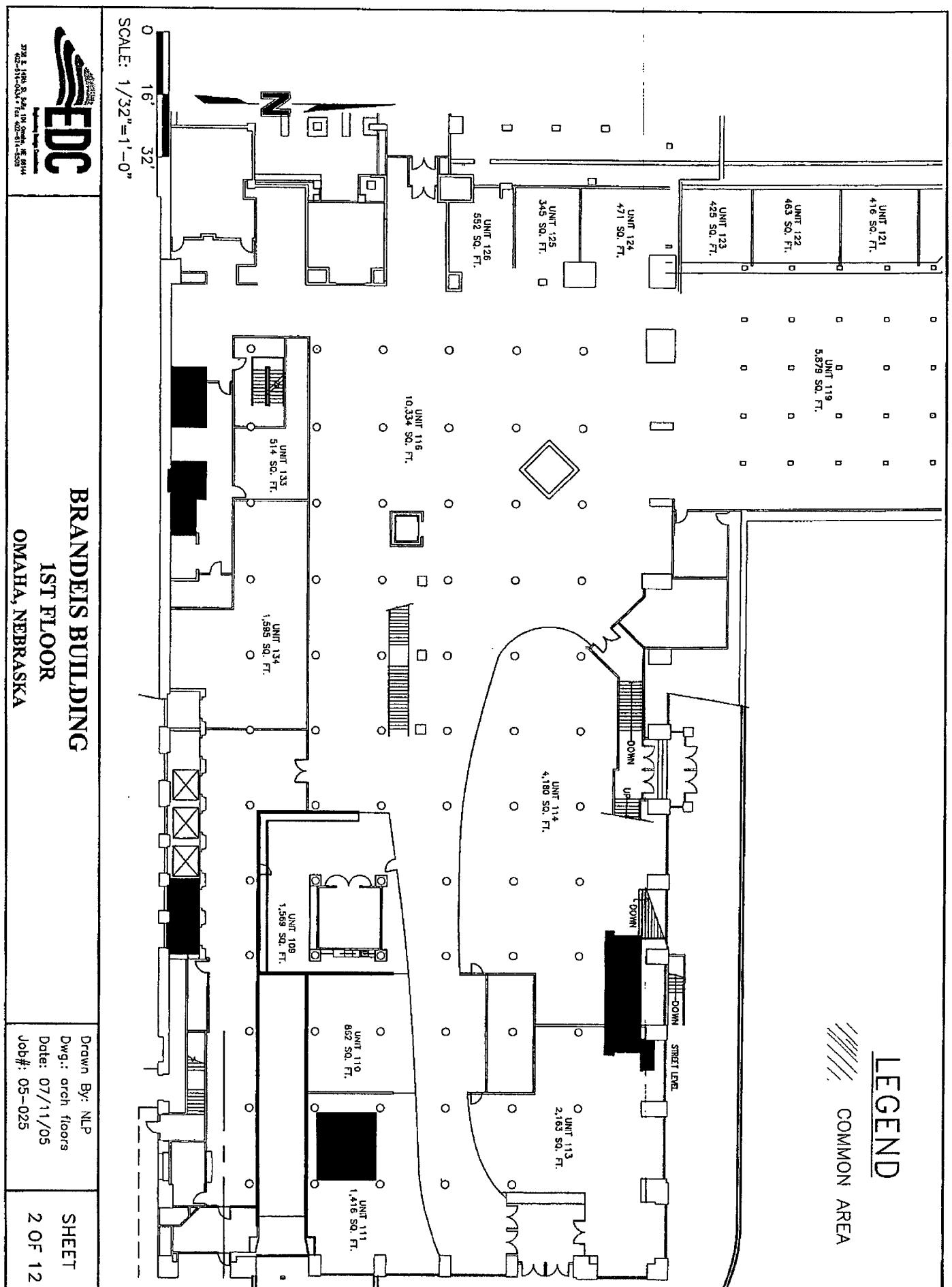
COMMON AREA

BRANDEIS BUILDING

OMAHA, NEBRASKA

Drawn By: NLP
Dwg.: arch floors
Date: 07/11/05
Job#: 05-025

SHEET 1 OF 12





BRANDEIS BUILDING
2ND FLOOR
OMAHA, NEBRASKA

0 16' 32'
SCALE: 1/32"=1'-0"

LEGEND

COMMON AREA

SEE RESTAURANT
BUILD-OUT FOR FLOOR
INFILLS, PARTITION WALLS,
AND ALL WORK
ASSOCIATED WITH THIS
AREA.

UNIT 215
1,883 SQ. FT.

UNIT 214
8,568 SQ. FT.

UNIT 209
2,610 SQ. FT.

UNIT 208
1,798 SQ. FT.

UNIT 210
889 SQ. FT.

UNIT 211
1,145 SQ. FT.

UNIT 212
1,610 SQ. FT.

UNIT 207
945 SQ. FT.

UNIT 206
701 SQ. FT.

UNIT 205
569 SQ. FT.

UNIT 204
896 SQ. FT.

Drawn By: NLP
Dwg.: arch floors
Date: 07/11/05
Job#: 05-025

SHEET
3 OF 12

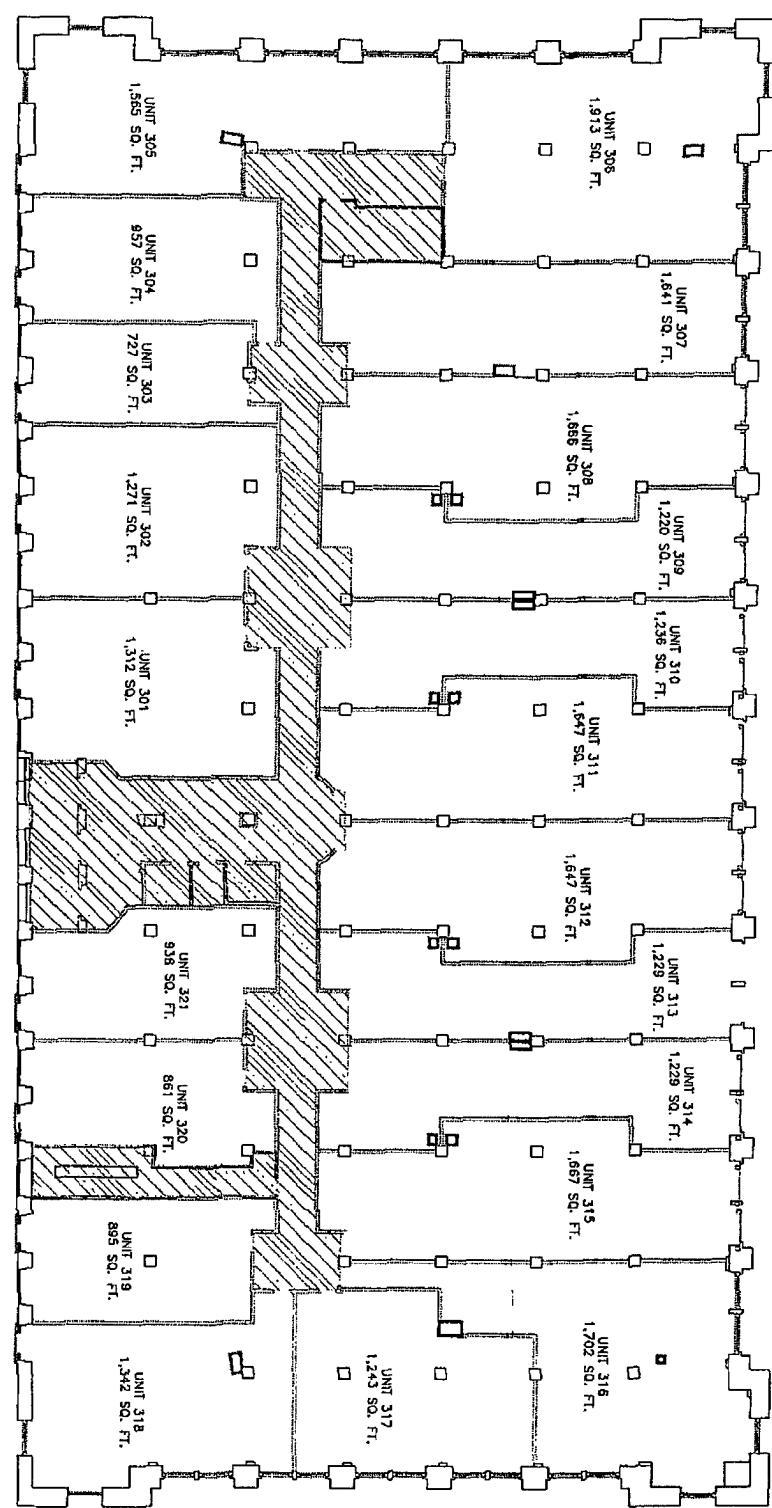


EDC
Engineering Design
Consultants
402-514-6844 Fax: 402-514-6834

0
16'
32'
SCALE: 1/32" = 1'-0"

LEGEND

COMMON AREA



BRANDEIS BUILDING

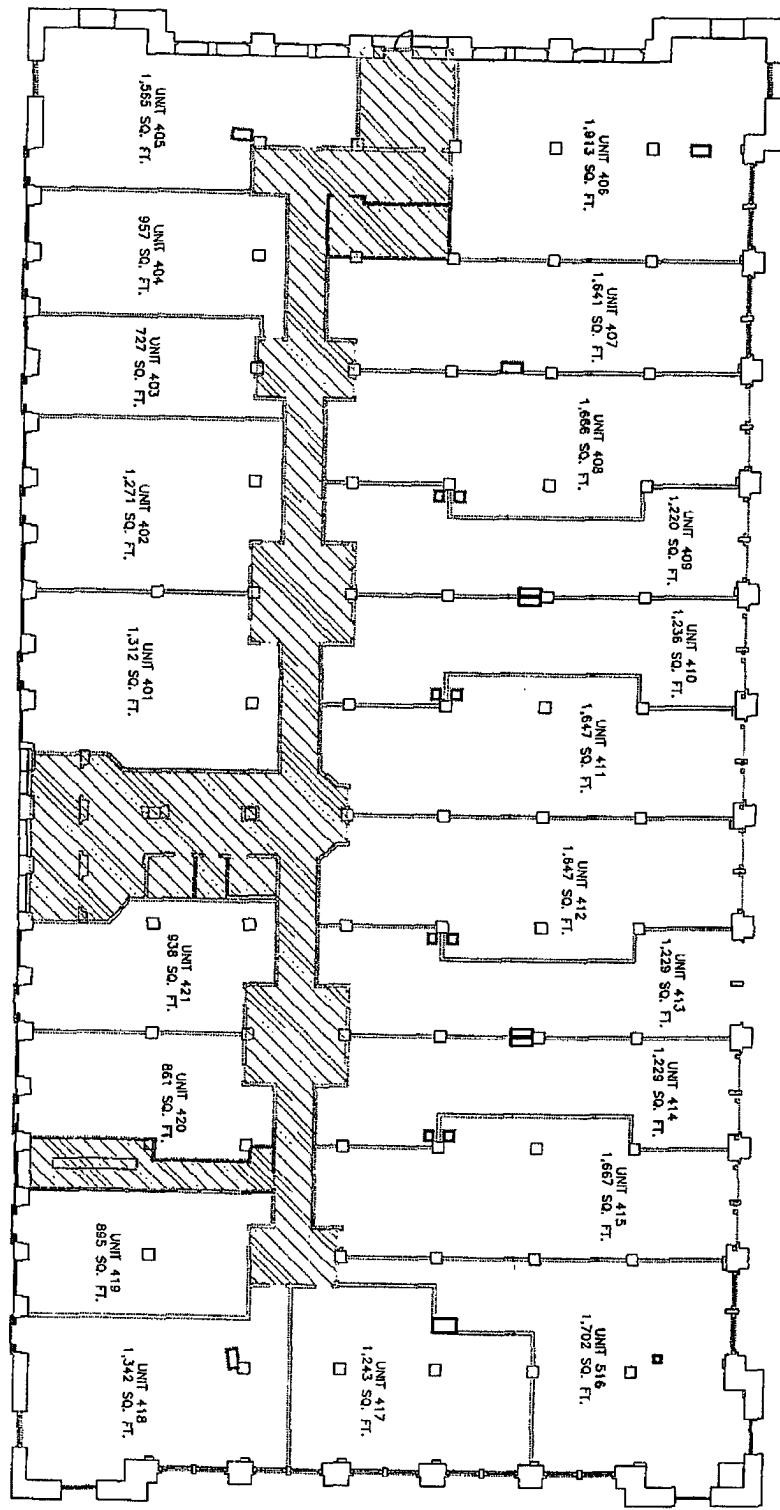
3RD FLOOR

OMAHA, NEBRASKA

Drawn By: NLP
Dwg.: arch floors
Date: 07/11/05
Job #: 05-025

SHEET
4 OF 12

EDC
Engineering Services
0 16' 32'
SCALE: 1/32" = 1'-0"



LEGEND

COMMON AREA

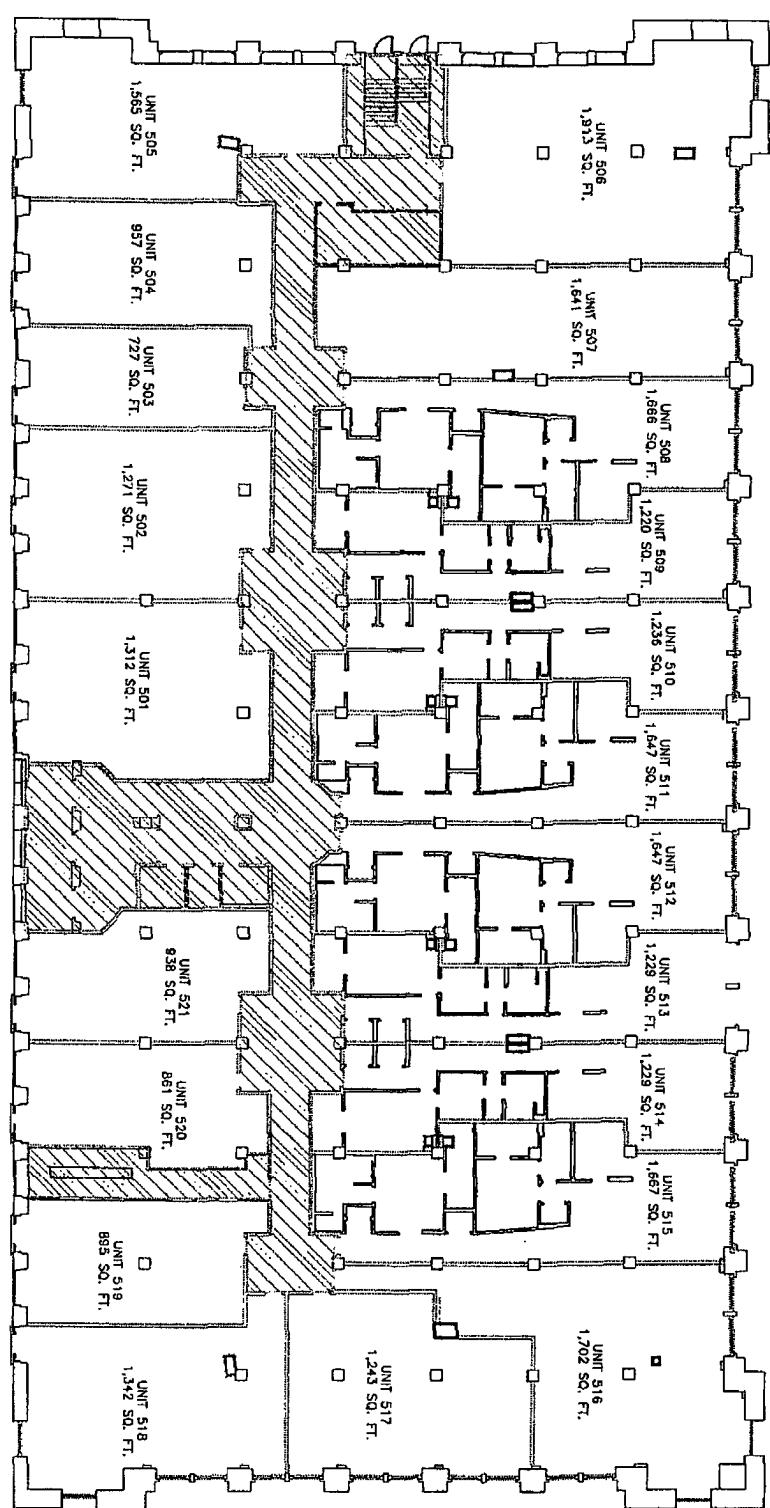
BRANDEIS BUILDING
4TH FLOOR
OMAHA, NEBRASKA

EDC
Engineering Services

REG. NO. 144-3444
EXPIRES 07-2004
PRINTED 07-2004
07-2004

Drawn By: NLP
Dwg.: arch floors
Date: 07/11/05
Job #: 05-025

SHEET
5 OF 12



0 16' 32'
SCALE: 1/32" = 1'-0"

COMMON AREA

LEGEND

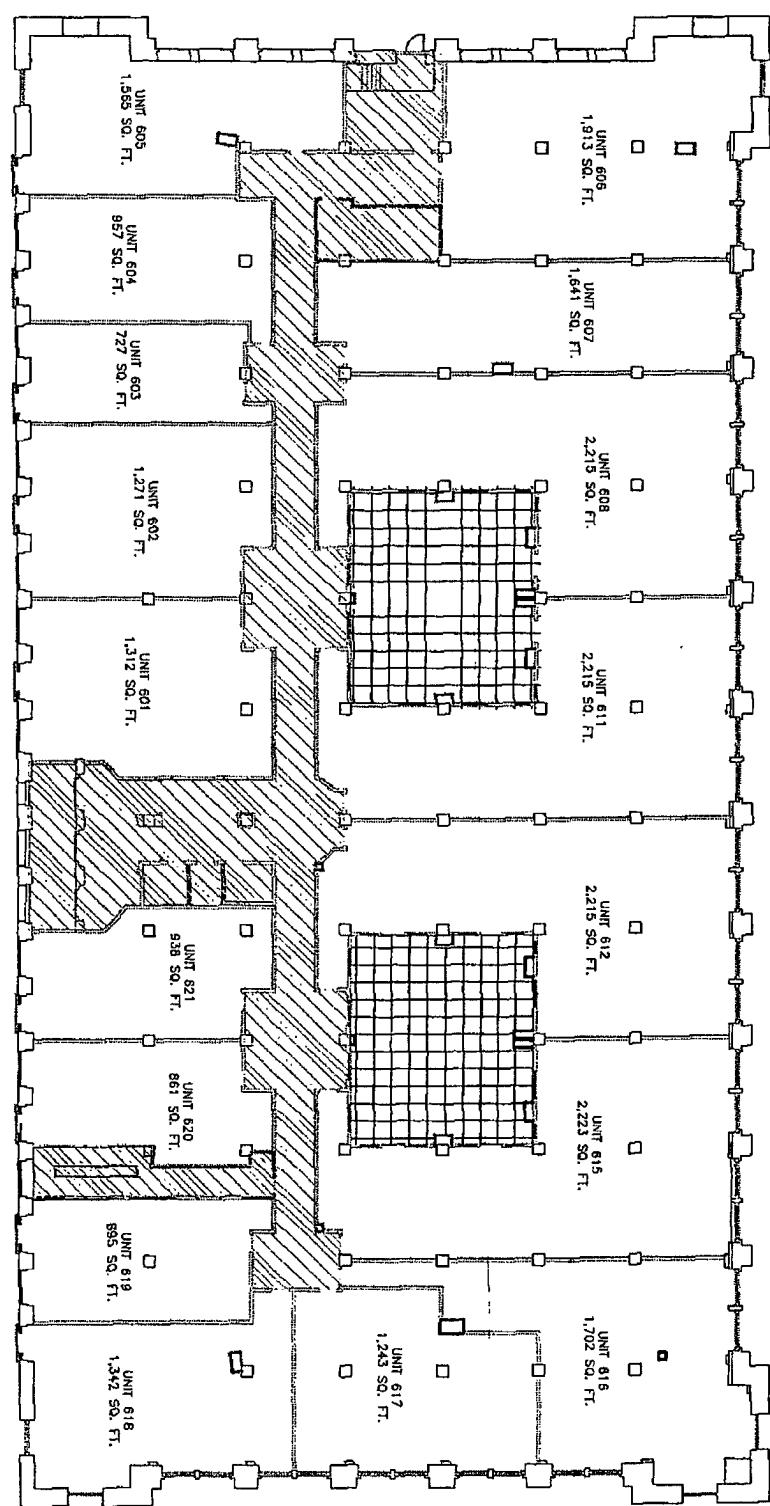
BRANDEIS BUILDING
5TH FLOOR
OMAHA, NEBRASKA

Drawn By: NLP
Dwg#: arch floors
Date: 07/11/05
Job#: 05-025

SHEET
6 OF 12

0
16'
32'
SCALE: 1/32"=1'-0"

N



LEGEND

COMMON AREA

BRANDEIS BUILDING

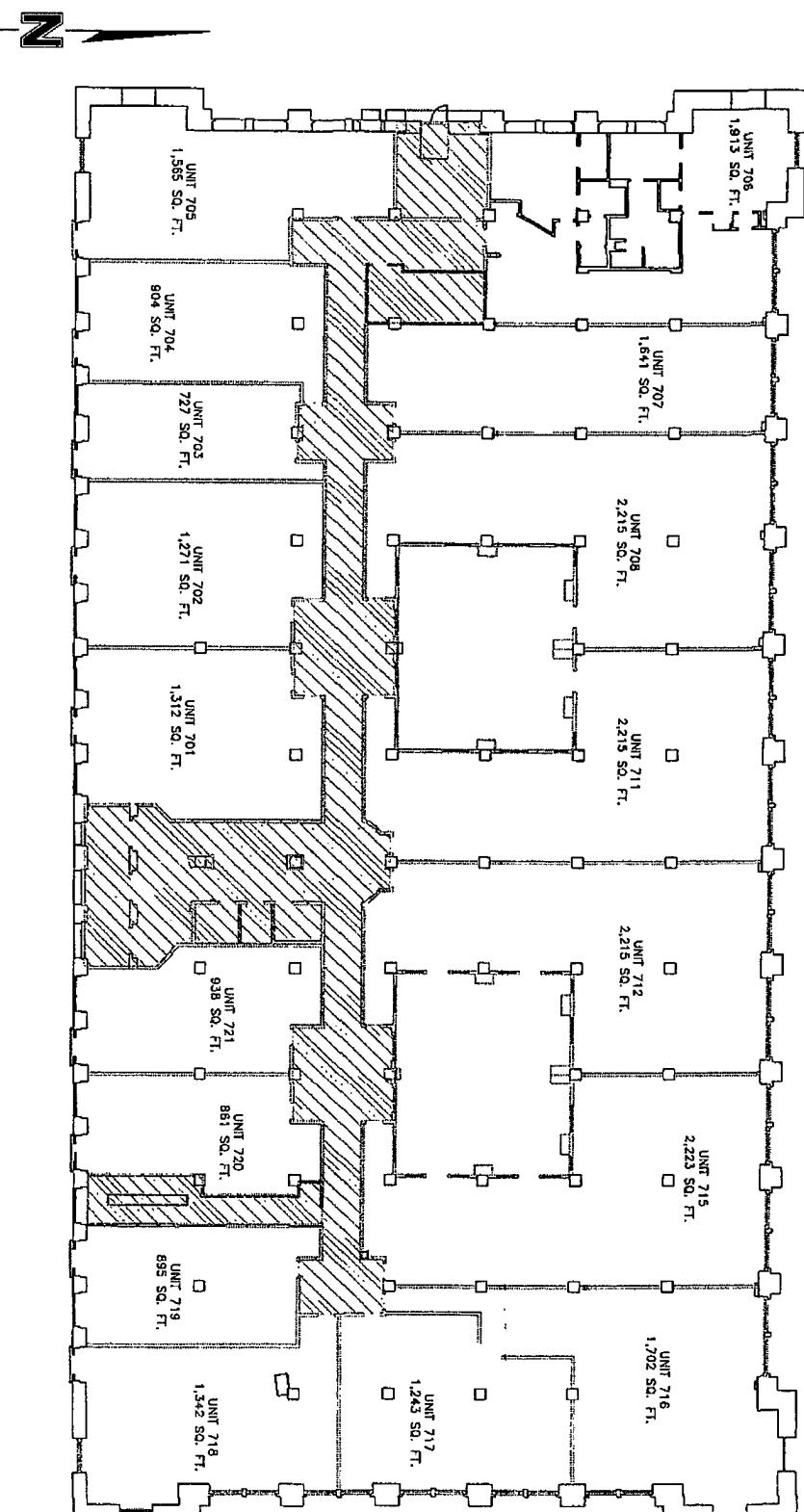
6TH FLOOR

OMAHA, NEBRASKA

Drawn By: NLP
Dwg.: arch floors
Date: 07/11/05
Job#: 05-025

SHEET
7 OF 12

0
16'
32'
SCALE: 1/32"=1'-0"



LEGEND

||||| COMMON AREA

BRANDEIS BUILDING

7TH FLOOR

OMAHA, NEBRASKA

Drawn By: NLP
Dwg.: arch floors
Date: 07/11/05
Job #: 05-025

SHEET
8 OF 12

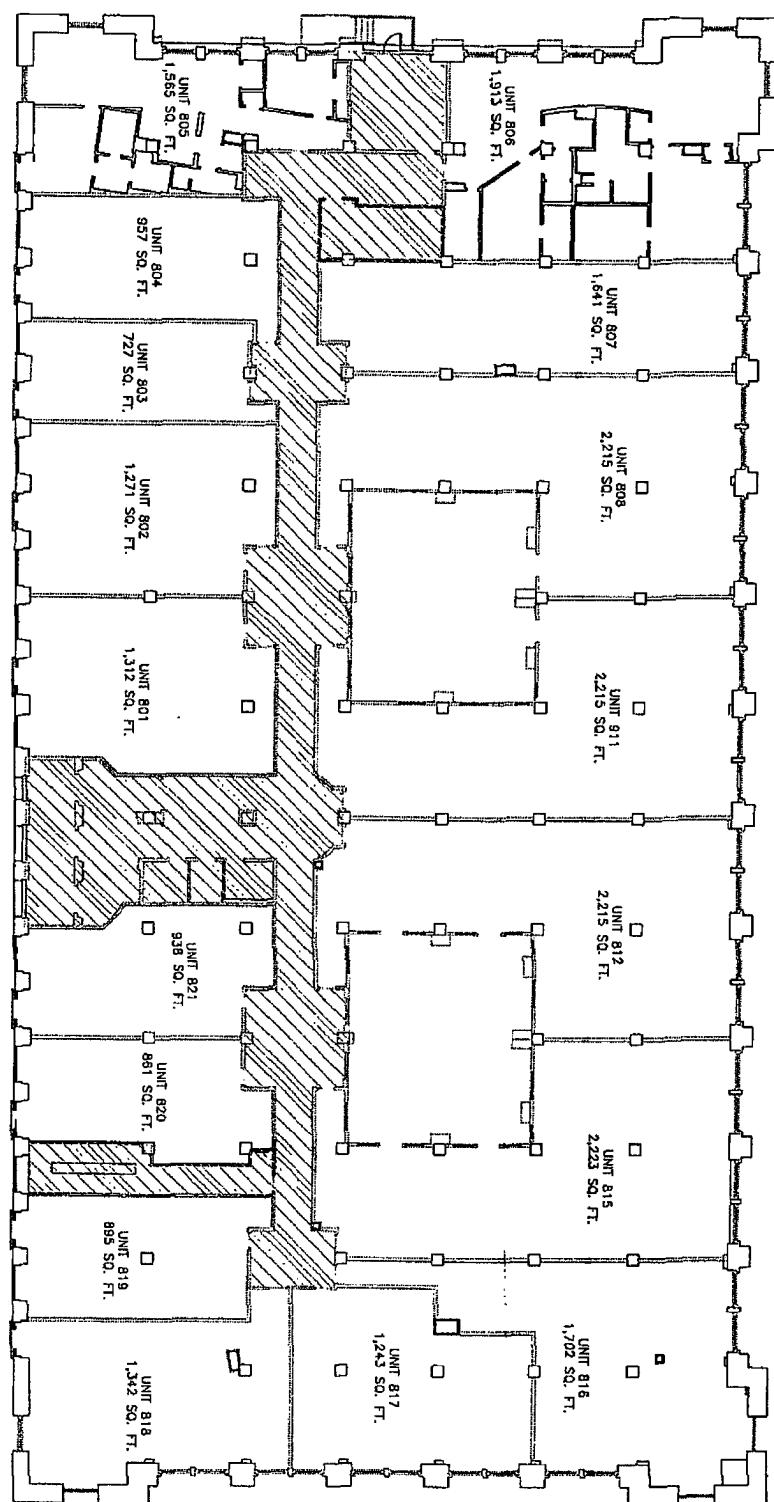


EDC Engineering Company
1000 30th Street, Suite 1000, Omaha, NE 68102
Tel: 402-342-0024 Fax: 402-342-1158

0
16' 32'
SCALE: 1/32" = 1'-0"

LEGEND

||||| COMMON AREA



BRANDEIS BUILDING

8TH FLOOR

OMAHA, NEBRASKA

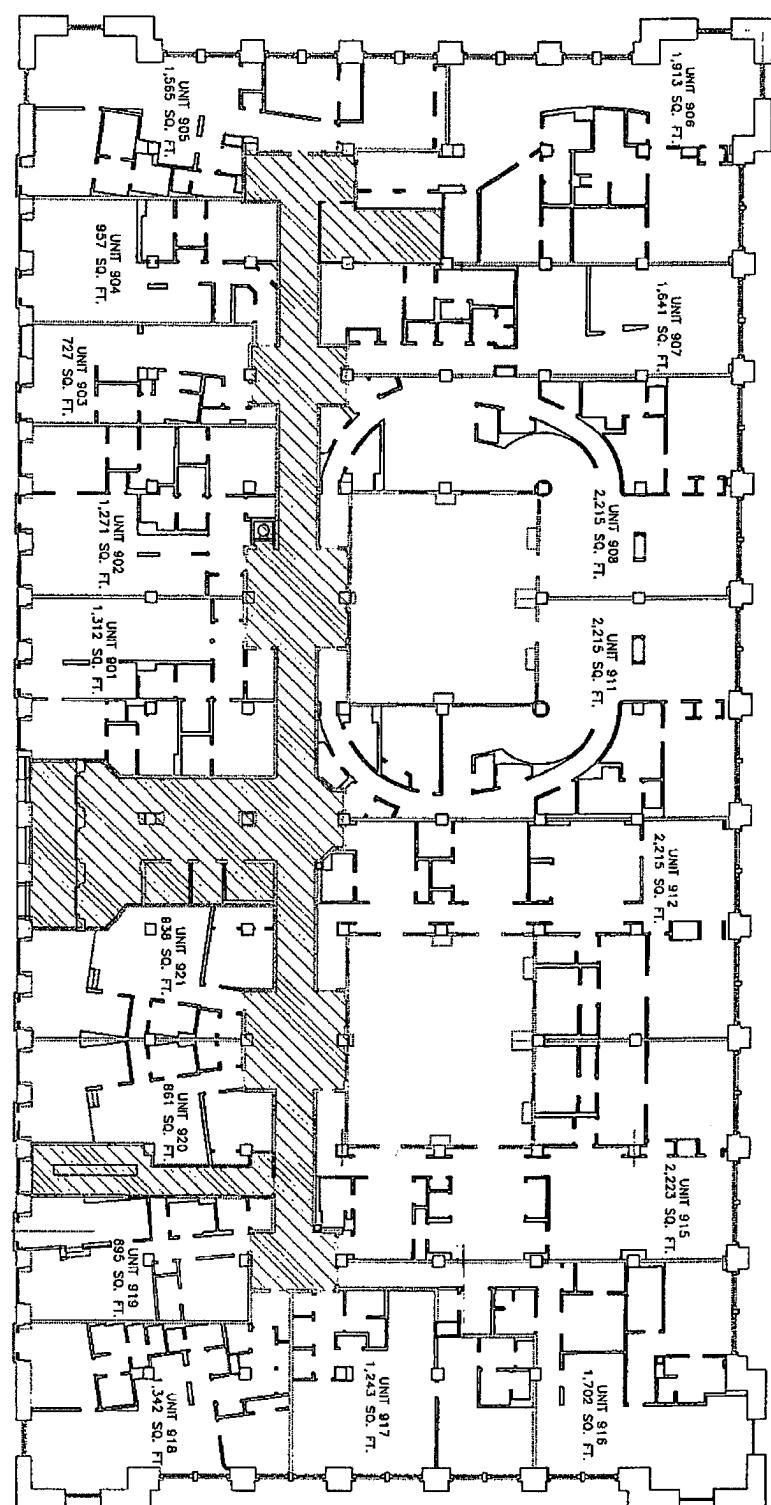
Drawn By: NLP
Dwg.: arch floors
Date: 07/11/05
Job #: 05-025

SHEET
9 OF 12

0
16' 32'
SCALE: 1/32" = 1'-0"

LEGEND

||||| COMMON AREA



BRANDEIS BUILDING

9TH FLOOR

OMAHA, NEBRASKA

Drawn By: NLP
Dwg.: arch floors
Date: 07/11/05
Job#: 05-025

SHEET
10 OF 12

EDC
Engineering Design Company
P.O. Box 1000 • 304 • Tel: 402-546-6524 • Fax: 402-546-6525

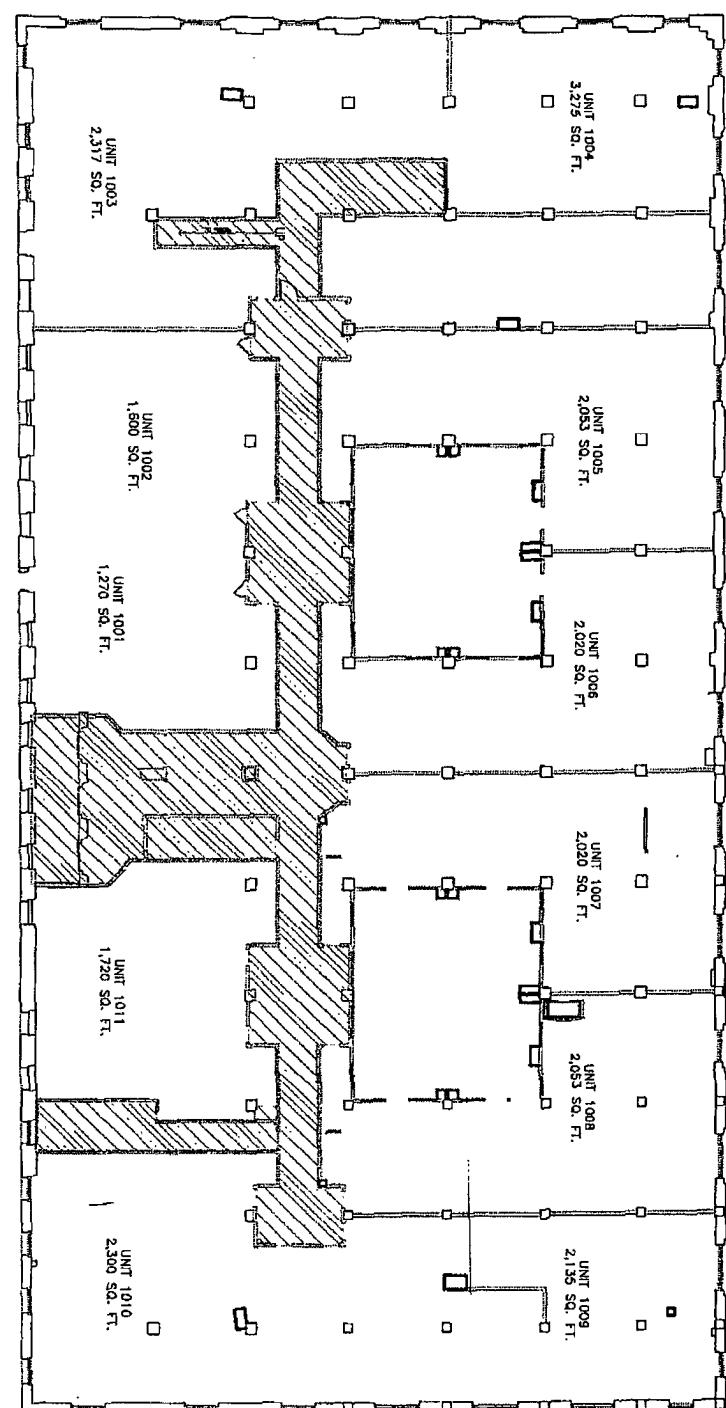


EDC 100-500-004 04-02-011-0014

0
16'
32'
SCALE: 1/32" = 1'-0"

LEGEND

COMMON AREA



BRANDEIS BUILDING
10TH FLOOR
OMAHA, NEBRASKA

Drawn By: NLP	SHEET
Dwg: arch floors	11 OF 12
Date: 07/11/05	
Job #: 05-025	

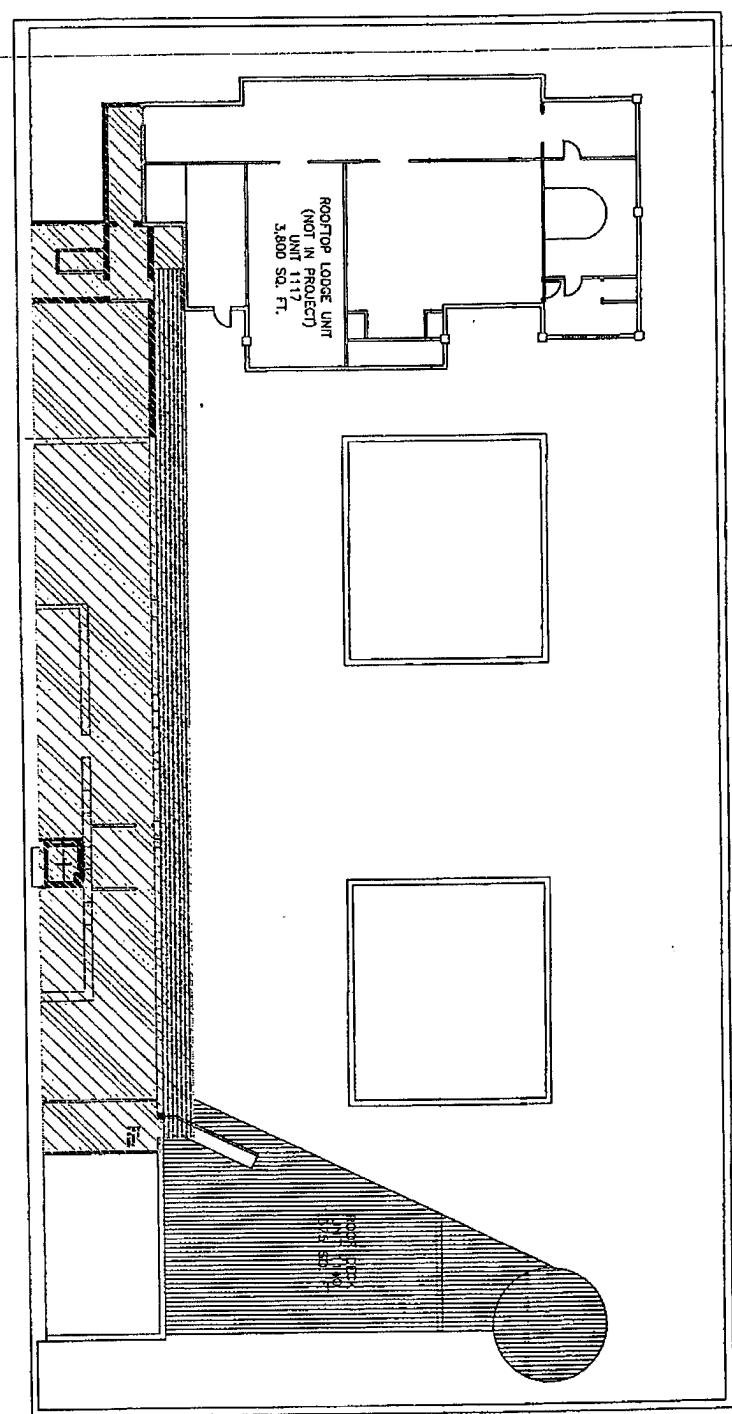


2005 E. 14th St., 10th Fl., MC 52144
402-471-0334 • Fax 402-471-0334

0
16'
32'
SCALE: 1/32"=1'-0"

LEGEND

COMMON AREA



BRANDEIS BUILDING

ROOF

OMAHA, NEBRASKA

Drawn By: NLP
Dwg.: arch floors
Date: 07/11/05
Job #: 05-025

SHEET
12 OF 12

EXHIBIT C
PERCENTAGE OF UNIT OWNERSHIP
[SEE ATTACHMENT]

EXHIBIT C

Percentage Interest of Units in Common Area

Unit Number	Description	Unit Square Footage	Percentage Interest of Unit in Common Area
40	Parking	32,533.00	9.617%
101	cookie shop	1,578.00	0.466%
105	popcorn shop	514.00	0.152%
109	sales center	1,553.00	0.459%
110	Rx	847.00	0.250%
111	Deli	1,417.00	0.419%
113	coffee shop	2,173.00	0.642%
114	restaurant	3,928.00	1.161%
FC117	tenant	252.00	0.074%
FC118	exhaust fan	429.00	0.127%
FC120	tenant	858.00	0.254%
FC121	tenant	416.00	0.123%
FC122	tenant	463.00	0.137%
FC123	tenant	425.00	0.126%
FC124	tenant	471.00	0.139%
FC125	tenant	345.00	0.102%
FC126	tenant	552.00	0.163%
M105	S. stor. Bay	4,656.00	1.376%
M106	grocery	3,565.00	1.054%
M109	N. stor. Bay	17,982.00	5.316%
M205	N. stor. Bay	16,376.00	4.841%
M207	S. stor. Bay	6,463.00	1.911%
204	tenant	856.00	0.253%
205	tenant	569.00	0.168%
206	tenant	701.00	0.207%
207	tenant	945.00	0.279%
208	tenant	1,798.00	0.532%
209	tenant	3,179.00	0.940%
214	restaurant	7,753.00	2.292%
215	tenant	1,883.00	0.557%
301	condo	1,325.00	0.392%
302	condo	1,287.00	0.380%
303	condo	720.00	0.213%
304	condo	981.00	0.290%
305	condo	1,479.00	0.437%
306	condo	2,705.00	0.800%
307	condo	1,480.00	0.438%
308	condo	1,675.00	0.495%
309	condo	1,261.00	0.373%
310	condo	1,261.00	0.373%
311	condo	1,670.00	0.494%
312	condo	1,670.00	0.494%
313	condo	1,261.00	0.373%

EXHIBIT C

Percentage Interest of Units in Common Area

Unit Number	Description	Unit Square Footage	Percentage Interest of Units in Common Area
314	condo	1,261.00	0.373%
315	condo	1,679.00	0.496%
316	condo	1,844.00	0.545%
317	condo	1,335.00	0.395%
318	condo	1,433.00	0.424%
319	condo	916.00	0.271%
320	condo	874.00	0.258%
321	condo	948.00	0.280%
401	condo	1,325.00	0.392%
402	condo	1,287.00	0.380%
403	condo	720.00	0.213%
404	condo	981.00	0.290%
405	condo	1,585.00	0.469%
406	condo	2,427.00	0.717%
407	condo	1,480.00	0.438%
408	condo	1,675.00	0.495%
409	condo	1,261.00	0.373%
410	condo	1,261.00	0.373%
411	condo	1,670.00	0.494%
412	condo	1,670.00	0.494%
413	condo	1,261.00	0.373%
414	condo	1,261.00	0.373%
415	condo	1,679.00	0.496%
416	condo	1,844.00	0.545%
417	condo	1,335.00	0.395%
418	condo	1,433.00	0.424%
419	condo	916.00	0.271%
420	condo	874.00	0.258%
421	condo	948.00	0.280%
501	condo	1,325.00	0.392%
502	condo	1,287.00	0.380%
503	condo	720.00	0.213%
504	condo	981.00	0.290%
505	condo	1,585.00	0.469%
506	condo	2,346.00	0.694%
507	condo	1,480.00	0.438%
508	condo	1,675.00	0.495%
509	condo	1,261.00	0.373%
510	condo	1,261.00	0.373%
511	condo	1,670.00	0.494%
512	condo	1,670.00	0.494%
513	condo	1,261.00	0.373%
514	condo	1,261.00	0.373%

EXHIBIT C

Percentage Interest of Units in Common Area

Unit Number	Description	Unit Square Footage	Percentage Interest of Unit in Common Area
515	condo	1,679.00	0.496%
516	condo	1,844.00	0.545%
517	condo	1,335.00	0.395%
518	condo	1,433.00	0.424%
519	condo	916.00	0.271%
520	condo	874.00	0.258%
521	condo	948.00	0.280%
601	condo	1,325.00	0.392%
602	condo	1,287.00	0.380%
603	condo	720.00	0.213%
604	condo	981.00	0.290%
605	condo	1,653.00	0.489%
606	condo	2,259.00	0.668%
607	condo	1,480.00	0.438%
608	condo	2,309.00	0.683%
611	condo	2,305.00	0.681%
612	condo	2,305.00	0.681%
615	condo	2,313.00	0.684%
616	condo	1,844.00	0.545%
617	condo	1,335.00	0.395%
618	condo	1,433.00	0.424%
619	condo	916.00	0.271%
620	condo	874.00	0.258%
621	condo	948.00	0.280%
701	condo	1,325.00	0.392%
702	condo	1,287.00	0.380%
703	condo	720.00	0.213%
704	condo	981.00	0.290%
705	condo	1,585.00	0.469%
706	condo	2,427.00	0.717%
707	condo	1,480.00	0.438%
708	condo	2,309.00	0.683%
711	condo	2,305.00	0.681%
712	condo	2,305.00	0.681%
715	condo	2,313.00	0.684%
716	condo	1,844.00	0.545%
717	condo	1,335.00	0.395%
718	condo	1,433.00	0.424%
719	condo	916.00	0.271%
720	condo	874.00	0.258%
721	condo	948.00	0.280%
801	condo	1,325.00	0.392%
802	condo	1,287.00	0.380%

EXHIBIT C

Percentage Interest of Units in Common Area

Unit Number	Description	Unit Square Footage	Percentage Interest of Unit in Common Area
803	condo	720.00	0.213%
804	condo	981.00	0.290%
805	condo	1,585.00	0.469%
806	condo	2,427.00	0.717%
807	condo	1,480.00	0.438%
808	condo	2,309.00	0.683%
811	condo	2,305.00	0.681%
812	condo	2,305.00	0.681%
815	condo	2,313.00	0.684%
816	condo	1,844.00	0.545%
817	condo	1,335.00	0.395%
818	condo	1,433.00	0.424%
819	condo	916.00	0.271%
820	condo	874.00	0.258%
821	condo	948.00	0.280%
901	condo	1,325.00	0.392%
902	condo	1,287.00	0.380%
903	condo	720.00	0.213%
904	condo	981.00	0.290%
905	condo	1,579.00	0.467%
906	condo	2,661.00	0.787%
907	condo	1,480.00	0.438%
908	condo	2,309.00	0.683%
911	condo	2,305.00	0.681%
912	condo	2,305.00	0.681%
915	condo	2,313.00	0.684%
916	condo	1,844.00	0.545%
917	condo	1,335.00	0.395%
918	condo	1,433.00	0.424%
919	condo	916.00	0.271%
920	condo	874.00	0.258%
921	condo	948.00	0.280%
1001	condo	3,092.00	0.914%
1005	condo	2,502.00	0.740%
1006	condo	3,253.00	0.962%
1008	condo	2,108.00	0.623%
1011	condo	2,108.00	0.623%
1012	condo	2,108.00	0.623%
1016	condo	4,253.00	1.257%
1018	condo	2,237.00	0.661%
1021	condo	1,931.00	0.571%
1101	unassigned	1,475.00	0.436%
1119	unassigned	660.00	0.195%

EXHIBIT C

Percentage Interest of Units in Common Area

Unit Number	Description	Unit Square Footage	Percentage Interest of Unit in Common Area
1120	unassigned	820.00	0.242%
1106	rooftop bungalow	3,800.00	1.123%
	Total Square Footage of all Units	338,273.00	100.000%