

301 BRYANT STREET OWNERS' ASSOCIATION

RULES AND REGULATIONS

ADOPTED ON NOVEMBER 11, 2015

Introduction

This document includes the Rules and Regulations ("Association Rules") for the residents at 301 Bryant Street. While every attempt has been made to create a comprehensive document, residents should also be guided by common sense and standard courtesy to their neighbors in the community. If a resident is unsure about a particular aspect of life at 301 Bryant Street, they should contact the 301 Bryant Street Owners' Association's ("**HOA**") management company ("**Manager**") to request further information or to ask specific questions.

Your cooperation and attention to these rules is expected and appreciated by all members of the community. Non-compliance with any Association Rule may result in the Owner or resident receiving a violation and fine.

The Board of Directors has the authority to enact, revise and enforce these Association Rules. This document is intended to be consistent with the First Amended and Restated Declaration of Covenants, Conditions and Restrictions of 301 Bryant Street ("**CC&Rs**"), which take precedence over these Association Rules in the event of inconsistencies. Residents should report any errors, omissions or inconsistencies to the Board of Directors. This version of the Association Rules shall supersede the Rules and Regulations dated October 1, 1998, and the No Smoking Policy adopted on June 5, 2008.

Unless otherwise defined herein, all capitalized terms shall have the same meaning set forth in the CC&Rs.

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1. Bicycles

- 1.1. Bicycle parking is for Owners and residents only. Availability is subject to a “first come, first serve” basis.
- 1.2. The bicycle parking area is within the enclosed portion of the Delancey Street Garage designated as “Bicycle Parking” in the Condominium Building Plan (“**Bicycle Room**”).
- 1.3. A maximum of two bicycles per Unit are allowed to be stored in the Bicycle Room.
- 1.4. No motorcycles will be allowed in the Bicycle Room. Motorcycles shall be parked in assigned Parking Spaces only.
- 1.5. Only bicycles are allowed to be stored in the Bicycle Room. Please refrain from storing any other items such as bicycle parts, helmets, air pumps, etc. Storage of items other than bicycles in the Bicycle Room is not permitted and items are subject to removal and disposal. If the items are reasonably identified to an Owner or Resident, a seven day notice mandating removal may be provided, otherwise no advance notice of removal is required for such items.
- 1.6. Please refrain from bike maintenance and repairs such as changing bike tires and chains within the Bicycle Room.
- 1.7. Any Owner parking a bicycle shall do so at his or her own risk, and by so parking, such Owner (a) acknowledges that the HOA is not responsible for and assumes no liability for injury to persons or property from fire, theft or acts or omissions of the HOA, its agents or third persons, (b) agrees to hold the HOA and its agents harmless and to forever waive all claims for liability against the HOA and its agents for any injury to persons or property arising out of the Owner’s parking of bicycle in the Condominium Building, whether caused by the HOA, its agents or third persons and (c) specifically assumes any and all risk for injury to persons or property. All bicycles are stored at the Owner’s risk and must be secured with a lock as the HOA is not responsible for any stolen or damaged bikes.
- 1.8. Bicycles shall NOT be stored in the hallways, corridors, stairwells, Decks, Parking Spaces, or any other Common Areas. Bicycles must be walked (not ridden) through lobbies, hallways or any Common Areas.
- 1.9. In the bicycle room, bicycles are allowed to be locked to the bike rack or cables ONLY. Please do not chain bikes to the fencing, poles, doors or any other structure in the room in order to prevent possible safety hazards or maintenance issues.
- 1.10. Bicycles stored in the designated bicycle parking areas must be in operational condition.
- 1.11. Bicycles must be registered with Manager. Unregistered bicycles will be removed ninety (90) days after an initial notification posted on property or newsletter. The

HOA will remove the bicycle and store it for another thirty (30) days before donating it to charity.

2. Storage Locker

- 2.1. Any Owner or occupant wishing to rent a Storage Locker ("**Licensee**") on Level D2 and Level D3 must sign and comply with the fees, terms, security deposits and restrictions set forth in the "Storage Space Monthly Lease Agreement" ("**Lease Agreement**") attached hereto as Appendix A, as amended from time to time.
- 2.2. An Owner may lease more than one Storage Locker if the Storage Locker is available and no other Owner wants it.
- 2.3. In the event an Owner no longer requires a Storage Locker, such Owner shall so notify the HOA in writing, and the HOA shall assign the right to use such locker only to another Owner or tenant who has signed a Lease Agreement.
- 2.4. If an Owner is delinquent in assessments, the HOA may terminate the Lease Agreement after providing the Owner with thirty (30) days' written notice. If the delinquent Owner does not remove his or her personal property from the Storage Locker prior to the deadline provided by the HOA, the HOA may remove and dispose of the personal property at the Owner's expense.
- 2.5. No flammable, hazardous, alive, noxious items may be stored within a Storage Locker.
- 2.6. The Licensee is responsible for providing a padlock to secure the leased Storage Locker. If the padlock needs to be cut by the HOA, a fee of \$20.00 will be assessed.
- 2.7. When the Licensee sells his or her Unit, the License will be annulled at the end of the month on which the sale of the Unit occurs and the Storage Locker must be vacated. The Storage Locker will return to the HOA Storage Locker rental listing.
- 2.8. No items may be stored in the rooms on the D2 or D3 levels outside of the Storage Lockers. Any items stored outside of a Storage Locker will be removed and discarded.

3. Parking and Vehicular Restrictions

- 3.1. **Parking Space.** Each Parking Space may be used to park (1) motor vehicle and one additional wheeled conveyance (e.g. motorcycle, motorized scooter, motorized chair and Segway) or two wheeled motorized conveyances, provided that such wheeled conveyances will fit within the designated Parking Space and does not interfere with reasonable access or parking to the adjacent Parking Space. No vehicle maintenance other than emergency work shall be permitted in the Parking Spaces.

- 3.2. **Storage.** No personal belongings are to be stored or placed in the Parking Space for more than 24 hours without the Board's prior written consent and may be removed by the HOA's Manager at the Owners expense.
- 3.3. **Reassignment.** No Parking Spaces may be reassigned except for temporary reassignment of handicap Parking Space "HP-13," as further described in Section 2.8(c) of the CC&Rs. Even though the Parking Spaces are not deeded, they are appurtenant and tied to the Unit to which they were originally assigned and cannot be conveyed separately from their appurtenant Unit. An Owner may lease his or her Parking Space only to their Unit tenant or another building resident.
- 3.4. **Prohibited Vehicles.** No boat, trailer, recreational vehicle, camper, truck (other than a standard size pickup truck or standard size van) or vehicular machine shall be parked or left on any driveway, Parking Space or on any other portion of the Condominium Building, other than the specific Parking Space of the Owner owning such vehicle for a reasonable time in which the Owner shall have such vehicle placed in an operating condition.
- 3.5. **Towing.** An Owner may tow a vehicle illegally parked within his or her designated Parking Space pursuant to the CC&Rs and California Vehicle Code Section 22658. The Owner is responsible for contacting the towing company. Signs are posted throughout the parking facility containing the towing company's name and phone number. Unauthorized vehicles will be towed at the vehicle owner's expense.

4. Right to Lease and Lease Restrictions

- 4.1. **Minimum Lease Term of 6 Months.** Owners shall be entitled to lease or rent their Unit pursuant only to a written lease provided that: (a) Not less that the entire Unit is leased or rented. Nothing contained in this Section 4 shall be construed to prohibit roommates that have signed a lease with the Owner; (b) Each lease term shall be for a minimum period of six (6) months, unless approved by the HOA, but in no event for a period of less than thirty (30) days. Owners, renters and any other occupants shall be prohibited from advertising their Units on any website, newspaper or other publication as short-term corporate rentals, vacation rentals or rights to live in the Unit for less than six (6) months. No Unit shall be owned, leased, occupied or rented pursuant to any time-sharing agreement of any kind.
- 4.2. **Owner's Obligations.** At least five (5) days prior to the commencement of the lease, the Owner shall provide the HOA's Property Manager with (1) a copy of the written lease (with confidential terms crossed out as applicable); (2) a statement signed by the tenant(s) (in the lease or otherwise) verifying that they received the CC&Rs and these Association Rules ("Governing Documents") and that they agree to abide by all provisions thereof; and (3) the Owner's mailing address, telephone number and email address, if any.
- 4.3. **Compliance with Condominium Documents.** Each tenant shall comply with all provisions of the Condominium Documents and shall ensure compliance by the tenant's occupants and guests. The Owner shall cause all occupants of his or her

Unit to comply with the Condominium Documents and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants are fully liable and may be separately sanctioned for any such violation. Unpaid fees may be recorded as a lien against the Unit, provided any such lien shall not be subject to non-judicial foreclosure. Obnoxious and repeatedly noisy behavior, or repeated violations of the Association Rules or Condominium Documents are considered a breach of the lease.

5. Various Nuisances

- 5.1. **Noise and Quiet Hours.** Unit entry doors must be kept closed at all times except for entry and exit. This is particularly important when cooking odors may be released into the hallways. All other noises should be kept to a minimum and all residents must take all reasonable precautions to lower noise transference between Units or into the hallways. Loudspeakers shall not be affixed to any wall, ceiling, or cabinet in a manner that causes sound vibrations discernible between Units. The hallways are designed for use principally by those residents that live on each individual hallway. Please do not allow children to play in the hallways or guests to wander in the Condominium Building unescorted. Access to the Condominium Building roof is prohibited except in the case of an emergency evacuation. The HOA has established the hours from 10:00 pm to 8:00 a.m. daily as quiet hours. Residents and their guests must respect and prevent any unreasonable and disturbing noises during these hours. Please refrain from running any appliances such as dishwashers, washers and dryers during quiet hours.
- 5.2. **Refuse Disposal.** All cardboard boxes (including any moving boxes) must be broken down and placed in the blue recycle bins. Owners are also reminded that furniture or other large items may not be left in the trash room. Owners are responsible for arranging for pick up and disposal of any large items at their own expense. Our trash collection service will not take anything that is not in the bins. Owners who rent their units are responsible for communicating this information to their tenants.
- 5.3. **Board Discretion.** The Board shall have the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance or obstructs or interferes with the quiet enjoyment rights of another resident.
- 5.4. **Floor Coverings.** To minimize the noise transmission from a Unit, each Owner shall adhere to the following:
 - 5.4.1. Each room (excluding kitchens and bathrooms but specifically including halls) in all Units situated above other Units shall have carpeting or rugs covering at least seventy-five percent (75%) of its square footage in order to reduce noise and maximize quiet enjoyment of all others, unless expressly approved by the HOA pursuant to Article 6 (Architectural Control) of the CC&Rs.

- 5.4.2. All hardwood or hard surface flooring installed in the Units (excluding ground floor Units) must obtain the prior written approval of the Board.
- 5.4.3. The developer has originally delivered to the HOA strict specifications for construction and acoustical treatment required to maintain the acoustical separation between the Units. Such specifications are updated from time to time to achieve a then current high-quality standard. Any alteration or remodeling of the interior of any Unit that requires modification, in any way, of walls, ceilings or floors between the Units, between the Units and the exterior of the building, and between the Units and the Common Area hallways and lobby, including, without limitation, replacement or modification of the floor finishes or installation of electrical connections or boxes or plumbing lines, shall comply with such specifications, and shall require the prior approval of Board in accordance with Article 6 of the CC&Rs.

6. Pets

- 6.1. No more than two (2) usual and ordinary household pets such as dogs, cats, birds, etc., may be kept in each Unit, provided they are not kept, bred, or maintained for any commercial purposes, and are kept under reasonable control at all times.
- 6.2. No pet shall be allowed in the Common Area except if they are leashed (or if possible, preferably hand-carried) and are on their way out of or entering the Condominium Building to the relevant Unit. Hand carried pets in the elevator greatly reduces the risk of the animal soiling the elevator floor. If the person already in the elevator should object to the entry of the animal into the elevator, the handler/owner and the animal must yield to the objecting person and wait for an empty elevator.
- 6.3. No dog whose barking seriously disturbs other Owners shall be permitted to remain on the Property.
- 6.4. Please prevent your pet from soiling all portions of the Common Area, particularly the elevator floor. The owner/handler has the responsibility to promptly clean up and sanitize to remove any pet waste, particularly the original "accident". Owners will be responsible for the cost of any follow-up clean up and sanitization reasonably determined by the Property Manager.
- 6.5. Please have your pets spayed and neutered. Please make sure that the rabies vaccinations and licensing are kept up to date for all animals, as required by law.
- 6.6. No pet shall be allowed to unreasonably annoy residents, to endanger the life or health of other animals or persons, or to substantially interfere with the quiet enjoyment of others. Pet owners shall be deemed in violation if their pets: (i) consistently or constantly makes excessive noise from the inside or outside of a Unit; (ii) cause damage to or destruction of another's property or Common Area; (iii) cause unsanitary, dangerous or offensive conditions, including the fouling of the air

by offensive odor emanating from excessive excrement; or (iv) create a pest, parasite or scavenger control problem which is not effectively treated. Any decision regarding the conduct of a pet shall be made only after notice to the Owner and the opportunity to be heard before the Board.

7. Decks

- 7.1. The Decks are to be used only for a reasonable amount of Deck furniture and plants that do not exceed 24 inches above the Deck railing height and Decks are not to be used for the storage of any items including, without limitation, boxes, mops, vacuums, brooms, bicycles, toys, dog cages, crates, bedding, storage cabinets, plastic containers, buckets, Deck umbrellas, cleaning supplies, food, refrigerators, freezers or any other appliances. No laundry may be hung over a Deck Railing and no clotheslines are permitted at any time on Deck. The objective is to avoid a "cluttered up" appearance on a Deck.
- 7.2. No leaking plants, pointed objects, high-heeled shoes, or any other item or use which might cause damage to the Decks, Deck floorings, to a Unit or to the Common Area shall be allowed on the Decks.
- 7.3. There shall be no barbecuing or exterior fires (or electric grills) of any kind whatsoever permitted on the Decks or at any location within the Property.
- 7.4. All occupants with Decks shall secure all furniture, pots and plants so as to prevent them from being damaged and/or damaging property in the event of high winds.
- 7.5. Plants must be potted in appropriate receptacles and watered carefully so that water does not flood over the Deck.
- 7.6. Decks may not be used for beating rugs or carpets, shaking dust mops, nor may any article be draped over railings.
- 7.7. Plants within the Decks shall not exceed more than twenty-four (24) inches above the railing height.
- 7.8. No clothesline or other outside drying or airing shall be done on any Deck.
- 7.9. Decks may not be used as holding areas for animals.
- 7.10. Seasonal decorations, including lights on the Decks and windows, shall be removed thirty (30) calendar days after the holiday is celebrated. Residents may not structurally damage or alter the windows, siding, doors or roof of their Unit to hang or support any decorations or lights.
- 7.11. No birdhouses or birdfeeders shall be attached to the exterior of the Condominium Building, Unit or Deck.
- 7.12. No hooks or shelves may be attached to the Condominium Building's Deck walls.

7.13. For the avoidance of doubt, no hot tub or spa may be placed on any Deck.

8. Signs

8.1. No signs shall be displayed from any windows of the Units, except one “for sale” or “for rent” sign that is a maximum of 18 inches by 24 inches in dimension and that is of a professional quality and design (“**Permitted Sign**”). On the day of the open house, one Permitted Sign may be placed in the window of the Unit, one Permitted Sign may be placed at the front entry of the community and one Permitted Sign Rider at the front entry of the community. After the open house has ended, the Permitted Sign within the Common Area shall be immediately removed or they will be discarded by the HOA.

8.2. No advertising and promotional flyers or signs by outside retailers and vendors of any kind shall be placed or posted within the Common Area or from the Unit windows without prior written approval from the Board.

9. Smoking Prohibited on Decks and Common Area and with Windows/Doors Open or Partially Open

9.1. Smoking constitutes a nuisance in violation of Section 3.12 of the CC&Rs and smoking in an unenclosed area is prohibited for health reasons by San Francisco Health Code (SFHC) Article 19F. “Smoking” or “to smoke” means and includes inhaling and exhaling, burning or carrying any lighted smoking equipment for any tobacco or other weed.

9.2. No smoking is permitted on or within the Decks and the Common Area, including but not limited to the elevators, basements, storage areas, fire escapes, hallways, garages, lobbies or any other enclosed Common Area space. Any smoking entirely within a Unit may only be undertaken with all windows and entry and Deck doors tightly closed to eliminate any drifting or wafting smoke up, down or across to another Unit or Common Area.

9.3. Any Owner who sells his or her Unit shall specifically disclose to all potential buyers and realtors that smoking is prohibited within the Decks and Common Area and provisions of this Section.

9.4. Smoking within the Units shall not be done in a manner that creates a nuisance to other residents, such as with windows or doors open or even partially open that allows smoke to waft or drift up, down, or across to another Unit or Common Area. If requested by the Board, the smoker must install HEPA filters or other measures to mitigate the impact of his or her second-hand smoke. If the smoker fails to take any mitigation measures after being provided with reasonable notice from the Property Manager or Board, the Board may levy a fine and/or a Reimbursement Assessment after a formal notice and a hearing process.

10. Owner’s Insurance

- 10.1. Each Owner is responsible for maintaining insurance to cover any damage or injury occurring within that Owner's Unit, the full replacement value for Improvements and betterments added to his or her Unit, loss assessment, loss of use, and loss of rental income.

11. Unit Maintenance

- 11.1. **Glass Surfaces.** Each Owner shall clean the interiors of any windows serving that Owner's Unit. The HOA shall clean the exterior surfaces of all Unit windows including windows which are accessible only with ladders or other specialized commercial equipment. All replacement of glass shall be performed by the HOA.
- 11.2. **Chimney and Flue Responsibility.** Each Owner shall inspect, clean, maintain, repair and replace his or her own chimney or fireplace flue.
- 11.3. **Wiring and Plumbing.** Each Owner shall maintain, repair and replace, as necessary, all fixtures, appliances, showers, bathtubs, sinks, and toilets inside his or her Unit. No plumbing fixtures within the Units may be relocated without the Owner's submittal of an application under Article 6 of the CC&Rs and receipt of the Board's prior written approval. Modification, replacement, or repair of any wall containing electrical conduit or plumbing or any wiring or plumbing systems that connect to systems serving other Units and/or the Common Area requires the Board's prior written approval. If the Owner's Unit is exclusively served by a damaged pipe, the Owner of that Unit shall be responsible for the cost of repairing that damaged pipe even if it is located within the Common Area walls.
- 11.4. **Water Damage.** Each Owner shall be financially responsible for any water damage arising out of their Units or any system exclusively serving that Owner's Unit (e.g. damaged water pipes, faulty shower valve, etc.), without regard to negligence. Any leaks in a Unit that are not reported immediately upon discovery may subject the Owner to a Reimbursement Assessment if it is determined that the HOA suffered additional costs that could have been avoided but for the Owner's failure to promptly report. In cases of water leaks or flooding, residents should attempt to shut off the water supply valves as quickly as possible. It is also important to immediately address any standing water as it will quickly find its way through the walls and floor and cause damage to Units on lower floors or the Common Areas. If assistance is needed, contact the Property Manager promptly.
- 11.5. **Damage Originating From Unit.** If any Unit or portion of the Common Area is damaged, the Owner of the Unit from which the damage originated shall pay to repair such damage without regard to negligence. If the responsible Owner fails to pay, the HOA may pay to repair the damage and/or the insurance deductible and levy a Reimbursement Assessment against the responsible Owner after notice and a hearing.

- 11.6. **Door and Window Locks and Associated Hardware.** Owners are responsible for all costs, maintenance, and replacement of associated door and window locks and associated hardware.
- 11.7. **Smoke Detectors.** Owners shall install and maintain in good operating condition smoke detectors, as required by law, in each Unit and the Owner shall be responsible for keeping smoke detectors operable at all times.
- 11.8. **Clogged Drains.** The Condominium Building's common waste/sewer drains are expected to be cleaned on a regular schedule. The water and drain lines that divert from the main lines to each Unit are considered limited common elements and are the responsibility of the Owner for maintenance and repair. In some cases, these plumbing lines are shared by neighboring Units. Should you have a clogged drain, please contact the Property Manager for assistance on determining whether the clog is a limited common element or an issue with the Condominium Building's main waste drain lines. Drains should be unclogged mechanically rather than chemically. To help prevent drain clogs, sanitize and reduce odors, many plumbers recommend the following process on a monthly basis or as more frequently needed: (1) Carefully pour a large pot of boiling water down your drain; (2) Pour one cup of baking soda down the drain; (3) Then, pour a mixture of one cup of regular white vinegar and one cup of very hot water on top of the baking soda. Let that sit for a few minutes; (4) Then carefully pour a large pot of boiling water down the drain again.
- 11.9. **No Water Beds.** No water beds are permitted at any time in a Unit.

12. Architectural Rules and Procedures

- 12.1. **Modifications Requiring Review.** Prior written approval of the Board in accordance with Article 6 of the CC&Rs is required for (a) any proposed Alteration to the interior of any Unit that extends beyond the boundary of a Unit (beyond the interior surface of the ceiling, subfloor or drywall of the Unit); (b) any Alteration to the existing electrical, plumbing, HVAC or other mechanical equipment or lines, window units or window frames; (c) any Alteration that affects the structural integrity or structural component of the Condominium Building; (d) any installation of hard flooring material that would increase sound transmission between the Units; and (e) any Alteration to the exterior of the Condominium Building including, but not limited to, placement of tiling or other floor covering surfaces or other Improvements on the Decks. No Owner shall alter the exterior of the Condominium Building in any manner whatsoever.
- 12.2. **Application.** Attached as **Appendix B-1** is a form entitled "Application for Improvements that any Owner must complete and timely submit to the Property Manager, who will forward to the Board's Architectural and Design Committee for review. All applications must include submission of sketch, drawings, plan, materials list and/or specifications. Work must be performed by a licensed and insured contractor. Proof of liability insurance must be provided along with the completed

and executed application. Once submitted, the Board will have up to thirty (30) calendar days to respond.

- 12.3. **Hold Harmless.** If the Alteration affects the Common Area or another Unit, a hold harmless and indemnity agreement in the form attached as **Appendix B-2** must be signed by the Owner(s) and one Board member. The HOA's current fee to notarize the hold harmless and indemnity agreement is \$20 per application and will be paid by the Owner.
- 12.4. **Washers and Dryers.** All washers and dryers installed in a Unit by an Owner shall conform to the following specifications: (a) General Electric Model WSM2700 Spacemaker (stacked 110 volt washer and 30 amp/220 volt electrical dryer) or Maytag or other brand stacked washer and dryer of equivalent size, electrical requirement and equal or better venting capacity; (b) installation only in washer and dryer closet area in accordance with the HOA's plans and specifications.
- 12.5. **Antennas and Satellite Dishes.** Other than as set forth in CC&R Section 3.3, no antenna or satellite dish shall be installed within or on a Deck or any Common Area, the roof or exterior surface of the Condominium Building.
- 12.6. **Permits.** Before commencement of any alteration or improvements approved by the Board, the Owner shall comply with all appropriate governmental laws and regulations. Approval by the Board does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.
- 12.7. **Construction.** Any construction work may be performed only by fully insured and licensed contractors. As a courtesy, Owners undertaking construction or renovations are required to provide reasonable advance written notice to their adjoining neighbors and the Property Manager when construction or renovation is reasonably expected to create noise. Construction may only be scheduled between 8:00 A.M. to 6:00 P.M., Monday through Friday, not Saturdays, Sundays or National Holidays. It is the responsibility of the Owner to supervise all workers they employ. No construction debris, tools, equipment, materials, or paint cans may be left in the Common Area – they must be removed from the Condominium Building's Common Areas daily. It is the responsibility of the Owner to ensure that all construction related debris is removed and all Common Areas cleaned well at the end of each day. No construction material shall be disposed of in the Condominium Building's trash room dumpsters or anywhere else on the Condominium Building Property. The Owner shall be responsible for any damage to the Common Areas caused during his or her construction or renovation period.

13. Off Limits Areas

- 13.1. **Roofs.** The roofs are unprotected unsafe area and are off limits to all Owners and residents with the exception of those authorized by the Board.
- 13.2. **Condominium Building Maintenance.** Janitor's closets, mechanical rooms, HOA storage rooms, and electrical control rooms are also off limits to residents.

- 13.3. **Fire Escapes.** The fire escapes in the Condominium Building shall be used for emergency purposes only and are not authorized for regular exit and entrance to the buildings.

14. Soliciting

- 14.1. Commercial solicitation of residents or by residents for any purpose is prohibited.
- 14.2. Use of the HOA residents' e-mail or mailing addresses for sales or commercial promotion services is prohibited.
- 14.3. Flyers, leaflets, and similar collateral material of a commercial nature, including take-out restaurant menus may not be distributed within the Condominium Building or left in the lobbies. Those that are found anywhere within the Condominium Building may be discarded immediately.

15. Enforcement and Schedule of Fines

- 15.1. **Written Complaint.** All complaints shall provide detail on the nature of the infraction and the specific provisions of the CC&Rs and/or Association Rules that have been violated. Complaints must be sent by e-mail, first-class mail, certified mail or personal delivery to the Manager, who will then verify the alleged violation, contact the Owner and/or resident charged with violations ("violator") and initiate enforcement procedures as outlined below.
- 15.2. **Courtesy Notice.** After receiving a written complaint and prior to sending a notice of hearing, the Manager shall send a courtesy notice to the Owner of the specific provisions of the CC&Rs and/or Association Rules that have been violated.
- 15.3. **Notice of Hearing.** If the violation continues after the deadline specified in the courtesy notice, the Board shall serve a notice of hearing to the violator (and to the Owner if the violator is a tenant) at least fifteen (15) days prior to the hearing, if such hearing is requested by the violator. The notice to the violator shall be substantially in the following form but may include other information: "You are hereby notified that a hearing will be held before the Board of Directors of 301 Bryant Street Owners' Association at _____ on the __ day of ____ 20____, at the hour of ____ upon the charges made in the Complaint served upon you. You may be present at the hearing, may but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to request the attendance of witnesses and the production of books, documents or other items by applying to the Board of Directors of the HOA."
- 15.4. **Hearing.** The hearing shall be held before the Board in executive session. Prior to the effectiveness of any sanction hereunder, proof of notice, and the invitation to be heard shall be placed in the minutes of the executive session. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and

manner of delivery is entered by the officer or Director who mailed or delivered such notice. The minutes of the meeting shall contain a written statement of the results of the hearing and the fine or sanction, if any, imposed. Failure to appear at a scheduled hearing does not preclude the Board from proceeding with the hearing and of making a finding.

- 15.5. **Decision.** The violator shall be notified in writing of the findings of the Board within 15 days of the Board's decision. Should the Board find a violation has occurred, the violator shall have 15 days to comply unless the Board specifies a later date.
- 15.6. **Continuing Violation.** If the violation continues, the HOA may attempt to resolve the dispute through mediation, non-binding arbitration, or binding arbitration (collectively, "ADR") in accordance with the provisions and procedures set forth in California Civil Code Section 5925 et seq. The HOA shall serve on the other party a copy of a "Request for Resolution" containing (i) a brief description of the dispute, (ii) a request for mediation or arbitration, and (iii) a notice that the party receiving such Request for Resolution must respond within thirty (30) days of receipt of the Request or such recipient shall be deemed to have rejected the Request. Failure to respond within such time shall be deemed a rejection of the Request. Arbitration shall be conducted in accordance with the procedures adopted by the Judicial Arbitration and Mediation Service (JAMS) and shall use only one (1) neutral arbitrator. If the Owner fails to respond or rejects the Request, the HOA may commence a civil legal action for declaratory and/or injunctive relief. In any lawsuit to enforce the Condominium Documents, California Civil Code Section 5975 provides that the prevailing party shall be awarded attorneys' fees and costs. California Civil Code Section 5960 provides that if any party has refused to participate in ADR prior to the lawsuit being filed, the court may consider whether that refusal was reasonable when it determines how large or small the award should be.
- 15.7. **Schedule of Fines.** The HOA has an established Rules Regarding Disciplinary Proceedings and associated Schedule of Fines on file with the HOA's Property Manager. The Schedule of Fines is updated from time to time by the HOA's Board of Directors.

16. Manager Contact Information

- 16.1. If you have any suggestions and/or questions, feel free to contact any Board member or the Manager. If you are new to the Condominium Building and do not know the Board members, contact the retained Property Manager. The Property Manager will be pleased to supply you with the information.

17. Right to Amend Association Rules

- 17.1. These Association Rules may be amended, revised or updated in accordance with the provisions of the HOA's Condominium Documents, including the Bylaws.

Appendix A
Storage Space Monthly Lease Agreement

301 Bryant Street Owners' Association
Storage Space Monthly Lease Agreement

This Storage Space Monthly Agreement ("**Lease Agreement**") entered into this _____ day of _____, year, _____, by and between 301 Bryant Street Owners' Association ("**HOA**") and _____ ("**Licensee**"), the Owner/occupant (circle one) of Unit # _____.

The Parties agree:

1. Licensee shall have a license for the use of Storage Space _____ located in the 301 Bryant Street Storage Facility. Licensee shall not use the storage space for any purpose other than storage of Licensee's personal property, without obtaining to the HOA Board of Directors ("**Board**") prior written permission. No legal title or leasehold interest in the property is created or vested in the licensee by grant of this Lease Agreement.
2. The Licensee shall pay the HOA the monthly payment of \$_____, payable monthly to 301 Bryant Street Owners' Association. This amount will be automatically billed with the HOA's monthly assessments.
3. The Licensee must own a Unit or currently be living at the HOA.
4. This Lease Agreement duration is month to month and revocable by the Board upon just case as determined by the Board. Each Party shall give a minimum of One (1) Month notice to cease this Lease Agreement.
5. Licensee shall be prohibited from storing any item which is flammable, hazardous, alive, noxious to the ordinary sensibilities of reasonable persons as determined by the Board, or which may cause an increase in the HOA's insurer. The Licensee shall comply with all federal, state and city health codes for said leased storage cage. No storing of food (human or animals) at any time. Inspections to assure compliance with this section may occur but are not required to be made by the HOA.
6. Licensee shall indemnify, hold harmless, protect and defend the HOA, Directors and Management Company against any and all claims of losses, arising from or in any way related to the storage space, including but not limited to, any licensing, maintenance repair, security or use of said storage space.
7. The HOA, Directors and Management Company shall not be liable to Licensee for any damage by or from any act of negligence of any other occupant of the storage space or any occupant of adjoining or contiguous property.
8. The HOA, Directors and Management Company against have no responsibility for security and are not responsible for missing or damage property.
9. Upon the expiration of the lease the Licensee will return possession of the leased storage cage in its present condition, reasonable wear and tear. The Licensee will be responsible for any damage and cleaning/sanitation reasonably necessary to the storage cage.
10. The Licensee shall not make any material or structural alterations to the leased storage cage without the Board's prior written consent.
11. In the event of any breach of the payment of rent or other breach of this lease, the HOA shall have full rights to terminate this Lease Agreement in accordance with state-law and re-

enter to claim possession of the leased storage cage, in addition to such other remedies available to the HOA.

12. The Licensee is responsible for providing a padlock to secure the leased storage cage. If the padlock needs to be cut by the HOA, the then current fee (as of September 2015 = \$25.00) will be assessed and the Licensee agrees to pay the non-refundable fee.

13. Upon vacating or selling the Licensee's 301 Bryant Street Unit, this Lease Agreement will be annulled at the end of the month on which the vacation or sale of the Unit occurs and the storage locker must be vacated. The storage locker will return to the HOA storage rental listing.

14. Any dispute in excess of \$5,000 arising out of this Lease Agreement shall be resolved through mediation with Judicial Arbitration and Mediation Service (JAMS), San Francisco Branch, or ADR Services, Inc., unless the parties shall mutually agree upon a different mediator.

15. This Lease Agreement constitutes the entire agreement between the HOA and Licensee relating to this Lease Agreement. Any prior agreements, promises, negotiations or representations related to the Licensee use of the storage space not expressly set forth in this Lease Agreement are of no force and effect. Any amendment to this Lease Agreement shall be of no force and effect unless it is in writing and approved by the Board.

LICENSEE

By: _____
Signature Date

Print Name: _____

LICENSOR

By: _____
President Date

Print Name: _____

**APPENDIX B-1
APPLICATION FOR IMPROVEMENTS**

Contact Information

Owners Name	
Property Address	
Cell Phone	
Home Phone	
Email Address	

Description of Improvements

Contractor		License #
Architect/Engineer		License #

Application instructions

Submission of sketch, drawings, plan, materials list and/or specifications is required for approval. Work must be performed by a licensed and insured contractor. Attach proof of insurance along with completed application. Once submitted, the Board of Directors will have 30 days to respond.

Once an improvement is approved by the Board of Directors, a hold harmless and indemnity agreement must be signed by the Owner(s) and one Board member. The fee to notarize the hold harmless and indemnity agreement is \$20 per application and will be paid by the Owner.

Submitted by:	Date:
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APPENDIX B-2
HOLD HARMLESS AND INDEMNITY AGREEMENT

**Recording requested by and
when recorded return to:**

**Ann Rankin
Law Offices of Ann Rankin
3911 Harrison Street
Oakland, CA 94611**

This Hold Harmless and Indemnity Agreement ("**Agreement**") is entered into on _____, by and between the 301 Bryant Street Owners' Association, a California nonprofit mutual benefit corporation ("**HOA**"), and _____ ("**Owner**"), with respect to the proposed alterations and improvements to Unit ____ located at _____, San Francisco, California ("**Unit**").

1. The Unit is located within the 301 Bryant Street condominium project ("**Condominium Building**"). The HOA, pursuant to its First Amended and Restated Declaration of Covenants, Conditions and Restrictions of 301 Bryant Street ("**CC&Rs**"), is responsible for managing and maintaining the Condominium Building.
2. The legal description of the Unit is attached hereto as Exhibit A.
3. Section 6.1 (Alteration Requiring Prior Approval) of the CC&Rs requires an Owner to obtain the approval of the Board of Directors for any alterations to the exterior of an Owner's Unit or Deck.
4. Owner has requested architectural approval of the following improvements to the Unit: _____. These items are collectively referred to as "Owner's Alterations." The plans and specifications for the Owner's Alterations are attached hereto as Exhibit B.
5. The Board of Directors has approved Owner's application to install Owner's Alterations, subject to the following conditions:
 - a. The contractor must be licensed in the State of California.
 - b. The contractor must carry liability insurance issued by an insurer reasonably acceptable to the HOA with coverage limits of at least One Million Dollars (\$1,000,000); the 301 Bryant Street Owners' Association and Canyon Pacific Management shall be additional insureds under the policy at no cost to the HOA or to Canyon Pacific Management and the Owner must supply the HOA with proof of insurance prior to commencement of the work;
 - c. The Owner's contractor, prior to commencement of the work, must provide the HOA with written proof of workers' compensation insurance as required by law;

d. The Owner must provide a building permit, if applicable, to the HOA prior to commencement of the work;

e. The Owner and any successors in interest to title to the Unit shall be solely responsible for any and all maintenance, repair and replacement of Owner's Alterations, and shall indemnify and defend the HOA from and against any and all claims, liabilities, expenses, and/or causes of action arising out of or in connection with the installation, maintenance, replacement and/or repair of Owner's Alterations. The indemnity obligation shall extend to the costs of repairing any property damage to Common Area or to property of other Owners within the Condominium Building caused, in whole or in part, by Owner's Alterations, or any of them, whether such damage shall occur at the time of initial installation of Owner's Alterations, or any of them, or at any future time.

f. The Owner shall reimburse the HOA for its legal fees incurred in connection with the Owners' Alterations prior to commencement of work.

6. Nothing herein contained shall alter the HOA's easement to enter the Unit if necessary, in order to enforce the HOA's Condominium Documents.

7. In the event of any legal action or arbitration arising out of or in connection with this Lease Agreement, the prevailing party shall be entitled, in addition to any other relief, to reasonable attorneys' fees, expert witness fees and costs.

8. In the event of any dispute arising out of or in connection with this Lease Agreement, the dispute shall be arbitrated by the Judicial Arbitration and Mediation Service (JAMS), San Francisco Branch, unless the parties shall mutually agree upon a different arbitrator or a different arbitration provider. The parties shall use the JAMS Rules, unless they mutually agree to use different rules.

9. This Lease Agreement is the entire agreement among the parties and may be altered only by an agreement in writing, executed by the parties hereto.

10. This Lease Agreement touches and concerns the Unit more particularly described in Section 2 above and shall run with the land and is binding upon the Owner and upon any successor Owner(s) of the Unit.

301 Bryant Street Owners' association,
A California nonprofit mutual benefit corporation

By: _____
President Date

Print Name: _____

By: _____
Owner Date

Print Name: _____

[ATTACH NOTARY ACKNOWLEDGMENT]

Appendix C-1

POLICY CONCERNING MOVING PROCEDURES AND DEPOSITS

For Owners/Tenants

First Effective: October 2004

Updated/Amended/Approved: October 16, 2014

WHEREAS, 301 Bryant Street Homeowners' Association (301 Bryant Street HOA) has established certain rules, specifically as set forth in Section 4 of the Owner's Manual, governing moving into or out of the Condominium Units ("Units") and this Resolution amends Section 4.

WHEREAS, the Board of Directors deems it necessary to establish, publish and provide notice to Owners for appropriate procedures to implement these moving rules, particularly with respect to the provision for: (1) moving deposits to secure against possible Common Area damage; (2) non-refundable administrative/inspection/security fees; and (3) Door Entry reprogramming fees; each payable to the HOA or its property manager ("Property Manager") for the administrative, inspection and security supervisory services performed by the Property Manager, HOA and their agents.

RESOLVED THAT: The Board of Directors adopts on behalf of 301 Bryant Street HOA, the following procedures for any move into, or out of, the Building (a "MIMO").

A MIMO shall be defined as each substantial delivery or substantial removal of furnishings, appliances, equipment, etc. via the Building's elevator, stairwells, lobby entrances or garage entrances. A MIMO shall not be limited to new or existing residents taking or exiting occupancy in the Building but shall also include any other substantial delivery or substantial removal of furniture, appliances, equipment, etc. All furniture staging's are considered a MIMO for purposes of this Policy. Owners shall use their best judgment and common sense as to what constitutes a MIMO and shall contact the Property Manager or any member of the HOA's Board of Directors for clarification or questions.

This Policy and this provision may be modified by the Board in the future upon thirty (30) days prior written notice to all Owners.

Summary of Seven (7) Points to achieve a Policy Compliant MIMO:

1. Notify the HOA's Property Manager at least **fourteen (14) days** in advance of the anticipated MIMO, preferably in writing via post or confirmed email, with proposed date; along with evidence of liability insurance and workers' compensation insurance (as applicable) by the moving company or Owner; MIMOs are permitted only between the hours of 8:00am and 5:00pm Monday through Friday. MIMOs are prohibited on national holidays, Saturdays and/or Sundays.
2. Present to the Property Manager a deposit (contingently refundable) in check form, made payable to the HOA in the amount of One Thousand Dollars (\$1000.00) at least ten (10) days prior to the MIMO and complete the written Fourteen Point MIMO Checklist prior to each MIMO and immediately after each MIMO and promptly deliver same to the Property Manager.

3. Use all efforts to avoid any damage to the Common Areas and report any damage caused. Do not use the Bryant Lobby for a MIMO.
4. Do not attempt a surreptitious or "secret MIMO" by not following this Policy. A \$1,000.00 fine will be assessed against the Owner for the Owner's or their tenant's non-compliance with the MIMO Policy and 14 Point Checklist. Owners having tenants must inform their tenant of all HOA CC&Rs, Policies, Rules and Regulations and incorporate same into their tenant's lease agreement, including this Policy and possible fine. Owners are reminded that the Building has a 24-video recording system of all key Common Areas.
5. For each Tenant MIMO - the Owner is responsible to pay an additional fee for reprogramming the Electronic Door Entry system. As of October 16, 2014, the fee is \$45.00 (payable at least five days before the requested re-programming date) and is subject to change without prior notice to Owners. Reprogramming the Electronic Door Entry for new Owner's shall be at the new Owner's expense.
6. Utilize the Elevator On/Off Key during all MIMO events pursuant to the HOA's Elevator On/Off Key Notice and Policy.
7. **Pay all costs for required security for the entire duration of the MIMO as detailed below.**

I. General Points and the Fourteen Point Checklist

- A. **Move days/times/Method:** MIMOs shall only be permitted between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding major holidays and weekends. **All MIMOs must be done via the Delancey Street Garage Door and, Delancey Lobby elevator, and NOT the Delancey Street pedestrian doors. No MIMOs are permitted via the Bryant Street garage or lobby. Failure to adhere to this rule will result in instant forfeiture of the deposit and will be subject to additional fines.** Masonite protection must be placed on the slate floor run from the Garage entry door to the Elevator, and on the elevator floor. Only one MIMO per day for the Building will be permitted.
- B. **Request for MIMO within fourteen (14) days submitted to Property Management, and Confirmation/Fees/Deposits/Insurance within Ten (10) Days of MIMO:** All Owners/residents must notify the Property Manager –in writing, of the date and time when they are requesting a MIMO. Approval of the request shall be provided to the Owner within 2 business days of the written request. Upon approved request, with Moving Deposits, Non-Refundable Fees, and Proof of Insurance as set forth below shall be provided no later than ten (10) days prior to the MIMO.
- C. **Fourteen Point Checklist:** All Owners/residents must complete the "Fourteen Point Checklist" both pre-MIMO and post-MIMO in the presence of the Property Management Company's representative. This is critical to evaluate whether any damage to the Building Common Areas has occurred as a result of the MIMO. The Property Manager shall have the obligation to obtain all necessary signature and acknowledgements to the Fourteen Point Checklist document. The Owner/Resident should provide a copy of the Fourteen Point Checklist to their mover in advance of the scheduled MIMO and have them acknowledge and execute the checklist.
- D. **Elevator Pads Mandatory/Clean-up/Care of Floors and Doors/Door Frames:** Elevator pads and Masonite slate lobby and elevator floor protection must be used, not only for the initial MIMO, but also for any other material MIMOs or deliveries including Furniture stages. The Elevator ceiling may not be removed. The weight capacity of the elevator is 2,500 pounds (includes operator), so

extreme care to not overload the elevator must be taken. Error on the side of a load that is light, rather than heavy. The Elevator pads are stored in room D-3 and are required to be put up in the elevators by the Owners prior to the start of any MIMO, and to be removed and returned to the D-3 laundry room by the Owners or their agents at the conclusion of the day's MIMO. Masonite protection is in the Delancey Garage (near the garage pedestrian door) and must be replaced at the end of the MIMO.

Persons moving in or out must remove all trash generated during the MIMO to the proper trash receptacles (including breaking down all moving boxes) and otherwise comply with the Fourteen Point Checklist. The resident shall remove at their cost from the Unit and Building any debris too large to be placed in the trash receptacles (such as cartons, lamps, sofa, mattress, etc.). Any costs incurred by the HOA for removing such debris, from the chute, premises or Building shall be charged to the Unit Owner. *Under no circumstances may any objects be dragged across floors of the lobbies, corridors, or other entry floor areas that are not protected with Masonite.* Dollies/Hand trucks must be used and provided by the moving company at their own cost. Doors and door frames must be protected with foam or other reasonable protective covering.

- E. **Owner Financial Responsibility for Common Area Damage: Any** Unit Owner (or their residents) shall be financially responsible for the costs of repair or replacement of all damage to the common elements of the Building incurred during the MIMO. The moving deposit posted in accordance with Section II below shall not limit this financial responsibility. Failure on the part of any Unit Owner to reimburse the HOA will be considered as an unpaid assessment against the Unit and will be subject to collection procedures adopted by the Board.

II. Deposit and Non-Refundable Administrative Inspections Fee and possible Building Security Services Fee

The Moving Deposit and the Non-Refundable Administrative Inspection Fee

No later than ten (10) days prior to moving in or out of a Unit, the Unit Owner shall remit to the Property Manager's office a MIMO deposit in the amount of one thousand dollars (**\$1,000.00**) to cover any potential damage to the Common Area elements during the MIMO as specified in the Fourteen Point Checklist. **This \$1,000.00 may be refundable or partially refundable as noted below.**

- A. The moving deposit shall be issued by check or money order and shall be made payable to "301 Bryant Street Homeowners' Association."
- B. Should the Property Manager or HOA determine that damage to the Common Areas occurred as a result of the MIMO, the Property Manager shall furnish to the Unit Owner within ten (10) working days of the MIMO an itemized list containing a detailed description of the damage and an estimate of the cost of repairing same.
- C. The cost for any replacement or repair to the common elements necessary to remedy damage caused by the MIMO shall be deducted from the moving deposit, and the balance of the deposit (if any) shall be returned to the Unit Owner as soon as practicable but within twenty (20) working days of the completion of the repair work. 301 Bryant HOA will endeavor to complete such repair of damaged Common Areas in a timely fashion. If the moving deposit is not sufficient to cover the full costs of replacement or repair of the Common Area or component, the Property Manager shall notify the Unit Owner in writing of the balance due, which shall be payable in full within ten (10) working days of the written notice.
- D. If the Property Manager and the HOA determines that no damage occurred during the MIMO the moving deposit shall be refunded to the Unit Owner within ten (10) working days of the MIMO.

Non-Refundable Administrative Inspection Fee

Property Manager Fee: In addition to the \$1,000 contingently refundable security deposit for each MIMO the Owner must also pay the Property Manager a *non-refundable fee* for actual time spent by the Property Manager's employees supervising the MIMO. This shall include time spent coordinating the MIMO as well as time spent at the Building during, or in connection with, the MIMO. The Property Manager shall bill the Owner at the then-current hourly rate it charges the HOA under its management agreement in effect at the time of the MIMO. The Property Manager's time is generally estimated to be approximately two hours for each MIMO and depends on facts and variables of the MIMO.

Building Security Services Fee:

Owners are responsible for the cost of a security guard to be posted at the Delancey Garage at all times for the entire duration of the MIMO process to ensure the Building is secure during a MIMO. The Property Manager will coordinate the hiring of an outside security company for this service, at the Owner's expense. Expect approximately 6-8 hours at \$45.00 per hour.

III. Unauthorized MIMO

A **\$1,000** fine (payable to the HOA and deposited into general funds) will be assessed against the Owner by the HOA for non-compliance with the MIMO Policy and 14 Point Checklist. Non-compliance generally means *not* notifying external Property Management at least 14 days in advance of the MIMO and/or surreptitious or attempted MIMO by an Owner or Owner's tenant or disregard for the protection of the Common Areas. Noncompliance also includes moving outside of the approved dates and times (8:00 am-5:00 pm) or weekend or holiday moves. Owners having tenants must incorporate and communicate all HOA CC&Rs, Policies, Rules and Regulation compliance into their tenant's lease agreement, including this MIMO Policy. The assessment of this fine will be assessed and processed pursuant to the applicable HOA Governing Documents and California law.

This Policy is adopted by the Board of Directors October 16, 2014 and supersedes the prior approved Policy dated April 14, 2004, January 20, 2011, and April 17, 2014 and amends the Section 4 of the Owner's Manual. In the event of conflict, the terms of this Policy shall take precedence.

APPENDIX C-2

301 Bryant Street Homeowners' Association

VIDEO RECORDING SURVEILLANCE POLICY

Effective October 26, 2009

Adopted by the HOA Board of Directors on October 26, 2009

1. PURPOSE

This document establishes rules, guidelines, procedures and responsibilities for the recorded video surveillance system currently in use by the 301 Bryant Street Homeowners Association ("HOA"). For the avoidance of doubt, the system is not "closed circuit television" and is not managed or reviewed "real time" by a person. There should be no expectation that the video surveillance system will provide security or deter criminal activity.

2. CAMERA LOCATIONS, OPERATION AND CONTROL

The 301 Bryant – San Francisco building (exterior and interior) and grounds may be equipped with video recording devices.

Video recording cameras may be placed or aimed in areas where surveillance may be reasonably prudent in an endeavor to reduce, deter or possibly capture evidence of threats to personal safety, personal property damage, including damage to HOA Common Areas, violation of HOA CCRs/Rules & Regulations, or general security concerns related to criminal activity.

The HOA's Board of Directors shall manage, control and audit the use of the video recording cameras, monitors, memory, tapes, and computers used to store images, computer disks and all other related video records.

Only individuals authorized in writing by the Board of Directors shall have the right to access or review the video recording monitors or be permitted to operate or adjust the controls.

Video surveillance cameras are not expected to have audio recording capabilities; and any such audio capabilities are not expected to be enabled if they are available.

3. NOTIFICATION

Signs shall be posted to notify individuals of the areas in which recorded video is conducted, and the hours during which surveillance recording is conducted (typically 24 hours per day). The HOA's Property Manager shall endeavor to provide an annual notice to HOA Members of this Policy document and the resulting possible diminution of privacy, however there shall be no other requirement to obtain any prior consent to record an individual's photo image through use of the recorded video surveillance system. There should be no expectation of privacy within the view of the recording camera.

4. USE OF VIDEO RECORDINGS

Video recordings of residents, visitors, vendors, contractors, employees, or any other individuals may be reviewed or audited for the purpose of determining compliance or violation of any local, state or federal laws and adherence or non-compliance with the HOA CCRs/Rules Regulations and related HOA governing documents. There should be no expectation that the recorded video images will accurately record images or that use of the recorded images will result in useable evidence in any criminal or civil matter. There should be no expectation that the video recording surveillance system will deter criminal activity, property damage or other security objectives.

The video recording surveillance system may be used in the endeavor to better detect or to deter criminal or civil offenses (such as Common Area property damage) that may be captured by the video recording surveillance system.

Video recordings may be released by the HOA's Board of Directors to third parties in accordance with the requirements of a local, state or federal law enforcement agency. In certain cases, the HOA's Board of Directors in its judgment and discretion may or may not require a valid document subpoena before releasing any video recordings to such enforcement agencies or other persons. The Board of Directors shall be released from any claims or actions related to the release of the video recordings to enforcement agency personnel or if released pursuant to a valid subpoena.

5. PROTECTION OF INFORMATION; DISCLOSURE, SECURITY AND OWNERSHIP AND RETENTION OF VIDEO RECORDINGS

Video recordings are initially recorded on a computer hard disk. Information on the hard disk is retained until such time as the hard disk becomes full at which point the oldest video segments are overwritten by the newest segments.

There shall be no action to alter any part of a video recording.

Video recordings that are released as part of an official investigation by local, state or federal law enforcement agencies or other person authorized to receive the video recording will be transferred from the computer hard disk to removable media (e.g., CD or DVD) as reasonably practicable.

All saved video records not in use shall be securely stored in a location to be determined by the HOA Board of Directors.

All video records that have been saved pending the final outcome of an incident investigation shall be numbered, dated and retained in a location to be determined by the HOA Board of Directors.

Access to all video records must be authorized in writing by the Association Board of Directors.

A log shall be maintained by the HOA of all episodes of access to or use of the video recorded materials. The log shall include:

- The video number and date of recording;

- The name of the individual or agency that was given access to the recording;

- The date that access was given;

The reason that access was given;

Whether the request was accompanied by a subpoena;

The date when access is no longer available to the individual or agency; and

Any other information that may be reasonably related to the recording or record process.

Information contained within the video access log shall be governed by the Association's CC&Rs, Rules and Regulations, and applicable local, state and federal law.

Video records that are downloaded and copied and which contain or may contain personal information used by the HOA Board of Directors to make a decision directly affecting an individual will be retained for a minimum of ninety (90) days and thereafter, at the discretion of the Board of Directors may be retained indefinitely as a permanent archive or destroyed after the ninety day period as determined by the Board of Directors.

The Association Board of Directors shall have the system in a locked cabinet to prevent unauthorized access to the electronic recorded video surveillance network; however, the Board cannot guarantee that access to the network through unauthorized methods will not occur.

The HOA owns all right, title and interest in the video recordings.

6. DISPOSAL OR DESTRUCTION OF VIDEO RECORDINGS:

Copies of surveillance recordings need not be kept by the Association if there have been no reported incidents or valid requests within view of the surveillance cameras. In these cases, there will be no permanent record of the video recordings.

All saved video recordings shall be disposed of or destroyed in a secure manner unless they are archived as part of a permanent record as stated above.

Removable media shall be shredded, burned, degaussed, or otherwise made permanently unreadable.

7. VIDEO MONITORS AND VIEWING:

Review of recorded video by individuals is expected to be conducted in a professional, confidential, ethical and legal manner to the extent reasonably practicable.

Only the HOA Board of Directors or individuals authorized by the Board of Directors or authorized members of law enforcement agencies shall have access to the recording video monitors and recorded video while they are in operation.

Video monitors shall be in a controlled access area(s).

An Association member may request access to video records. Such request must be in writing to the Board and meet the following conditions:

The member requesting access to video records shall state the purpose for which the access is requested which purpose shall be reasonably related to the requester's interest as a member.

If the request is in concert with an ongoing criminal investigation that has been reported to local, state or federal law enforcement, the requestor shall provide the Board with the investigator's name and applicable case number.

If the Board reasonably believes that the information in the video records will be used for an improper purpose, it may deny the member access to the record. Access to the video recordings will not be permitted for an individual's interest to track visitors, guests, mail, packages and other deliveries into the Building. Any approved review by the Board of Directors will be coordinated with Director's schedule or reasonable availability based on their work or travel schedules.

Access is limited to only review for possible or actual violations of local, state or federal law and violations of the HOA's CC&Rs/Rules & Regulations. An example would be possible violation of the MoveIn-MoveOut Policy.

The video recording surveillance system is designed and expected to actively record "live" images, but it is not monitored by a person and accordingly there are no camera recording controls (such as pan, tilt and zoom) that could be construed to monitor individuals based on characteristics of race, creed, color, sex, national origin, sexual orientation, marital status, disability, public assistance status, age or inclusion in any group or class protected by state or federal law.

Recording requested by and
when recorded return to:

Law Offices of Ann Rankin
3911 Harrison Street
Oakland, CA 94611



San Francisco Assessor-Recorder
Carmen Chu, Assessor-Recorder
DOC- 2015-K037617-00

Check Number 14436

Monday, MAR 23, 2015 10:56:37

Ttl Pd \$204.00 Rcpt # 0005122158

0J1/JL/1-64

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DECLARATION OF ADOPTION OF FIRST AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
301 BRYANT STREET**

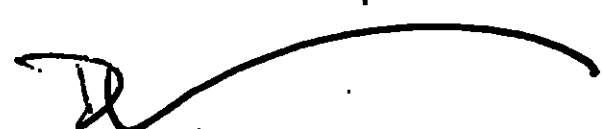
The undersigned are the President and Secretary of the 301 BRYANT STREET OWNERS' ASSOCIATION, a California nonprofit mutual benefit corporation ("**Association**"), and certify as follows:

1. That a duly noticed written secret ballot to approve the First Amended and Restated Declaration of Covenants, Conditions and Restrictions of 301 Bryant Street ("**Amended Declaration**") was provided to all Members of the Association, a true and correct copy of the Amended Declaration is recorded herewith.
2. That the Amended Declaration is intended to replace in its entirety the original Declaration of Conditions, Covenants and Restrictions of 301 Bryant Street, a Condominium Project, recorded on July 21, 1998, as Document No. 98-G392926-00, in the Official Records of the City and County of San Francisco, State of California ("**Original Declaration**").
3. That Section 10.4 (Amendments) of the Original Declaration provides that the Amended Declaration may be amended by 75% of the voting power of the Association (29 out of 38 Members).
4. That on January 26, 2015, the ballots were counted and at least 75% of the total voting power of the Association voted in favor of the Amended Declaration.
5. That the Amended Declaration shall be effective upon the date of recordation of this Certification of Adoption in the Official Records of the City and County of San Francisco, State of California.

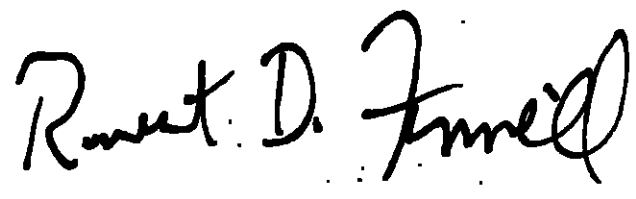
We declare or affirm under penalty of perjury that the foregoing is true and correct.

IN WITNESS WHEREOF, the undersigned have executed this Declaration of Adoption of the Amended Declaration on this 17 day of March, 2015.

301 BRYANT STREET OWNERS' ASSOCIATION,
a California nonprofit mutual benefit corporation

 3/17/15

Darren Gyles, President

 3/14/15

Robert D. Finnell, Secretary

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of

Contra Costa

on March 14, 2015 before me, Patricia A. Rivera Notary Public
(insert name and title of the officer)

personally appeared Robert D. Finnell
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Patricia A. Rivera

(Seal)



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Francisco

On March 17, 2015 before me, Melanie Godoy, Notary Public
(insert name and title of the officer)

personally appeared Darrel Gyles
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[Handwritten Signature]

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**FIRST AMENDED AND RESTATED
DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS OF
301 BRYANT STREET**

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF 301 BRYANT STREET

This First Amended and Restated Declaration of Covenants, Conditions and Restrictions of 301 Bryant Street ("**Declaration**"), is made by the 301 Bryant Street Owners' Association ("**Association**"), a California nonprofit mutual benefit corporation, pursuant to California Civil Code Section 4270 and Section 10.4 (Amendments) of the original Declaration of Conditions, Covenants and Restrictions of 301 Bryant Street, a Condominium Project, recorded on July 21, 1998, as Document No. 98-G392926-00, in the Official Records of the City and County of San Francisco, State of California ("**Original Declaration**"). Upon recordation, this Declaration supersedes and replaces in its entirety the Original Declaration.

RECITALS

A. WHEREAS, the Association is a membership organization comprised of all Owners of thirty-eight (38) Residential Units and one (1) Commercial Unit located within one (1) building.

B. WHEREAS, the Members of the Association desire to amend and restate the restrictions heretofore adopted under a general plan of improvement for the benefit of all the Condominiums of the Project and the Owners thereof.

C. NOW, THEREFORE, the Association hereby declares that the Project, as defined below, shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of providing a means of managing the Project and of protecting the value and desirability of, and which shall run with the Project and be binding on all parties having any right, title or interest in the Project or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE 1 DEFINITIONS

1.1 "**Additional Charges**" means any late charges, interest and all other costs that are incurred by the Association or its authorized agent or representative in the collection and/or enforcement of the payment of assessments, fines or penalty payments including, without limitation, reasonable attorneys' fees, accounting fees, and management fees.

1.2 "**Affordable Units**" means Units D23 through D25 and Units D32 through D35, which have been as designated affordable units under the Redevelopment Documents.

1.3 "**Alteration**" means the construction, installation, remodel, repair, replacement, demolition and/or change in any Improvement or change in the color, tone, intensity, shade or hue of any Improvement.

1.4 "**Architectural Standards**" means that portion of the Association Rules which addresses architectural and aesthetic matters, as further described in Section 6.3 below.

1.5 "Articles" means the Articles of Incorporation of 301 Bryant Street Owners' Association, as amended from time to time.

1.6 "Association" means the 301 Bryant Street Owners' Association, a California nonprofit mutual benefit corporation, and its successors and assigns.

1.7 "Association Rules" means the rules and regulations adopted and amended by the Board from time to time regulating the general management and operation of the Project, the conduct of the business and affairs of the Association and the use and enjoyment of the Common Area.

1.8 "Board of Directors" or "Board" means the governing body of the Association.

1.9 "Bylaws" means the Bylaws of 301 Bryant Street Owners' Association, as amended from time to time.

1.10 "Commercial Unit" means the Unit designated as "Commercial Unit D11" on the Condominium Plan.

1.11 "Common Area" means those portions of the Property which title is held by all Owners in common, and excepting the individual Units. The Common Area includes, without limitation, land; stairs (except stairs connecting levels within a Unit); elevator and elevator shafts; basements and storage areas; bearing walls, columns, girders, subfloors, unfinished floors, roofs, and foundations; central heating equipment, air ducts, flues and chutes and fire escapes; conduits, pipes, plumbing, wires and other utility installments (except the outlets thereof located within a Unit), required to provide power, light, telephone, gas, water, sewerage, drainage, heat, and elevator services; sprinklers, sprinkler pipes and sprinkler heads which protrude into the air space of a Unit; and any central television antenna, if any. Common Area does not include door locks and/or window locks

1.12 "Common Expenses" means the actual and estimated expenses of operating the Property and any reasonable reserve for such purposes, as found and determined by the Board, and all sums designated as Common Expenses by or pursuant to the Condominium Documents.

1.13 "Condominium" means an estate in real property, as defined in California Civil Code Sections 783 and 4125, consisting of an undivided interest as tenant in common in all or any portion of the Common Area, together with a separate fee interest in a Unit and any other easement interests in the Project as may be described in this Declaration, the Condominium Plan, or the deed conveying the Condominium.

1.14 "Condominium Building" means the structure containing the Units.

1.15 "Condominium Documents" means this Declaration and exhibits attached hereto, the Articles, the Bylaws, and such rules and regulations for the Members of the Association as may be established from time to time.

1.16 "Condominium Plan" or "Plan" means the diagrammatic floor plan of the Units located on the Property which identifies each Unit and establishes its dimensions pursuant to California Civil Code Section 4285 and which is attached to the Map.

1.17 "County" means the City and County of San Francisco, State of California.

1.18 "Declaration" means this First Amended and Restated Declaration of Covenants, Conditions, and Restrictions of 301 Bryant Street, and subsequently recorded amendments thereto.

1.19 "Eligible Insurer or Guarantor" means an insurer or governmental guarantor of a first Mortgage who has requested notice of certain matters from the Association in accordance with Section 11.7 (Notice to Mortgagees of Record).

1.20 "Eligible Mortgagee" means a first Mortgage who has requested notice of certain matters from the Association in accordance with Section 11.7 (Notice to Mortgagees of Record).

1.21 "Exclusive Use Common Areas" means those portions of the Common Area designated as "Exclusive Use Common Area" on the Condominium Plan and defined as such under California Civil Code Section 4145. Each Exclusive Use Common Area is set aside for the exclusive use of an Owner and is appurtenant to that Owner's Unit. Exclusive Use Common Area also means those portions of the Common Area exclusively serving a single Unit such as internal and external telephone wiring, screens, windows, window boxes, gates, exterior doors, door frames and hardware incident thereto, and any exterior treatment installed by an Owner with the prior approval of the Board.

(a) **"Deck"** means each portion of the Common Area designated on the Plan as "D-" followed by the Unit number to which it is appurtenant. An exclusive appurtenant easement for the use and possession of each Deck is granted to the adjoining Unit, as shown on the Condominium Plan. The perimeter boundaries of each Deck are to the interior unfinished surfaces of the fences and/or railings and to the exterior finished surfaces of any Common Area walls enclosing the Deck. The vertical boundaries of each Deck are to the interior unfinished surface of the floor and to a horizontal plane extended from the ceiling of the Unit which adjoins the Deck. The approximate dimensions of each Deck are shown on the Condominium Plan. Each Deck includes the airspace encompassed within its boundaries.

(b) **"Parking Space"** means each portion of the Common Area designated on the Plan as "P-1," "P-2," etc. and assigned to a particular Unit to which it is appurtenant. The Project contains thirty (30) Parking Spaces and one (1) handicap Parking Space (designated as "HP-13" on the Plan). The Owners of Units D21, D22, D31, 101 through 104, 201 through 204, 301 through 304, 401 through 404, 501 through 504, 601 through 604 and 701 through 704 (collectively, **"Parking Units"**) shall be assigned one Parking Space.

1.22 "Improvement" means everything constructed, installed or planted on real property, including, without limitation, buildings, fences, walls, obstructions, decks, screens, tents, awnings, carports, carport covers, structures, streets, paving, pipes, wires, grading, landscaping and other works of Improvement as defined in California Civil Code Section 3106, excluding only those Improvements or portions thereof which are dedicated to the public or a public or quasi-public entity or utility company, and accepted for maintenance by the public, such entity or utility company.

1.23 "Institutional Lender" means any bank, savings and loan association, insurance company or other financial institution holding a recorded Mortgage on any Unit.

1.24 "Invitee" means any person whose presence within the Project is approved by or is at the request of the Association or a particular Owner, including, without limitation, lessees, tenants, and the family, guests, employees, licensees or invitees of Owners, tenants or lessees.

1.25 "Major Components" means the major components of the Common Area and of any other Improvements, facilities or personal property which the Association is obligated to repair, replace, restore or maintain. Major Components shall be identified in the Association's reserve study and shall be updated as needed by the Board and/or reserve study or reserve budget preparer.

1.26 "Map" means the subdivision map entitled "Map of 301 Bryant Street, a Mixed Use Condominium Project," filed for record on June 4, 1998, in Book 56 of Condominium Maps, Pages 181 through 188, inclusive, in the Official Records of the City and County of San Francisco, State of California.

1.27 "Member" means every person or entity holding a membership in the Association and whose voting rights are not suspended pursuant to Section 12.1 hereof.

1.28 "Mortgage" means a Mortgage or a deed of trust encumbering a Condominium.

1.29 "Mortgagee" means a beneficiary of or the holder of a deed of trust, as well as a Mortgagee.

1.30 "Owner" means a record holder or holders of title, if more than one, of a Condominium. This shall include any person having a fee simple title interest to any Unit but shall not include contract sellers and those persons or entities having any interest merely as security for the performance of any obligation. If a Unit is sold under a recorded installment land contract to a purchaser, such purchaser, rather than the fee owner, shall be considered the Owner.

1.31 "Project" means the entire real property described herein, including all structures and Improvements erected thereon.

1.32 "Property" means the real property described herein and all Improvements erected thereon and all property, real, personal or mixed, intended for or used in connection with the Project.

1.33 "Redevelopment Agency" means the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic of the State of California, which has been dissolved and replaced by its successor, the Office of Community Investment and Infrastructure.

1.34 "Redevelopment Agency's Successor" means the Office of Community Investment and Infrastructure and its successors and assigns. Pursuant to state and local legislation, the Office of Community Investment and Infrastructure is governed by two bodies, the Oversight Board of the Office of Community Investment and Infrastructure and the Commission on Community Investment and Infrastructure.

1.35 "Redevelopment Agreement" means the Agreement for Disposition of Land for Private Development between the Redevelopment Agency and Grantor recorded on April 10, 1997, as Document No. 97-G144599-00, as modified by (a) the First Amendment recorded on

April 10, 1997, as Document No. 97-G144600-00, in Book G858 at Page 417; and (b) the Second Amendment recorded on April 10, 1997, as Document No. 97-G144601-00, in Book G858, at Page 418, all in the Official Records of the City and County of San Francisco, State of California, as hereafter further amended and extended from time to time.

1.36 "Redevelopment Declaration of Restrictions" means the Declaration of Restrictions recorded on April 10, 1997, as Document No. 97-G144604-00, in Book G858, at Page 421, in the Official Records of the City and County of San Francisco, State of California, as hereafter amended and extended from time to time.

1.37 "Redevelopment Design for Development" means the Design for Development approved by Redevelopment Agency by Resolution No. 326-80, adopted on October 28, 1980, and by Resolution No. 408-80, adopted on December 16, 1980, and the amendments thereto approved by Resolution No. 312-83, adopted on November 29, 1983; Resolution No. 236-85, adopted on August 20, 1985; Resolution No. 9-87, adopted on January 20, 1987; Resolution No. 121-91, adopted on May 14, 1991; Resolution No. 227-91, adopted on August 27, 1991; Resolution No. 37-92, adopted on March 24, 1992; and Resolution No. 48-96 adopted on April 2, 1996, as hereafter amended and extended from time to time.

1.38 "Redevelopment Documents" means the Redevelopment Agreement, Redevelopment Declaration of Restrictions, Redevelopment Design for Development, Redevelopment Plan and Grant Deed from the Redevelopment Agency to Grantor recorded on April 10, 1997, as Document No. 97-G144603-00, in Book G858, at Page 420, in the Official Records in the City and County of San Francisco, State of California.

1.39 "Redevelopment Plan" means the Rincon Point South Beach Redevelopment Plan recorded on February 23, 1981, as Document No. D-060006, as modified by the following documents: (a) the Redevelopment Plan recorded on March 29, 1984, as Document No. D-478602; (b) the Redevelopment Plan recorded on April 28, 1992, in Book F615, at Page 446; (c) the Redevelopment Plan recorded on November 3, 1992, in Book F747, at Page 638; and (d) the Redevelopment Plan recorded on July 17, 1995, in Book G424, at Page 155, all in the Official Records in the City and County of San Francisco, State of California, as hereafter further amended and extended from time to time.

1.40 "Regular Assessments" means an assessment which is a portion of the cost of maintaining, improving, operating and managing the Property which is to be paid by each Owner, as determined by the Association.

1.41 "Reimbursement Assessment" means a charge against a particular Condominium made for the purpose of obtaining reimbursement of certain expenditures of the Association pursuant to Section 7.7.

1.42 "Residential Unit" means any Unit which must be occupied and used for residential purposes only. Residential Units are designated as Units D21 through D25, D31 through D35, 101 through 104, 201 through 204, 301 through 304, 401 through 404, 501 through 504, 601 through 604, and 701 through 704, on the Condominium Plan.

1.43 "Special Assessment" means a supplemental assessment to meet expenses which is to be paid by each Owner when the total amount of funds necessary to defray the Common Expenses is determined to be inadequate by the Association.

1.44 "Unit" means each separate interest designated as a "Unit" on the Condominium Plan. Each Unit consists of space bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows, and doors of each Unit. The Unit does not include the structural component of any bearing wall or other structure member necessary to the support or structural rigidity of any portion of the Common Area. The Unit includes all Improvements and personal property situated within its boundaries, including, without limitation, interior walls (except interior bearing walls), appliances, cabinets, interior doors, and all electrical, heating, plumbing and other utility fixtures. Any utility fixtures that are located partially within the Unit and partially in the Common Area, such as electrical outlets and pipes that exclusively serve the Unit, are part of the Unit. Areas within a dropped ceiling, duct or utility chase that traverses a Unit and that contain utilities that serve another Condominium or two or more Condominiums are Common Areas and not part of the Unit. In interpreting deeds and plans, the existing physical boundaries of the Unit or Unit reconstructed in substantial accordance with the original plan shall be conclusively presumed to be its boundaries, rather than the description expressed in the Condominium Plan or any other recorded document, regardless of minor variances between boundaries shown on the Condominium Plan or in any other recorded document and those of the Condominium Building and regardless of settling or lateral movement of the Condominium Building.

ARTICLE 2 OWNERSHIP AND EASEMENTS

2.1 Description of Project

The Project consists of the underlying real property, together with one (1) Condominium Building which includes thirty-nine (39) Residential Units (one of which has potential dual use rights as Commercial and/or Residential) and one Commercial Unit with thirty (30) assigned Parking Spaces.

2.2 Ownership of Units

Title to each Unit shall be conveyed in fee to an Owner.

2.3 Ownership of Common Area

Each Owner shall have, as appurtenant to his or her Unit, an undivided interest in the Common Area (which is based upon the ratio of the square footage of the Unit to the square footage of all the Units), as set forth in Exhibit "A" attached hereto and incorporated herein.

2.4 No Separation of Unit from Common Area

The foregoing undivided interests are hereby established and are to be conveyed with the respective Units as indicated above and cannot be changed, except as herein set forth. Each Owner, his or her successors, assigns and grantees covenant and agree that the undivided interest in the Common Area and the fee title to the respective Unit conveyed therewith shall not be separated or separately conveyed. Each such undivided interest shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Unit.

2.5 Owners' Easement over Common Area

By reference to this Declaration, each grant deed to a Unit shall be deemed to be conveyed with the benefit of, and subject to, all applicable easements set forth in this Article 2, regardless of whether the instrument of transfer references all applicable easements. The easements described in this Article 2 shall not be transferred or encumbered separately from the Unit to which they are appurtenant.

2.6 Common Area

Every Owner shall have a non-exclusive right and easement for the ingress, egress, use and enjoyment of the Common Area (other than Exclusive Use Common Area) which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following provisions:

- (a) The right of the Association to grant an exclusive use easement to an Owner for an Exclusive Use Common Area;
- (b) The right of the Association to grant, convey and dedicate fee title to or easements over all or any portion of the Common Area; and
- (c) Any easement which affects the Common Area.

2.7 Association Entry for Repairs

The Board or its appointed agents may enter any Unit or Exclusive Use Common Area in connection with any maintenance, repair or construction for which the Association or the Owner is responsible. Such entry shall be made with as little inconvenience to the Owner as is practicable and any damage caused thereby shall be repaired at the expense of the Association. The Association's right of entry shall be immediate in case of an emergency originating in or threatening any Unit or Common Area and the Association's work may be performed under such circumstances whether or not the occupant is present. The Association or its appointed agents shall furnish the Owner and occupant with at least forty-eight (48) hours (unless an emergency exists, in which case no written notice need be given) to enter any Unit during reasonable hours and with as little inconvenience to the occupant as is practicable. Each Owner and Owner's tenant or lessee shall have the duty to cooperate with the Association and its agent in providing access to that Owner's Unit or Exclusive Use Common Area.

2.8 Exclusive Use Common Area

- (a) **Deck.** Each Owner shall have an exclusive right and appurtenant easement for the use, possession and enjoyment of the Deck adjoining that Owner's Unit, which is specifically designated in the individual Condominium grant deed or which is assigned by the Association.
- (b) **Parking Spaces.** Each Owner shall have an exclusive right and easement for the use, possession and enjoyment of, together with the right of ingress and egress in and upon, one (1) Parking Space assigned by the Association, which shall be appurtenant to and pass with title to the Owner's Condominium, subject to the Owner's obligation to pay any assessment or charge associated with such Parking Space. Once a Parking Space has been assigned, it may not be reassigned, except as described in Section 2.8(c) below. Even though the Parking Spaces are not deeded, they are appurtenant and tied to the Unit to which they

were originally assigned and cannot be conveyed separately from their appurtenant Unit. An Owner may lease his or her Parking Space only to their Unit tenant or another Association building resident.

(c) **Handicap Parking Space.** In the event the Owner (or occupant) of the Parking Unit assigned the use of the handicap Parking Space "HP-13" ("affected Owner") is not handicapped, the Board may reassign the handicap Parking Space to accommodate an Owner (or occupant) of a Parking Unit who becomes handicapped for an extended and continuous period (or a new Owner or occupant of a Parking Unit who is handicapped). The affected Owner shall be reassigned the Parking Space the handicapped Owner has the right to use. Such rights to use the handicap Parking Space shall terminate when such handicapped person ceases to be handicapped and the Board shall reassign the Parking Space and the handicap Parking Space to the Parking Unit to which they were originally assigned. Evidence of handicap status shall be by distinguishing license plate or placard issued by the California Department of Motor Vehicles. **If convicted of illegally lending or using a disability parking placard, an Owner may be subject to a civil penalty of up to \$2,500 and up to six-months in a county jail.** The Board shall be responsible for managing the use of the Parking Spaces and the handicap Parking Space, and coordinating the exchange of Parking Spaces and the handicap Parking Space pursuant to this Section. The Board shall adopt rules and regulations with respect to such use and exchange, including the procedure to be followed should an Owner or occupant be handicapped and wish to use the handicap Parking Space (which shall include a hearing and opportunity for the affected Owner to be heard), notices to be given to the Association and the affected Owner and review of the required evidence of handicap. The Board shall maintain appropriate records of such exchanges, including a copy of the evidence provided. If an Owner elects, he or she may temporarily transfer use of the Parking Space assigned to him or her and receive any consideration paid in connection with such transfer; provided, however, that the Owner's transferee must be the occupant of a Unit and the transferee's right to use such Parking Space shall cease automatically upon such transferee's ceasing to occupy a Unit; and further provided that the Association is promptly notified of any such transfer.

Priority shall be given to a disabled person who has impaired mobility due to having lost use of one or more lower extremities, or both hands, or who has been diagnosed with a disease that substantially impairs or interferes with mobility, or who is unable to move without the aid of an assistive device, as further described on DMV's website.

2.9 Storage Lockers

The Association leases out thirty (30) Storage Lockers located on Level D2 and Level D3 of the Project and designated as "Storage" on the Plan, on a first come, first serve basis. An Owner may lease more than one Storage Locker if the Storage Locker is available and no other Owner wants it. Such license shall be pursuant to a Storage Locker License, in the form approved by the Board and attached to the Association Rules. Each Owner granted a license to use a Storage Locker shall pay to the Association the fee specified in such license. In the event an Owner no longer requires a Storage Locker, such Owner shall so notify the Association in writing, and the Association shall assign the right to use such locker only to another Owner or tenant who has signed a Storage Locker License. However, the Owner remains responsible for any tenant violation with respect to the Storage Locker. The Association shall adopt rules and regulations concerning the use of the Storage Lockers, including, without limitation, procedures for assignment and establishment of fees. The Storage Locker does not include the area designated on the Plan as "Storage" in the Bryant Street Garage, which is a janitor's closet and contains general building storage. Storage Lockers are not Exclusive Use Common Area that

are appurtenant to the Units. If an Owner is delinquent in assessments, the Association may terminate the Storage Locker License after providing the Owner with thirty (30) days' written notice. If the delinquent Owner does not remove his or her personal property from the Storage Locker prior to the deadline provided by the Association, the Association may remove and dispose of the personal property at the Owner's expense.

2.10 Bicycle Parking

The Owners shall have the right to park bicycles within the enclosed portion of the Delancey Street Garage designated as "Bicycle Parking" on the Plan and in any open bicycle racks located or which may be located in the Delancey Street Garage and the Bryant Street Garage as shown on the Plan, on a first come, first serve basis. Any Owner parking a bicycle shall do so at his or her own risk, and by so parking, such Owner (a) acknowledges that the Association is not responsible for and assumes no liability for injury to persons or property from fire, theft or acts or omissions of the Association, its agents or third persons, (b) agrees to hold the Association and its agents harmless and to forever waive all claims for liability against the Association and its agents for any injury to persons or property arising out of the Owner's parking of bicycle in the Project, whether caused by Association, its agents or third persons and (c) specifically assumes any and all risk for injury to persons or property. The Association may adopt rules and regulations concerning bicycle storage, including, without limitation, procedures for access.

2.11 Partition Prohibited

The Common Area shall remain undivided as set forth above. Except as otherwise provided in California Civil Code Section 4610, no Owner shall bring any action for partition of a Unit or of the Common Area, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project and each Owner, by acceptance of a deed to his or her Unit, shall be deemed to have waived and abandoned, for himself or herself, his or her successors and assigns (whether by deed, gift, devise, foreclosure or operation of law) the right to bring or maintain any such action for partition. Judicial partition by sale of a single Condominium owned by two or more persons and division of the sale proceeds is not prohibited hereby, but partition of title to a single Condominium is prohibited.

2.12 Encroachment Easements

Each Condominium within the Property is hereby declared to have an easement over all adjoining Condominiums and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settling or shifting of the Condominium Building, or any other cause. There shall be valid easements for the maintenance of such encroachments as long as they shall exist, and the rights and obligations of the Owners shall not be altered in any way by such encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if such encroachment occurred due to willful misconduct of such Owner or Owners. In the event that a structure is partially or totally destroyed, and subsequently repaired or rebuilt, the Owners of each Condominium agree that minor encroachments over adjoining Condominiums or Common Area shall be permitted and that there shall be valid easements for the maintenance of such encroachments, so long as they shall exist.

2.13 Utility Easements

The rights and duties of the Owners with respect to electric, telephone, water, gas and sanitary sewer lines, facilities and connections; cable or master television antenna lines, facilities and connections; and security system lines, facilities and connections (collectively, "utility facilities") shall be as follows:

(a) Whenever utility facilities are installed within the Property, which utility facilities or any portion thereof, lie within or upon Condominiums owned by other than the Owner of a Unit served thereby, the Board or its authorized representative shall have the right to enter (or to have the utility company enter) upon the Condominiums within or upon which such utility facilities, or any portion thereof, lie, in connection with the construction, maintenance or emergency repair for the benefit of the Common Area or the Owners in common.

(b) Whenever utility facilities are installed within the Property, which utility facilities serve more than one Condominium, the Owner of each Condominium served thereby shall be entitled to full use and enjoyment of the portions of such utility facilities that service his or her Condominium.

(c) In the event of a dispute between Owners with respect to the maintenance, repair or rebuilding of such utility facilities, or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board who shall decide the dispute and the decision of the Board shall be final and conclusive on the parties.

ARTICLE 3 USE RESTRICTIONS

3.1 Activities Affecting Insurance

In the event any act or omission of any Owner or Owner's Invitee shall in any way cause or be responsible for: (a) any increase in the premiums for any insurance purchased or obtained by the Association in accordance with the provisions of Article 9 hereof; or (b) the triggering of any policy of insurance owned by the Association, the amount (i.e. the increase in insurance or the Association's insurance deductible) shall be assessed and charged solely to and against such Owner and his or her Unit as a Reimbursement Assessment. As used herein, the term "act or omission" means a violation of any applicable statute, code, ordinance, Condominium Document, or determination of fault or neglect by a court having appropriate jurisdiction.

3.2 Animals

No animals or birds of any kind shall be raised, bred or kept in any Condominium, or any portion of the Property, except that no more than two (2) usual and ordinary household pets such as dogs, cats, birds, etc., may be kept, provided that they are not kept, bred or maintained for any commercial purposes, and that they are kept under reasonable control at all times. Notwithstanding the foregoing, no pet may be kept on the Property which is a serious annoyance or is obnoxious to the Owners. No pet shall be allowed in the Common Area except as may be permitted by the rules of the Association (such as requiring use of a leash in Common Areas) or any Owner may cause any unauthorized pet found in the Common Area to be removed to a pound or animal shelter under the jurisdiction of the City and County of San Francisco, by calling the appropriate authorities, whereupon the Owner (upon payment of all expenses connected therewith) may repossess the pet. No dog whose barking seriously

disturbs other Owners shall be permitted to remain on the Property. Any decision regarding the conduct of a pet shall be made only after notice to the Owner and the opportunity to be heard before the Board. Owners shall prevent their pet from soiling any portion of the Common Area and shall promptly clean up any fouling by their pet at their cost and expense.

3.3 Antenna and Satellite Dish

No Owner shall alter or modify a central radio antenna, television antenna system, cable television system or satellite dish, if any, as maintained by the Association, without the permission of the Board. No Owner shall install a television antenna or satellite dish within the Owner's Unit or Deck without providing at least seven (7) days notice to the Board. Notwithstanding the foregoing, the Board may impose reasonable restrictions for the installation and use of a video or television antenna, including a satellite dish, that do not significantly increase the cost of the system or significantly decrease its efficiency or performance, as set forth in Civil Code Section 4725 and the U.S. Code of Federal Regulations, 47 CFR Section 1.4000, or comparable superseding statutes and regulations.

If the Association installs a central antenna or dish that serves the entire Condominium Building, the Association may prohibit a resident from installing an individual antennae provided that: (a) the resident receives the particular video programming or fixed wireless service that the resident desires and could receive with an individual antenna; (b) the signal quality of transmission to and from the resident's Unit using the central antenna is as good as, or better than, the quality the resident could receive or transmit with an individual antenna; (c) the costs associated with the use of the central antenna are not greater than the costs of installation, maintenance and use of an individual antenna; and (d) the requirement to use the central antenna instead of an individual antenna does not unreasonably delay the resident's ability to receive video programming or fixed wireless services.

3.4 Combining Residential Units

(a) Subject to prior written approval of the Board, which approval shall not unreasonably be withheld, Residential Units may be combined, or, if previously combined, separated and divided as follows, provided such combination or separation and division shall not impair the structural integrity of the Condominium Building:

(i) The Owner of two adjacent Residential Units may combine such Residential Units by creating internal access from one Residential Unit to another through the walls of the Common Area which separate and divide the individual Residential Units. For purposes of this subsection, adjacent shall mean two Units located on the same floor which are not separated by a portion of the Common Area designated Corridor ("Corridor") or Future Easement Area ("Future Easement Area") on the Plan.

(ii) In the event an Owner shall own two Residential Units located on the same floor which are separated by a Future Easement Area, such Owner may combine the two Residential Units by creating internal access from one Residential Unit to another through the walls and the Future Easement Area which separate and divide the individual Residential Units, and may include within the joined Residential Units and the Future Easement Area which previously separated them. Following approval of the final plans for such combination in accordance with Article 6 (Architectural Control), the Association shall grant an easement to the combining Owner for the exclusive use of such Future Easement Area, and the right to remove the Common Area walls that separate such Units from the Future Easement Area and construct

a wall separating the Future Easement Area from the adjacent Corridor.

(iii) An Owner may separate and divide two or more Residential Units previously joined hereunder, so long as all portions of the Common Area, including, without limitation, any Future Easement Areas and Corridors, are returned to their condition prior to the combination. In the case of Residential Units separated by a Future Easement Area, upon such separation and division, such Owner and the Association shall execute and record a document terminating the easement granted by the Association to such Owner for the exclusive use of the Future Easement Area.

(b) All work in connection with any combination or separation and division of Residential Units pursuant to this Section shall be done at the expense of the Owner and shall be performed in accordance with any permits which may be required. All plans must be approved by the Board prior to commencement of work or by the Architectural Control Committee, in accordance with Article 6 (Architectural Control) of this Declaration.

(c) Any Owner combining Residential Units, as provided in this Section, shall indemnify all other Owners and the Association against and hold them harmless from any cost, loss, liability, damage or injury to property or persons arising from or caused by, such work. As a condition to granting its approval, the Board or any committee appointed by the Board may impose reasonable terms and conditions, including, without limitation, a requirement that the Owner obtain lien and completion bonds to assure lien-free completion of the work. Assessments by the Association shall continue to be made to each Residential Unit whether or not combined.

(d) Each Owner of any Condominium by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree that the Association shall have the right and is authorized to execute, deliver and record any and all documents reasonably necessary to grant and/or terminate easements for the exclusive use of Future Easement Areas as provided in this Section, on behalf of all Owners.

3.5 Common Area Restrictions

(a) **Use of Common Area.** No wiring, insulation, air-conditioning, or other machinery or equipment other than that originally installed or approved by the Association, and any replacements, shall be constructed, erected or maintained on or within the Common Area. No artwork or decorations may be placed within the Common Area without the Board's prior written consent. No Owner or Invitee shall engage in any act that damages Common Area. Owners shall not sweep, shake a dust mop, or throw anything out of the windows or onto the stairway areas. Each resident is responsible for keeping fire stairways and landings clear at all times.

(b) **Alterations to Common Area.** No mechanical devices, structural devices or object of any kind, including air-conditioning units, radio, or television antennas, may be erected, affixed or installed on exterior portions of the Condominium Building, including the roof. Alterations to Common Area, including any Improvements situated therein or thereon, may be made only by the Association, subject to the limited circumstances set forth in California Civil Code Section 4760(a)(2) which permit an Owner to make an Alteration to Common Area to accommodate his or her disability.

3.6 Condominium Use

No Residential Unit shall be occupied and used except for residential purposes by the Owners, their tenants and guests, except that an Owner may maintain an office to conduct a trade or business provided such office complies with the requirements of local laws and regulations governing the maintenance of offices in residential dwelling units. The number of occupants per Residential Unit shall be limited as provided by local law.

3.7 Decks

The Decks are to be used only for patio furniture and plants and are not to be used for the storage of any items including, without limitation, boxes, mops, brooms, bicycles, buckets, cleaning supplies, refrigerators, freezers or any other appliances. No leaking plants, pointed objects, high-heeled shoes, or any other item or use which might cause damage to the Decks, Deck floorings, to a Unit or to the Common Area shall be allowed on the Decks. There shall be no barbecuing or exterior fires (or electric grills) of any kind whatsoever permitted on the Decks or at any location within the Property. All occupants with Decks shall secure all furniture, pots and plants so as to prevent them from being damaged and/or damaging property in the event of high winds. Plants must be potted in appropriate receptacles and watered carefully so that water does not flood over the Deck. Decks may not be used for beating rugs or carpets, shaking dust mops, nor may any article be draped over railings. Plants within the Decks shall not exceed more than twenty four inches above the railing height.

3.8 Fire Sprinklers and Safety Inspections

The Owners shall not cover or paint the fire sprinklers protruding from the ceiling of their Units. The Owners shall cooperate with the Association in providing access for life safety inspections and shall be responsible for any additional inspection, maintenance or legal costs incurred for failure to timely provide access.

3.9 Floor Coverings

Each room (excluding kitchens and bathrooms but specifically including halls) in all Residential Units situated above other Residential Units shall have carpeting or rugs covering at least seventy-five percent (75%) of its square footage in order to reduce noise and maximize quiet enjoyment of all others, unless expressly approved by the Association pursuant to Article 6 (Architectural Control).

3.10 Garbage Refusal and Disposal

All rubbish, trash and garbage shall be regularly removed from the Property and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All equipment and garbage cans shall be kept screened and sealed from view of other Units, streets and Common Areas. The Owners of Residential Units located on Lower Level D2 and Lower Level D3, as shown on the Plan, shall transport their rubbish, trash and garbage in sealed containers or bags to the trash room located in the Bryant Street Garage, as shown on the Plan. No toxic or hazardous materials shall be disposed of within the Project by dumping in the garbage containers or down the drains, or otherwise, other than those required, in limited quantities, for the normal cleaning of a Condominium.

3.11 Hazardous Materials

An Owner shall not use or keep in a Residential Unit or the Common Area any kerosene, gasoline or inflammable or combustible fluid or material or other hazardous materials, other than those required, in limited quantities, for normal cleaning or landscaping work.

3.12 Nuisance

No unlawful, noxious or unreasonably offensive activity shall be carried on in any Unit or in the Common Area nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners. Each Owner shall use reasonable efforts to ensure that no odor, including but not limited to cooking odors, emanates from his or her Unit. No power tools, welding equipment, or carpentry shops shall be maintained or used within the Project without the prior written consent of the Board. In general, the hours from 10:00 p.m. and 8:00 a.m. should be considered "quiet hours" and additional efforts should be made to reduce unnecessary noise that might be heard by other residents during those hours. At a minimum, there shall be no loud parties, operation of washing machines or construction during these quiet hours. Stereos, televisions, vacuum cleaners, hair dryers, exhaust fans, exercise equipment or similar noise producing products should be kept at a respectful volume at all times and should be employed only at reduced volume levels during the "quiet hours." Other sources of "shared" sound that should be avoided during quiet hours including playing of pianos and other loud musical instruments, use of garbage disposals and vacuums, hammering or other construction activities, furniture moving, bounding across floors or up and down stairs, and banging or slamming doors. If a resident ("Complainant") has a noise complaint, he or she will first try to resolve the dispute by asking the offender verbally or in writing to cease such noise producing activity. If the noise continues, the Complainant may file a written complaint to the Board, which will investigate the claim and determine whether to send a notice of violation and hearing to the offender.

3.13 Parking

(a) **Parking Spaces.** Subject to the Association Rules, each Parking Space may be used to park (1) motor vehicle and one additional wheeled conveyance (e.g. motorcycle, motorized scooter, , motorized chair and Segway) or two wheeled motorized conveyances, provided that such wheeled conveyances will fit within the designated Parking Space and does not interfere with reasonable access or parking to the adjacent Parking Space. No personal belongings are to be stored or placed in the Parking Space for more than 24 hours without the Board's prior written consent and may be removed by the Association's property manager at the Owners expense. No vehicle maintenance other than emergency work shall be permitted in the Parking Spaces.

(b) **Prohibited Vehicles.** No boat, trailer, recreational vehicle, camper, truck (other than a standard size pickup truck or standard size van) or vehicular machine shall be parked or left on any driveway, Parking Space or on any other portion of the Project, other than the specific Parking Space of the Owner owning such vehicle for a reasonable time in which the Owner shall have such vehicle placed in an operating condition. Only commercial vehicles which are used both for business and personal use (including standard size vans and pickup trucks) shall be permitted; provided, however, that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board.

(c) **Removal.** Any vehicle that violates this Section 3.13 may be towed as long as the Association follows the requirements of California Vehicle Code Section 22658 and/or may be subject to a fine, a Reimbursement Assessment and suspension of voting rights.

3.14 Right to Lease

Owners shall be entitled to rent or lease their Unit provided that:

(a) Not less than the entire Unit is leased. Nothing contained in this Section 3.14(a) shall be construed to prohibit roommates.

(b) The lease term is for a period of not less than six (6) months, unless approved by the Association, but in no event for a period of less than thirty (30) days.

(c) Any lease or occupancy agreement for a Unit shall be in writing and shall specifically provide that it is subject to the Condominium Documents, and that any violation or infraction of the Condominium Documents shall constitute a default thereunder. The Owner shall provide a copy of the lease (with confidential information redacted) to the Association at least five (5) days prior to commencement of the lease. The Owner shall remain liable for any violation or infraction of the Condominium Documents by the tenant.

3.15 Roof

Unless otherwise specified in the Association Rules, the roof shall not be used by any Owner or Owner's Invitee and shall be accessed only by the Association for maintenance and repair purposes.

3.16 Signs

No signs shall be placed or posted within the Common Area without prior written approval from the Board. No sign or billboard of any kind shall be displayed to the public view on or from any Unit, except:

(a) Directional signs established by the Association;

(b) Such signs as may be required for legal proceedings or notices;

(c) During the time of construction of any Improvement, one job identification sign not larger than eighteen (18) by twenty-four (24) inches in height and width and having a face area not larger than three (3) square feet;

(d) Signs advertising Condominiums "for sale" or "for rent" which signs shall be of customary and reasonable dimensions and shall comply with the timing and placement restrictions specified in the Association Rules; or

(e) Noncommercial signs, posters, flags or banners otherwise permitted by law, except that under no circumstances may a noncommercial sign or poster exceed nine (9) square feet in size or a noncommercial flag or banner exceed fifteen (15) square feet in size. All such noncommercial signs, posters, flags or banners otherwise permitted by law shall be posted only temporarily (for example, removed 5 days after the election).

3.17 Washer and Dryers

All washers and dryers installed in a Unit by an Owner shall conform to the following specifications:

(a) General Electric Model WSM2700 Spacemaker (stacked 110 volt washer and 30 amp/220 volt electrical dryer) or Maytag or other brand stacked washer and dryer of equivalent size, electrical requirement and equal or better venting capacity.

(b) Installation only in washer and dryer closet area in accordance with the Association's plans and specifications.

3.18 Window Covering

Window coverings on windows visible from the street shall be restricted to drapes, curtains, shutters or blinds of a neutral or white color hung from the full height of the window, unless expressly approved by the Association. In addition, any window covering originally installed in the Units shall not be altered, removed or replaced, unless expressly approved by the Board.

ARTICLE 4 USE OF COMMERCIAL UNIT

4.1 Commercial and Live/Work Use

The Commercial Unit may be occupied for residential purposes and also used for commercial purposes by the Owner or the Owner's lessee. For purposes of this Article 4, "commercial purposes" shall include retail sales and businesses and office, but shall not include food preparation, service and/or sales. So long as a live/work use, combining both commercial and residential uses within a Unit, is deemed a commercial use by the Redevelopment Agency's Successor, the Commercial Unit may be used for live/work purposes permitted by the Redevelopment Agency's Successor in accordance with the rules, regulations and policies of such agency.

4.2 Advertising and Signs

No Owner or Owner's lessee shall employ an advertising medium which can be heard or experienced outside of the Commercial Unit, including, without limiting the generality of the foregoing, flashing lights, searchlights, loudspeakers, phonographs, radios or television. No Owner or Owner's lessee shall distribute, or cause to be distributed, any handbill or other advertising device in the Common Area or on the public sidewalks or streets adjacent to the Project. All signs displayed for public view on the Commercial Unit shall comply with the requirements of the Redevelopment Documents and the rules, regulations and policies of the Redevelopment Agency's Successor.

4.3 Leasing of Commercial Unit

Except for the restrictions contained in this Section 4.3, there shall be no restriction on the right of an Owner to lease his/her/its Commercial Unit. An Owner may lease his/her/its Commercial Unit for the uses allowed by Section 4.1. Any lease shall provide that it is subject, in all respects, to the provisions of this Declaration, the Articles, the Bylaws, and any rules made by the Board.

4.4 Customers, Guests and Lessees; Insurance

An Owner shall be responsible for compliance by his/her/its customers, guests and lessees, and his/her/its lessees' customers and guests, with the provisions of this Declaration, the Bylaws, and any rules made by the Board. The Owner of a Commercial Unit or such Owner's lessee shall maintain a policy or policies of public liability insurance and shall demonstrate proof of such insurance to the Board upon request.

4.5 Restrictions on Board

The Board may not restrict the reasonable use of the Commercial Unit. All uses shall be in strict conformity with the Zoning Ordinances of the City and County of San Francisco.

4.6 Change in Commercial Status

No change in the commercial status of the Commercial Unit shall be effective, unless approved by a unanimous vote of all Owners of the Commercial Unit and permitted by the Zoning Ordinances of the City and County of San Francisco.

4.7 Inclusion of Residential Restrictions

The provisions of Sections 3.1 (Activities Affecting Insurance), 3.2 (Animals), 3.3 (Antenna and Satellite Dish), 3.5 (Common Area Restrictions), 3.8 (Fire Sprinkles and Safety Inspections), 3.10 (Garbage Refusal and Disposal), 3.12 (Nuisance), 3.13 (Parking), 3.14 (Right to Lease), 3.15 (Roof), 3.17 (Washer and Dryers), 3.18 (Window Coverings), 5.5 (Damage to Common Area or Exclusive Use Common Area Caused by Owner) and 6.1 (Alteration Requiring Prior Approval) are hereby incorporated into this Article 4 and shall be restrictions on the use of the Commercial Unit.

4.8 Hazardous Materials

An Owner shall not use or keep in a Commercial Unit or the Common Area any kerosene, gasoline or inflammable or combustible fluid or material or other hazardous materials, other than those required to operate the business for which the Commercial Unit is used and for normal cleaning and landscaping work.

ARTICLE 5 MAINTENANCE OBLIGATIONS

5.1 Maintaining Common Area and Improvements

(a) **Generally.** The Association shall maintain, repair, replace, restore, operate and manage all of the Common Area (including Exclusive Use Common Areas) and all facilities, Improvements, furnishings, equipment and landscaping thereon, including, without limitation, all sidewalks, driveways and landscaped areas that lie between the Property and adjacent streets and public rights of way, the security system, and all property that may be acquired by the Association. Maintenance shall include, without limitation, painting, maintaining, repairing and replacing all Common Areas (including Exclusive Use Common Areas), exterior glass surfaces, and landscaping; and periodic maintenance and testing of all built-in fire detection and protection devices and equipment. The responsibility of the Association for maintenance and repair shall not extend to the repair of damage to the Common Area, which originates from a Unit or which is caused by the negligence of an Owner or Owner's Invitee, as described in

Section 5.5 (Damage to Common Area or Exclusive Use Common Area Caused By Owner), in which case the responsible Owner shall pay to repair the damage and/or pay the Association's insurance deductible.

(b) **Termites.** The Association shall contract for regular termite inspection and treatment of the Common Area (including Exclusive Use Common Areas). The costs for temporary relocation, if necessary during treatment, are to be borne by the Owner affected and not by the Association pursuant to California Civil Code Section 4775(b). Written notice of treatment shall be sent to the Owners and occupants at least two (2) weeks in advance of treatment.

(c) **Guidelines.** The Association shall adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Common Area Improvements and landscaping, including, but not limited to, foundations, elevator, gutters, down-spouts, siding, trim, roofs, balconies, patios, window caulking, utility equipment and sanitary sewer and storm drainage facilities maintained by the Association, garage, and the fire sprinkler system. The guidelines shall require at a minimum an annual inspection by a qualified contractor of each of the foregoing. Such guidelines shall be reviewed and updated at least once every two (2) years and the Association shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines.

(d) **Utilities.** The Association shall maintain all utility connections, sanitary sewers and storm drainage facilities located in the Common Area, except for those installations maintained by utility companies, public, private, or municipal. The Association shall pay all charges for utilities supplied to the Project, except those metered or charged separately to the Condominiums.

5.2 Maintaining Units

Each Owner, at his or her own expense, shall maintain the Owner's Unit, including, without limitation, all appliances, lighting fixtures, recessed bathroom lighting, bathroom and kitchen exhaust fans, individual Unit heating system, and appurtenances therein. The Association may adopt Association Rules which further clarify those Improvements which are to be maintained by an Owner and those which are to be maintained by the Association.

(a) **Unit Interiors.** Except for those portions of the Project which the Association is required to maintain and repair, each Owner shall, at his or her sole cost and expense, maintain and repair his or her Unit, keeping the same in good condition. Subject to the Association Rules, each Owner shall have the exclusive right to paint, plaster, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows, and doors bounding his or her Unit in a manner which does not intrude on or into the Common Area. Each Owner shall clean the interior surface of his or her Unit windows and doors.

(b) **Doors and Windows.** Each Owner shall maintain the interior surface of all doors and windows and shall repair and replace all mail box locks, door locks, and window levers/locks, including cylinders (that have an external access point) and deadbolts; provided, however, all exterior doors and exterior hardware must precisely match the item replaced unless otherwise approved by the Board.

(c) **Fireplaces, Chimneys and Flues.** Each Owner shall clean, inspect and maintain his or her fireplace, chimney and flue and shall have such items professionally cleaned

at least every two (2) years. Owners shall maintain their fireplaces, chimneys and flues in a manner that prevents damage or discoloration in the area of the chimney top surround. Propane fireplaces are exempted from inspection and cleaning.

(d) **Glass Surfaces.** Each Owner shall clean the interiors of any windows serving that Owner's Unit. The Association shall clean the exterior surfaces of all Unit windows including windows which are accessible only with ladders or other specialized commercial equipment. The Association Rules may further identify the exterior windows which are to be cleaned by the Owners. All replacement of glass shall be performed by the Association.

(e) **Wiring and Plumbing.** Each Owner shall maintain, repair and replace, as necessary, all fixtures, appliances, showers, bathtubs, sinks, and toilets inside his or her Unit. No plumbing fixtures within the Units may be relocated without the Owner's submittal of an application under Article 6 (Architectural Control) and receipt of the Board's prior written approval. Modification, replacement, or repair of any wall containing electrical conduit or plumbing or any wiring or plumbing systems that connect to systems serving other Units and/or the Common Area requires the Board's prior written approval. If the Owner's Unit is exclusively served by a damaged pipe, the Owner of that Unit shall be responsible for the cost of repairing that damaged pipe even if it is located within the Common Area walls.

(f) **Water Damage.** Each Owner shall be financially responsible for any water damage arising out of their Units or any system exclusively serving that Owner's Unit (e.g. damaged water pipes, faulty shower valve, etc.), without regard to negligence. Any leaks in a Unit that are not reported immediately upon discovery may subject the Owner to a Reimbursement Assessment if it is determined that the Association suffered additional costs that could have been avoided but for the Owner's failure to promptly report.

5.3 Maintaining Exclusive Use Common Area

No Alteration may be made to Exclusive Use Common Area until it has been approved by the Board in accordance with the provisions of Article 6 (Architectural Control).

(a) **Deck.** Each Owner shall sweep, clean, water and remove dead landscaping and clear the drains (as applicable) within his or her Deck. The Association shall provide structural repair and replacement of the Deck, including joists underneath, resurfacing the flooring, sealing, weather stripping, caulking, and replacement or repainting of the wood railings and caps of such Decks. Each Owner shall change the light bulbs and maintain the fixtures for any exterior lighting on the Decks.

(b) **Parking Space.** Each Owner and resident shall keep their assigned Parking Space in a neat and orderly condition (no storage of items) and remove any oil spills caused by their vehicles.

5.4 Failure to Maintain Unit and/or Exclusive Use Common Area

In the event an Owner fails to maintain the interior of his or her Unit or the Exclusive Use Common Area to which he or she has an easement or assignment in a manner that affects any other Common Area or which the Board otherwise deems necessary to preserve the appearance and value of the Project, the Board may notify the Owner of the work required and request that it be done within thirty (30) calendar days from the giving of such notice. In the event an Owner fails to carry out such maintenance within said period, the Board may, after

written notice to the Owner and an opportunity for a hearing before the Board, cause such work to be done, and the cost of such work shall be levied as a Reimbursement Assessment pursuant to Section 7.7. Entry into a Unit shall be made only after twenty-four (24) hours' notice pursuant to Section 2.7, above.

5.5 Damage to Common Area or Exclusive Use Common Area Caused By Owner

If any portion of the Common Area is damaged and such damage originates from a Unit or any Exclusive Use Common Area, the Owner of the Unit (or the Owner of the Unit to which such Exclusive Use Common Area is attached) from which the damage originated shall pay to repair such damage without regard to negligence. If any portion of the Common Area is damaged and such damage is caused by the negligent act or omission of an Owner or Owner's Invitee, the Owner shall pay to repair such damage. If an Owner fails to pay to repair the damage or the Association's insurance deductible (where applicable), the Association may make such payment on behalf of the responsible Owner and then levy a Reimbursement Assessment against that Owner and that Owner's Condominium.

5.6 Damage to Units Caused by Owner

If any portion of a Unit is damaged, such damage is covered by the Association's insurance policy and such damage originates from a Unit, the Owner of the Unit from which the damage originated shall pay to repair the damage without regard to negligence. If an Owner fails to pay to repair the damage, the Association may repair such damage on behalf of the responsible Owner and then levy a Reimbursement Assessment against that Owner and that Owner's Condominium.

ARTICLE 6 ARCHITECTURAL CONTROL

6.1 Alteration Requiring Prior Approval

(a) **Generally.** Prior Board approval in accordance with this Article 6 is required for: (a) any proposed Alteration to the interior of any Unit that extends beyond the boundary of a Unit (beyond the interior surface of the ceiling, subfloor or drywall of the Unit); (b) any Alteration to the existing electrical, plumbing, HVAC or other mechanical equipment or lines, window units or window frames; (c) any Alteration that affects the structural integrity or structural component of the Condominium Building; (d) any installation of hard flooring material that would increase sound transmission between the Units; and (e) any Alteration to the exterior of the Condominium Building including, but not limited to, placement of tiling or other floor covering surfaces or other Improvements on the Decks. No Owner shall alter the exterior of the Condominium Building in any manner whatsoever.

(b) **Preservation of Acoustical Separation.** The developer has delivered to the Association strict specifications for construction and acoustical treatment required to maintain the acoustical separation between the Units. Any alteration or remodeling of the interior of any Unit that requires modification, in any way, of walls, ceilings or floors between the Units, between the Units and the exterior of the building, and between the Units and the Common Area hallways and lobby, including, without limitation, replacement or modification of the floor finishes or installation of electrical connections or boxes or plumbing lines, shall comply with such specifications, and shall require the prior approval of Board in accordance with this Article.

6.2 Alteration Not Requiring Prior Approval

Notwithstanding the foregoing, an Owner may improve or alter any Improvements located within the interior boundaries of the Owner's Unit without Board approval such as replacement of wall coverings; replacement of floor coverings (which does not increase sound transmission); and the placement of artwork, mirrors, wall covering or other items to be affixed to the drywall but which do not penetrate beyond the drywall. All work (labor and materials) exceeding Five Hundred Dollars (\$500.00) must be performed by licensed and insured contractors who must provide evidence of their license and current insurance to the Association prior to any work being commenced. All construction shall be conducted in accordance with the Association Rules regarding entry onto the Association property, hours of construction, and limited use of the elevator for materials and workers. Owners shall be fully responsible for any property damage or personal injury caused by their contractors, subcontractors, employees, residents or agents of the Owners.

6.3 Architectural Standards

The Board may, from time to time, adopt, amend, and repeal rules and regulations to be known as "Architectural Rules." Said Architectural Rules shall interpret and implement the provisions of this Article 6 by setting forth the standards and procedures for Board review and guidelines for architectural design, placement of buildings and other structures, and landscaping, color schemes, exterior finishes and materials, and similar features which are recommended for use in the Project; provided, however, that said Architectural Rules shall not be in derogation of the minimum standards required by this Declaration.

6.4 Submission of Plans and Specifications

Prior to commencing any Alteration that requires approval, the Owner shall submit a completed architectural application form, plans and specifications, evidence of contractor's license and certificate of insurance, a refundable deposit and other information required by the Association Rules. The contractor's insurance must name the Owner as well as the Association as additional insureds. The refundable deposit, in an amount determined by the Board, shall cover any repairs or losses resulting from damage to the Common Area by the Owner's contractor or agent. The full amount of the damage deposit must be maintained during the entire construction project. If funds are removed to reimburse the Association for any damage, the funds must be replenished by the Owner in order for construction to continue.

6.5 Board Response

The Board shall respond in writing to an Owner's notice of the proposed Alteration within thirty (30) calendar days of the Board's receipt of the completed application and plans and specifications. If the Board fails to respond within sixty (60) business days, the applicant may deliver a written demand for action. If the Board fails to approve or disapprove the application within thirty (30) calendar of the written demand, approval shall be deemed granted unless a written extension is executed by the person submitting the application or by the Board. The Board's response may be an approval, a conditional approval, or denial of the proposed Alteration. If the Board's response is a conditional approval or denial, the reasons for such decision shall be provided in the written response provided to the Owner. If the Board's response is a conditional approval, the written response shall also include direction as to how the Owner should modify the proposed Alteration to obtain an unconditional approval. The Board may require the applicant to sign a recordable indemnity agreement that will require the

Owner of the Unit in question to perform all needed maintenance, repair and replacement at his or her expense. The agreement shall then be recorded in the chain of title to the Unit so it will be binding on successor Owners of the Unit.

6.6 Completion

Upon approval by the Board, no subsequent material modification to the approved plans and specifications shall be permitted, unless the Owner first requests and obtains approval of such modification from the Board. If the work is not commenced within ninety (90) days after receipt of approval or is not completed within one hundred and eighty (180) days after receipt of approval or by such other date approved by the Board, the approval automatically shall be deemed revoked and no further work shall be done without again obtaining the written approval of the Board.

6.7 Inspection

Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon twenty-four (24) hours' oral or written notice, Board members or representatives shall have the right to inspect the jobsite during the construction or installation of the proposed Alteration to confirm that work is proceeding in accordance with the approved plans and specifications. If it is not, the Owner shall be notified in writing by the Board of the violation(s) and shall have thirty (30) business days to remedy the non-compliance.

(b) Upon completion of the construction or installation work, the Owner shall provide the Board with a written notice of completion.

(c) Within sixty (60) business days after the Board receives the notice of completion, the Board's designated representative shall have the right to inspect the completed work to determine whether or not said work substantially complies with the approved plans and specifications.

6.8 Non-Compliance

If an Owner violates any provision of this Article 6, then the Board shall provide the Owner with written notice of the non-compliance, describing the violation(s). Where the Board discovers a violation during the sixty (60) day final inspection period, the notice of non-compliance must be mailed or delivered to the Owner within that sixty (60) day timeframe. The Owner shall be provided with thirty (30) business days to rectify the violation(s), measured from the date the Board delivers its notice of non-compliance to the Owner. If the Owner fails to rectify the violation(s) within the thirty (30) day timeframe, the Board shall provide notice and an opportunity for a hearing to consider the Owner's continuing non-compliance. At the hearing, if the Board finds that there is no valid reason for the continuing non-compliance, the Board shall determine the estimated costs of correcting it. The Board shall then require the Owner to remedy or remove the non-complying Improvement within a period of not more than forty-five (45) days from the date of the Board's determination. If the Owner does not comply with the Board's ruling within such forty-five (45) day timeframe, or within any extension of such period as the Board, in its discretion, may grant, the Board may either remove the non-complying Improvement or remedy the non-compliance. The costs of such action shall be levied against the Owner as a Reimbursement Assessment. Such costs include but are not limited to: (a) reconstruction or repair to the Unit and its related costs; (b) reconstruction or repair to the

Common Areas or Exclusive Use Common Areas and its related costs; (c) attorneys' fees; and (d) court costs.

6.9 Estoppel Certificate

Within thirty (30) days after written demand is delivered to the Association by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Board), the Board shall cause to be recorded an estoppel certificate, certifying (with respect to any Unit of said Owner) that as of the date thereof, either: (a) all Improvements made and other work completed by said Owner comply with this Declaration, or (b) such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such non-compliance. Any purchaser from the Owner, or from anyone deriving any interest in a Unit through him or her, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association and all Owners and such persons deriving any interest through them.

6.10 Liability

Neither the Board nor any member thereof shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property within the Project; or (d) the execution and filing of an estoppel certificate pursuant to Section 6.9, whether or not the facts therein are correct; provided, however, that the Board, or any member thereof, has acted in good faith on the basis of such information as may be possessed by him or her.

6.11 Compliance with Governmental Requirements

The application to the Association and the review and approval of any proposals, plans, or other submittals shall in no way be deemed to be satisfaction of or compliance with any building permit process or any other governmental requirements, the responsibility for which lies solely with the respective Owner.

ARTICLE 7 ASSESSMENTS, RESERVES, AND FINANCIAL REPORTING

7.1 Purpose of Assessments

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Members of the Association; the improvement, replacement, repair, operation and maintenance of the Common Area; and the performance of the duties of the Association, as set forth in this Declaration and the Bylaws.

7.2 Procedure for Establishing Regular Assessments

(a) **Pro Forma Operating Budget.** Not less than thirty (30) days nor more than ninety (90) days before the end of the fiscal year, the Association shall distribute the pro forma operating budget with the Annual Budget Report, as described in Section 11.1 of the Bylaws.

(b) **Regular Assessments.** Not less than thirty (30) days nor more than ninety (90) days before the end of the fiscal year, the Board shall establish the Regular Assessments for each fiscal year when it approves the pro forma operating budget for that fiscal year, as described in Section 11.1 of the Bylaws. If the Board fails to fix the amount of the Regular Assessment for the coming fiscal year, the amount of the Regular Assessment established for the preceding fiscal year shall continue until a new Regular Assessment amount is fixed.

(c) **Limitations on Regular Assessments.** The Board may not establish a Regular Assessment for any fiscal year which is increased by more than twenty percent (20%) of the Regular Assessment for the prior fiscal year without the approval by secret ballot, as described in the Bylaws, of a majority of the votes cast during an election where a quorum has been established. For purposes of this Section, a "quorum" means more than fifty percent (50%) of the Members. These limitations do not apply to increases in Regular Assessments that address any one of the following emergency situations:

- (1) Complying with the requirements of a court order;
- (2) Repairing or maintaining the Project, or any part of it for which the Association is responsible where an immediate threat to personal safety on the Project is discovered; or
- (3) Repairs to or maintenance of the Project that could not have been reasonably foreseen in preparing the pro forma operating budget, provided that prior to the imposition of the assessment, the Board shall have made and distributed to the Owners written findings as to the necessity of such repairs or maintenance and the reason that they could not have been reasonably foreseen.

7.3 Accounting Treatment of Reserves

Unless the Association or its assessment income shall be exempt from federal or state income taxes, to the extent possible, all reserves shall be accounted for and handled as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in such other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board as will prevent such funds from being taxed as income of the Association.

7.4 Limitations on Use of Reserves

The signatures of at least two (2) Board members shall be required for the withdrawal of funds designated as reserve funds. The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement or maintenance of Major Components for which the reserve funds were established or litigation relating thereto. Notwithstanding this limitation, the Board (a) may authorize the temporary transfer of money from the reserve account to the Association's operating account to meet short term cash flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reasons why the transfer is needed, and describing when and how the money will be repaid to the reserve account, (b) shall cause the transferred funds to be restored to the reserve account within one (1) year of the date of the initial transfer; however, the Board may, upon making a documented finding that a delay of restoration of the funds to the reserve account would be in the best interests of the Project, delay the restoration until such time as it reasonably determines to be necessary, and (c) shall exercise prudent fiscal

management in maintaining the integrity of the reserve account and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the period described in (b) above. Any such Special Assessments shall not be subject to the limitations specified in Section 7.5 (Special Assessments). If the Board uses reserve funds or temporarily transfers money from the reserve account to pay for litigation, the Association shall notify the Owners of that decision and the availability of an accounting on those expenses in the next available mailing. The Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by the Owners at the principal office of the Association.

7.5 Special Assessments

(a) **Determination of Amount.** Not less than thirty (30) days or more than ninety (90) days before the beginning of each Association fiscal year, the Board shall establish the Special Assessments for each fiscal year when it approves the pro forma budget for that fiscal year, as described in Section 7.2(a)(Pro Forma Operating Budget), above. If at any time the Board determines that the estimated total amount of funds necessary to defray the Common Expenses for a given fiscal year is or will become inadequate to meet expenses for any reason, including, without limitation, unanticipated delinquencies, costs of construction, costs to purchase Condominiums following damage or destruction, or unexpected repairs or replacements of Major Components, the Board shall determine the approximate amount necessary to defray such expenses, and if the amount is approved by a majority vote of the Board, then that amount shall become the amount of the Special Assessment to be levied against Owners.

(b) **Limitations on Special Assessments.** Notwithstanding Section 7.5(a) (Determination of Amount), any Special Assessment for the fiscal year in which such Special Assessment is levied, that would be in an amount in excess of five percent (5%) of the budgeted gross expense of the Association for the fiscal year, shall require the approval by secret ballot, as described in the Bylaws, of a majority of the votes cast during an election where a quorum has been established. For purposes of this Section, a "quorum" means more than fifty percent (50%) of the Members. These limitations do not apply to Special Assessments levied pursuant to Section 9.13 (Material Damage or Destruction) or for any one of the emergency situations described in Section 7.2(c).

7.6 Allocation of Assessments

Except as provided below, all Regular and Special Assessments shall be equally assessed to the Owners.

(a) **Generally.** The following individual items comprising Regular and Special Assessments shall be assessed according to each Owner's percentage interest in the Common Area as set forth in Exhibit "A":

i. Operating Expenses

A. Administrative Expenses

Insurance Package
Miscellaneous Administrative

B. Custodial

Custodial Contract
Window Washing Service
Miscellaneous Administrative

C. Utilities

Domestic Water Heater System
Water and Sewer
Refuse Collection
Miscellaneous Utilities

ii. Reserves

A. Building Exteriors

Balcony Waterproofing
Concrete Plaster Siding
Power Wash
Metal Railing Paint
Metal Railing Repair
Metal Window Paint
Window Sealant Replacement

B. Mechanical Systems - Water

Booster pumps
Circulation Pumps
Holding Tanks
Sump Pumps
Water Heaters

C. Roofing System

BUR
BUR Inspection and Repair

(b) Cooktops. Nineteen and eight tenths percent (19.8%) of any Regular and Special Assessments for gas supplied to cooktops shall be equally assessed to the Units set forth below:

101	501
102	502
201	601
202	602
301	701
302	702
401	703
402	704

Such allocation shall be reviewed by the Board of Directors not less frequently than every three (3) years, and adjusted as appropriate to reflect actual usage..

(c) **Garages.** Regular and Special Assessments for all expenses related to maintenance and use of the garages shall be equally assessed to the Parking Units, as set forth below:

D21	201	401	601
D22	202	402	602
D31	203	403	603
101	204	404	604
102	301	501	701
103	302	502	702
104	303	503	703
	304	504	704

(d) **Special Assessments.** Any Special Assessment for the rebuilding or major repair of the Common Area shall be assessed according to each Owner's percentage interest in the Common Area as set forth in Exhibit "A" (said percentage interest is based on the ratio of the square footage of the floor area of the Unit to the total square footage of all of the Units).

7.7 Reimbursement Assessments

After providing notice and a hearing pursuant to Section 12.2 (Informal Dispute Resolution: Notice and Hearing), the Association shall have the power to levy a Reimbursement Assessment against an Owner to reimburse the Association for expenditures made by the Association: (a) to repair damage caused by an Owner or an Owner's Invitee; (b) to perform maintenance that the Owner is obligated to perform under the Condominium Documents; (c) to enforce the Condominium Documents against an Owner or Owner's Invitee; or (d) to discharge any lien on the Project for which such Owner is responsible. A Reimbursement Assessment may be enforced by lien pursuant to California Civil Code Section 5725(a) if levied to repair damage to the Common Area. A Reimbursement Assessment is separate and distinct from a fine or other monetary penalty.

7.8 Non-Waiver of Assessments; No Offsets

No Owner may waive or otherwise escape personal liability for the payment of all assessments levied against that Owner's Condominium by non-use or abandonment of the Common Area or that Owner's Condominium. No offset against any assessment shall be permitted for any reason, including any claim made by an Owner that the Association is not properly discharging its duties and obligations.

7.9 Assessment Due Date

The first day of each month shall be the due date for all monthly installments of Regular Assessments and Special Assessments. If, in the sole discretion of the Board, a Special Assessment is levied in a single payment and not pro-rated over the remaining months of the fiscal year, said Special Assessment shall be due and payable to the Association when levied upon the Owner. Reimbursement Assessments shall be due and payable to the Association when levied upon an Owner. A Reimbursement Assessment shall be due and payable to the Association within thirty (30) days after the mailing of notice of the Reimbursement Assessment.

7.10 Delinquent Assessments; Late Fees and Interest

All payments not received within fifteen (15) calendar days of the due date shall be deemed delinquent. There shall accrue with each delinquent assessment, or installment thereof, a late charge equal to the maximum amount permitted under California Civil Code Section 5605 (or under any successor provision of California law which limits the amounts of such late charge). Any waiver of such late fee shall require a vote of the Board. The Association may recover its reasonable costs incurred in collecting delinquent assessments or installments, including, without limitation, attorneys' fees, accounting fees, management fees and the Board's internal fees, from the delinquent Owner. Interest on all assessments or installments owing by an Owner, including reasonable costs of collection and late charges, shall accrue at an annual percentage rate of twelve percent (12%), commencing thirty (30) days after the assessment or installment becomes due, or such higher rate as may be allowed by law and specified from time to time by the Board. Any payments toward a delinquent assessment or installment shall first be applied to the assessment or installments amounts owed, and only after the assessment or installments owed are paid in full shall such payments be applied to the fees and costs of collection, attorneys' fees, accounting fees, management fees, late charges or interest. When an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the person who received it. The Association shall provide a mailing address for overnight payment of assessments or installments.

ARTICLE 8 ENFORCEMENT OF ASSESSMENTS; LIENS AND FORECLOSURE

8.1 Right to Enforce

The right to collect and enforce assessments is vested in the Association, which shall have the authority to delegate the exercise of such right to an agent, including any management company or representative thereof. The Association or its authorized agent or representative acting on behalf of the Association can enforce the obligation of the Owners to pay assessments provided for in this Declaration by suspending voting rights after notice and a hearing, collecting rent from the Owner's tenant as described in Section 8.2 (Assignment of Rents) below, filing a suit at law or equity, recording a lien against the Condominium pursuant to Section 8.7 (Creation of Lien) and pursuing its lien foreclosure and enforcement rights under Section 8.8 (Enforcement of Lien and Foreclosure). A suit to recover a money judgment for unpaid assessments together with all Additional Charges shall be maintainable without waiving the Association's lien rights.

8.2 Assignment of Rents

When an Owner who is leasing his or her Unit fails to pay any Regular Assessment or other assessment or charge to be paid by the Owner to the Association pursuant to this Declaration for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the tenant or lessee during the period of delinquency, and, upon request by the Board, tenant or lessee shall pay to the Association all such rent until all unpaid amounts owed by the Owner to the Association have been paid in full. All such payment made by tenant or lessee shall reduce, by the same amount, tenant's or lessee's obligation to make monthly rental payments to lessor. This Section shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible. In order to enforce this provision, the Association must record a lien and serve a "Demand to Pay Rent" to

the tenant in accordance with California Civil Code Section 2938.

8.3 Notice to Delinquent Owner

At least thirty (30) days before recording a lien against the Condominium of an Owner pursuant to Section 8.7(a)(Recordation of Notice of Delinquent Assessment), the Association shall notify the record Owner in writing by certified mail of the following:

(a) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount; a statement that the Owner has the right to inspect the Association records pursuant to California Corporations Code Section 8333; and the following statement in 14-point boldface type, if printed, or in capital letters, if typed:

"IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION";

(b) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorneys' fees, accounting fees, management fees, late charges, and interest, if any;

(c) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment(s) was paid on time to the Association; and

(d) The right to request a meeting with the Board to discuss a payment plan for the amount owing by the Owner.

8.4 Owner Disputes Delinquency

An Owner may dispute the amount owing as shown in the Association notice described in Section 8.3 (Notice to Delinquent Owner), above, by submitting to the Board a written explanation of the reasons for his or her disagreement within fifteen (15) calendar days of the postmark of the notice sent by the Board ("**Owner Explanation**"). On receipt of the Owner Explanation, the Association shall inform the Owner that the Owner may resolve the dispute through informal dispute resolution, as described in Section 8.5 (Informal Dispute Resolution as applied to Assessment Dispute), through alternative dispute resolution ("**ADR**") as set forth in California Civil Code Section 5925 *et seq.*, by civil action, or by any other procedures to resolve the dispute that may then be available through the Association.

8.5 Informal Dispute Resolution as applied to Assessment Dispute

The Board shall respond in writing to the Owner within fifteen (15) days of the date of the postmark of the Owner Explanation, if the Owner Explanation is mailed within fifteen (15) days of the date of the postmark of the Association notice. An Owner may also submit a written request to meet with the Board to discuss a payment plan for the amount owing as shown in the Association notice. The Association shall provide the Owner with the standards for payment plans, if any exist. The Board shall meet with the requesting Owner in executive session within forty five (45) days of the postmark of the Owner Explanation, unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate one or

more directors to meet with the Owner.

8.6 Alternative Dispute Resolution as applied to Assessment Dispute

An Owner may request and shall be awarded through ADR reasonable interest to be paid by the Association on the total amount paid by the Owner under protest if the arbitrator/mediator determines that the assessment levied by the Association was not correctly levied.

8.7 Creation of Lien

If there is a delinquency in the payment of any assessment or installment thereof applicable to a Condominium, as determined in accordance with Section 7.9 (Assessment Due Date), above, or in the payment of any other amount with respect to which a lien is authorized to be imposed by the Association pursuant to this Declaration or by law, the Association shall have a lien against the Condominium in the amount of the delinquent payments plus all Additional Charges.

(a) **Recordation of Notice of Delinquent Assessment.** The lien shall be effective upon the recordation of a "Notice of Delinquent Assessment" in the Official Records of the County pursuant to California Civil Code Section 5675. The notice shall state: (a) the amount of the assessment and other sums owing, (b) a legal description of the Owner's Condominium, (c) the name of the Owner as reflected in the recorded deed to the Condominium, and (d) the name and address of the trustee authorized by the Association to enforce the lien by sale as provided in Section 8.8 (Enforcement of Lien and Foreclosure). The notice shall be signed by the President of the Association, or by a person authorized by resolution of the Board, and mailed in the manner set forth in California Civil Code Section 2924b to all record Owners of the Condominium no later than ten (10) calendar days after recordation. The notice shall not be recorded unless and until the Association has complied with the provisions of Section 8.3 (Notice to Delinquent Owner) and Section 8.4 (Owner Disputes Delinquency), above.

(b) **Duration of Lien.** The lien shall continue until the Association records a further notice stating the satisfaction and release of the lien as provided in California Civil Code Section 5685, or until foreclosure as provided hereinafter. Within twenty one (21) days of the payment of the sums specified in the notice of delinquent assessment, the Association shall record a "Lien Release" or "Notice of Rescission" in the Official Records of the County and shall provide the Owner with a copy of the release or notice, showing that the lien has been satisfied.

(c) **Priority of Lien.** A lien created pursuant to this Section 8.7 (Creation of Lien) shall be prior to all other liens recorded subsequent to the recordation of the Notice of Delinquent Assessment, except for Mortgages to which such lien is expressly made subordinate under this Declaration or by separate written instrument of subordination executed by the Association.

8.8 Enforcement of Lien and Foreclosure

Thirty (30) days following the recordation of a "Notice of Delinquent Assessment," as described in Section 8.7(a)(Recordation of Notice of Delinquent Assessment), the lien may be enforced in one of the following ways:

(a) If the delinquency exceeds One Thousand Eight Hundred Dollars (\$1,800.00) or is more than twelve (12) months overdue, the lien may be enforced in any manner permitted by law, including sale of the Condominium by the court upon judicial foreclosure, sale of the Condominium by the trustee designated in the notice of delinquent assessment, or sale of the Condominium by the trustee substituted pursuant to California Civil Code Section 2934a.

(b) If the delinquency is less than One Thousand Eight Hundred Dollars (\$1,800.00) or is less than twelve (12) months overdue, the Association may not use judicial or nonjudicial foreclosure to enforce the lien. The Association must use the enforcement mechanisms set forth in Section 8.5 (Informal Dispute Resolution as applied to Assessment Dispute) and Section 8.6 (Alternative Dispute Resolution as applied to Assessment Dispute) or file a court action.

8.9 Waiver of Homestead Protections

Each Owner, to the extent permitted by law, waives the protections of any declared homestead or homestead exemption under the laws of California as applied to any action to enforce the assessments levied by the Association.

ARTICLE 9 INSURANCE, DAMAGE OR CONDEMNATION

9.1 Best Efforts to Obtain and Maintain Insurance Policies

The Board shall make every reasonable effort to obtain and maintain the following types of insurance policies as provided in this Article 9. If the Board is unable to purchase a policy or if the Board believes that the cost of the policy is unreasonable, the Board shall call a special membership meeting to determine what action to take. The Board shall comply with any resolution concerning insurance coverage adopted at such a meeting. If the failure to obtain or maintain the following types of insurance policies is due to the unavailability of such insurance from reputable insurance companies, or if such policies, in the sole judgment of the Board, are available at commercially unreasonable rates, neither the Board, the Association, nor the management company shall be liable for such failure.

9.2 Named Insured

The named insured on all insurance policies shall be the Association or its authorized representative, as a trustee for the Owners; provided, however, all such policies are for the benefit of all Owners and their Mortgagees, as their interests may appear.

9.3 Certificate of Insurance

If reasonably available, the Association shall provide each Owner with a certificate of insurance specifying the amounts and types of such insurance applicable to that Owner's Condominium.

9.4 Authority to Negotiate and Adjustment of Losses

Each Owner, by accepting a deed to a Condominium, shall be deemed to appoint the Association as such Owner's attorney-in-fact to negotiate and agree on the value and extent of any loss under any insurance policy. The Association is granted full authority to negotiate and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

9.5 Contribution

In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by Owners or their Mortgagees.

9.6 Term

The period of each insurance policy shall not exceed three (3) years, provided that the policy permits short rate cancellation by the insured.

9.7 General Policy Provisions

To the greatest extent possible, the Board shall insure that each insurance policy provides for the following:

- (a) A waiver of subrogation by the insurer as to any claims against the Board, the Association's management company, the Owners and the Owners' Invitees;
- (b) A waiver by the insurer of its right to repair and reconstruct instead of paying cash;
- (c) That no policy may be cancelled, invalidated, or suspended on account of any Owner's act or omission;
- (d) That no policy may be cancelled, invalidated, or suspended on account of any act or omission by the Association or any of its employees or contractors, by any Board member, or by the Association's management company without the insurer's prior written notice (i) identifying the default and (ii) permitting a reasonable amount of time to cure by the Association;
- (e) That the policy will be primary and shall not require contribution by any individual insurance policy held by an Owner even where such individual insurance covers the same loss;
- (f) That no policy may be cancelled or substantially modified without at least sixty (60) days' prior written notice to the Association;
- (g) An agreed amount of endorsement, if the policy contains a co-insurance clause;
- (h) A guaranteed replacement cost or replacement cost endorsement; and
- (i) An inflation guard endorsement.

9.8 Underwriter

All such policies of insurance and bonds shall be obtained from insurance companies with a financial rating of Class VI or better and a policyholder's rating of A or better, both by Best's insurance rating guide. In the event Best's should revise its rating system, the Association shall select insurance companies with equivalent financial and policyholder's ratings under the rating system then being used by Best's or, in the event Best's discontinues its rating system, insurance companies with equivalent financial and policyholder's ratings under such comparable rating system as the Board may select.

9.9 Types of Insurance Policies

The Association shall obtain the following policies of insurance:

- (a) **Fire and Casualty.** A policy or policies of fire and casualty insurance (Special Form), for the full replacement value, covering:
 - (i) **Common Area.** All Common Area Improvements, including building(s) and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the building(s) and not located within a Unit; fences; monuments; lighting fixtures; exterior signs; recreational facilities, if any; and personal property owned by the Association (but excluding land, foundations, excavations and other items typically excluded from property insurance coverage);
 - (ii) **Units.** Interior walls and doors; ceiling, floor and wall surface materials (e.g., paint, wallpaper, mirrors, carpets, and hardwood floors); utility fixtures (including gas, electrical, and plumbing); cabinets; built-in appliances; heating and air conditioning systems; water heaters (but excluding any improvements or upgrades to any of the foregoing to the extent of any such improvement or upgrade); and
 - (iii) **Landscaping.** Lawn, trees, shrubs and plants located in the Common Area.
- (b) **Liability Insurance.** A policy or policies of comprehensive public liability insurance, including, but not limited to, general public liability insurance, including coverage for bodily injury, emotional distress, wrongful death, and/or property damage. Such insurance shall insure the Association, the Board, the directors, the officers, the Owners and any appointed manager, against any liability to the public or to any Owner incident to the use of, or resulting from, any accident or intentional act occurring in or about the Common Area. The general public liability insurance required by this Section shall each be in an amount of not less than two million dollars (\$2,000,000) per occurrence, or such other minimum amount as may be required by California Civil Code Section 5805.
- (c) **Worker's Compensation.** A worker's compensation insurance policy to the extent necessary to comply with all applicable laws of the State of California or the regulations of any governmental body or authority having jurisdiction over the Project.
- (d) **Fidelity Insurance.** A fidelity insurance policy, in a commercial blanket fidelity insurance form, naming such persons as may be designated by the Board as principals, and the Owners as obligees, in an amount to be determined by the Board in its absolute discretion.
- (e) **Earthquake Insurance.** Earthquake insurance only if at least a majority of the Members approve the purchase of such insurance. If the Members elect to purchase such earthquake insurance, the insurance may be subsequently cancelled on a vote of the majority of the Members. If cancelled, the Association shall make reasonable efforts to notify the Members of the cancellation.
- (f) **Insurance Required by Certain Lenders.** The amount, term, and coverage of any policy required hereunder (including the type of endorsements, the amount of the deductible, the named insureds, the loss payees, standard mortgage clauses, and notices of changes or cancellations) shall satisfy the minimum requirements imposed for this type of

project by the Federal National Mortgage Association ("FNMA") or any successor thereto. If FNMA does not impose requirements on any policy required hereunder, the term, amount, and coverage of such policy shall be no less than that which is customarily carried by prudent owners of similar property in the City and County of San Francisco.

(g) **Other Insurance.** The Association shall maintain other types of insurance that the Board, in its discretion and good faith judgment, determines are necessary to fully protect the interests of the Owners.

9.10 Owner's Insurance Policies

The Association's insurance policies described in Section 9.9 (Types of Insurance Policies) are not intended to cover and do not cover any Improvement, fixtures, appliances or any personal property situated within an Owner's Unit. Each Owner is responsible for maintaining insurance to cover any damage or injury occurring within that Owner's Unit, the full replacement value for Improvements and betterments added to his or her Unit, loss assessment, loss of use, and loss of rental income.

9.11 Payment of Premiums

Insurance premiums for the policies required hereby shall be a Common Expense to be included in the monthly assessment levied by the Association. The portion of assessment payments necessary for the insurance premiums may be held in a separate account of the Association to be used solely for the payment of the premiums for such policies.

9.12 Notice of Lapse, Cancellation or Change in Association Insurance Policies

The Association shall, as soon as reasonably practical, notify Owners by first-class mail if any of the insurance policies described in this Article 9 have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, for any policy. The Association shall immediately notify Owners if the Association receives any notice of non-renewal of any of the policies described in this Article 9 and replacement coverage will not be in effect by the date the existing coverage lapses.

9.13 Material Damage or Destruction

(a) If the Project Improvements are damaged by fire or other casualty, the Improvements shall be rebuilt or repaired substantially the same as the Improvements existed prior to the fire or other casualty, subject to local building codes and other applicable governmental regulations, unless either of the following occurs:

(i) The cost of repair or reconstruction is more than fifty percent (50%) of the current replacement of all the Improvements located in the Project, the available insurance proceeds are not sufficient to pay eighty-five percent (85%) of the cost of such repairs or reconstruction, and seventy-five percent (75%) of the total voting power of the Association residing in Members and their first Mortgagees vote against the repair and reconstruction; or

(ii) Available insurance proceeds are not sufficient to repair or reconstruct the Improvements substantially to their condition prior to the casualty, a Special Assessment fails to receive the requisite vote, if required, pursuant to Section 7.5 hereof, and the Board is unable to

supplement the insurance by borrowing in the name of the Association sufficient funds to reconstruct the Improvements within a reasonable time.

(b) The following procedures shall be employed for disposition of insurance proceeds and guidance in reconstruction:

(i) **Minor Casualty.** If the cost to repair or reconstruct does not exceed the sum of fifty thousand dollars (\$50,000), the Board shall thereupon contract to repair and rebuild the damaged portions of all Units and the Common Area, in accordance with the conditions existing immediately prior to damage (modified at the discretion of the Board to comply with building codes and construction standards in effect at the time of the rebuilding) and the funds held in the insurance trust fund shall be used for that purpose. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Owners of the Units affected shall pay for the portion of the insufficiency attributed to their Unit by the Board and the Board shall levy a Special Assessment on all Condominiums to make up any deficiency attributed to the Common Area. The Special Assessment shall be subject to the provisions of this Declaration governing membership approval of Special Assessments and shall be levied according to the Owner's percentage interest in the Common Area, as set forth in Exhibit "A" hereof.

(ii) **Major Casualty.** If Section 9.13(b)(i)(Minor Casualty) is inapplicable, then:

A. All insurance proceeds and funds borrowed by the Association, if any, shall be paid to a bank, trust company or other entity designated by the Board ("insurance trustee") to be held for the benefit of the Owners and their Mortgagees, as their respective interests may appear. Said funds shall be disbursed according to standard construction loan procedures. The Board, on behalf of the Association and of the Owners, hereby is authorized to enter into an insurance trust agreement, consistent with this Declaration, with such insurance trustee, relating to its powers, duties and compensation.

B. The Board shall obtain firm bids from two (2) or more responsible contractors to rebuild the Project in accordance with the conditions existing immediately prior to damage and destruction (modified at the direction of the Board to comply with building codes and construction standards in effect at the time of the rebuilding). The Board may also obtain an estimate from the insurance carrier of the scope of work included within the amount of the insurance coverage. To be considered, any contractor's bid shall include the premium payable for performance, labor and material payment bonds from a reputable bonding company.

C. The Board shall, as soon as reasonably possible after receipt of such contractors' bids or insurance estimate, call a special meeting of the Owners to consider such bids or insurance estimate. If the Board fails to do so within sixty (60) days after the casualty occurs, any Owner may obtain such contractors' bids or insurance estimate and call and conduct such meeting, as provided herein. Failure to call such a meeting, or to repair such casualty damage within twelve (12) months from the date such damage occurred, shall be deemed, for all purposes, a decision not to rebuild the damaged or destroyed Improvements.

D. At such meeting, the Owners may elect to reject all such bids or estimates and thus not to rebuild. A vote in excess of seventy-five percent (75%) of the Members shall be required to reject all bids or estimates; provided, however, that a vote in excess of fifty percent (50%) shall be sufficient to reject any bid or estimate requiring more than

fifteen thousand dollars (\$15,000) over and above insurance proceeds for such reconstruction, repair or rebuilding. Failure of the Owners to reject all bids and estimates shall authorize the Board to accept the unrejected bid it considers most favorable; provided, however, that if acceptance of any such bid would require the levy of a Special Assessment, such acceptance shall only be granted following membership approval of such Special Assessment, as required by this Declaration. If such membership approval is not obtained, the bid shall be deemed to have been rejected.

E. In the event the Owners elect not to rebuild, insurance proceeds received by the Association shall be distributed by the Association among Owners and their respective Mortgagees, according to the respective fair market values of the Condominiums at the time of destruction, as determined by the following procedure: The Board shall appoint two (2) independent appraisers to determine the relative value of the Condominiums affected. The two appraisers shall appoint a third independent appraiser. If the two appraisers are unable to agree on a third, then the third shall be appointed by the presiding Judge of the Superior Court of the State of California for the City and County of San Francisco. The market value of the respective Condominiums shall then be the average of the three values submitted by each of the appraisers.

F. If a bid or estimate is accepted, the Board shall levy a Special Assessment to make up any deficiency between the total insurance proceeds or insurance work and the cost for such repairs or rebuilding, and such assessment and all insurance proceeds, whether or not subject to liens of Mortgages, shall be paid to the insurance trustee to be used for such rebuilding. The Special Assessment shall be levied according to the Owner's percentage interest in the Common Area, as set forth in Exhibit "A" hereof.

(c) Notwithstanding any provision in this Section to the contrary, if the insurance carrier offers the full amount required to repair and restore all of the damage, then the Board shall contract to repair and rebuild the damaged portions of all Units and the Common Area in the manner provided in Section 9.13(b)(i)(Minor Casualty).

(d) Without waiting to obtain insurance settlements or bids, the Board may undertake such emergency repair work after a casualty as it may deem necessary or desirable under the circumstances.

9.14 Condemnation

In the event of an award for the taking of any Condominium by eminent domain, the Owner of such Condominium shall be entitled to receive the award for such taking and, after acceptance thereof, the Owner and the Owner's Mortgagee shall be divested of all interest in the Project, if such Owner shall vacate his or her Unit as a result of such taking. The remaining Owners shall decide by majority vote whether to rebuild or repair the Project or take other action. The remaining portion of the Project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to adjust proportionately the percentages of the undivided interests of the remaining Owners in the Project. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the Common Area or any part thereof, and the award or proceeds of settlement shall be payable to the Association, or any trustee appointed by the Association, for the use and benefit of the Condominium Owners and their Mortgagees, as their interests may appear. If Condominiums are not valued separately by Court judgment or by agreement between the condemning authority and each of the affected

Owners in the Project, the condemnation award shall be distributed as follows: The Board shall appoint two (2) independent appraisers to determine the relative values of the Condominiums affected by the condemnation. The two appraisers shall appoint a third independent appraiser. If the two appraisers are unable to agree on a third, then the third shall be appointed by the presiding Judge of the Superior Court of the State of California for the city and County of San Francisco. The value of the respective interests shall be the average of the three values submitted by each of the appraisers. In the event any Owner disagrees with the proposed allocation, he or she may have the matter submitted to arbitration under rules of the Judicial Arbitration and Mediation Services (JAMS). In the event of eminent domain proceedings against the Project or any portion thereof, Institutional Lenders shall be given timely written notice thereof.

ARTICLE 10 REDEVELOPMENT AGENCY RESTRICTIONS

10.1 Use of Property and Enforcement

(a) Each Owner by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees as follows:

(i) To devote the Project to, and only to and in accordance with the uses specified in the Redevelopment Documents for the time periods those instruments are in effect.

(ii) Not to discriminate against or segregate any person or group of persons on account of race, color, creed, religion, ancestry, national origin, sex, marital status, or sexual orientation, age or disability in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Project or any Improvements erected or to be erected thereon, or any part thereof, nor shall any Owner or any person claiming under or through them establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees Improvements erected or to thereof or vendees be erected in the Property or any thereon, or any part.

(iii) To include in all advertising (including signs) for sale and/or rental of the whole or any part of the Project the legend, "An Open Occupancy Building," in type or lettering of easily legible size and design. The word "Project" or "Development" may be substituted for the word "Building" where circumstances require such substitution.

(iv) To comply with the regulations issued by the Secretary of Housing and Urban Development set forth in 24 C.F.R. Part 25 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in residential structures undergoing federally assisted construction or rehabilitation and require the elimination of lead-based paint hazards.

(b) It is intended and agreed that the agreements and covenants provided in this section shall be covenants running with the land and that they shall in any event and without regard to technical classification or designation, legal or otherwise, specifically provided herein, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, Redevelopment Agency's Successor, the City and County of San Francisco, and the United States (in the case of the covenants provided in Sections 10.1(a)(ii), (iii) and (iv) above, and any successor in interest to the Association and the Owner of any other land or of any interest in such land in the Project Area (as defined in the Redevelopment Documents) which is subject to the land use requirements and restrictions of the Redevelopment

Documents, against the Association, its successors and assigns to or of the Property or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof. It is further intended and agreed that the agreements and covenants provided in Sections 10.1(a)(ii), (iii) and (iv) above shall remain in effect for a period of thirty (30) years from the date of adoption of the Redevelopment Plan by the Board of Supervisors of the City and County of San Francisco, after which time said covenants shall be automatically extended for a period of ten (10) years unless an instrument signed by a majority of the then-owners of the lots in the Project Area has been recorded, agreeing to change said covenants in whole or in part, and that Section 10.1(a)(ii) shall remain in effect without limitation as to time: Provided, that such agreements and covenants shall be binding on any Owner, each successor in interest or assign, and each party in possession or occupancy, respectively, only for such period as it shall have title to or an interest in or possession or occupancy of the Property or part thereof.

(c) In amplification, and not in restriction, of the provisions of the preceding subsection, it is intended and agreed that Redevelopment Agency's Successor and the City and County of San Francisco shall be deemed beneficiaries of the agreements and covenants provided in subsection (a) of this Section, and the United States shall be deemed a beneficiary of the covenants provided in subsections (a)(i), (ii), (iii) and (iv) hereof, both for and in their or its own right, and also for the purposes of protecting the interests of the community and the other parties, public and private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of Redevelopment Agency's Successor and the City and County of San Francisco and the United States for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether Redevelopment Agency's Successor or the City and County of San Francisco or the United States has at any time been, remains or is an owner of any land or interest therein to, or in favor of, which such agreements and covenants relate. The Redevelopment Agency's Successor and the City and County of San Francisco shall have the right, in the event of any breach of any such agreements or covenants, and the United States shall have the right in the event of any breach of the covenants provided in subsections (a)(i), (ii), (iii) and (iv) hereof, to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other property proceedings to enforce the curing of such breach of agreements or covenants, to which it or any other beneficiaries of such agreements or covenants may be entitled.

10.2 Changes

Each Owner by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees as follows:

(a) For the duration of the Redevelopment Plan, the Association, any Owner, or any voluntary or involuntary successor or assign of any thereof, shall not make or permit any Change in the Improvements located on the Property, as Change is hereinafter defined, unless the express prior written consent for any Change shall have been requested from the Redevelopment Agency's Successor and if obtained, upon such terms and conditions as the Redevelopment Agency's Successor may require. Change is defined as, and shall mean as used herein any alteration, modification, addition and/or substitution of or to the Property or the Improvements located thereon which affects (i) the density of development, (ii) the extent and nature of the Property open space from that which has been certified by the Redevelopment Agency as complete in accordance with the Redevelopment Agreement, (iii) the exterior design (to the extent such change is material), (iv) the exterior materials and/or (v) the exterior color. For the purposes of the foregoing, exterior shall mean and include the roof of such Improvements.

(b) The Redevelopment Agency's Successor shall have any and all remedies in law or equity (including without limitation restraining orders, injunction and/or specific enforcement) judicial or administrative to enforce Section 10.2 (a) including, without limitation, any threatened breach thereof or any actual breach of violation thereof.

10.3 Maintenance by Redevelopment Agency's Successor

In the event that the Redevelopment Agency's Successor, at its discretion, reasonably finds that the Association has failed to maintain in good and clean condition those portions of the Condominium Building, landscaping and other Improvements to the Common Area which are visible to the public, including, without limitation all sidewalks, driveways and landscaped areas which lie between the Property and adjacent streets and public rights of way (excluding, however, the public stairs providing pedestrian access from Bryant Street to Delancey Street which are maintained by Community Facilities District No.1 (South Beach)), within sixty (60) days of receipt of notice from the Redevelopment Agency's Successor, the Association shall commence and diligently proceed with any requested maintenance. If the requested maintenance has not been commenced within such sixty (60) day period, upon ten (10) days additional notice, the Redevelopment Agency's Successor may cause the work to be done. The Association shall pay to the Redevelopment Agency's Successor the reasonable costs and all expenses associated with such work.

10.4 Affordable Housing

Pursuant to the Redevelopment Documents, Units D23 through D25 and D32 through D35 have been designated as Affordable Units. The Affordable Units shall be owned, leased, rented, sold or otherwise transferred in accordance with the terms and conditions set forth in Attachment No. 6 of the Redevelopment Agreement, a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference.

ARTICLE 11 MORTGAGEE PROTECTION PROVISIONS

11.1 Mortgagee Permitted

Any Owner may encumber his or her Condominium with a Mortgage. The Exclusive Use Common Areas, if any, are a part of the Project and are covered by the Mortgage at least to the same extent as are the Common Areas. All such areas are fully installed, completed, and in operation for use by the Owners.

11.2 Subordination

Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any first Mortgage that encumbers any Condominium, made in good faith and for value, and no such lien shall in any way defeat, invalidate or impair the obligation or priority of such Mortgage, unless the Mortgagee expressly subordinates his or her interest in writing to such lien. The transfer of ownership of a Unit and its appurtenant percentage interest in the Common Area, as the result of the exercise of a power of sale or a judicial foreclosure involving a default under the first Mortgage, shall extinguish the lien of assessments which were due and payable prior to the transfer of the ownership interest. No transfer of an ownership interest, as the result of a foreclosure or exercise of a power of sale, shall relieve the new Owner, whether it be the former Mortgagee or beneficiary of the first Mortgage or another person, from liability for any assessments thereafter becoming due or from

the lien thereof. All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to the individual Condominiums and not to the Project as a whole.

11.3 Amendment

No amendment to the Condominium Documents shall affect the rights of any Mortgagee under any Mortgage made in good faith and for value and recorded before the recordation of any such amendment, unless a Mortgagee either joins in the execution of the amendment or approves it in writing as a part of such amendment.

11.4 Restrictions on Certain Changes

(a) Unless sixty-seven percent (67%) of all first Mortgagees of Condominiums (based on one vote for each first Mortgage owned) and sixty-seven percent (67%) of Owners have given their prior written approval (unless a higher percentage is required by a specific provision of this Declaration), neither the Association nor the Owners shall be entitled:

(i) By act or omission to seek to abandon or terminate the Project, except for abandonment provided by statute in case of substantial loss to the Units and the Common Area.

(ii) To change the pro rata interest or obligations of any Condominium for purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for determining the pro rata share of ownership of each Condominium in the Common Area.

(iii) To partition or subdivide any Condominium.

(iv) By act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association or the Owners shall not be deemed a transfer within the meaning of this subparagraph.

(v) To use Common Area insurance proceeds for other than the repair, replacement or reconstruction of Common Area Improvements, except as provided by statute in case of substantial loss to the Units or Common Area of the Project.

(b) (i) Unless a higher percentage is required by a specific provision of this Declaration, the consent of sixty seven percent (67%) of the Owners and fifty-one percent (51%) of the Eligible Mortgagees shall be required to add or amend any material provisions of the Condominium Documents which establish, provide for, govern, or regulate any of the following: (1) voting; (2) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens or the priority of such liens; (3) reductions in reserves for maintenance, repair and replacement of the Common Area; (4) insurance requirements; (5) reallocation of the interests in the Common Area or the Exclusive Use Common Areas or rights to their use; (6) responsibility for maintenance and repair; (7) expansion or contraction of the Project or the addition, annexation, or withdrawal of property to or from the Project ; (8) the redefinition of boundaries of any Condominium; (9) restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified herein; (10) convertibility of Units into Common Area or of Common Area into Units; (11) imposition of any restriction on the leasing of Condominiums; (12) imposition of any right of

first refusal or similar restriction on the right of a Condominium Owner to sell, transfer, or otherwise convey his or her Condominium; and (13) any provisions which are for the express benefit of Eligible Mortgagees or Eligible Insurers or Guarantors).

(ii) An addition or amendment to such document shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Any Eligible Mortgagee who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

(c) Unless the prior consent of sixty-seven percent (67%) of the Owners and the Eligible Mortgagees has been obtained, neither the Association nor the Owners shall be entitled to terminate the legal status of the Project as a condominium project; except that the approval of only fifty-one percent (51%) of the Eligible Mortgagees shall be required to terminate the legal status of the Project after substantial destruction or a substantial taking in condemnation.

11.5 Right to Examine Books and Records

The Association shall make available to Owners and first Mortgagees (and insurers or guarantors of any first Mortgage), current copies of the Condominium Documents and the books, records, and financial statements of the Association. "Available" means available for inspection and copying, upon request, during normal business hours or under other reasonable circumstances. The Association may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents. Any first Mortgagee shall be entitled, on written request, to have an audited financial statement for the immediately preceding fiscal year prepared at its expense if one is not otherwise available. Such statement shall be furnished within a reasonable time following such request.

11.6 Distribution of Insurance and Condemnation Proceeds

No Owner, or any other party, shall have priority over any right of first Mortgagees of Condominiums pursuant to their Mortgages in case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Units or Common Area. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the Project is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected Mortgagees, naming the Mortgagees, as their interests may appear.

11.7 Notice to Mortgagees of Record

On receipt of written request to the Association from any Eligible Mortgagee or Eligible Insurer or Guarantor, identifying both its name and address and the Unit number or address of the Unit on which it has the Mortgage, the Association shall give written notice to each Eligible Mortgagee or Eligible Insurer or Guarantor of the following:

(a) Any loss to any Unit covered by such Mortgage, if such loss exceeds one thousand dollars (\$1,000) or any taking of such Unit exceeds five thousand dollars (\$5,000) or any taking of Common Area;

(b) Any loss to the Common Area, if such loss exceeds five thousand dollars (\$5,000) or any taking of the Common Area;

(c) Any default by the Owner of any Unit covered by such Mortgage under any provision of this Declaration or any other provision of the Bylaws or rules and regulations adopted by the Association, which default is not cured within sixty (60) days after written notice to such Owner (such notice to include the fact that said sixty (60) day period has expired);

(d) Any lapse, cancellation, or material modification of any insurance policy or fidelity insurance maintained by the Association; and

(e) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 11.4(b)(i).

11.8 Effect of Breach

No breach of any provision of this Declaration shall invalidate the lien of any Mortgage made in good faith and for value, but all covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

11.9 Foreclosure

If any Condominium is encumbered by a first Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments, or installments of assessments, shall not operate to affect or impair the lien of the first Mortgage. On foreclosure of the first Mortgage, the lien of assessments, or installments, that have accrued up to the time of foreclosure shall be subordinate to the lien of the first Mortgage, with the foreclosure-purchaser taking title to the Condominium free of the lien for assessments, or installments, that have accrued up to the time of the foreclosure sale. On taking title to the Condominium, the foreclosure-purchaser shall only be obligated to pay assessments or other charges levied or assessed by the Association after the foreclosure-purchaser acquired title to the Condominium. The subsequently levied assessments or other charges may include previously unpaid assessments, provided all Owners, including the foreclosure-purchaser, and his successors and assigns, are required to pay their proportionate share, as provided in this Section.

11.10 Appearance at Meetings

Because of its financial interest in the Project, any Mortgagee may appear at meetings of the Members and the Board to draw attention to violations of this Declaration that have not been corrected or made subject to remedial proceedings or assessments.

11.11 Right to Furnish Any Information

Any Mortgagee may furnish information to the Board concerning the status of any Mortgage.

11.12 Inapplicability of Right of First Refusal to Mortgagee

The Condominium Documents contain no right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Condominium. No such right of first refusal or similar right shall be granted to the Association in the future without the consent of any Mortgagee of the Condominium. Any right of first refusal or similar right that may be granted to the Association (or other person or entity) shall not apply to any conveyance or

transfer of title to such Condominium, whether voluntary or involuntary, to a Mortgagee who acquires title to or ownership of the Condominium, pursuant to the remedies provided in its Mortgage or by reason of foreclosure of the Mortgage or deed (or assignment) in lieu of foreclosure. In addition, said right of first refusal or similar right shall not impair the rights of a Mortgagee to sell or lease a Condominium acquired by the Mortgagee.

ARTICLE 12 DISPUTE RESOLUTION AND ENFORCEMENT

12.1 Enforcement of Condominium Documents

(a) **Enforcement Rights.** The Association and/or any Owner shall have the power to enforce the provisions of the Condominium Documents in any manner provided by law or in equity and in any manner provided in this Declaration. The Association may suspend the Owner's voting rights and levy a fine and/or Reimbursement Assessment against the Owner after providing notice and a hearing, as described in Section 12.2(b) below. However, the Association has no power to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of that Owner's Condominium, including access thereto, due to the Owner's failure to comply with the provisions of the Condominium Documents, unless the loss or forfeiture is the result of an order of a court or an order pursuant to a final and binding arbitration decision.

(b) **Violation.** A violation shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board shall include one component for the violation and a per diem component for so long as the detrimental effect continues, according to the Board's discretion. Similar violations on different days shall justify cumulative imposition of discipline. The Association shall take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance in the Common Area at the cost of the responsible Owner.

12.2 Informal Dispute Resolution: Notice and Hearing

(a) **Generally.** Informal dispute resolution shall initially be attempted as a means of resolving any dispute between the Association and a Member, unless the seriousness of the alleged violation, in the sole discretion of the Board, demands that formal dispute resolution be used. Informal dispute resolution means: (a) the Board shall provide the Owner with notice of the alleged violation(s) of any one of the Condominium Documents; and (b) the Board shall provide the Owner with the opportunity for a hearing before the Board.

(b) **Procedure.** The Board shall notify the Owner in writing, by either personal delivery or first-class mail, at least fifteen (15) days prior to the hearing. The notice shall contain, at a minimum, the date, time, and place of the hearing, the nature of the alleged violation(s), and a statement that the Owner has a right to attend the hearing. If requested by the Owner, the Board shall meet in executive session and the Owner shall have the right to address the Board during its executive session rather than during its open session. If the Board imposes discipline on an Owner, the Board shall give written notice to the Owner of the disciplinary action, by either personal delivery or first-class mail, within five (5) days following the hearing. A disciplinary action shall not be effective against an Owner unless the Board fulfills the requirements of this Section 12.2(b).

12.3 Formal Dispute Resolution

(a) **Alternative Dispute Resolution: Mediation or Arbitration.** If informal dispute resolution fails to resolve the dispute between the Association and a Member, or if the Board has determined that the nature of the alleged Owner violation necessitates formal dispute resolution without the initial use of informal dispute resolution, the Board shall attempt to resolve the dispute through mediation, non-binding arbitration or binding arbitration (collectively, "Alternative Dispute Resolution" or "ADR") in accordance with the provisions and procedures set forth in California Civil Code Section 5925 *et seq.* Arbitration shall be conducted in accordance with the procedures adopted by the Judicial Arbitration and Mediation Service (JAMS) and shall use only one (1) neutral arbitrator.

(b) **Legal Action**

(i) **Generally.** The Association may commence a civil legal action against an Owner subject to the requirements of California Civil Code Section 5925 *et seq.*

(ii) **For Delinquent Assessments.** The Association may commence a civil legal action against any Owner personally obligated to pay a delinquent assessment, including all Additional Charges. The Association may, but is not obligated, to engage in informal dispute resolution, as described in Section 12.2 (Informal Dispute Resolution: Notice and Hearing), or ADR, as described in Section 12.3(a) (Alternative Dispute Resolution: Mediation or Arbitration) before commencing a civil legal action for delinquent assessments.

ARTICLE 13 AMENDMENT OR REVOCATION

13.1 Approval Required for any Action

Any amendment to any provision of this Declaration shall require an affirmative vote of seventy-five percent (75%) of the total voting power of the Association in accordance with the secret ballot procedures set forth in the Bylaws. Any amendment to any provision of this Declaration relating to use and maintenance of the garages and the Parking Spaces shall require the vote or written assent of fifty-one percent (51%) of the Members who own Parking Units. Notwithstanding the foregoing provisions, the percentage of voting interest necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

13.2 Effective Date of Amendment

Any amendment of this Declaration shall be effective only after: (a) the affirmative vote of the Members is obtained pursuant to Section 13.1 above; (b) that fact has been certified in a writing executed and acknowledged by the President, Secretary or other duly authorized officer of the Association; and (c) that writing has been recorded in the Official Records of the County.

ARTICLE 14 GENERAL PROVISIONS

14.1 Term of Declaration

This Declaration will continue for a term of thirty (30) years from its date of recordation. Thereafter, this Declaration will be automatically extended for successive periods of ten (10) years until or unless seventy-five percent (75%) of the Owners approve a termination of this

Declaration.

14.2 Binding Effect

This Declaration shall inure to the benefit of and be binding on the heirs, personal representatives, grantees, tenants, successors and assigns of the Owners.

14.3 Conflict

To the extent there are conflicts or inconsistencies between this Declaration and the Bylaws or the Association Rules, this Declaration shall prevail.

14.4 Headings

The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

14.5 Gender and Number

The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

14.6 Severability

The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions shall not invalidate any other provisions.

14.7 No Discrimination

No Owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of the Owner's Unit on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability.

14.8 Construction of Provisions

The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter. Where used in this Declaration, the term "including" and its co-relative terms shall be construed as terms of explication rather than limitation as if followed immediately by the words "without limitation" in each provision.

14.9 Exhibits

All exhibits referred to are attached to this Declaration and incorporated by reference.

14.10 Successor Statutes

Any reference in any one of the Condominium Documents to a statute will be deemed a reference to any amended or successor statute.

14.11 Notification of Condominium Documents

As more particularly provided in California Civil Code Section 4525 as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Condominium, the Owner thereof must give the prospective purchaser a current copy of the Condominium Documents and a true statement in writing from the Association ("delinquency statement") as to the amount of any delinquent assessments, together with information relating to penalties, attorneys' fees, accounting fees, management fees and other charges due with respect to the Condominium as of the date the statement is issued. In order to carry out the intent and purposes of this statutory provision, the Association shall, within ten (10) days of the mailing or delivery of a request therefor, provide the Owner with a copy of the current Condominium Documents, together with the delinquency statement described herein. The Association shall be entitled to impose a fee for providing the Condominium Documents and delinquency statement equal to (but not more than) the reasonable cost of preparing and reproducing the materials.

EXHIBIT "A"**PERCENTAGE INTEREST IN COMMON AREA AND
ASSESSMENT PRORATION PERCENTAGES**

UNIT	PERCENTAGE INTEREST IN COMMON AREA AND ASSESSMENT PRORATION PERCENTAGES
D11	1.77
D21	2.03
D22	1.72
D23	2.16
D24	1.46
D25	1.39
D31	2.03
D32	1.72
D33	2.16
D34	1.46
D35	1.39
101	2.81
102	2.90
103	3.07
104	2.75
201	2.81
202	2.90
203	3.07
204	2.75
301	2.81
302	2.90
303	3.07
304	2.75
401	2.81
402	2.90
403	3.07
404	2.75
501	2.81
502	2.90
503	3.07
504	2.75
601	2.81
602	2.90
603	3.07
604	2.75
701	2.81
702	2.90
703	3.07
704	2.75

EXHIBIT "B"

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AFFORDABLE BONUS UNIT REQUIREMENTS

Definition of Affordability

- A. If any of the Affordable Units are rented, the maximum rents charged for these units will not exceed 30 percent of the income level for households at 80 percent of the area median income for San Francisco adjusted for household size, as defined by the U.S. Department of Housing and Urban Development, and average rent levels in the affordable units will not exceed 30 percent of 60 percent of the area median income. Any affordable units that are rented must be rented to qualified Low Income Tenants.

A Qualified Low Income Tenant is defined as a household with an income not greater than 80% of median income, adjusted by household size, for the San Francisco Bay Area in accordance with the most current data published by the U.S. Department of Housing and Urban Development. The average income for Qualified Low Income Tenants may not exceed 60% of the area median income, as adjusted by household size.

- B. If Affordable Units are sold as owner-occupied units, the following affordability restrictions apply:

- 1). Low Income Purchasers shall be defined as purchasers with incomes not greater than 80% of median income for the San Francisco Bay Area in accordance with the most current data published by the U.S. Department of Housing and Urban Development.
- 2). Moderate Income Purchasers shall be defined as purchasers with incomes not greater than 120% of median income for the San Francisco Bay Area in accordance with the most

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current data published by the U.S. Department of Housing and Urban Development.

The sale prices for the Low and Moderate Income units shall be based on financing available at the time the units are to be marketed. The Owner and the Agency will mutually establish a price schedule for these units so that they will be affordable to households with an average income of 100% of median adjusted by household size depending on the number of bedrooms in the designated unit. The household income of buyers may range from 80% to 120% of the median income.

The underwriting criteria for establishing the average prices of the Low and Moderate Income Units shall be based on the following assumptions:

- 5% Down payment
- \$125-150 per month (or actual, if determined)
- Homeowners Dues
- 38% Total Debt to Income Ratio; 33% Housing Expense to Income Ratio
- 1.1% Property Tax Assessment
- Fixed rate financing based on the average interest rate index for major lenders published in the San Francisco Examiner at the time the units are marketed. If the San Francisco Examiner does not publish such an index at the time the Affordable Units are marketed, an alternative index shall be used that is acceptable to the Agency and which reflects the average interest rate for fixed rate financing for conventional lenders in the Bay Area.
- Buyers may take advantage of available programs for low/moderate income and first time home buyers such as Mortgage Tax Credit Certificates, provided that such programs are not subsidized by the Agency or the City.

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The Developer shall make diligent efforts to locate a qualified Low or Moderate Income Purchaser for each Affordable Unit and shall provide the Agency with an assignable option to purchase each Affordable Unit at an affordable price, as defined above, for nine (9) months after the later of (a) issuance of a Final Public Report by the California Department of Real Estate, (b) issuance of a Certificate of Occupancy by the City and County of San Francisco as to said unit, or, if applicable, (c) issuance of a Certificate of Completion by the Agency pursuant to this Agreement.

The Agency shall have an assignable option to purchase each Affordable Unit, as defined above directly from the Developer or subsequent Low or Moderate Income Purchaser. If after evidencing good faith efforts satisfactory to the Agency for the required period, and if the Agency does not exercise its option to purchase, the Developer is unable to find a qualified Low or Moderate Income Purchaser for an Affordable Unit, the Developer may sell such unit to other than Low and Moderate Income Purchasers. In the event of such a sale, and as to such unit, the Low and Moderate Income Purchaser use restriction set forth in this Attachment, shall be of no further force or effect.

Agency Purchase Option

With respect to the Affordable Units sold to Low and Moderate Income Purchasers, the Agency shall have the option to purchase any such unit for a period of fifty (50) years from the date of recordation of the Grant Deed for conveyance of a particular unit from the Developer to the purchaser of said unit. Said Low and Moderate Income restrictions and Agency's option to purchase shall be inserted in the Grant Deed for the sale to individual purchasers.

The Developer further agrees that the form of Grant Deed to be used for conveyance of units to Low and Moderate Income Purchasers shall be submitted to the Agency for its review and approval prior to the execution and delivery of said Grant Deed.

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Occupancy Verification

Occupancy verification shall be required for the sale or lease of the Affordable Units and the Agency and the Owner agree that a Qualified Low Income Tenant or Low or Moderate Income Purchaser as defined above, and his or her immediate family shall be the sole occupants of the Affordable Units. This restriction includes, but is not limited to, prohibition of a purchaser's renting or otherwise leasing such unit. In accordance with this occupancy restriction, such purchaser will be required to provide the Agency, within sixty (60) days of each anniversary of the date of purchase of a particular unit, with a completed Occupancy Certificate in a form approved by the Agency. The Occupancy Certificate shall be executed under penalty of perjury. The Developer further agrees to deliver the form of Occupancy Certificate to each qualified Low and Moderate Income Purchaser at the close of escrow for the sale of each such unit.

Mortgagee Protection

If a Construction Lender Mortgagee obtains title to the Site by foreclosure or deed in lieu of foreclosure and such Mortgagee uses good faith efforts satisfactory to the Agency to sell units to Low and Moderate Income Purchasers for a period of six (6) months as to each Affordable Unit after the later of (a) issuance of a Certificate of Occupancy by the City and County of San Francisco ("City") as to each unit, or, if applicable, (c) issuance of a Certificate of Completion by the Agency pursuant to this Agreement as to each unit; then, as to any Affordable Unit remaining unsold after expiration of said six months' period (but excluding any Affordable Unit for which an agreement for purchase and sale has been executed), such Construction Lender Mortgagee on notice to the Agency may sell such unit to other than Low and Moderate Income Purchasers. In the event of such a sale, and as to such unit, the Low or Moderate Income Purchasers use restriction shall be of no further force or effect. "Construction Lender Mortgagee", as used above, shall also mean and include after foreclosure or deed in lieu of foreclosure, a successor

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or assign of such Construction Lender Mortgagee purchasing the Site or Affordable Units from the Construction Lender Mortgagee, for purposes of resale to individual buyers. Such resale being required by this Agreement.

Occupancy Priorities/Preference Certificate Holders

It is understood and agreed by the Agency and the Developer that persons displaced, or to be displaced, from their homes by Agency redevelopment activities or other government action will be, or have been, issued a form described as the "Certificate of Preference", establishing a priority right to claim the Affordable Units. Final acceptance or rejection of a Certificate of Preference holder lies with the Developer and the damages provisions below shall not be invoked where a Certificate of Preference holder is rejected for sound reasons related directly to eligibility requirements which must be the same for all applicants. The remedies set forth below are the sole remedies of the Agency for breach of the occupancy priority provisions and are not for the benefit of any third party. The Developer shall notify the Agency and the applicant in writing of the reason for rejection.

In order to implement the occupancy priority agreement the Developer agrees to the following:

(a) To supply Agency with periodic construction progress reports beginning when construction reaches the fifty percent (50%) completion point and continuing at three (3) month intervals until the Certificate of Final Completion and Occupancy has been issued by the City's Bureau of Building Inspection for all units. Such construction progress reports shall show the anticipated date for the opening of model unit(s), or accepting applications.

(b) To supply the Agency no less than ninety (90) days prior to accepting applications with the information listed below.

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Parcel F-1
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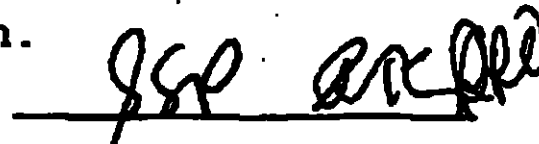
1. Price of each unit.
2. Required cash down payment and estimated closing costs
3. Required minimum income for debt service.
4. Charge for processing loan application.
5. Description of application process and length of time needed.
6. Copy of Developer's or Lender's application for purchase.
7. Periodic notification to Agency of Developer office hours for accepting applications and showing model unit(s).

(c) Agency agrees to furnish the following: (i) Application filing assistance to Certificate of Preference holders, and (ii) Certification to Developer that the applicant has a Certificate of Preference.

(d) The Developer further agrees: (i) To select as prospective purchasers those eligible households who meet the requirements of the Developer and who possess the Agency's Certificate of Preference. Applicants who claim Certificate of Preference status, but who have not been referred to the Developer by the Agency, must be verified by the Agency in order to receive priority status. All Certificate of Preference holders shall have thirty (30) days from the date of distribution by the Developer of the brochure or other informational material on the development in which to indicate their interest in a condominium unit.

(e) It is mutually agreed that actual damages for the Developer's breach of the above provisions are difficult, if not impossible, to ascertain. Developer agrees that reasonable liquidated damages for each breach of the occupancy priority provisions is \$5,000 and further agrees to pay said amount to the Agency as liquidated damages for each such breach.


Developer Initials


Agency Initials

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(f) The Agency reserves the right to waive any of the foregoing conditions provided, however, that any such waiver shall not be deemed to have waived any other conditions, nor the same condition subsequently.

Development Guidelines

The Affordable Units will be of the same unit bedroom mix as the development and approximately the same size as other units of the same bedroom count in the development on the Site as described in the Scope of Development (Attachment 4) hereto (the "Development"). The ratio of Affordable to bonus units specified in Section 1.04 and 9.04 of this Agreement is based on the Developer's plans at the time of execution of this Agreement for all two-bedroom units. Should the unit mix with respect to bedroom count change, the Agency reserves the right to adjust the required ratio of Affordable to bonus units. The Affordable Units shall be subject to a recorded affordability restriction mechanism, acceptable to the Agency for a period of fifty (50) years following the date of initial occupancy of the Affordable Units.

The Developer will provide or obtain all necessary equity and debt financing to develop the Affordable Units in a manner that is financially feasible to comply with the affordability restrictions, and in addition will provide all significant project management and obtain technical services for the Development and cover all pre-development and development costs from non-City or non-Agency sources.

To fulfill this affordable housing requirement, Developer will not have access to subsidies administered by the Agency or the City and County of San Francisco for development of affordable housing. Neither the City nor Agency are under any commitment or obligation to provide any subsidies to the affordable units. However, this provision shall not prohibit any Qualified Low or Moderate Income

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Purchaser from utilizing any non-Agency or City funded assistance programs which may be available to acquire an Affordable Unit.