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* Official Receipt for Recording in:

Department of Real Estate
101 County Office Bldg
542 Forbes
Pittsburgh, PA 15219

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PITTSBURGH PA 15219

Recording Fees

Filing Type	Number	Vol#	Page	Time	Recording Amount
Plans 1	Subdivision Plan	22x17			
DR-CARLYLE CONDO	201	00265	00162	01:28:38p	360.00
IN-SPRICE ST PROPERTIES LTD					

Deed Agreement	13418	13949	00508	01:28:38p	120.00
DECLARATION OF CONDO					
DR-SPRICE ST PROPERTIES LTD					
IN-CARLYLE CONDO					

Deed Agreement	13418	13949	00508	01:28:38p	120.00
DECLARATION OF CONDO					
DR-SPRICE ST PROPERTIES LTD					
IN-CARLYLE CONDO					

Collected Amounts

Payment Type	Amount	
2-Check	NCB024	480.00
		480.00

Total Received	:	480.00
Less Total Recordings:	:	480.00
Change Due	:	.00

Thank You
VALERIE MCDONALD ROBERTS - Department of Real Estate
By - Al Matthews

Receipt# Date Time
1362132 06/10/2009 01:28p

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**DECLARATION OF CONDOMINIUM
for
THE CARLYLE, A CONDOMINIUM**

**ARTICLE I
SUBMISSION: DEFINED TERMS**

1.1. Declarant; Property; County; Name. **SPRUCE STREET PROPERTIES, LTD.,** d/b/a **PITTSBURGH SPRUCE STREET PROPERTIES**, a Ohio Limited Partnership (the "Declarant"), hereby submits the real estate described in **Exhibit "A"** attached hereto (the "Real Estate") located in the 1st Ward of the City of Pittsburgh, Allegheny County, Pennsylvania, including all easements, rights and appurtenances thereunto belonging and the buildings and improvements erected or to be erected thereon (collectively, the "Property") to the provisions of the Pennsylvania Uniform Condominium Act, 68 Pa.C.S.A. §3101 *et. seq.*, as amended (the "Act"), and hereby creates with respect to the Property a condominium, to be known as "**THE CARLYLE**" (the "Condominium").

1.2. Easements and Licenses. Attached as **Exhibit "B"** is a copy of the recorded easements and licenses affecting the Real Estate.

1.3. Defined Terms.

1.3.1. Terms Defined in the Act. Capitalized terms not otherwise defined herein or in the Plats and Plans shall have the meanings used in the Act.

1.3.2. Terms Defined Herein. The following terms shall be defined as follows:

a. **"Association"** means the unincorporated Unit Owners' association of the Condominium that shall be known as the "**THE CARLYLE CONDOMINIUM ASSOCIATION**"

b. **"Building"** means any building located on the Property.

c. **"Building Exterior"** means the Building's exterior, including but not limited to all exterior walls (including but not limited to front walls, side walls, and back walls), elevations, building height, roofs, color, building materials, windows and doors, and all air space above the Building.

d. **"Common Elements"** means all portions of the Property except the Units.

e. **“Common Expenses”** means those expenses, both General Common Expenses and Limited Expenses, for which the Association is responsible under this Declaration and the Act.

f. **“Condominium”** means the Condominium described in **Section 1.1** above.

g. **“Declarant”** means the Declarant described in **Section 1.1** above and all successors to any Special Declarant Rights.

h. **“Declaration”** means this document, as the same may be amended from time to time.

i. **“Demising Wall”** means either a structural or non-structural partition as shown on the Plats and Plans which either designates a boundary or is located entirely within a Unit.

j. **“Eligible Mortgage”** means a first mortgage encumbering a Unit whose holder, insurer or guarantor has submitted a written request to the Association pursuant to the provisions of **Article VI**.

k. **“Eligible Mortgagee”** means the holder, guarantor or insurer of an Eligible Mortgage.

l. **“Executive Board”** means the Executive Board of the Association.

m. **“General Common Expenses”** means all Common Expenses excluding Limited Expenses.

n. **“Limited Common Elements”** means any portions of the Common Elements which are (a) described as such in the Act, and/or (b) identified as such in this Declaration, and/or (c) identified as such on the Plats and Plans.

o. **“Limited Expenses”** means the Common Expenses described as such in Section 3314(c) of the Act as modified by **Section 2.7** of this Declaration.

p. **“Percentage Interest”** means the undivided ownership interest in the Common Elements appurtenant to each Unit, the relative voting strength in the Association appurtenant to each Unit and the relative Common Expense liability appurtenant to each Unit as set forth in **Section 2.2** of this Declaration.

q. **“Plats and Plans”** means the Plats and Plans being recorded contemporaneously herewith in the Department of Real Estate of Allegheny County,

Pennsylvania as the same may be amended from time to time, which are hereby incorporated herein as **Exhibit "C"**.

r. **“Property”** means the Property described in **Section 1.1** above.

s. **“Recreation Area”** means the certain space located on the 4th floor roof area (the “Recreation Area”) of the adjoining building located at 316 Fourth Avenue, Pittsburgh, Pennsylvania 15222 (the “Commonwealth Building”) which, contingent upon the approval of the City of Pittsburgh, will be leased by the Declarant to the Association for use by the Unit Owners as a “green space”. Should the City of Pittsburgh refuse to approve the use of the green space by residents of the Carlyle, the leasing agreement shall not exist.

t. **“Reserved Common Elements”** means any portion of the Common Elements which the Executive Board designates for limited use pursuant to **Section 3.2** hereof.

u. **“Unit”** means a unit as described herein and shown in the Plats and Plans.

v. **“Unit Owner” or “Owner”** means the fee simple owner or owners of a Unit.

ARTICLE II

ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES; UNIT IDENTIFICATION AND BOUNDARIES; COMMON ELEMENTS; MAINTENANCE RESPONSIBILITIES

2.1. Plats and Plans. The location and dimensions of the Buildings and other improvements comprising the Property and the location of the Units, Common Elements and Limited Common Elements of the Condominium are shown on the Plats and Plans.

2.2. Unit Identification, Percentage Interests. Attached as **Exhibit “D”** is a list of all Units by their identifying Numbers and the Percentage Interest allocated to each Unit, determined by the number of square feet contained within the Unit relative to the total square footage of all Units. There are two types of Units: a “Commercial Unit” located on the first floor of the Building, including the Building Exterior, which Unit is to be used for commercial office and/or retail purposes; and the remaining Units, being sixty (60) “Residential Unit(s)”, which Units are dedicated exclusively to residential use.

2.3. Voting. Each Unit shall have a vote, weighted on the basis of such Units Percentage Interest. Class or cumulative voting is not permitted.

2.4. Composition. The Association is hereby organized upon the recording of this Declaration as an unincorporated association. The Association shall consist of all of the Unit Owners acting as a group in accordance with the Act, this Declaration and the By-Laws.

2.5. Unit Boundaries. There are two types of Units: a "Commercial Unit" located on the first floor of the Building, which Unit is to be used for commercial office and/or retail purposes; and the remaining Units, being sixty (60) "Residential Unit(s)", which Units are dedicated exclusively to residential use.

Residential Units. The title lines or boundaries of each Residential Unit are the walls, floors and ceilings situated as shown on the Plats and Plans and are described as follows:

a. Horizontal boundaries. The upper and lower (horizontal) boundaries of the Unit shall be the following extended to intersections with the vertical boundaries:

(i) Upper boundary. The plane of the upper surface of the finished ceiling material of the Unit.

(ii) Lower boundary. The plane of the lower surface of the finished floor material of the Unit.

b. Vertical boundaries. The vertical boundaries of the Unit shall be the vertical plane of the non-Unit side surface of the drywall, paneling or other finishing material comprising the walls of the Unit, extended to intersections with each other and with the upper and lower boundaries of the Unit. Provided, however, no part of exposed brick walls shall constitute part of any unit and the aforementioned boundary shall begin with the air space on the unit side immediately appurtenant to said brick wall(s).

c. Unit Contents. Each Unit shall also consist of:

(i) The finished or decorated surfaces, including paint, lacquer, varnish, wallpaper, drywall, paneling, tile, carpeting and any other material applied to or comprising the wall (with the exception of exposed brick walls), floor or ceiling; entry doors and windows in exterior and perimeter walls, including all door and window frames, excluding, however, the exterior surfaces of entry doors, and trim.

(ii) All built-in and installed fixtures and equipment located within a Unit or located outside the Unit for the exclusive use of the Unit, commencing at the point of connection with the structural part of the Building or with utility pipes, lines or systems serving the Building, including elevators and elevator equipment, furnaces, water heaters and duct-work and piping serving only one Unit.

(iii) All spaces, interior partitions and other fixtures and improvements within the title lines described above. Each Unit shall also include the items within the title lines described in §3202 of the Act which are appurtenant to the Unit.

Commercial Unit. The title lines or boundaries of the Commercial Unit shall be the same as the boundaries of the Residential Units as set forth above with the exception that the Commercial Unit will also include within its boundaries the Building Exterior as defined in Article 1.3.2 (above).

2.6. Common Elements. The Common Elements shall mean and include the Property (excluding the Units), the air space above the Buildings and the Property, and those portions of the Building which are not included within the title lines of any Unit and which are not made apart of a Unit pursuant to Section 2.5 above, including but not limited to the following:

a. The following parts of each Unit-containing Building: foundations; all brick walls, walls between Units; structural parts, supports, columns and beams not within a Unit; all stairwells, elevators and entrance halls (and with respect to any wall separating a stairwell or entrance hall from a Unit, the portion of the wall bordering the stairwell/elevator/entrance hall to the Unit); vertical boundary lines as set forth in Section 2.5; all parts of the Building above the upper horizontal Unit boundary set forth in Section 2.5 except for such items as are made a part of a Unit pursuant to Section 2.5; all portions of a Building below the horizontal plane of the upper surface of the concrete floor slab of the ground floor or basement floor; corridors, stairwells and entrance halls not within a Unit; roofs; all water and sewer lines, ductwork, electric and telephone wires, cable lines, pipes, fixtures, meters and/or equipment serving the Common Elements or more than one Unit, or both; excluding, however, furnaces, water heaters and duct-work and piping serving only one Unit.

b. All other apparatus, equipment and installations existing for the common use.

c. Storage lockers that may be assigned by the Executive Board for the exclusive use of a Unit Owner.

d. Limited Common Elements, including Commercial Limited Common Elements and Residential Limited Common Elements, as set forth in Article III.

e. Contingent upon the approval of the City of Pittsburgh, certain space located on the 4th floor roof area (the "Recreation Area") of the adjoining building located at 316 Fourth Avenue, Pittsburgh, Pennsylvania 15222 (the "Commonwealth Building") will be leased by the Declarant to the Association for use by the Unit Owners as a "green space". Should the City of Pittsburgh refuse to approve the use of the green space by residents of the Carlyle, the leasing agreement shall not exist.

f. Any Unit or portions thereof that the Executive Board or the Declarant shall later determine to convert into Common Elements.

2.7. Maintenance Responsibilities.

a. General. Maintenance responsibility is divided into responsibility for performance and responsibility for payment. Each Unit Owner is responsible for both performance of and payment for all maintenance, repair and replacement required for his Unit. In general, the Association is responsible for performing and paying for the maintenance, repair and replacement of both the Common Elements and the Limited Common Elements. Except as otherwise specified in the Declaration, the cost of the maintenance, repair and replacement of specific Limited Common Elements is charged as a Limited Expense, and payment responsibility is shared by the Unit Owner or Owners having the right to use such specific Limited Common Element in the same proportion as the respective Percentage Interests of such Units.

b. Specific Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and Common Elements shall be maintained and repaired by each Unit Owner and by the Association respectively in accordance with the provisions of Section 3307 of the Act, except as expressly set forth to the contrary herein. The Association shall be responsible for the performance of all maintenance related to the Building Exterior. Any and all work performed must conform with the Deed of Historic Preservation and Conservation Easement in favor of the Pittsburgh History and Landmarks Foundation (see Exhibit "B"). The Association may provide for Association maintenance of Unit components where such items involve matters of concern related to the general health, safety and welfare of all occupants of the Condominium and may promulgate guidelines governing the division of maintenance and repair responsibilities between the Unit Owner and the Association.

c. Commercial Unit. The Declarant, as Owner of the Commercial Unit, in full satisfaction of all such Unit Owner's obligations for the Building Exterior, shall deposit with the Association, an amount as a reserve for the maintenance, repair and replacement of the Building Exterior as defined in Article 1.3.2 (above) (subject to a Deed of Historic Preservation and Conservation Easement in favor of the Pittsburgh History and Landmarks Foundation (see Exhibit "B")) which is a part of this Unit.

2.8. Relocation of Unit Boundaries. Relocation of boundaries between Units and conversion of Units by the Declarant will be permitted subject to compliance with the provisions of Section 3214 and 3215 of the Act. Subdivision or conversion of the Units by the Declarant pursuant to Section 3215(c) of the Act may not result in more than ten (10) additional Units.

Unit Owners may not subdivide Units after the initial purchase from Declarant. Declarant shall also have the right to convert Common Elements to Limited Common Elements.

2.9. Unit Improvements. All improvements to the walls, floors and ceilings of a Unit are at the risk of the Unit Owner, and the Association shall not be responsible for repair or replacement of any floor or wall covering (i.e., carpet, marble, tile, wallpaper, paint) damaged in order to gain access to pipes or other Common Elements.

ARTICLE III

LIMITED AND RESERVED COMMON ELEMENTS

3.1. Limited Common Elements. Limited Common Elements are those portions of the Common Elements that are specified herein as "Limited Common Elements" or are marked on the Plats and Plans as Limited Common Elements. Limited Common Elements that are used by or serve only the Residential Units are "Residential Limited Common Elements". Limited Common Elements that are used by or serve only the Commercial Unit are "Commercial Limited Common Elements". Further, the Declarant may assign additional Limited Common Elements pursuant to the provisions of Section 3209 of the Act by (a) a written instrument of assignment or (b) including the information in the deed to the Unit to which such Limited Common Element shall be appurtenant or (c) by recording an appropriate amendment to this Declaration. Such assignments by the Declarant may be to Units owned by the Declarant. In general, Limited Common Elements shall be for the exclusive use of the Unit or Units to which such Limited Common Elements are appurtenant.

3.2. Reserved Common Elements. Reserved Common Elements are parts of the Common Elements which the Executive Board may designate from time to time for use by less than all of the Unit Owners or by non-owners of any units for specified periods of time or by only those persons paying fees or satisfying other reasonable conditions for use established by the Executive Board.

ARTICLE IV

EASEMENTS

4.1. Additional Easements. In addition to and in supplementation of the easements provided for by Sections 3216, 3217, 3218 of the Act, the following easements are hereby created.

a. Access Easement. Each Unit Owner is hereby granted an easement on, over and through the Common Elements for the purpose of assuring to each Unit Owner adequate and uninterrupted access to and maintenance of each Unit.

b. Utility Easements. The Units and Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant, the Association, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Section shall include, without limitation, the rights of Declarant, the Association, the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits and equipment and ducts and vents over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section, unless approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant, or otherwise so as not to materially interfere with the use or occupancy of the Unit by its occupants.

c. Construction Easement. Until the expiration of five (5) years after the date thereof, the Declarant shall have an easement through the Units and the Common Elements for access or any other purpose necessary to complete any renovations or work to be performed by the Declarant.

4.2. Declarant's Easement for Development, Construction and Sales Representatives. Declarant reserves an easement on, over and under Common Elements and unsold Units for all purposes relating to the construction, development, leasing, sale and marketing of Units and other improvements on the Property. This easement shall include, without limitation, the right of ingress and egress, the right to engage in construction and marketing activities of any nature whatsoever, including the movement and storage of building materials and equipment, the conduct of sales, leasing and management activities, and maintenance of models and offices and the erection and maintenance of directional and promotional signs.

4.3 Easement in favor of the Pittsburgh History and Landmarks Foundation. Because of its historic importance, the Building Exterior is subject to a Deed of Historic Preservation and Conservation Easement in favor of the Pittsburgh History and Landmarks Foundation (the "Preservation Easement"). The Preservation Easement provides that the Building Exterior must be maintained in accordance with certain standards, which include restrictions and required approvals, the details of which are more fully set forth within the Preservation Easement itself. The Preservation Easement is recorded in the Department of Real Estate of Allegheny County, Pennsylvania in Deed Book Volume 13883, page 288.

4.4 Rights of the Association. In addition to any other rights and powers that the Association may possess pursuant to this Declaration, the Bylaws, the Rules and Regulations and the Act, as they may be amended from time to time, the Association shall have:

a. The right to grant permits, licenses and easements over the Common Elements for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium; and

b. A reasonable right of entry into any Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance or operation of the Condominium. Each Unit Owner shall furnish the Association with a set of all keys necessary to gain access to his Unit in the exercise of such rights at the time any locks are changed or installed in the doors to such Unit. The Association shall maintain appropriate security measures to prevent access to such keys by unauthorized persons.

ARTICLE V

USE RESTRICTIONS

5.1. Use and Occupancy of Units and Common Elements. The occupancy and use of the Units and Common Elements shall be subject to the following restrictions:

a. Subdivision. No Unit, except a Unit owned by Declarant, may be divided or subdivided into a smaller unit.

b. Nuisances. No noxious or offensive activity shall be carried on in any Unit, nor shall anything be done thereon which may be or may become an unreasonable annoyance or nuisance to the other Unit Owners.

c. Garbage and Refuse Disposal. Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed from time to time by Rules and Regulations promulgated by the Association, at all times subject, however, to ordinances of the City of Pittsburgh.

d. Residential Units. Units shall be used only as a residence for a single "family," or such other uses permitted by this Declaration. No Unit Owner shall permit his Unit to be used or occupied for any prohibited purpose. For purposes of this restriction, "family" shall be defined as an individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit, or not more than two (2) unrelated persons living as a single housekeeping unit. If zoning regulations permit professional activities to be conducted within the Units, application may be made by a Unit Owner to the Executive Board for approval to conduct such newly permitted use of his Unit. Each such application shall be considered by the Executive Board on an individual basis. Notwithstanding the foregoing provision, no professional activity can be approved by the Executive Board which activity will generate additional traffic through the Property. Once the Executive Board has given its approval to a particular use of a Unit, it may not revoke such approval so long as the nature and scope of the

approved use remains unchanged. No Unit Owner shall permit his Unit to be used or occupied for any prohibited purpose. All of the above notwithstanding, nothing herein contained is meant to restrict a Unit Owner from the creation and use of a home office; provided, however, that said use does not generate additional traffic through the property.

e. Animals. No animals of any kind shall be raised, bred or kept in the condominium, except as specifically authorized by the Rules and Regulations adopted from time to time by the Executive Board. All animals must be kept leashed when outside the Units. No animals shall be left unattended in runs or kennels.

f. Obstruction and Storage. There shall be no obstruction or alteration of the Common Elements nor shall anything be stored in or on the Common Elements without prior consent of the Executive Board except as herein expressly provided. The use and the covering of the interior surfaces of windows, whether by draperies, shades or other items visible on the exterior of the Buildings, shall be subject to the Rules and Regulations of the Executive Board.

g. Insurance. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Property, or contents thereof, without the prior written consent of the Executive Board, which consent may be conditioned upon the Unit Owner of such Unit being required to bear the full amount of such increase. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will violate any law, statute, ordinance or regulation of any governmental body or which will result in the cancellation of any insurance maintained by the Executive Board. No waste shall be committed in the Common Elements.

h. Architectural Controls. Installations which extend beyond the boundaries of the Unit into the Common Elements are not permitted. Further, a Demising Wall may not be relocated or altered without the written consent of the Executive Board, and provided further, that the provisions of Section 5.2 are adhered to. Unit Owners are not permitted to paint, or otherwise alter the structure, form or appearance of the exterior portion of any wall, window, door or other portion of the Property which is visible from outside of any Unit.

i. Safety. No Unit Owner shall do work or any other act which would jeopardize the soundness or safety of the Property or any part thereof, or impair any easement or hereditament without the unanimous consent of the Unit Owners affected thereby.

j. Signs.

(i) With the exception of the rights reserved to Declarant, no sign, poster, billboard or other advertising device of any character shall be erected, hung, flown or maintained on or over the Common Elements or shown or

displayed from or over the Units without prior written approval having been obtained from the Executive Board; provided, however, that the restrictions of this paragraph shall not apply to one sign or notice per Unit of reasonable dimension and location located in the window of the Unit, which states that a Unit is for rent or sale, or to such signs as may be required by a legal proceeding. No such sign or notice may be placed in or on the Common Elements or Limited Common Elements. The Executive Board may summarily cause all unauthorized signs to be removed or destroyed.

(ii) The right is reserved by the Declarant or its agent or agents to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units, and on any part of the Common Elements, and the right is hereby given to any Eligible Mortgagee, who may become the Owner of any Unit, to place such signs on any Unit owned by such Eligible Mortgagee.

k. Exterior Decorative Displays. No flags, banners, holiday decorative lights, flower boxes, etc., may be displayed without prior written approval of the Executive Board.

1. Structural Changes. No Unit Owner shall make or permit any addition, alteration or improvement to his Unit which could or might affect the structural integrity of the Building.

5.2. Additions, Alterations or Improvements to Units. No Unit Owner shall make or permit any structural change, addition, alteration or improvement in or to his Unit without the prior written consent of the Executive Board, which shall not be unreasonably withheld, and, if such change results in rendering inaccurate the description of that Unit on the Plats and Plans, it shall not be undertaken until the Plats and Plans have been duly amended at the cost and expense of such Unit Owner. Requests for such consent shall be accompanied by detailed plans and specifications showing the proposed addition, alteration or improvement, and shall name the contractors and subcontractors to be employed. The Executive Board shall act upon requests within sixty (60) days after receipt thereof, and shall be deemed to have denied such request where no response is made within that period. Application to any governmental authority for necessary permits shall only be made by a Unit Owner after such Unit Owner has received prior written approval of the Executive Board for such application and submitted a copy of such a proposed application to the Executive Board for approval; provided, further, that if the Executive Board so desires, the Executive Board shall be the applicant as agent for and at the expense of the Unit Owner, provided the Executive Board shall not incur any liability by reason of acting as Unit Owner.

5.3. Rules and Regulations. Reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Property, may be adopted from time to time by the Executive Board, subject to the right of the Association to change such Rules and Regulations. Copies of the then current Rules and Regulations and any

amendments thereto shall be furnished to all Unit Owners by the Executive Board promptly after the adoption of such Rules and Regulations or any amendments thereto. Initially, the Rules and Regulations shall be proposed by the Declarant and adopted by the first Executive Board. During the period of Declarant control, Declarant shall continue to have the right to adopt and amend the Bylaws, without prior notice to the Unit owners, but subject to adoption by the Executive Board. Any further adoption or amendment of the Rules and Regulations shall require the Executive Board to give at least thirty (30) days' written notice to all Unit Owners of the proposed rules and regulations (or amendments) and provide all Unit Owners with an opportunity to comment on the proposed rules, either in writing or at a regular or special meeting of the Board, prior to the adoption or amendment of the Rules and Regulations.

ARTICLE VI

MORTGAGES

6.1. Mortgages. A Unit Owner may voluntarily encumber or subject his Unit to a mortgage lien. There are no restrictions imposed hereby on the right of a Unit Owner to mortgage his Unit. However, a mortgagee shall have no right to (a) participate in the adjustment of losses with insurers or in the decision as to whether or not repair or restore damage to or destruction of the Property, (b) receive or apply the proceeds of insurance to the reduction of the mortgage debt or otherwise, except in the event and to the extent of a distribution thereof to Unit Owners pursuant to Section 3312 of the Act, or (c) accelerate the mortgage debt or to have any other remedies by virtue of waste or alleged waste or other conditions occurring anywhere on the Property other than within the affected Unit, and the obligation secured shall be repayable, without penalty, upon any termination of the Condominium. No mortgagee, as the term is defined in this Declaration, will be considered a Unit Owner by reason of holding such mortgage but only in the event legal title is, in fact, vested in such mortgagee.

6.2. Eligible Mortgagee.

a. In order to be an "Eligible Mortgagee" and be entitled to the rights set forth in this section or elsewhere in this Declaration, the holder, insurer or guarantor of mortgage encumbering a Unit must provide to the Association a statement of its name, address and Unit mortgaged. Upon receipt of notice from an Eligible Mortgagee, the Secretary of the Executive Board shall instruct the insurer of the Property to add the name of the Eligible Mortgagee to the mortgagee loss payable provision of the hazard insurance policy covering the Property and to provide such Eligible Mortgagee with a Certificate of Insurance showing that the Eligible Mortgagee's name has been so added. The Secretary shall maintain a register of such Eligible Mortgages, showing the names and address of the Eligible Mortgagees.

b. An Eligible Mortgagee shall be entitled on written request to receive from the Executive Board a written statement of any delinquent assessments or other defaults by the Unit Owner, copies of any notices of default sent to the Unit Owner and copies of budgets and financial reports sent to the Unit Owner. An Eligible Mortgagee shall be

permitted to examine on request, the current Declaration, By-Laws, Rules and Regulations, and records and financial statements of the Executive Board during regular business hours at the Executive Board's office.

c. When an Eligible Mortgagee obtains title to the Unit as a result of foreclosure of the Eligible Mortgage, or by deed in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the share of the Common Expenses chargeable to such Unit prior to the date on which title is so acquired.

d. The request of an Eligible Mortgagee or its servicer shall specify which of the above items it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Executive Board. The Executive Board need not inquire into the validity of any request made by an Eligible Mortgagee hereunder.

e. Failure to comply with the requirements set forth above shall in no way invalidate otherwise proper actions of the Association and the Executive Board.

ARTICLE VII

RIGHTS OF MORTGAGEES

7.1. Rights of Eligible Mortgagees. An Eligible Mortgagee (which by definition includes the insurers or guarantors thereof) shall, upon written request to the Executive Board, which request shall state the name and address of such mortgagee, insurer or guarantor, be entitled to timely written notice of:

a. Any proposed amendment of the Declaration effecting a change in (i) the boundaries of any Unit or the exclusive Limited Common Elements appertaining thereto; (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit; (iii) the liability for Common Expenses appertaining to any Unit; (iv) the number of votes in the Association appertaining to any Unit; (v) the purposes to which any Unit or the Common Elements or Limited Common Elements are restricted; excepting from the foregoing, however, amendments pursuant to rights reserved by the Declarant in Section 16.1(d) relating to Units then owned by the Declarant; and

b. Any proposed termination of the Condominium; and

c. Any condemnation loss or any casualty loss which affects a material portion of the Condominium or which affects any Unit on which there is a first mortgage by any such Eligible Mortgagees; and

d. Any delinquency in the payment of assessments or charges owed by the owner of a Unit subject to the mortgage of any such Eligible Mortgagee, when such delinquency has continued for a period of sixty (60) days; and

e. Any lapse, cancellation or material modification of any insurance policy maintained by the Association.

Failure to comply with the requirements set forth above shall in no way invalidate otherwise proper actions of the Association and the Executive Board.

7.2. Additional Rights of Eligible Mortgagees. To the extent permitted by applicable law, holders of Eligible Mortgages shall also be afforded the following rights:

a. Any restoration or repair of the Condominium, after partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the Plats and Plans, unless other action is approved by Eligible Mortgagees holding Eligible Mortgages encumbering Units having at least fifty-one percent (51%) of the votes of the Units subject to Eligible Mortgages;

b. Except when the formula for reallocation of the Percentage Interest and the Common Elements appurtenant to each Unit after partial condemnation or partial destruction of the Condominium is fixed by applicable law, no reallocation of interest in the Common Elements resulting from partial condemnation or partial destruction of the Condominium may be effective without the prior approval of Eligible Mortgagees holding mortgages on all remaining Units, whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Units subject to Eligible Mortgages;

c. In the event that a professional management firm has been previously required by any Eligible Mortgagee or eligible insurer or guarantor, any decision to establish self management by the Association shall require the prior consent of the Unit Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of Eligible Mortgagees on the Units having at least fifty-one percent (51%) of the votes of the total number of Units subject to Eligible Mortgages.

ARTICLE VIII

LEASING

8.1. Residential Unit Leases. As used herein, the term "lease" means an oral or written agreement with a Unit Owner and a third party (who is not an immediate relative of the Unit Owner) granting to such third party the right to occupy a Unit. A Unit Owner may lease or sublease his Unit (but not less than his entire Unit) at any time and from time to time provided that: (1) no Unit may be leased or subleased for transient or hotel purposes or for any period less than six months; (2) no Unit may be leased or subleased without a written lease or sublease on a form approved by the Executive Board; (3) no Unit may be leased to other than a "family;" (4) a copy of such lease or sublease shall be furnished to the Executive Board within ten (10) days after execution thereof; and (5) a breach of the Declaration, By-Laws or Rules and Regulations of the Condominium shall constitute a default under the lease or sublease and the lessee or

sublessee shall be bound by and subject to the Declaration, By-Laws and Rules and Regulations of the Condominium.

8.2. Exceptions. The foregoing restrictions shall not apply to leases made by Declarant or by an Eligible Mortgagee who takes title pursuant to foreclosure.

ARTICLE IX

BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT

9.1. Annual Assessments. All regular Common Expense Assessments and Limited Common Expense Assessments made in order to meet the requirements of the Association's annual budget shall be adopted and assessed on an annual basis payable in equal monthly installments in advance on the first day of each month. The Executive Board shall prepare an annual budget for each fiscal year of the Association in accordance with the provisions of the Act. Common Expenses under the budget shall be allocated in accordance with each Unit's relative Percentage Interest, with Limited Common Expenses allocated to each Unit in accordance with each Unit's Percentage Interest relative to the total Percentage Interests of all Units to which such Limited Common Elements are allocated. Residential Limited Common Expenses relating to the Residential Limited Common Elements shall be allocated to Residential Units in accordance with each Residential Unit's Percentage Interest relative to the total Percentage Interests of all Residential Units. Commercial Limited Common Expenses relating to the Commercial Limited Common Elements shall be exclusively allocated to the Commercial Unit.

a Utilities: All utility usage expenses incurred by a Unit Owner, with the exception of water and sewage charges, shall be the direct responsibility of the Unit Owner to the utility provider. Water and sewage usage charges shall be assessed by the Association to each Unit Owner as a part of the Unit's Common Expense assessment and paid to the provider by the Association. Initially, the assessment for water and sewage usage shall be a flat fee per Unit based upon estimated usage; with the Executive Board being permitted to adjust such amount as deemed necessary to pay for such charges or to change the method of assessment to one based upon actual usage.

9.2. Special Assessments. If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover the actual Common Expenses for such fiscal year, the Executive Board shall have the power, at any time (and from time to time) it deems necessary and proper, to levy one or more Special Assessments against each Unit Owner.

9.3. Payments. All Common Expense assessments made in order to meet the requirements of the Association's annual budget shall be deemed to be adopted and assessed on a monthly basis (rather than on an annual basis payable in monthly installments) and shall be due and payable in advance on the first day of each month. Special assessments and fines shall be due and payable in one or more monthly payments, in advance, on the first day of each month, as determined by the Executive Board. Units are deemed created when an occupancy permit for the

unit is issued by the City of Pittsburgh. Liability for assessments for Common Expenses and Limited Expenses shall commence with respect to a Unit upon conveyance of that Unit by the Declarant, and Declarant shall have no liability for any assessments prior to such conveyance. Further provided, however, with respect to any Units that the Declarant leases, Declarant shall have an obligation to pay the Common Expense and Limited Common Expense assessment calculated for such Unit for, and only during the period that, the Unit is occupied by a tenant.

9.4. Surplus. Any amounts accumulated from assessments and income from the operation of the Common Elements in excess of the amount required for actual expenses and reserves shall be credited to each Unit Owner in accordance with their Percentage Interest, said credits to be applied to the assessments due from said Unit Owners under the next fiscal year's budget.

9.5. Limitation on Expenditures. There shall be no structural alterations, capital additions to, or capital improvements on the Common Elements (other than for purposes of repairing, replacing and restoring portions of the Common Elements) requiring an expenditure in excess of ten (10%) percent of the Association's total budget for that fiscal year without the prior approval of two-thirds (2/3) of the Unit Owners.

9.6. Reserve. Each annual budget for Common Expenses shall include an amount reasonably considered by the Executive Board to be sufficient as a reserve for replacements, contingencies, capital expenditures and deferred maintenance. To initiate such reserve, the Declarant shall collect from each of its grantees at time of settlement an amount equal to two (2) months Common Expense assessment as a Capital Improvement Fee constituting a reserve for capital improvements or replacements of Common Elements. The Executive Board shall have the right to segregate all or any portion of the reserve for any specific replacement or contingency upon such conditions as the Executive Board deems appropriate. The Executive Board may treat such sums as capital contributions or take any other action which it deems to be required by the Internal Revenue Code to obtain the optimum use of said funds.

9.7. Accounting. Within one hundred-twenty (120) days after the end of the fiscal year of the Association, the Executive Board shall supply to all Unit Owners an itemized accounting of the Common Expenses for the preceding fiscal year actually incurred and paid together with a tabulation of the amounts collected pursuant to the annual budget or assessments and leases and sales of property owned or managed by the Executive Board on behalf of the Association, showing the net excess or deficit of income over expenditures plus reserves.

9.8. Interest and Late Charges. All Common Expense Assessments and Special Assessments shall be subject to a reasonable late charge, with the amount to be determined at the discretion of the Executive Board, which late charge will be levied as of the tenth (10th) day following the due date for the payment of any such assessments. Initially, the late charge will equal five percent (5%) of the amount of the late payment. Sums assessed by the Executive Board against any Unit Owner shall also bear interest thereon at the rate of fifteen (15%) percent per annum or such other rate as may be determined by the Executive Board from the 60th day following the due date of any such assessment. If any assessments are past due for more than

sixty (60) days, the Executive Board may accelerate all of the assessment payments due from such Unit Owner for that fiscal year of the Association, and the total amount assessed against the Unit Owner for that fiscal year but not yet paid shall become immediately due and payable.

9.9. Failure to Fix New Assessments. If the Executive Board shall fail to fix new assessments for Common Expenses for the subsequent fiscal year before the expiration of any fiscal year, the Unit Owners shall continue to pay the same sums they were paying for such assessments during the fiscal year just ended and such sum shall be deemed to be the new assessments for the succeeding fiscal year. If the Executive Board shall change the assessment at a later date, such new assessment shall likewise be treated as Common Expense assessment adopted and assessed on an annual basis, but payable in equal monthly installments.

9.10. No Exemption or Waiver. No Unit Owner is exempt from liability with respect to the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by the abandonment of his Unit or otherwise.

9.11. Personal Liability of Unit Owners. All sums assessed by the Association as a Common Expense assessment or Special Assessment, together with late charges and interest thereon, shall constitute the personal liability of the owner of the Unit so assessed and also shall, until fully paid, constitute a lien against such Unit pursuant to Section 3315 of the Act. The Association may take action for failure to pay any assessment or other charges pursuant to Section 3315 of the Act and may assess a late charge for failure to pay the assessment or other charge on the date on which it is due. Any delinquent Owner shall also be obligated to pay (i) all expenses of the Executive Board, including attorneys' fees, incurred in the collection of delinquent assessments by legal proceedings or otherwise, and (ii) any amounts paid by the Executive Board for taxes or on account of superior liens or otherwise to protect its lien, which expenses and amounts, together with accrued late charges and interest, all of which shall constitute part of the delinquent assessment and shall be collectible as such.

9.12. Unpaid Assessments upon Execution Sale Against a Unit. Any unpaid assessments that cannot be promptly collected from the former Unit Owner may be reassessed by the Executive Board as a Common Expense to be collected from all of the Unit Owners, including (by way of illustration and not limitation) the purchaser who acquired title at the Sheriff's Sale, the successors and assigns of the former Unit Owner and any holder of a Eligible Mortgage who comes into possession of a Unit by Deed in lieu of foreclosure or assignment in lieu of foreclosure.

9.13. Liability of Purchaser of Unit for Unpaid Assessments. Notwithstanding the provisions of this Article (but subject to the provisions of Section 3407(c) of the Act), upon the voluntary sale, conveyance or any other voluntary transfer of a Unit or any interest therein, the grantee thereof shall be jointly and severally liable with the grantor thereof for all unpaid assessments for Common Expenses that are a charge against the Unit as of the date of consummation of the sale, conveyance or transfer, but such joint and several liability shall be without prejudice to such grantee's right to recover from such grantor the amount of any such unpaid assessments which such grantee may have paid, and until any such assessments are paid,

they shall continue to be a lien against the Unit which may be enforced in the manner set forth in Section 3315 of the Act. Notwithstanding the foregoing, any holder of an Eligible Mortgage which comes into possession of a Unit by Deed in lieu of foreclosure or assignment in lieu of foreclosure, shall not be liable for any unpaid assessments for Common Expenses or Limited Expenses accruing prior to the date of possession, or for fees, charges, late charges, fines and interest charged pursuant to Sections 3302(a)(10), (11) and (12) of the Act, which are charges against the Unit taken by such Eligible Mortgagee in lieu of foreclosure, and any such charges may be reassessed by the Executive Board as Common Expense to be collected from all of the Unit Owners (including said Eligible Mortgagee which acquired such Unit in lieu of foreclosure).

9.14. Reserve for Building Exterior. As set forth in Article 2.7(c), the budget shall include an amount deposited by Declarant as a reserve for the maintenance, repair and replacement of the Building Exterior as defined in Article 1.3.2 (above) (subject to a Deed of Historic Preservation and Conservation Easement in favor of the Pittsburgh History and Landmarks Foundation (see Exhibit "B")).

ARTICLE X

LIMITATION OF LIABILITY

10.1. Limited Liability of the Executive Board. The Executive Board, and its members in their capacity as members, officers and employees:

- a. Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit Owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Building, or from any of its pipes, drains conduits, appliances, or equipment, or from any other place unless, in each such instance, such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;
- b. Shall not be liable to the Unit Owners as a result of the performance of the Executive Board members' duties for any mistake of judgment, negligence or otherwise, except as provided in Section 3303(a) of the Act;
- c. Shall have no personal liability in contract to a Unit Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;
- d. Shall not be liable to a Unit Owner, or such Unit Owner's, tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Unit Owner or his tenants, employees, agents, customers

or guests in a Unit, or in or on the Common Elements or Limited Common Elements, except for the liability of an individual Executive Board member to the extent caused by such Executive Board member's own willful misconduct or gross negligence;

e. Shall have no personal liability in tort to a Unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the liability of an individual Executive Board member to the extent caused by such Executive Board member's own willful misconduct or gross negligence; and

f. Shall have no personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the liability of an individual Executive Board member to the extent caused by such Executive Board member's own willful misconduct or gross negligence.

10.2. Indemnification. Each member of the Executive Board, in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association; and provided further that, indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his conduct was unlawful. The indemnification by the Unit Owners set forth in this Section shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board members and/or officer may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

10.3. Defense of Claims. Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit Owners and the holders of any mortgages on Units and such complaints shall be defended by the Association. The Unit Owners and the holders of mortgages on Units shall have no right to participate in such defense other than through the Association.

10.4. Insurance. The Executive Board shall obtain insurance to satisfy the indemnification obligation of the Association and all Unit Owners set forth above, if and to the extent reasonably available.

ARTICLE XI INSURANCE

11.1. Types and Amounts. The Association shall obtain the following types and amounts of insurance (but in all events all insurance required by Section 3312 of the Act):

a. Hazard insurance, with an endorsement for extended coverage, or such other fire and casualty insurance as the Executive Board may determine which provides equal or greater protection for the Unit Owners and the holders of Eligible Mortgages, if any, in each case complying with the applicable requirements of this Article. Such hazard insurance shall, if and to the extent reasonably available, provide coverage of all portions of the Property outside of the Units (including, but not limited to, those portions of the interior walls of the Building not included in the definition of a Unit), the Building Exterior, and may, at the option of the Executive Board, cover the betterments and improvements to a Unit. Such hazard insurance shall insure against all risks of direct physical loss commonly insured against, including, without limitation, fire, vandalism, malicious mischief, wind, storm and water damage, and debris removal. The Executive Board may also obtain demolition coverage and such other hazard insurance coverage as the Executive Board deems appropriate. If such hazard insurance becomes unavailable in the future, the Executive Board shall obtain such comparable insurance as is then available. The amount of any such hazard insurance obtained pursuant to this Article shall be reviewed annually by the Executive Board, and shall be not less than one hundred percent (100%) of the full insurance replacement value of the Common Elements and Limited Common Elements, without deduction for depreciation (i.e., one hundred percent (100%) of current "replacement cost" exclusive of land, foundation, excavation and other items normally excluded from coverage), with an "agreed amount endorsement" and an "inflation guard endorsement," if available. Such insurance coverages shall designate the Pittsburgh History and Landmarks Foundation and the Declarant, as Owner of the Commercial Unit, as additional insureds as required by the Deed of Historic Preservation and Conservation Easement in favor of the Pittsburgh History and Landmarks Foundation (see Exhibit "B").

b. Comprehensive liability insurance, complying with the requirements of this Article, insuring the Unit Owners, in their capacity as owners of the Common Elements and Limited Common Elements and as Association members against any liability to the public or to other Unit Owners, their tenants, invitees or licensees, relating in any way to the ownership and/or use of the Common Elements and Limited Common Elements or any part thereof. Such insurance policy shall contain a "severability of interest endorsement" or equivalent coverage which precludes the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or any Unit

Owner. Limits of liability shall be at least One Million Dollars (\$1,000,000.00) Combined Single Limit covering all claims for personal injury (including medical payments) and property damage. The Executive Board may arrange coverage meeting the requirements of the preceding sentence with such deductibles and umbrella policies as are reasonable for a structure of like site and use located in Allegheny County. The insurance obtained by the Executive Board shall include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as are customarily covered, in such amounts as are deemed appropriate by the Executive Board. The scope and amount of coverage of all liability insurance policies shall be reviewed annually by the Executive Board and may be changed in its discretion, provided that such shall continue to comply with the requirements of this Article.

- c. At the option of the Executive Board, a fidelity bond or insurance coverage against dishonest acts on the part of such persons (including, without limitation, Executive Board and Association members, officers, trustees, agents, employees and volunteers, where such coverage is available for volunteers) responsible for handling funds belonging to or administered by the Association.
- d. Such workers' compensation insurance as applicable law may require.
- e. Insurance to satisfy the indemnification obligation of the Association and all Unit Owners set out in Article X hereof, if and to the extent available.

11.2. Required Provisions. Insurance obtained by the Association shall be in accordance with the following provisions:

- a. Each Unit Owner shall be an insured party under such policies with respect to loss or liability arising out of his ownership of any undivided interest in the Common Elements and Limited Common Elements or membership in the Association.
- b. All policies shall be written with a company licensed to do business in the Commonwealth of Pennsylvania, if possible, and, for the hazard insurance policy described above, the Executive Board shall endeavor to use a company holding a rating of Class A or better by Best's Insurance Reports, or by an equivalent rating or bureau should Best's Insurance Reports cease to be issued. Exclusive authority to adjust losses under all policies shall be vested in the Association or its authorized representative. Prior to the adjustment of any such loss, the Association shall decide whether, if the Association uses a public adjuster in connection therewith, the proceeds of any applicable insurance policy are likely to be sufficiently increased through the efforts of such adjuster to warrant the additional expense of retaining such an adjuster. If such decision shall be in favor of using a public adjuster, the Association shall retain a public adjuster, licensed as such by the Commonwealth of Pennsylvania, which adjuster shall act solely in the capacity of advisor to the Association's authorized representative.

c. Such policies shall contain an endorsement waiving all rights of subrogation against the Executive Board, the Association, any managing agent, the Unit Owners and their respective tenants, employees, agents and invitees.

d. Such policies shall not be canceled, invalidated or suspended by means of the conduct of any one or more Unit Owners, all defenses based upon co-insurance or acts of the insured being waived by the insurer, and in no event shall cancellation, material modification, invalidation or suspension for any reason be effected without at least thirty (30) days prior written notice to each Unit Owner and all holders of Eligible Mortgages whose names and addresses are on file with the insurer.

e. Such policies shall not be canceled, invalidated or suspended on account of the conduct of any officer or employee of the Association or any managing agent without a prior demand in writing that the Association or any managing agent, as the case may be, cure the defect, and without providing a reasonable period of time thereafter in which to cure such defect.

f. Any "no other insurance" clause in such policies shall not prohibit Unit Owners from obtaining insurance on their individual Units.

g. The insured under each policy required pursuant to this Article shall be the Association.

h. Each insurance policy required to be carried by the Association pursuant to this Article shall be endorsed to provide that all proceeds shall be payable to the Association.

i. Coverage may not be prejudiced by: (1) any act or neglect of one or more Unit Owners when such act or neglect is not within the control of the Association; or (2) any failure of the Association to comply with any warranty or condition regarding any portion of the condominium property over which the Association has no control.

j. All policies of property insurance shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such options shall not be exercisable (1) without the prior written approval of the Association; or (2) when in conflict with any requirement of law.

k. Insurance coverage obtained and maintained by the Association pursuant to the requirements of this Article may not be brought into contribution with insurance purchased by Unit Owners or their mortgages.

l. In the event that any of the requirements of this Article become unenforceable because of changes in applicable laws or regulations affecting the insurance industry, or become unavailable due to unreasonable expense or changes in the insurance market, such provisions shall each be deemed severable and may be

temporarily or permanently eliminated by the Executive Board upon receipt of a written opinion from an independent insurance agent or other consultant stating the basis why such insurance requirement is not enforceable or available, as the case may be. At least sixty (60) days prior to taking any such action, the Executive Board shall give written notice to each Unit Owner and Eligible Mortgagee who has registered with the Association and such action may be blocked by written petition or referendum of a majority of the Unit Owners or the written objection of Eligible Mortgagees holding mortgages on at least fifty-one percent (51%) of the Units. Nothing contained in this

paragraph shall be deemed to limit any requirements of Article VII hereof, and in the event of an inconsistency, Article VII shall prevail.

11.3. Unit Owner Insurance.

a. The Executive Board shall have the power to establish reasonable maximum limits for such coverage and to require all Unit Owners to carry such other types of insurance on their Units as the Executive Board may reasonably require, including, without limitation, the inside surfaces of Demising Walls, ceilings and floors, and the contents of the Units. All insurance carried by Unit Owners shall comply with the provisions of this Section and shall be carried with insurance companies satisfying the requirements of this Article.

b. All additional insurance obtained by any Unit Owner shall be at his own expense; PROVIDED, HOWEVER, that: (1) such policies shall not be invalidated by the waivers of subrogation contained in this Declaration; and (2) no Unit Owner shall be entitled to exercise the right to maintain insurance coverage in such a way as to decrease the amounts which the Association may realize under any insurance policy which the Association may have in force on the condominium property at any particular time.

c. Any Unit Owner who obtains an individual insurance policy covering any portion of the Property other than the individual Unit of such Unit Owner or personal property belonging to such Unit Owner, shall be required to file a copy of such individual policy with the Association within thirty (30) days after purchase of such insurance.

ARTICLE XII CONDEMNATION

If all or any part of the Common Elements shall be taken, injured or destroyed by eminent domain, the Executive Board shall act on behalf of the Association and Unit Owners to negotiate and obtain an award of damages for such taking, which award shall be payable to the Association as trustee for all of the Unit Owners and their mortgagees. After such determination, each Unit Owner shall be entitled to a share of the damages equal to the Percentage Interest in

the Common Elements appurtenant to his Unit. The Unit Owners directly affected by any such taking shall represent and negotiate for themselves with respect to damage awards for their respective Units.

ARTICLE XIII TERMINATION

13.1. Means of Termination. The Condominium may be terminated in the following manner:

a. By Statute. As provided by the Act.

b. Destruction. In the event there is substantial destruction of all of the Buildings and eighty (80%) percent of the Unit Owners directly affected by said destruction and by Eligible Mortgagees who represent fifty-one (51%) percent of the votes of the Units that are subject to Eligible Mortgages, voting as in all other instances, shall duly resolve not to proceed with repair or restoration, then and in that event, the Condominium form of ownership will be thereby terminated. The determination not to reconstruct after casualty shall be evidenced by a certificate of the Executive Board executed by the President and Secretary certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded in the public records of Allegheny County, Pennsylvania.

c. General Provisions. The termination of the Condominium shall be evidenced by a certificate of the Executive Board executed by its President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the public records of Allegheny County, Pennsylvania. When the Property has been removed from the provisions of the Act, the former Unit Owners shall, at the time such removal becomes effective, become tenants in common of the Property, and the holders of mortgages, judgments and other liens against the Unit or Units formerly owned by such Unit Owners shall have mortgages, judgments and liens upon the respective undivided common interests of the Unit Owners in the entire Property. The undivided interest in the Property owned in common which shall appertain to each Unit Owner following such removal shall be in the same proportion of the fair market value of such Unit Owner's interest to the fair market value of the interest of all Unit Owners determined in accordance with Section 3220 of the Act. All funds held by the Executive Board and all insurance proceeds, if any, shall be and continue to be held for the Unit Owners in proportion to the amount of their respective Percentage Interests determined as aforesaid in accordance with Section 3220 of the Act. The costs incurred in connection with such termination shall be a Common Expense.

d. Removal from Act. If the Property shall be removed from the provisions of the Act, then the Property may be subject to an action for partition by any Unit Owner

or lien or as if owned in common in which event the net proceeds of sale shall be divided among all the Unit Owners in proportion to the fair market value of their respective Percentage Interests determined in accordance with Section 3220 of the Act; provided, however, that no payment shall be made to a Unit Owner until there has first been paid from his share of such net proceeds all liens or charges on his Unit. Such removal of the Property from the provisions of the Act shall not preclude its subsequent submissions to the provisions thereof in accordance with the terms of the Act.

ARTICLE XIV

DECLARANT'S RIGHTS

14.1. Election of Board. Election of the members of the Executive Board shall be subject to the following conditions:

- a. Until the 60th day after conveyance of 25% of the Units to Unit Owners other than Declarant, Declarant shall have the right to appoint and remove any and all officers and members of the Executive Board.
- b. Not later than 60 days after conveyance of 25% of the Units to Unit Owners other than Declarant, one of the members of the Executive Board shall be elected by Unit Owners other than Declarant.
- c. Not later than the earlier of (i) five (5) years after the date of the recording of this Declaration, or (ii) 180 days after 75% of the Units which may be constructed on the Property have been conveyed to Unit Owners other than Declarant, all members of the Executive Board appointed by Declarant shall resign, and the Unit Owners (including Declarant to the extent of Units owned by Declarant) shall elect a new Executive Board.
- d. Declarant may remove and appoint replacements for any members of the Executive Board appointed by the Declarant. Declarant may not unilaterally remove any members of the Executive Board elected by Unit Owners other than Declarant.

14.2. Master Association. Declarant does reserve the right to make this a master association or part of a master association.

14.3. Merger. Declarant does reserve the right to merge or consolidate the condominium.

14.4. Declarant's Use for Sales Purpose. Declarant shall have the right to maintain sales offices, management offices and models for use in connection with the sale and leasing of Units in the condominium. Declarant reserves the right to place models, management offices

and sales offices on any portion of the Common Elements in such manner, of such size and in such locations as Declarant deems appropriate or to use any Unit for such purposes. Declarant may from time to time relocate models, management offices and sales offices to different locations within the Common Elements. Upon the relocation of a model, management office or sales office constituting a Common Element, Declarant may remove all personal property and fixtures therefrom. Any fixtures not so removed shall be deemed Common Elements, and any personal property not so removed shall be deemed the property of the Association. There shall be no more than one office at a time and it shall not be larger than a Unit.

14.5. Signs. Declarant shall have the right to maintain on the Property such advertising signs as Declarant in its sole discretion may deem appropriate to advertise the sale and/or leasing of Units, provided that such signs comply with applicable governmental requirements. Declarant may from time to time relocate such advertising signs. Declarant and any successor in interest, including the Association, shall have the right to erect and maintain signs to advertise the entrance to the Condominium.

ARTICLE XV

ARBITRATION

Any disputes arising concerning the interpretation of this Declaration shall be submitted to binding arbitration before a single arbitrator. The rules of the American Arbitration Association shall govern all such proceedings and this shall be a common law arbitration pursuant to the provisions of 42 Pa.C.S.A. Section 7341 or successor legislation.

ARTICLE XVI

AMENDMENT OF DECLARATION

16.1 In General. Subject to the other provisions of this Declaration relative to amendment, this Declaration and the Declaration Plans may be amended in the following manner:

a. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

b. Resolution. An amendment may be proposed by either the Executive Board or by twenty (20%) percent of the Unit Owners. A resolution adopting a proposed amendment must bear the approval of sixty-seven (67%) percent of the Unit Owners. Owners not present at the meetings considering the amendment may express their approval, in writing, or by proxy, given before such meeting was held.

c. Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by sixty-seven (67%) percent of the record owners of the Units in the Condominium in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the public records of Allegheny County, Pennsylvania.

d. Proviso. Provided, however, that no amendment shall discriminate against any Unit Owner nor against any Unit or class or group of Units unless the Unit Owners and mortgagees so affected shall consent; no amendment shall change any Unit nor the percentage share in the Common Elements or Limited Common Elements, and any other of its appurtenances nor increase the Unit Owner's share of the Common Expenses unless the owner of the Unit concerned and the Eligible Mortgagee with respect thereto shall join in the execution of the amendment and further, except to the extent permitted by applicable law, no amendment shall change any of the provisions governing the following without the approval of holders of Eligible Mortgagees encumbering at least fifty-one percent (51%) of the Units which are encumbered by Eligible Mortgages: (i) voting rights; (ii) increases in monthly assessments that raised the previously assessed monthly amount by more than twenty-five percent (25%), assessment liens, or their priority of assessment liens; (iii) reductions in reserves for maintenance, repair and replacement of Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in Common Elements or Limited Common Elements or rights to their use; (vi) redefinition of any Unit boundary; (vii) convertibility of Units into Common Elements or vice versa; (viii) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property; (ix) hazardous or fidelity insurance requirements; (x) imposition of any restrictions on the leasing of Units; (xi) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit; (xii) restoration or repair of the Property (after damage or partial condemnation) in a manner other than specified in Declaration; or (xiii) any provisions which are for the express benefit of Eligible Mortgagees or eligible insurers or guarantors of Eligible Mortgages on the Units. Notwithstanding the provisions of Article XIII hereof, the Condominium may not be terminated for any reason other than substantial destruction or condemnation of the Condominium Property, without the approval of holders of Eligible Mortgages encumbering at least sixty-seven percent (67%) of the Units which are subject to Eligible Mortgages. No amendment of this Declaration shall make any change that would in any way affect any of the rights, privileges, powers, and options of the Declarant unless the Declarant shall join in the execution of such amendment. Notwithstanding the foregoing, the Declarant reserves the right to change the location, interior design, and arrangement of all Units and to alter the boundaries between Units, to subdivide or convert Units, or portions thereof, into two or more Units, Common Elements, or a combination of Units and Common Elements, as well as to combine Units so long as Declarant owns all the Units so changed or altered. Said changes shall be become effective through an amendment which need only be executed by Declarant, or upon application of the Declarant, the Association shall prepare, execute and record an

amendment to this Declaration and the Declaration Plans which reflects such change/s or alteration/s. If more than one Unit is converted, the Percentage Interests of the Units affected shall be duly apportioned. If, in the judgment of the Executive Board, any amendment is necessary to cure any ambiguity or to correct or supplement any provision of the Declaration, or the Plats and Plans which is ineffective or inconsistent with any other provision hereof or thereof or with the Act, or applicable provisions of the Act, or to change, correct or supplement anything appearing or failing to appear in the Plat and Plans which is incorrect, defective or similarly inconsistent, or if any such amendment is necessary to conform to the then-current requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration with respect to condominium projects, the Executive Board may effect an appropriate corrective amendment without the approval of Unit Owners or the Eligible Mortgagees upon its receipt of an opinion from independent counsel that the proposed amendment is permitted by the terms of this sentence, together with a like opinion from an independent registered architect or licensed professional engineer in the case of any such amendment to the Declaration Plans. Each such amendment shall be effective upon the recording thereof in the Department of Real Estate of Allegheny County, or any successor thereto, of an appropriate instrument setting forth the amendment and its adoption, duly executed and acknowledged by the appropriate officer of the Executive Board.

e. Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Executive Board with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the public records of Allegheny County, Pennsylvania.

16.2. Effective Dates. Each such amendment shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, execution and acknowledgment by one or more officers of the Executive Board.

16.3. Deemed Approval of Mortgagee. If any amendment acquires the approval of an Eligible Mortgagee and such Eligible Mortgagee fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgagee receives proper notice of the proposal, the required approval of such Eligible Mortgagee may be assumed, provided that the notice was delivered by certified or registered mail, with a "return receipt".

ARTICLE XVII

GENERAL

17.1. Enforcement. Enforcement of this Declaration shall be by any proceeding at law or in equity against any person or person violating or attempting to violate any covenant, condition, or restriction, imposed by this Declaration either to restrain violation or to recover damages, or to collect any charges or damages, and failure by any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter. Before an individual Owner may act to enforce any provisions of this Declaration against the other Owner, written notice must be given.

17.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions.

17.3. Captions. Captions are for convenience and reference only and are in no way to be construed as defining, limiting or modifying the scope or intent of the various provisions of this Declaration.

17.4. Gender. As used in this Declaration, the word person shall mean and include where appropriate, an individual, corporation, partnership or other entity; the plural shall be substituted for the singular and the singular for the plural where appropriate and words of any gender shall mean to include any other gender.

17.5. Exhibits. The following exhibits are attached:

- A. **Legal Description of THE CARLYLE**
- B. **List of Easements and Licenses**
- C. **Plats and Plans**
- D. **Percentage Interest Table**

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed on this 26th day of May, 2009.

WITNESS/ATTEST

DECLARANT

**SPRUCE STREET PROPERTIES, LTD., an
Ohio Limited Partnership, d/b/a PITTSBURGH
SPRUCE STREET PROPERTIES,**

By: Duquesne Properties, LLC, an Ohio limited
liability company, its general partner

David W. Bishoff,
Managing Member

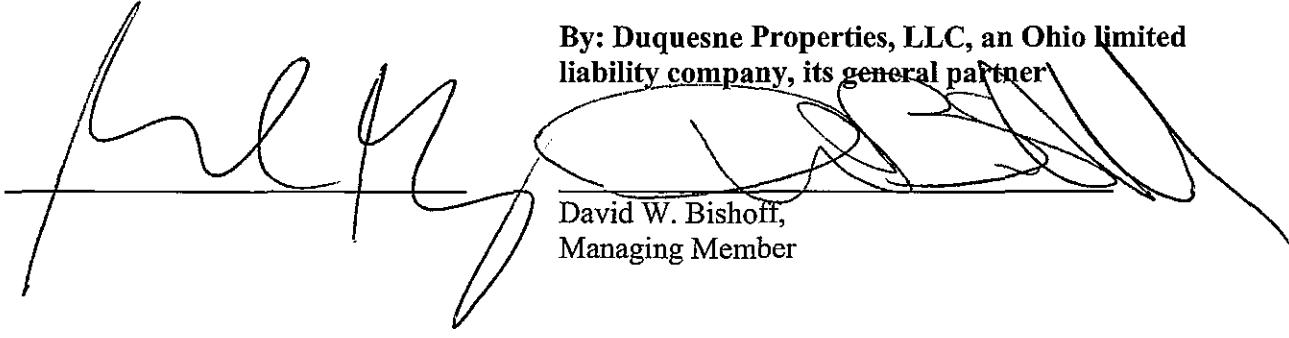
A large, handwritten signature in black ink, appearing to read "David W. Bishoff", is written over a horizontal line. To the right of the signature, there is a small, oval-shaped, faint signature or stamp.

EXHIBIT "A"

LEGAL DESCRIPTION OF THE CARLYLE

ALL that certain parcel of ground situate in the First (1st) Ward, City of Pittsburgh, Allegheny County, Pennsylvania, being Lots No. 315 and 316 in the Colonel Woods Plan of the Town of Pittsburgh, unrecorded, being more particularly bounded and described in accordance with the survey of Thomas F. Easton, registered surveyor, dated September 1996, as follows:

BEGINNING at the southeasterly corner of Wood Street and Fourth Avenue; thence along Fourth Avenue South 63° 47'15" East, a distance of 84.05 feet to a point; thence South 27° 12'15" West, a distance of 85.97 feet to a point; thence along said line North 63° 47'15" West, a distance of 84.05 feet to a point on the easterly side of Wood Street; thence along Wood Street North 27°12'15" East a distance of 85.97 feet to a point the place of **BEGINNING**.

BEING designated as Block 1-H, Lot 327 in the records of the Department of Real Estate of Allegheny County, Pennsylvania.

BEING Parcel No. 1 of the same premises which National City Bank of Pennsylvania, by deed dated June 27, 1997 and recorded June 30, 1997 in the Department of Real Estate of Allegheny County, Pennsylvania in Deed Book Volume 9977, Page 593, granted and conveyed to Spruce Street Properties, LTD. d/b/a Pittsburgh Spruce Street Properties.

EXHIBIT "B"

LIST OF EASEMENTS AND LICENSES

1. Party walls, common walks, drives, utility lines and easements incident to the ownership of the Building and the rights of the adjoining owners therein.
2. The agreement by and between the Union National Bank of Pittsburgh and Herron Land Company dated January 17, 1906 and recorded January 22, 1906 in Deed Book Volume 1425, page 402 through 406.
3. Deed of Historic Preservation and Conservation Easement in favor of the Pittsburgh History and Landmarks Foundation, as recorded March 23, 2009, in Deed Book Volume 13883 Page 288.
4. Right of Way Agreement between Spruce Street Properties Ltd., an Ohio limited partnership d/b/a Pittsburgh Spruce Street Properties and Duquesne Light Company dated April 10, 2008 and recorded May 5, 2008 in Deed Book Volume 13598 Page 44.

EXHIBIT "C"

PLATS AND PLANS

THE PLATS AND PLANS FOR THE CARLYLE, A CONDOMINIUM WAS
RECORDED IN THE DEPARTMENT OF REAL ESTATE OF ALLEGHENY
COUNTY, PENNSYLVANIA ON June 10, 2009 AT PLAN BOOK VOLUME
265, PAGE 162.

EXHIBIT "D"

**PERCENTAGE INTEREST
TABLE**

FLOOR	UNIT	FLOOR PLAN TYPE	PERCENTAGE INTEREST
Ground	Ground	Commercial	6.08593%
2 nd	201 (AA)	Metropolitan (Handicap Accessible)	1.18676%
2 nd	202 (B)	Washington	1.50627%
2 nd	203 (C)	The Grand	1.46265%
3 rd	301 (AA)	Metropolitan (Handicap Accessible)	1.18676%
3 rd	302 (B)	Washington	1.50627%
3 rd	303 (C)	The Grand	1.46265%
4 th	401 (A)	Metropolitan	1.18676%
4 th	402 (B)	Washington	1.50627%
4 th	403 (C)	The Grand	1.46265%
5 th	501 (A)	Metropolitan	1.18676%
5 th	502 (B)	Washington	1.50627%
5 th	503 (C)	The Grand	1.46265%
6 th	601 (A)	Metropolitan	1.18676%
6 th	602 (B)	Washington	1.50627%
6 th	603 (C)	The Grand	1.46265%
7 th	701 (A)	Metropolitan	1.18676%
7 th	702 (B)	Washington	1.50627%
7 th	703 (C)	The Grand	1.46265%
7 th and 8 th	704 (E)	Alex Townhouse	1.25776%
8 th	801 (A)	Metropolitan	1.18676%
8 th	802 (B)	Washington	1.50627%
8 th	803 (C)	The Grand	1.46265%
9 th	901 (A)	Metropolitan	1.18676%
9 th	902 (B)	Washington	1.50627%
9 th	903 (C)	The Grand	1.46265%
9 th and 10 th	904 (E)	Alex Townhouse	1.25776%
10 th	1001 (A)	Metropolitan	1.18676%
10 th	1002 (B)	Washington	1.50627%
10 th	1003 (C)	The Grand	1.46265%
11 th	1101 (A)	Metropolitan	1.18676%
11 th	1102 (B)	Washington	1.50627%
11 th	1103 (C)	The Grand	1.46265%
11 th and 12 th	1104 (E)	Alex Townhouse	1.25776%

12 th	1201 (A)	Metropolitan	1.18676%
12 th	1202 (B)	Washington	1.50627%
12 th	1203 (C)	The Grand	1.46265%
14 th	1401 (A)	Metropolitan	1.18676%
14 th	1402 (B)	Washington	1.50627%
14 th	1403 (C)	The Grand	1.46265%
14 th and 15 th	1404 (E)	Alex Townhouse	1.25776%
15 th	1501 (A)	Metropolitan	1.18676%
15 th	1502 (B)	Washington	1.50627%
15 th	1503 (C)	The Grand	1.46265%
16 th	1601 (A)	Metropolitan	1.18676%
16 th	1602 (B)	Washington	1.50627%
16 th	1603 (C)	The Grand	1.46265%
16 th and 17 th	1604 (E)	Alex Townhouse	1.25776%
17 th	1701 (F)	Ambassador	2.15645%
17 th	1702 (G)	Park Avenue	2.11385%
18 th	1801 (F)	Ambassador	2.15645%
18 th	1802 (G)	Park Avenue	2.11385%
18 th and 19 th	1803 (E)	Alex Townhouse	1.25776%
19 th	1901 (F)	Ambassador	2.15645%
19 th	1902 (G)	Park Avenue	2.11385%
20 th	2001 (F)	Ambassador	2.15645%
20 th	2002 (G)	Park Avenue	2.11385%
20 th and 21 st	2003 (E)	Alex Townhouse	1.25776%
21 st	2101 (F)	Ambassador	2.15645%
21 st	2102 (G)	Park Avenue	2.11385%
22 nd	2201	Penthouse	5.57877%

Note: The above percentages for the Ground Floor Unit and Unit 2101 are subject to adjustment based upon final construction.

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF ALLEGHENY)
)

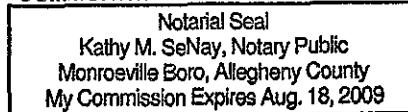
On this, 20th day of May, 2009, before me, the undersigned officer, a notary public, personally appeared David W. Bishoff, who, being duly sworn according to law, deposes and says that he is the Managing Member of Duquesne Properties, LLC, an Ohio limited liability company, the general partner of Spruce Street Properties, LTD, an Ohio limited partnership, d/b/a Pittsburgh Spruce Street Properties, and acknowledges that he executed the foregoing instrument on behalf of said limited partnership for the purposes therein contained by signing his name as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Kathy M. Schaefer
Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA



**PLATS AND PLANS
OF
THE CARLYLE, a CONDOMINIUM**



THE
CARLYLE

Pittsburgh, Pa.

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special notes:

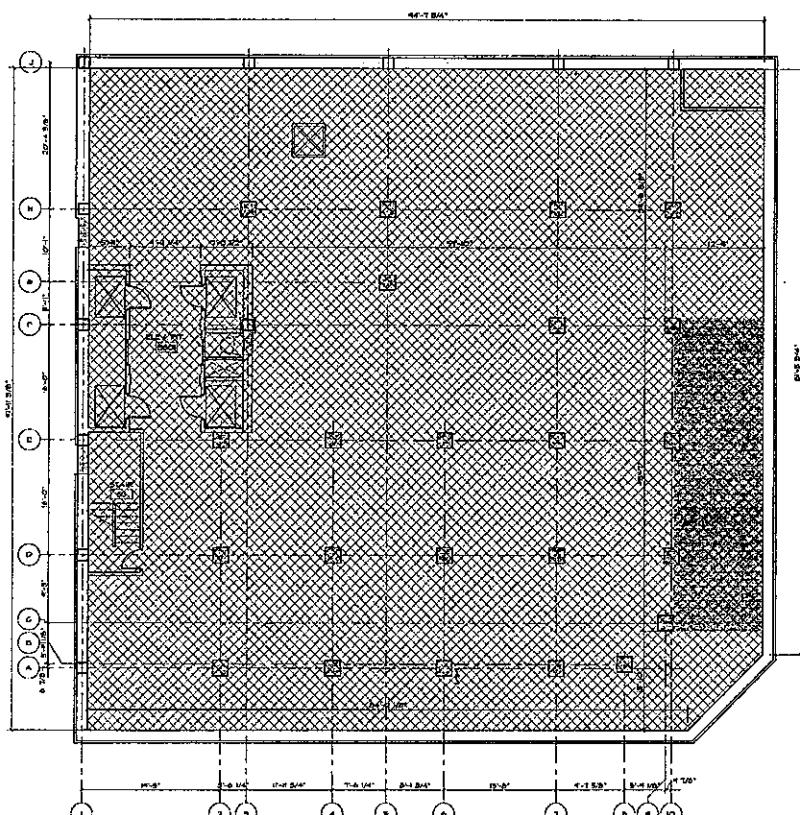
CONDONIUM
DRAWINGS
DATE: 05/05/04
PROJECT #: 04109
COPYRIGHT: 2004

BASEMENT
LEVEL 2 / LEVEL 3
FLOOR PLANS

A-101

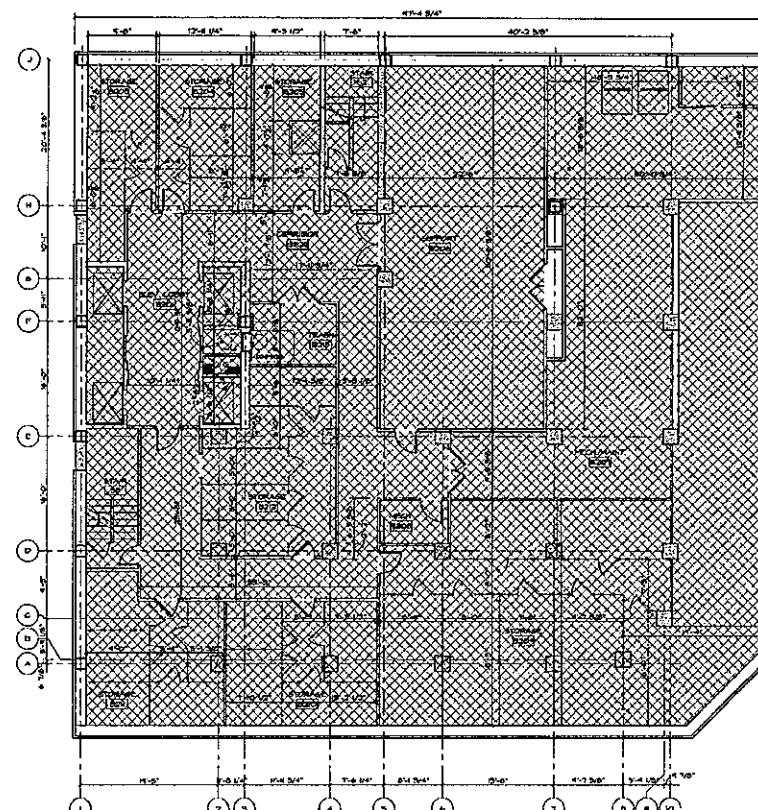
berardi
+ partners

308 East Washington Avenue, Columbus, Ohio 43255
Phone (614) 221-1110 Fax (614) 221-0831
E-mail: bp@berardi.com



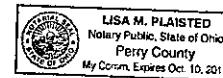
basement level 3 floor plan

1/8" = 1'-0" 4502 SRF



basement level 2 floor plan

1/8" = 1'-0" 4502 SRF



Lisa M. Plaisted

THE UNDERSIGNED
NOTARY PUBLIC HEREBY CERTIFIES THAT THE ATTACHED
ARCHITECTURAL DRAWINGS CONSTITUTE THE PLANS AND SPECIFICATIONS
AS TO ACCURACY AND THAT THE BUILDING AS BUILT IS CONSTRUCTED
IN CONFORMITY WITH THE DRAWINGS AND SPECIFICATIONS.

legend

	COMMON ELEMENT
	UNITED COMMON ELEMENT
	UNIT

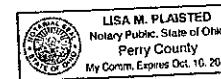
CONDONIUM
DRAWINGS
DATE: 05/05/04
PROJECT #: 04109
COPYRIGHT: 2004

BASEMENT
LEVEL 2 / LEVEL 3
FLOOR PLANS

A-101

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Phone (614) 221-1110 Fax (614) 221-0831
E-mail: bp@berardi.com



THE UNDERSIGNED HEREBY CERTIFIED THAT THE ATTACHED
ARCHITECTURAL DRAWINGS CONSISTING OF SHEETS A101 THROUGH
A108, ACCURATELY REPRODUCE EACH BUILDING AS BUILT OR DORHICUTED
BY THE UNDERSIGNED.



Photobooths



special notes:

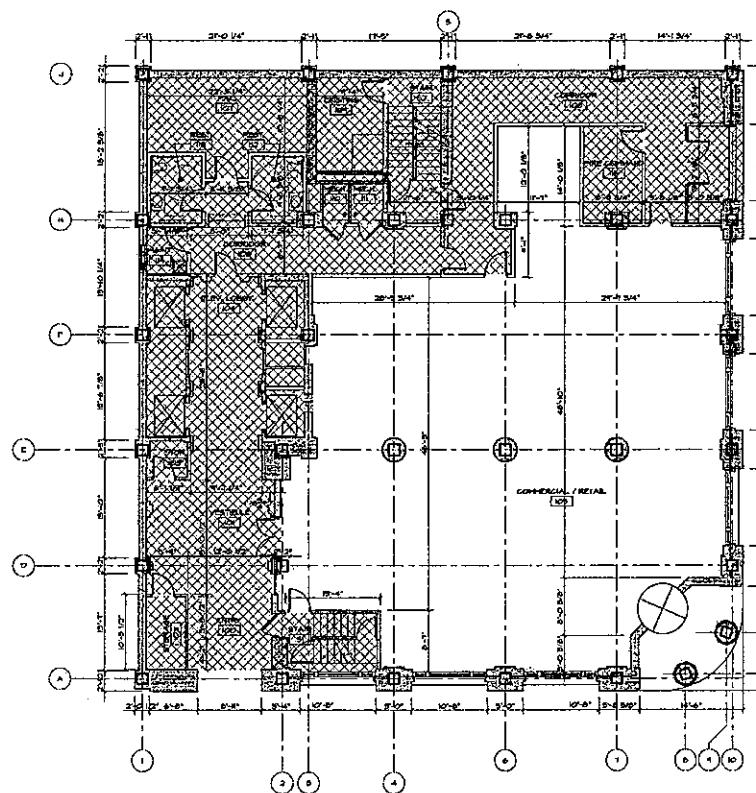
**CONDOMINIUM
DRAWINGS**

**BASEMENT
LEVEL 1, 1ST
FLOOR PLANS**

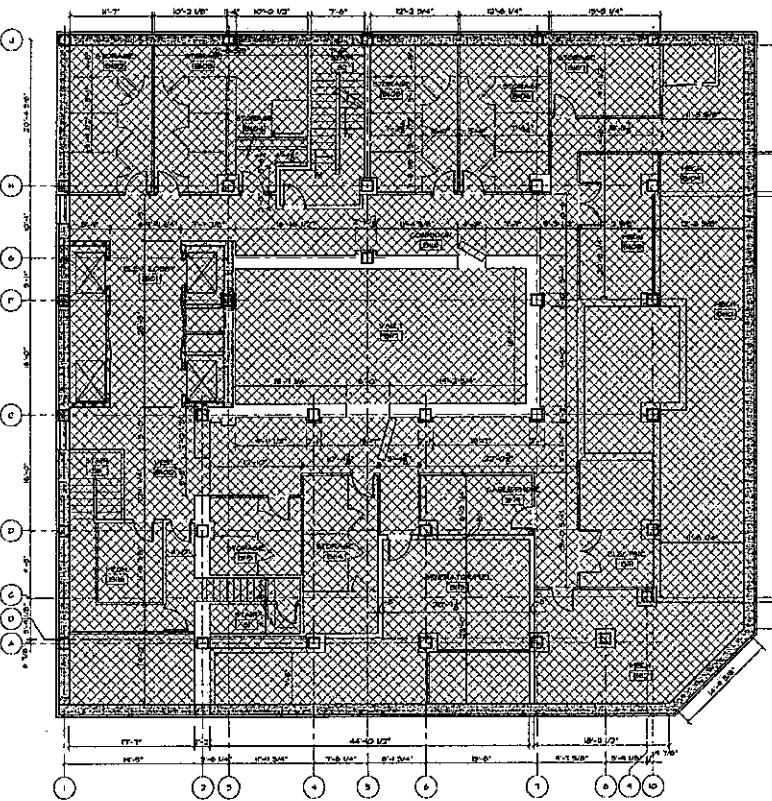
A-102

berard

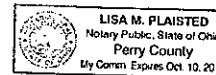
369 East Livingston Ave., Columbus, Ohio 43215
Phone (614) 221-1110 Fax (614) 221-0631
Email: bojarci@upcjh.com



first floor plan
1/8" = 1'-0" approx.



basement level 1
1/8" = 1'-0" 0.463 SF.



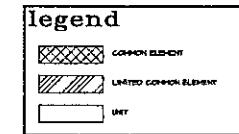
A circular notary seal with a decorative border. Inside the border, the text "NOTARY PUBLIC" is repeated twice. The center of the seal contains the name "Lisa M. PLAISTED", "Notary Public, State of Ohio", "Perry County", and "My Comit. Expires Oct. 10, 2024".

THE UNDERSIGNED HEREBY CERTIFIED THAT THE ATTACHED
ARCHITECTURAL DRAWINGS CONSISTING OF SHEETS A101 THROUGH
A106, ACCORDING TO THE DRAWINGS, ARE FOR BUILDINGS AS BUILT OR CONSTRUCTED
BY CHRISTIAN ERNST, AIA, REGISTERED ARCHITECT, LICENSE
NUMBER N. 100-00000000.

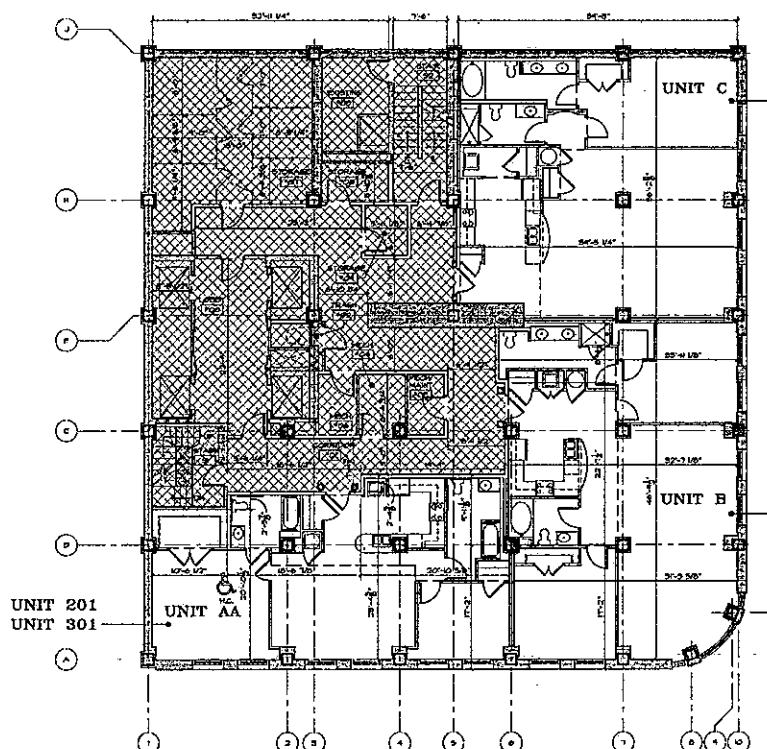
Frances M. Plaisted



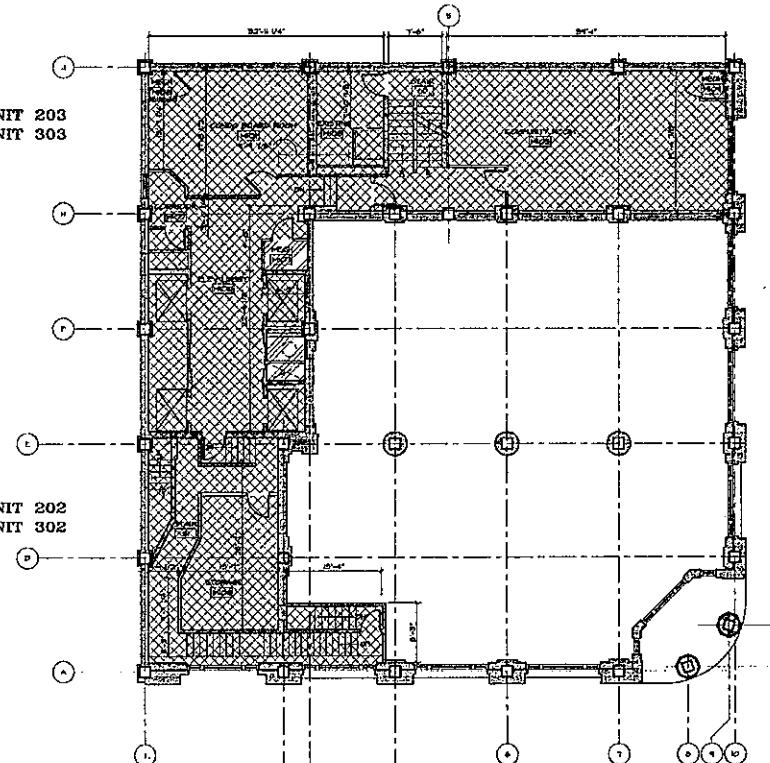
Philadelphia, Pa.



special notes:



2nd, 3rd floor plan
1/8" = 1'-0" 0.00 sq. ft.



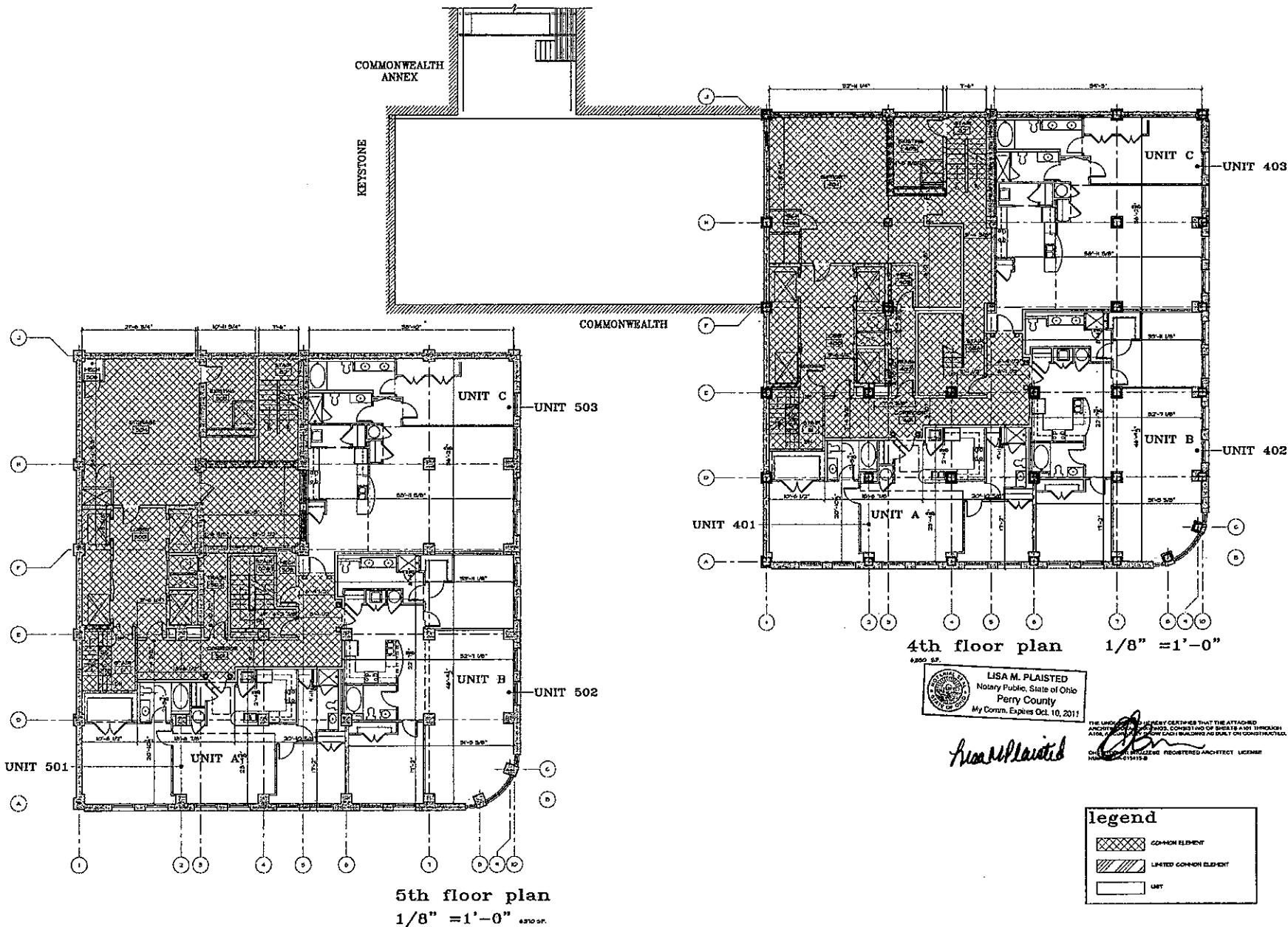
1st floor mezzanine plan
1/8" = 1'-0" 2200 sf.

**CONDOMINIUM
DRAWINGS**

**MEZZANINE,
2ND, 3RD
FLOOR PLANS**

A-103

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+ partners



THE
CARLYLE

Pittsburgh, Pa.

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 WRITTEN CONSENT OF
 BERARDI PARTNERS, INC.
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 OF THE CONTRACTOR, THE
 OWNER AND THE BUYER
 ONLY. IT IS THE PROPERTY
 OF THE CONTRACTOR AND
 IS TO BE RETURNED UPON
 COMPLETION OF THE
 CONSTRUCTION OF THE
 BUILDING. IT IS NOT
 TO BE USED FOR ANY
 OTHER PURPOSE.

special notes:

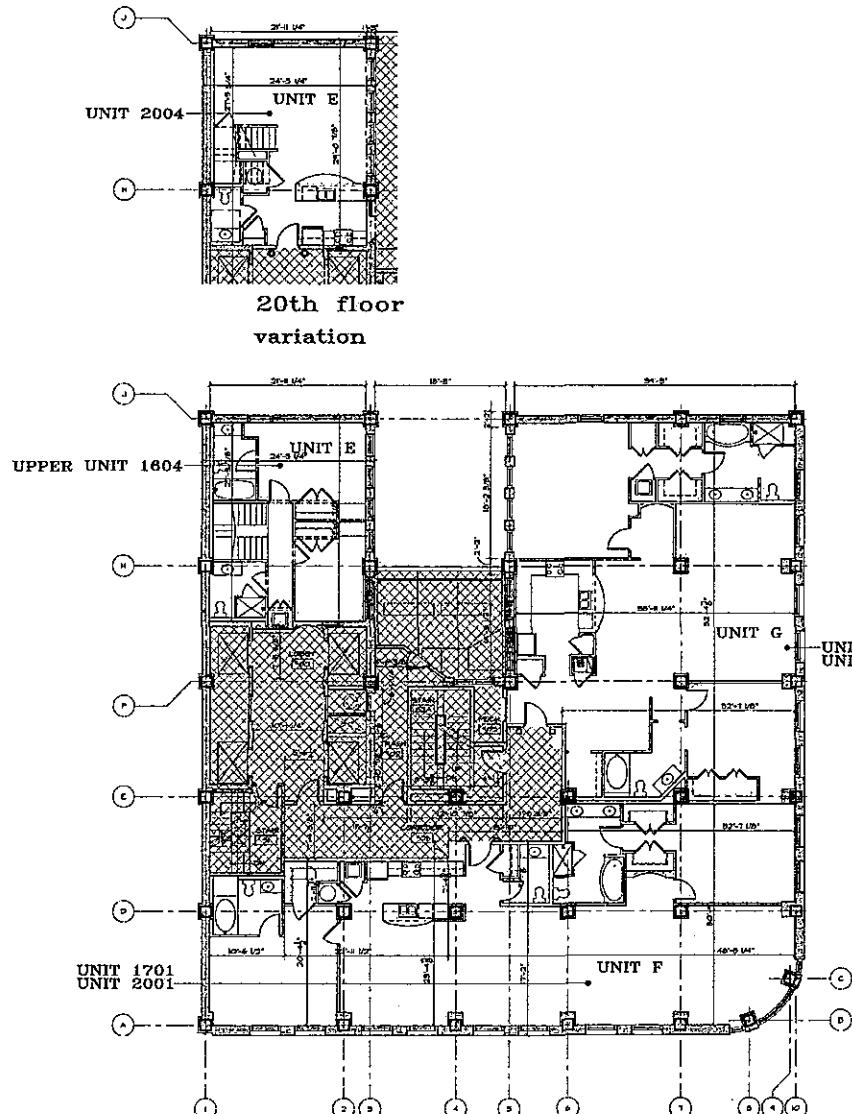
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 DRAWINGS**
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 PRODUCT #: OH 109
 COPYRIGHT: 2004

4TH, 5TH
 FLOOR
 PLANS

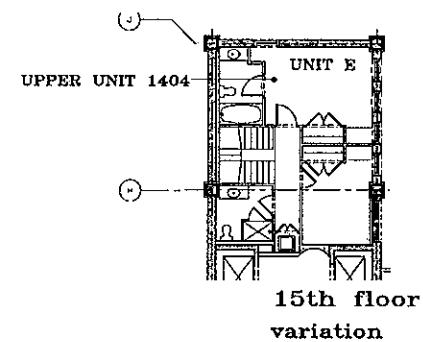
A-104

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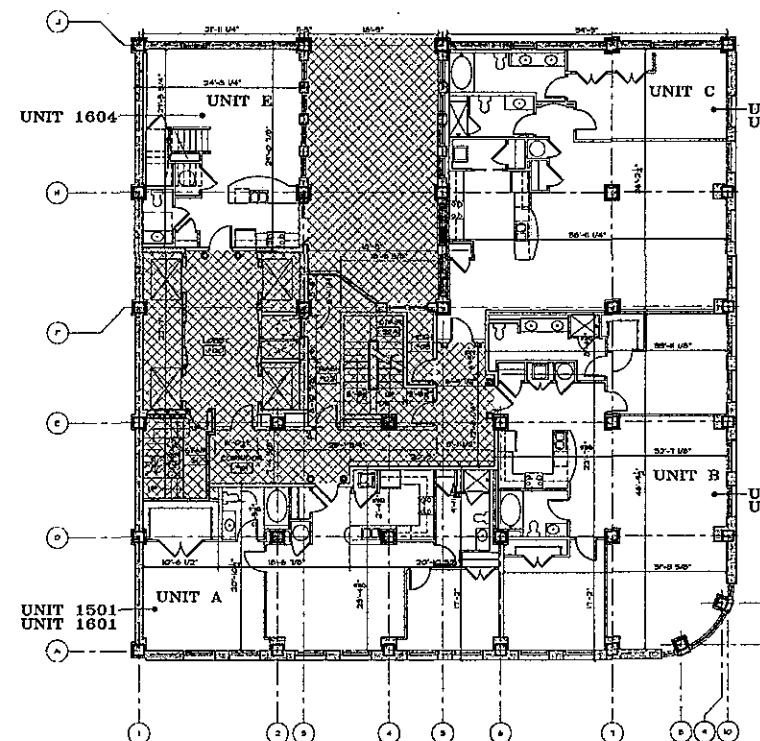
54 Fox Leopold Ave., Garfield, Ohio 44115
 Phone: (419) 221-1110 Fax: (419) 221-2231
 Email: bplarch@bplarch.com



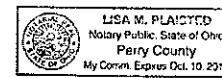
17th & 20th floor plan
1/8" = 1'-0"



15th floor
variation



15th & 16th floor plans
1/8" = 1'-0" 0.000 ft.



A circular notary seal for Lisa M. Plaisted. The outer ring contains the text "NOTARY PUBLIC", "STATE OF OHIO", and "PERRY COUNTY". The center of the seal contains the name "LISA M. PLAISTED" and "Notary Public, State of Ohio", with the date "My Comm. Expirs Oct. 10, 2011" at the bottom.



Ratnayake and Puri

special notes:

**CONDOMINIUM
DRAWINGS**

**15TH, 16TH, 17TH, 20TH
FLOOR
PLANS**

A-106

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369 East Livingston Ave. Columbus, Ohio 43215
Phone (614)221-1110 Fax (614)221-0831
Email: bparch@bparch.com

USA M. PLAISTED
Notary Public, State of Ohio
Perry County
My Comm. Expires Oct. 10, 20

Resin Plastic



THE
CARLYLE

Pittsburgh, Pa.

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MEETING OR
AND MAIL COPY THE ARCHITECTURE
OF THE SYSTEM. THIS INFORMATION
SHOULD BE DOCUMENTED IN
THE CONTRACT DOCUMENTS.

3. THE CONTRACT DOCUMENTS ARE
COMPRIMATES OF THE REQUIREMENTS
AND THE PROJECT PLANNEING.
THE REQUIREMENTS ARE
IN THE CONTRACT DOCUMENTS.
INDEPENDENT WORK AND COORDI-
NATION OF EACH OTHER
BETWEEN THE CONTRACT DOCUMENTS
SHOULD NOT BE
PERMITTED. IF THE CONTRACT
DOCUMENTS ARE INDEPENDENT,
THEY CAN NOT BE
IN THE SAME CONTRACT DOCUMENT.

4. INDEPENDENTLY, THE CONTRACT
DOCUMENTS ARE NOT SHOWN

[specia] notes:

**CONDOMINIUM
DRAWINGS**

18TH, 19TH, 21ST, 22ND
FLR.
PLANS

A-107

berardi
B.B.S.B.S.B.

369 East Livingston Ave. Columbus, Ohio 43213
Phone (614)221-1110 Fax (614)221-0831
E-mail: UnisysCh@unisys.com

22nd floor plan
1/8" = 1'-0" per in.

19th & 21st floor variation

This architectural floor plan illustrates a building section with several units labeled: UNIT 1804, UNIT 2004, UNIT E, UNIT G, UNIT F, and UNIT 1801. The plan includes various rooms, some with hatching, and shows dimensions for rooms and overall sections. Units 1804 and 2004 are located on the left, while units E, G, F, and 1801 are on the right. The plan also includes a legend with symbols for doors, windows, and other building features.

18th, 19th & 21st floor plans
1/8" = 1'-0" +200 ft.



60 2009 00006131

Allegheny County
Valerie McDonald Roberts
Department of Real Estate
Pittsburgh, PA 15219

Instrument Number: 2009-6131

Recorded On: March 23, 2009

As-Deed Agreement

Parties: PITTSBURGH SPRUCE ST PROPERTIES

To PITTSBURGH HISTORY & LANDMARKS

of Pages: 21

Comment: HIST PRESERV CONSERV EASE

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT****

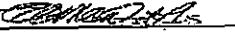
Deed Agreement 97.00

Pages > 4 16

Names > 4 0

Total: 97.00

Valerie McDonald Roberts, Manager - BLOCK AND LOT NUMBER

 Date: 3-24-2009 By: SB

AGREEMENT

I hereby certify that the within and foregoing was recorded in the Department of Real Estate in Allegheny County, PA

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT****

File Information:

Record and Return To:

Document Number: 2009-6131

Receipt Number: 1305090

Recorded Date/Time: March 23, 2009 09:46:35A

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BRENDA B SEBRING ESQ

SEBRING & ASSOCIATES

2735 MOSSIDE BLVD

MONROEVILLE PA 15146



Valerie McDonald Roberts, Manager
Dan Onorato, Chief Executive

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**DEED OF HISTORIC PRESERVATION
AND CONSERVATION EASEMENT**

UNION NATIONAL BANK BUILDING / THE CARLYLE, A CONDOMINIUM

**THIS DEED OF HISTORIC PRESERVATION AND CONSERVATION
EASEMENT** (hereinafter this “Deed”) is made this 19th day of March, 2009
effective the 19th day of March, 2009 between **SPRUCE STREET PROPERTIES
LIMITED**, an Ohio limited partnership, d/b/a **PITTSBURGH SPRUCE STREET
PROPERTIES** (“Grantor”), having its principal office at 33 N. Third Street, Suite 500,
Columbus, Ohio 43215, owner in fee simple of the **Property** hereinafter described, and
PITTSBURGH HISTORY & LANDMARKS FOUNDATION (“Grantee”), a Pennsylvania
non-profit corporation, qualified under Section 501(c)(3) of the Internal Revenue Code, and
located at 100 West Station Square Drive, Suite 450, Pittsburgh, Pennsylvania 15219.

WITNESSETH:

WHEREAS, Grantee is a publicly supported, tax exempt non-profit organization
whose primary purposes include the preservation and conservation of sites, buildings, and
objects of local and national significance and is a qualified recipient of qualified conservation
contributions under Section 170(h) of the Internal Revenue Code of 1986, as amended, and the
regulations thereunder (the “Code”); and

WHEREAS, Grantee is a qualified organization to accept an historic facade
preservation and conservation easement in accordance with Treasury Regulation 1.170A-
14(c)(1); and

WHEREAS, Grantee is authorized to accept preservation and conservation
easements to protect property significant in national and Pennsylvania history and culture under
the provisions of the Conservation and Preservation Easement Act of June 22, 2001 (Act No. 29)
(hereinafter the “Act”); and

WHEREAS, Grantor is the owner in fee simple of a certain parcel of land located
at 300 – 306 Fourth Avenue, Pittsburgh, Allegheny County, Pennsylvania, as is more
particularly described in **Exhibit A** attached hereto and made a part hereof (the “Property”); and

WHEREAS, located on the **Property** is a twenty-one story stone classical revival
style building known as “The Union National Bank Building,” also known as “The Carlyle”,
designed by MacClure and Spahar and constructed in 1906, which has among other architectural
features, a granite façade along Fourth Avenue and Wood Street with a quarter-round corner and
a prominent corner entry flanked by two Tuscan columns, which Grantor intends to rehabilitate
into sixty (60) residential condominium units (the “**Residential Units**”) and one (1) commercial
condominium unit (the “**Commercial Unit**”) with a gross floor area of approximately 136,331
square feet (as rehabilitated, the “Building”) consistent with the outline set forth in the
construction plans and specifications prepared by Berardi + Partners, Inc. and dated December

6, 2005 and reviewed and approved by the Pittsburgh History & Landmarks Foundation (as so approved, the "Rehabilitation Plan"), a copy which Rehabilitation Plan has been provided to Grantee and a copy of which will be on file with Berardi + Partners, Inc.; and

WHEREAS, the Building's exterior including but not limited to all exterior walls (including but not limited to front walls, side walls and back walls), elevations, building height, roofs, roof lines, color, building materials, windows and doors, and all air space above the Building, (hereinafter collectively the "Building's Exterior") are an important part of the Building; and

WHEREAS, the Building is located in a Registered Historic District and has been certified by the Secretary of the Treasury or the Secretary of the Interior as being of historic significance to such District, which makes such Building a certified historic structure; and

WHEREAS, Grantor and Grantee recognize the significant architectural, cultural and historical features of the Building (hereinafter "Conservation Features"), and have a common purpose of conserving and preserving the aforesaid Conservation Features and the Building's Exterior; and

WHEREAS, the Conservation Features will be documented in a set of reports, drawings, and photographs (hereinafter "Baseline Documentation") which will be delivered by Grantor to Grantee upon completion with a certificate of the Grantee identifying such reports, drawings and photographs as the Baseline Documentation, which Baseline Documentation shall be prepared by Grantee in accordance with the Rehabilitation Plan to provide an accurate representation of the Building in its to-be-developed state upon completion of Rehabilitation Plan (in the event of any discrepancy between the counterparts of Baseline Documentation, the counterpart delivered to Grantee shall control); and

WHEREAS, the grant of a preservation and conservation easement in the Building's Exterior, including the relinquishment of the right to build any addition onto, or above, the exterior of the Building, by Grantor to Grantee will assist in preserving and maintaining the Conservation Features of the Property for the benefit of the City of Pittsburgh, County of Allegheny, Commonwealth of Pennsylvania, and the United States of America; and

WHEREAS, to that end, Grantor desires to grant to Grantee and Grantee desires to accept, a preservation and conservation easement (the "Easement") in gross in perpetuity in the Building's Exterior (including for greater certainty the entire exterior of the Building, the front, the sides, the rear, the roof and the height of the Building and all space above the Building) as it will exist upon completion of the Rehabilitation Plan; and

WHEREAS, the Residential Units and Commercial Unit will be created with the recording of the Declaration of Condominium for The Carlyle (the "Declaration"); and

WHEREAS, The Carlyle Condominium Association (the "Association") will be created with the recording of the Declaration and will be entrusted with the maintenance, repair and replacement of the Building's Exterior.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00), the mutual promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee, intending to be legally bound hereby, agree as follows:

1. GRANT OF EASEMENT

- 1.1 Grant.** Grantor hereby grants and donates to Grantee, pursuant to Section 170(h) of the Code and Section 4 of the Act, and Grantee hereby accepts from Grantor, the Easement in gross and in perpetuity in, over and across the Building's Exterior.
- 1.2 Purpose.** The purposes of the Easement and of this Deed are to assure that the Building's Exterior will be retained and maintained forever substantially in its to-be-restored condition and state of repair for conservation and preservation purposes and to prevent any use or change of the Building's Exterior that will significantly impair or interfere with the Building's Exterior or which is inconsistent with the historical character of the Building's Exterior.
- 1.3 Extent.** The grant of this Easement is specifically limited to the Building's Exterior and Grantee shall not be deemed to possess any easement over or right in any other portion of the Property except as specifically set forth in this Deed.

2. GRANTOR'S COVENANTS

- 2.1 Covenant to Rehabilitate.** Grantor agrees to rehabilitate the Building's Exterior pursuant to the Rehabilitation Plan (as illustrated in the Baseline Documentation), and expressly retains the right to rehabilitate the Building's Exterior pursuant to the Rehabilitation Plan, which retained right is not included in the Easement granted herein. The rehabilitation shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Building (36 C.F.R. § 67), as these may be amended from time to time (hereinafter "Secretary's Standards").
- 2.2 Covenant to Maintain.** Grantor agrees at all times to maintain or cause to be maintained by the Association the Building's Exterior. Such obligation to maintain shall require replacement, repair, and reconstruction by Grantor to the extent necessary (but subject to the provisions of Section 5 relating to casualty damage) to preserve the Building's Exterior in substantially the same structural condition and state of repair as existing upon completion of the Rehabilitation Plan. All such maintenance of the Building's Exterior shall be in accordance with the Secretary's Standards.

2.3 Prohibited Activities. The following acts or uses are expressly forbidden in, on, over, or under the Property, except as otherwise conditioned or permitted in this Section:

- (a) No improvements contained in the Building's Exterior shall be demolished, removed or razed except as provided in Sections 3 and 5;
- (b) The dumping of ashes, trash, rubbish, or any other unsightly or offensive materials (other than in the ordinary course of business and in containers normally provided for such purpose);
- (c) Nothing shall be erected or allowed to grow on the Property which would materially impair the visibility of the Building's Exterior from the street level; or
- (d) No change shall be made to any portion of the Building's Exterior which is inconsistent with the historical character of the Building's Exterior.

3. GRANTOR'S CONDITIONAL RIGHTS

3.1 Conditional Rights Requiring Approval by Grantee. Without the prior express written approval of Grantee, which approval shall be exercised in accordance with Section 3.2 hereof, Grantor shall not undertake any of the following actions, except those required pursuant to the Rehabilitation Plan:

- (a) Construct any addition to the Property or the Building or further develop the Property or the Building in a manner contrary to the Secretary's Standards;
- (b) Alter, reconstruct, or change the appearance of any of the Building's Exterior, if such alteration, reconstruction or change is contrary to the Secretary's Standards;
- (c) Make changes in the material or workmanship of the Building's Exterior, if such changes are contrary to the Secretary's Standards;
- (d) Erect any external signs or advertisements (meaning signs or advertisements mounted or placed on the exterior of the Building which are visible to persons viewing the exterior of the Property) within the Building's Exterior except:
 - (i) such plaque as is permitted under Section 7.8 of this Deed;
 - (ii) a sign stating solely the address of the Property;

- (iii) a temporary sign to advertise the sale or rental of the Property;
- (iv) such signs as comply with the sign criteria published from time to time by Grantee (the "Sign Criteria");
- (v) such signs as shall reasonably identify the ownership and use of the Property;

(e) Change the use of the Property except to a use not prohibited by the Secretary's Standards.

3.2 **Review of Grantor's Requests for Approval.** Grantor shall submit to Grantee for Grantee's approval of those conditional rights set out in Section 3.1 (but not excepted therefrom) two (2) copies of information (including plans, specifications and designs where appropriate) identifying the proposed activity with reasonable specificity. In connection with the request, Grantor shall also submit to Grantee a timetable for the proposed activity sufficient to permit Grantee to monitor such activity. Grantee shall certify in writing, within forty-five (45) days of Grantee's receipt of any plan or written request for approval hereunder, that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted. If Grantee does not approve the plan or request, such approval not to be unreasonably withheld, Grantee shall provide Grantor a written explanation for Grantee's disapproval, and if appropriate, with written suggestions for modifications. Any failure by Grantee to act within forty-five (45) days of receipt of Grantor's submission or resubmission of plans or requests shall be deemed to constitute approval by Grantee of the plan or request as submitted and to permit Grantor to undertake the proposed activity in accordance with the plan or request submitted.

3.3 **Standards for Review.** In exercising any authority created by this Deed, Grantee shall apply the Secretary's Standards.

3.4 **Public Access.** Grantor shall make the Building's Exterior accessible to the public or persons affiliated with educational organizations, professional architectural organizations and historical societies on dates and at times deemed reasonable by Grantor. At times reasonably agreed upon by Grantor, Grantee may make photographs, drawings, or other representations documenting the Conservation Features and distribute them to magazines, newsletters, or other publicly available publications, or use them to fulfill its charitable and educational purposes.

4. GRANTOR'S RESERVED RIGHTS

4.1 **Grantor's Reserved Rights Not Requiring Further Approval by Grantee.** Subject to the provisions of Sections 2.1, 2.2, 2.3 and 3.1, the following rights, uses, and activities of or by Grantor on, over or under the

Property are permitted by this Deed and by Grantee without further approval by Grantee:

- (a) The right to rehabilitate the Building in accordance with the Rehabilitation Plan and in conformity with the Secretary's Standards;
- (b) The right to engage in all those acts and uses which:
 - (i) are permitted by governmental statute or regulation;
 - (ii) do not substantially impair the Building's Exterior or the Conservation Features and which do not change the exterior of any Building in a manner inconsistent with the historical character of such exterior; and
 - (iii) are not inconsistent with the purposes of this Deed;
- (c) The right to maintain the Building's Exterior in accordance with the provisions of this Deed, including constructing temporary scaffolding.

4.2 Grantor's Other Rights Not Requiring Approval by Grantee. The parties agree that all rights reserved by Grantor, or not prohibited or restricted by this Deed, are consistent with the Easement purposes and, except as expressly provided herein, require no prior notification to or approval by Grantee.

5. DAMAGE OR DESTRUCTION; INSURANCE

5.1 Damage or Destruction. In the event that any portion of the Building's Exterior is damaged or destroyed by fire, flood, windstorm, earth movement, or other casualty or cause, Grantor shall notify Grantee in writing within thirty (30) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Building's Exterior and to protect public safety, shall be undertaken by Grantor without Grantee's prior written approval. Within thirty (30) days of the date of damage or destruction (subject to extension upon written request of Grantor for up to an additional ninety (90) days if such report cannot reasonably be completed within such thirty (30) day period), if required by Grantee, Grantor at its expense shall submit to Grantee a written report prepared by a qualified restoration architect and an engineer who are acceptable to Grantor and Grantee, which report shall include the following:

- (a) an assessment of the nature and extent of the damage including a detailed description of the impact of the damage on the Building's Exterior;
- (b) a determination of the feasibility of the restoration of the Building's Exterior; and
- (c) a report of such restoration/reconstruction work necessary to return the Building's Exterior to the condition existing upon completion of rehabilitation pursuant to the Rehabilitation Plan.

5.2 Review After Casualty Damage or Destruction. If, after reviewing the report provided for in Section 5.1 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims to the insurance proceeds, Grantor and Grantee agree that the purposes of this Deed will be served by such restoration/reconstruction, Grantor and Grantee shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Building's Exterior but Grantor shall not be required to expend more than the total proceeds of the casualty insurance available to Grantor.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims to the insurance proceeds, Grantor and Grantee agree that restoration/reconstruction of the Building's Exterior is impractical or impossible, or agree that the purposes of this Deed would not be served by such restoration/reconstruction, Grantor may, with the prior written consent of Grantee, alter, demolish, remove, or raze the Building and/or construct new improvements on the Property. Grantor and Grantee may agree to extinguish this Deed and the Easement in whole or in part in accordance with the laws of the Commonwealth of Pennsylvania and Section 9.2 hereof.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Section 5.3, Grantor and Grantee are unable to agree that the purposes of this Deed will or will not be served by such restoration/reconstruction, the matter may be referred by either party to binding arbitration and settled in accordance with the Commonwealth of Pennsylvania arbitration statute then in effect.

5.3 Insurance. Grantor shall keep or cause the Association to keep the Property insured by an insurance company rated "A-1" or better for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death, and property damage. Property damage insurance shall include change in

condition and building ordinance coverage, in form and amount sufficient to replace fully the damaged Property and Building without cost or expense to Grantor or contribution or coinsurance from Grantor. Such insurance shall include Grantee's interest and name Grantee as an additional insured. Grantor shall deliver to Grantee, within thirty (30) business days of Grantee's written request therefor, certificates of such insurance coverage.

6. INDEMNIFICATION; TAXES

- 6.1 **Indemnification.** Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend at its own cost and expense, Grantee, its agents, directors, officers and employees, or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses, and expenditures (including reasonable attorneys' fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person; physical damage to the Property; the presence or release in, on, or about the Property, at any time, of any substance now or hereafter defined, listed or otherwise classified pursuant to any law, ordinance, or regulation as a hazardous, toxic, polluting, or contaminating substance; or other injury or other damage occurring on or about the Property, unless such injury or damage is caused by Grantee or any agent, trustee, employee, or contractor of Grantee.
- 6.2 **Taxes.** Grantor shall pay on or prior to their becoming due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other fines, impositions and charges (collectively, the "Taxes") which may become a lien on the Property (excluding Residential Units with appurtenant interests in the Property conveyed to others), unless Grantor timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation hereunder to pay such charges shall be suspended for the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action.
- 6.3 **Costs.** Grantor shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property (excluding Residential Units with appurtenant interests in the Property conveyed to others). Grantor shall remain solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Deed, and all such construction or other activity shall be undertaken in accordance with all applicable federal, state, and local laws and regulations.

7. ADMINISTRATION AND ENFORCEMENT

7.1 Written Notice. Any notice which either Grantor or Grantee may desire or be required to give to the other party shall be in writing and shall be delivered by one of the following methods (a) overnight courier prepaid, (b) facsimile delivery, or (c) certified mail, return receipt requested. Notice to Grantor should be addressed to: Spruce Street Properties Limited, 33 N. Third Street, Suite 500, Columbus, Ohio 43215, and notice to Grantee should be addressed to: Pittsburgh History & Landmarks Foundation, 100 West Station Square Drive, Suite 450, Pittsburgh, Pennsylvania 15219, Attn: Anne E. Nelson.

Each party may change its address set forth herein by a notice to such effect to the other party.

7.2 Evidence of Compliance. Upon request by Grantee, Grantor shall promptly furnish Grantee with certification that, to Grantor's knowledge, Grantor is in compliance with the obligations of Grantor contained herein, or that otherwise evidences the status of this Deed to the extent of Grantor's knowledge thereof.

7.3 Inspection. Representatives of Grantee shall be permitted at all reasonable times, upon reasonable advance notice, to inspect the Property to determine compliance with the terms of this Deed, provided that such right shall be exercised by Grantee subject to the rights of tenants in possession of the Property.

7.4 Grantee's Remedies. Grantee may, following reasonable written notice to Grantor, institute suit(s) to enjoin any violation of the terms of this Deed by temporary, preliminary, and/or permanent injunction, including prohibitory and/or mandatory injunctive relief and to require to the extent of Grantor's violation of the terms of this Deed, the restoration of the Building's Exterior and the condition and appearance of same that existed prior to the violation complained of. Grantee shall also have available all legal and other equitable remedies to enforce Grantor's obligations hereunder.

In the event Grantor is found to have violated any of its obligations hereunder, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with Grantee's enforcement of the terms of this Deed, including all reasonable court costs, and attorney's, architectural, engineering, and expert witness fees; but if Grantor is found not to have violated any of such obligations, Grantee shall, in like manner, reimburse Grantor.

Exercise by Grantee of one remedy hereunder, and the failure to exercise any remedy, shall not have the effect of waiving or limiting the

use of any other remedy at any time or from time to time. All remedies described herein shall be cumulative and not exclusive in nature.

- 7.5 **Notice from Government Authorities.** Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Building's Exterior received by Grantor from any government authority within fifteen (15) days of receipt by Grantor. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.
- 7.6 **Notice of Proposed Sale.** Grantor shall notify Grantee in writing of any proposed sale or transfer of the Building's Exterior at least thirty (30) days prior to such sale or transfer and provide the opportunity for Grantee to explain the terms of this Deed to potential new owners prior to sale closing. Failure to do so shall not constitute a lien or encumbrance on the Property. This Section 7.6 shall not apply to the sale or transfer of Units in the interior of the Property.
- 7.7 **Condominium Association Bylaws.** Any condominium association bylaws relating to the Property shall include a provision stating that the condominium association shall comply with the restrictions, stipulations, and covenants contained in this Deed.
- 7.8 **Plaque.** Grantor agrees that Grantee may provide and maintain a plaque on the Building's Exterior, which plaque shall not exceed 24 inches by 24 inches in size, giving notice of the significance of the Building's Exterior and the existence of the Easement; provided, however, that the location thereof shall be subject to the approval of Grantor, which approval shall not be unreasonably withheld.
- 7.9 **Contribution.** In further consideration for the benefits to be received by Grantor as a result of the granting of the Easement and the entering into of this Deed, Grantor covenants and agrees to contribute to Grantee a one-time donation of \$42,000, which will be used to endow periodic easement monitoring and related costs and support a Grantee preservation easement defense fund. Such fee shall be due and payable at closing prior to the recording of this Deed.

8. BINDING EFFECT; ASSIGNMENT

- 8.1 **Runs with the Land.** Except as provided in Sections 5 and 9.2, the obligations imposed by this Deed shall be effective in perpetuity and shall be deemed to run as a binding servitude with the Property. This Deed shall extend to and be binding upon Grantor and Grantee, their respective successors, assigns and all persons hereafter claiming by, under or through Grantor and Grantee, and the words "Grantor" and "Grantee" when used herein shall include all such persons. Any right, title, or interest herein

granted to Grantee also shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successors and assigns.

Anything contained herein to the contrary notwithstanding, Grantor shall have no obligation pursuant to this instrument when Grantor shall cease to have any interest in the Property other than ownership of Residential Units. The restrictions, stipulations, and covenants contained in this Deed shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of an interest in the Property.

8.2 Assignment. Grantee may convey, assign, or transfer its rights under this Deed to a unit of federal, state, or local government or to a similar local, state, or national organization that is a "qualified organization" under Section 170 (h) of the Code whose purposes, *inter alia*, are to promote preservation or conservation of historical, cultural, or architectural resources, provided that any such conveyance, assignment, or transfer requires that the purpose for which the Easement was granted will continue to be carried out.

8.3 Recording and Effective Date; Consents. Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this Deed with the The Department of Real Estate of Allegheny County, Pennsylvania (the "Recording Date"). Grantor and Grantee intend that the restrictions arising under this Deed shall take effect on the Recording Date. If any provision of this Deed calls for or requires that the consent or permission of either party be obtained from the other then, unless otherwise provided in this Deed, the party whose consent or permission is required shall not unreasonably withhold or delay the granting of such consent or permission.

9. PERCENTAGE INTERESTS; EXTINGUISHMENT

9.1 Percentage Interests. This Section 9 shall be exercised in accordance with and subject to the conditions and stipulations set forth in Section 12. For purposes of allocating proceeds pursuant to Sections 9.2 and 9.3, Grantor and Grantee stipulate that as of the date of this Deed, Grantor and Grantee are each vested with real property interests in the Property and that such interests have a stipulated percentage interest in the fair market value of the Property. Grantee's percentage interest shall be determined by dividing the value of the Easement upon completion of the Rehabilitation Plan by the value of the Property upon completion of the Rehabilitation Plan without deduction for the value of the Easement, and Grantor's percentage interest shall be the difference between 100% and the Grantee's percentage interest. The values upon the Recording Date of this Deed shall be those values used to calculate the deduction for federal

income tax purposes allowable by reason of this grant pursuant to Section 170(h) of the Code. The parties shall include their respective percentage interests with the Baseline Documentation (on file with Grantor and Grantee) and shall amend such percentage interests, if necessary, to reflect any final determination thereof by the Internal Revenue Service or court of competent jurisdiction. For purposes of this Section, the percentage interest of Grantor and Grantee in the fair market value of the Property shall remain constant except that the value of any improvements made by Grantor after the Recording Date of this Deed (other than those required pursuant to the Rehabilitation Plan) is reserved to Grantor.

9.2 Extinguishment. Grantor and Grantee hereby recognize that circumstances may arise that may make impossible the continued ownership or use of the Property in a manner consistent with the purposes of this Deed and necessitate extinguishment of this Easement. Such circumstances, mutually agreed to by Grantor and Grantee in writing, may include, but are not limited to, partial or total destruction of the Building resulting from casualty. Extinguishment must be the result of a judicial proceeding in a court of competent jurisdiction unless the Code permits Grantor and Grantee to agree to same, in which event the parties may so agree to extinguish the Easement. After such termination or extinguishment, and after the satisfaction of any costs or expenses associated with a subsequent sale or exchange of the Property, Grantor and Grantee shall share in any proceeds resulting from such subsequent sale or exchange ("Net Proceeds") in accordance with their respective percentage interests in the fair market value of the Property, as such interests are determined under the provisions of Section 9.1. Such Net Proceeds received by Grantee shall be used by Grantee in a manner consistent with Grantee's primary purpose. Net Proceeds shall include, without limitation, insurance proceeds.

9.3 Condemnation. If all or any part of the Property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking to recover the full value of those interests in the Property that are subject to the taking and all incidental and direct damages resulting from the taking. After the satisfaction of prior claims and net of expenses reasonably incurred by Grantor and Grantee in connection with such taking, Grantor and Grantee shall be respectively entitled to compensation from the balance of the recovered proceeds in conformity with the provisions of Section 9.1 unless otherwise provided by law.

10. INTERPRETATION

10.1 Interpretation. The following provisions shall govern the effectiveness, interpretation, and duration of the Easement and this Deed.

- (a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of Property shall not apply in the construction or interpretation of this Deed, and this instrument shall be interpreted broadly to effect its purposes and the transfer of rights and the restrictions on use herein contained.
- (b) This Deed may be executed in multiple counterparts, one of which may be retained by Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart shall in all cases govern.
- (c) This Deed is made pursuant to Section 4 of the Act, but the invalidity of such Section or any part thereof shall not affect the validity and enforceability of this Deed according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this Deed whether this Deed be enforceable by reason of any statute, common law, or private agreement in existence either now or hereafter. The invalidity or unenforceability of any provision of this Deed shall not affect the validity or enforceability of any other provision of this Deed or any ancillary or supplementary agreement relating to the subject matter thereof.
- (d) Nothing contained herein shall be interpreted to authorize, or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods, or use. In the event of any conflict between any such ordinance or regulation and the terms hereof, Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Deed and such ordinance or regulation.

10.2 Entire Understanding. This Deed reflects the entire agreement of Grantor and Grantee. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution hereof, unless set out in this instrument.

11. AMENDMENT

11.1 Amendment. If circumstances arise under which an amendment to or modification of this Deed would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Deed, provided that no amendment shall be made that will adversely affect the qualification of the Easement or the status of Grantee under any applicable laws, including Sections 170(h) and 501 (c)(3) of the Code and the laws of the Commonwealth of Pennsylvania. Any such amendment shall be

consistent with the protection of the Building's Exterior and the purposes of this Deed; shall not (except as otherwise provided herein) affect its perpetual duration; and shall not permit any private inurement to any person or entity. Any such amendment shall be recorded with The Department of Real Estate of Allegheny County and shall not be effective until so recorded. Nothing in this Section shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

12. SUBORDINATION

12.1 Subordination. As of the entering into of this Deed, the Property is subject to the following mortgage recorded in the Allegheny County Department of Real Estate (formerly the Office of the Recorder of Deeds) (the "Mortgage"), and documents related thereto:

<u>Mortgage</u>	<u>Recording Date</u>	<u>Recording Reference</u>
Citizens Bank of Pennsylvania	08-31-2006	98667, V. 32579, P. 168
Citizens Bank of Pennsylvania	09-21-2007	103771, V. 34483, P. 567
Dollar Bank, Federal Savings Bank	11-26-2007	V. 34738, P. 41

The mortgagee of the Mortgage ("Mortgagee") joins in the execution of this Deed to evidence its agreement to subordinate its Mortgage and related documents to this Deed and the Easement under the following conditions and stipulations:

- (a) Notwithstanding anything to the contrary contained in this Deed, to the extent allowed by the Code, the Mortgagee and its successors and assignees shall have a prior claim to all insurance proceeds as a result of any casualty, hazard, or accident occurring to or about the Property, and in preference to Grantee until the Mortgage is paid off and discharged, notwithstanding that the Mortgage is subordinate in priority to this Deed. So long as there is no extinguishment of the Easement, the Mortgagee and its successors and assignees shall have prior claim to all proceeds of condemnation proceedings, and shall be entitled to same in preference to Grantee until the Mortgage is paid off and discharged, notwithstanding that its Mortgage is subordinate in priority to this Deed.
- (b) If the Mortgagee receives an assignment of the leases, rents, and profits of the Property as security or additional security for the

loan secured by the Mortgage, then the Mortgagee shall have a prior claim to the leases, rents, and profits of the Property and shall be entitled to receive same in preference to Grantee until the Mortgagee's debt is paid off or otherwise satisfied, notwithstanding that its Mortgage is subordinate in priority to this Deed.

- (c) The Mortgagee, its successors and assigns, or purchaser in foreclosure shall have no obligation, debt, or liability under this Deed until the Mortgagee or a purchaser in foreclosure under it obtains ownership of the Property. In the event of foreclosure or deed in lieu of foreclosure, this Deed and the Easement shall not be extinguished.

13. CERTIFICATION

13.1 Required Certification. Grantor and Grantee, under penalty of perjury, hereby agree and certify as follows:

- (a) Pittsburgh History & Landmarks Foundation is a publicly supported, tax exempt non-profit organization whose primary purposes include environmental protection, land conservation, open space preservation, or historic preservation and is a qualified recipient of qualified conservation contributions and is a qualified organization under Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder.
- (b) Pittsburgh History & Landmarks Foundation has the resources to manage and enforce the restrictions set forth in this Deed and has a commitment to do so.

[Signature pages follow.]

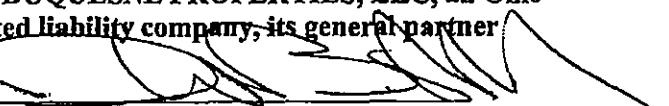
IN WITNESS WHEREOF, Grantor has caused its hand to be set on the day and year set forth above.

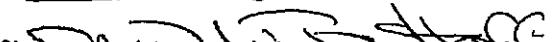
NOTICE: THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE TO THIS NOTICE AND THE GRANTING AND RECORDING OF THIS DEED, IS FULLY COGNIZANT OF THE FACT THAT THIS DEED MAY IMPAIR THE DEVELOPMENT OF WORKABLE COAL SEAMS OR CERTAIN OTHER COAL AND MINERAL INTERESTS NOT TRANSFERRED TO THIRD PARTIES ON THE DATE HEREOF. This notice is inserted herein to comply with Section 9(d) of the Conservation and Preservation Easements Act of June 22, 2001 (Act No. 29).

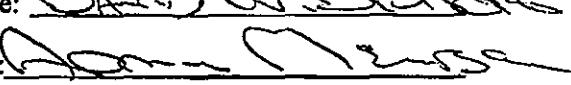
GRANTOR:

**SPRUCE STREET PROPERTIES LTD/d/b/a
PITTSBURGH SPRUCE STREET
PROPERTIES**

By: **DUQUESNE PROPERTIES, LLC, an Ohio
limited liability company, its general partner**

By: 

Name: 

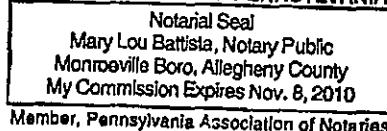
Title: 

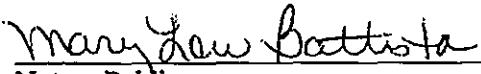
COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this, 19th day of March, 2009, before me, the undersigned officer, a notary public, personally appeared David W. Bishoff, who, being duly sworn according to law, deposes and says that he is the Managing Member of Duquesne Properties, LLC, an Ohio limited liability company, the general partner of Spruce Street Properties, LTD, d/b/a Pittsburgh Spruce Street Properties, an Ohio limited partnership, and acknowledges that he executed the foregoing instrument on behalf of said limited partnership for the purposes therein contained by signing his name as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

COMMONWEALTH OF PENNSYLVANIA



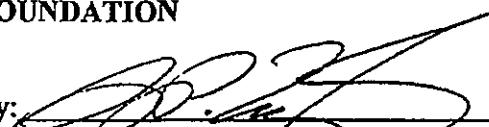

Mary Lou Battista
Notary Public

My Commission Expires:

IN WITNESS WHEREOF, Grantee has caused its hand to be set on the day and year set forth above.

GRANTEE:

PITTSBURGH HISTORY & LANDMARKS FOUNDATION

By: 

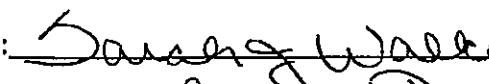
Print Name: Arthur P. Ziegler, Jr.

Title: President

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

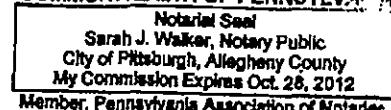
On this, the 23rd day of March, 2009, before me, the undersigned officer, personally appeared Arthur P. Ziegler, Jr., who acknowledged to be the President of Pittsburgh History & Landmarks Foundation, and that as such President, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the Foundation by himself as President.

In witness whereof, I hereunto set my hand and official seal at
Pgh PA.

By: 

Title of Officer: Notary Public

COMMONWEALTH OF PENNSYLVANIA



The undersigned Mortgagee hereby subordinates the lien of its Mortgage as described in Section 12.1 of this Deed.

MORTGAGEE:

CITIZENS BANK

By: Diane M. Koste

Print Name: DIANE M. KAPSHA

Title: SENIOR VICE PRESIDENT

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS:

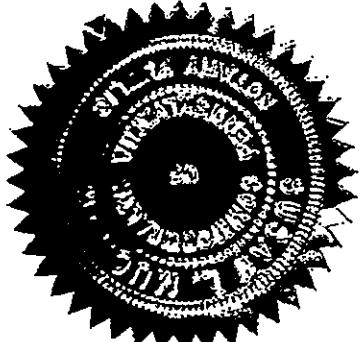
BEFORE ME, a Notary Public in and for said County and State, personally appeared Citizens Bank, by Diane M. Kapsha, its Senior Vice President. _____, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of the corporation and his free act and deed individually and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at
525 William Penn Place, Pittsburgh, PA, this 20th day of March, 2009.
15219 2

Susan D. Hutchon
Notary Public

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL
Susan L. Muchow, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires July 21, 2012
Member, Pennsylvania Association of Notaries



The undersigned Mortgagee hereby subordinates the lien of its Mortgage as described in Section 12.1 of this Deed.

MORTGAGEE:

DOLLAR BANK, FEDERAL SAVINGS BANK

By: John Shelley Jr.

Print Name: John F. SKELLEY, III

Title: Senior Vice President

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared Dollar Bank, Federal Savings Bank, by John F. Shelley, III. _____, its Senior Vice President, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of the corporation and his free act and deed individually and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at

Pittsburgh , PA , this 19th day of March , 2009.

Sharon A. Cassler
Notary Public

Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Sharon A. Cassler, Notary Public

City Of Pittsburgh, Allegheny County

My Commission Expires April 10, 2011

Member, Pennsylvania Association of Notaries

EXHIBIT A

Legal Description ("Property")

THAT CERTAIN parcel of ground situate in the 1st Ward, City of Pittsburgh, Allegheny County, Pennsylvania, being part of Lots No. 315 and 316 in the Colonel Woods Plan of the Town of Pittsburgh, unrecorded, being more particularly bounded and described in accordance with the survey of Thomas F. Easton, registered surveyor, dated September 1996 and as follows:

BEGINNING at the southeasterly corner of Wood Street and Fourth Avenue; thence along Fourth Avenue S 63°47'15"East a distance of 84.05 feet to a point; thence South 27° 12' 15" West a distance of 85.97 feet to a point; thence North 63° 47' 15" West a distance of 84.05 feet to a point on the easterly side of Wood Street; thence along Wood Street North 27° 12' 15" East a distance of 85.97 feet to appoint the place of BEGINNING.

BEING designated as Block 1-H, Lot 327 in the records of the Allegheny County Department of Real Estate, Pennsylvania (formerly the Office of the Recorder of Deeds).

BEING a portion of the same premises conveyed by National City Bank of Pennsylvania, by deed dated June 27, 1997 and recorded June 30, 1997 in the Allegheny County Department of Real Estate (formerly the Office of the Recorder of Deeds) in Deed Book Volume 9977, Page 593 to Spruce Street Properties, LTD d/b/a Pittsburgh Spruce Street Properties.

Return to:

Bruce B. Sebring, Esq.
Sebring + Associates
2735 Massie Blvd
Monroeville PA 15146