

**SOUTH NEGLEY COMMONS CONDOMINIUM  
AMENDED AND RESTATED  
PUBLIC OFFERING STATEMENT**

NAME OF CONDOMINIUM: South Negley Commons

LOCATION OF CONDOMINIUM: 5570 Centre Avenue, Pittsburgh,  
Allegheny County, Pennsylvania

NAME OF DECLARANT: South Negley Commons Associates, L.P.  
c/o ECHO Real Estate Services Company  
701 Alpha Drive, Pittsburgh, PA 15238

EFFECTIVE DATE: August 17, 2005, revised December 2, 2009

**UNDER THE PENNSYLVANIA UNIFORM CONDOMINIUM ACT (THE “CONDOMINIUM ACT”), A PURCHASER OF A CONDOMINIUM UNIT IS AFFORDED A FIFTEEN (15)-DAY PERIOD AFTER RECEIPT OF A PUBLIC OFFERING STATEMENT OR AN AMENDMENT TO A PUBLIC OFFERING STATEMENT THAT MATERIALLY AND ADVERSELY AFFECTS THE RIGHTS OR OBLIGATIONS, OR BOTH OF THAT PURCHASER, BUT BEFORE CONVEYANCE OF THE UNIT, DURING WHICH HE OR SHE MAY CANCEL WITHOUT PENALTY ANY CONTRACT OF SALE PREVIOUSLY EXECUTED AND OBTAIN A FULL REFUND OF ANY PAYMENTS MADE BY SUCH PURCHASER PRIOR TO CANCELLATION. IF THE PURCHASER SO ELECTS TO CANCEL, THE PURCHASER MUST DELIVER NOTICE OF CANCELLATION TO DECLARANT BY HAND (IN WHICH CASE EVIDENCE OF RECEIPT SHOULD BE OBTAINED) OR BY MAILING SUCH NOTICE, POSTAGE PREPAID UNITED STATES MAIL, TO DECLARANT AT THE ADDRESS SET FORTH ABOVE (OR AT SUCH OTHER ADDRESS THAT DECLARANT MAY THEREFORE HAVE DESIGNATED FOR SUCH PURPOSE BY A WRITTEN NOTICE DELIVERED TO SUCH PURCHASER. IF DECLARANT FAILS TO PROVIDE A PUBLIC OFFERING STATEMENT AND ANY AMENDMENTS THERETO TO A PURCHASER BEFORE CONVEYING A UNIT TO SUCH PURCHASER, THAT PURCHASER MAY RECOVER FROM DECLARANT, IN ADDITION TO ANY OTHER RELIEF, AN AMOUNT EQUAL TO FIVE PERCENT (5%) OF THE SALE PRICE OF THE UNIT UP TO A MAXIMUM OF TWO THOUSAND DOLLARS (\$2,000), OR PURCHASER’S ACTUAL DAMAGES, WHICHEVER IS GREATER. A MINOR OMISSION OR ERROR IN THE PUBLIC OFFERING STATEMENT, OR ANY AMENDMENT THERETO, WHICH IS NOT WILLFUL, SHALL ENTITLE THE PURCHASER TO RECOVER ONLY ACTUAL DAMAGES, IF ANY. IF A PURCHASER RECEIVES THE PUBLIC OFFERING STATEMENT MORE THAN FIFTEEN (15) DAYS BEFORE SIGNING A CONTRACT OF SALE, THE PURCHASER CANNOT CANCEL THE CONTRACT, EXCEPT THAT THE PURCHASER SHALL HAVE THE RIGHT TO CANCEL THE CONTRACT BEFORE CONVEYANCE WITHIN FIFTEEN (15) DAYS AFTER RECEIPT OF ANY AMENDMENT TO THE PUBLIC OFFERING STATEMENT THAT WOULD HAVE A MATERIAL AND ADVERSE EFFECT ON THE PURCHASER’S RIGHTS OR OBLIGATIONS.**

TABLE OF CONTENTS

	<u>Page</u>
<b>INTRODUCTION</b> .....	1
<b>GENERAL DESCRIPTION OF CONDOMINIUM</b> .....	2
<b>THE CONDOMINIUM CONCEPT</b> .....	3
<b>PERCENTAGE INTERESTS</b> .....	6
<b>MANAGEMENT OF CONDOMINIUM</b> .....	6
<b>MAINTENANCE OF CONDOMINIUM</b> .....	8
<b>COMMON EXPENSES</b> .....	8
<b>AGREEMENT OF SALE</b> .....	9
<b>BUDGET AND FINANCIAL INFORMATION</b> .....	10
<b>LIENS AND ENCUMBRANCES</b> .....	10
<b>DESCRIPTION OF UNIT FINANCING</b> .....	13
<b>RIGHTS OF MORTGAGEES</b> .....	13
<b>WARRANTIES; LIMITED LIABILITY OF DECLARANT</b> .....	14
<b>JUDGMENTS AND LAWSUITS</b> .....	14
<b>RESTRICTIONS ON LEASING, USE AND OCCUPANCY</b> .....	15
<b>INSURANCE</b> .....	21
<b>CHARGES FOR USE OF COMMON ELEMENTS</b> .....	21
<b>GOVERNMENTAL REQUIREMENTS</b> .....	22
<b>NO HAZARDOUS CONDITIONS</b> .....	23

**EXHIBITS**

- A Amended and Restated Declaration of Condominium (rev 12-2-2009)
- B Amended and Restated Bylaws of the Association (rev 12-2008)
- C Amended and Restated Rules and Regulations (rev 12-2008)
- D Agreement of Easements, Covenants and Restrictions
- E Form of Parking License
- F Plats and Plans
- G Agreement of Sale
- H Annual Budget; 2009 Approved Budget
- I Title Report

## INDEX TO DEFINED TERMS

	<u>Page</u>
Agreement of Sale.....	9
Air Rights.....	2
Association.....	1
Budget.....	10
Bylaws.....	1
Commercial Owner.....	3
Commercial Property.....	1
Common Elements.....	3
Common Expenses.....	8
Condominium.....	1
Condominium Act.....	cover
Declarant.....	1
Declaration.....	1
ECR.....	1
Executive Board.....	7
Landscaping Area Agreement.....	13
Limited Common Elements.....	3
Managing Agent.....	7
Mascilli Lease.....	4
Parking Area.....	2
Parking License.....	2

Pitt .....	13
Plats and Plans .....	2
Purchaser .....	1
Qualified Mortgages .....	13
Rules and Regulations.....	1
Title Report .....	10
Units.....	1
Unit Owner.....	3

## INTRODUCTION

South Negley Commons Associates, L.P. (the “Declarant”), a Pennsylvania limited partnership, is developing South Negley Commons Condominium (the “Condominium”) as a residential condominium. This Public Offering Statement is intended to describe for potential purchasers (each, a “Purchaser”) of units (the “Units”) in the Condominium pertinent material information relating to the Condominium.

This Public Offering Statement consists of two parts, a narrative portion and an Exhibit portion. Certain of the Exhibits consist of documents which relate to the establishment and operation of the Condominium, including (i) the Amended and Restated Declaration of Condominium (the “Declaration”), a copy of which is attached as Exhibit A hereto, (ii) the Amended and Restated Bylaws (the “Bylaws”) of the South Negley Commons Condominium Association (the “Association”), a copy of which is attached as Exhibit B hereto, and (iii) the Amended and Restated Rules and Regulations of the Association (the “Rules and Regulations”), a copy of which is attached as Exhibit C hereto. The Agreement of Easements, Covenants and Restrictions (the “ECR”), a copy of which is attached hereto as Exhibit D, is an agreement that creates certain rights and obligations between the owners of the Units and the Association, on one hand, and the owner of the commercial property beneath and adjoining the Condominium (the “Commercial Property”), on the other hand.

The narrative portion of this Public Offering Statement is intended to summarize many of the significant features of the Exhibits and present other information of importance to future owners of Units. The Exhibits portion contains more detailed information, and it is important that each prospective Purchaser review the Exhibits carefully and with the assistance of legal counsel. In the event of any discrepancy between the Exhibits and the narrative, the provisions of the Exhibits will govern. Any capitalized term not otherwise defined in this Public Offering Statement has the meaning assigned to such term in the Declaration.

**A PROSPECTIVE PURCHASER OF A UNIT MUST NOT RELY ON ANY INFORMATION OR DATA REGARDING THE CONDOMINIUM NOT PRESENTED IN THIS PUBLIC OFFERING STATEMENT OR CONTAINED IN THE EXHIBITS. NO PERSON HAS BEEN AUTHORIZED BY DECLARANT TO MAKE ANY REPRESENTATION NOT EXPRESSLY CONTAINED HEREIN. THIS REPRESENTATION MAY NOT BE CHANGED OR MODIFIED ORALLY.**

**DECLARANT RESERVES THE RIGHT TO CHANGE THE TERMS OF THIS PUBLIC OFFERING STATEMENT, INCLUDING THE EXHIBITS. HOWEVER, IN THE EVENT OF ANY SUCH CHANGE, A PROSPECTIVE PURCHASER MAY IN CERTAIN CIRCUMSTANCES HAVE THE RIGHT EITHER (I) TO CANCEL ANY CONTRACT WHICH SUCH PURCHASER MAY HAVE EXECUTED OR (II) TO EXTEND THE DATE OF CLOSING OF THE PURCHASE OF THE UNIT FOR UP TO FIFTEEN (15) DAYS. ATTENTION IS DIRECTED TO THE NOTICES CONTAINED ON THE FIRST PAGE OF THIS PUBLIC OFFERING STATEMENT FOR A DESCRIPTION OF SUCH RIGHTS OF CANCELLATION AND OTHER RIGHTS.**

**ALL PROSPECTIVE PURCHASERS ARE ENCOURAGED TO REVIEW THIS PUBLIC OFFERING STATEMENT CAREFULLY, INCLUDING ALL OF THE EXHIBITS, WITH THE ASSISTANCE OF THEIR LEGAL AND OTHER PROFESSIONAL ADVISORS.**

### **GENERAL DESCRIPTION OF CONDOMINIUM**

The Condominium is located at 5570 Centre Avenue in the City of Pittsburgh, Allegheny County, Pennsylvania. The Condominium includes a maximum of 54 Units. The Condominium consists of (a) ownership of the air space located above a portion of the Commercial Property (the "Air Rights"), and (b) a right to use certain portions of the Commercial Property for access, parking, sewer, utilities and other purposes, as described in the ECR.

The Units, when completed, will consist of one story each. The Units will contain either one or two bedrooms. The one-bedroom Units will contain one bathroom and the two-bedroom Units will contain two bathrooms. The mix of Units within the Condominium will be determined by Declarant. The Purchaser of each Unit from Declarant will have the opportunity to purchase at least one (1) license (a "Parking License") to park one standard-size vehicle in the parking area designated within the Condominium (the "Parking Area"). A Parking License may relate to a specific location or may relate only to a right to park within the Parking Area without any specifically identified location contained in the Parking License. Declarant has the sole discretion to make these determinations regarding Parking Licenses, and there is no assurance that any Purchaser will be given more than one (1) Parking License or that a Parking License will relate to a specifically designated location, irrespective of whether other Purchasers may obtain those rights. The general form of the Parking License is attached hereto as Exhibit E, although Declarant reserves the right to make changes in any one or more of the Parking Licenses from the attached form, and there is no assurance that any such changes will be made available to the holders of other Parking Licenses. The right to transfer a Parking License is limited by the terms of the Declaration and the applicable Parking License.

Declarant has no obligation to construct any improvements, including the building which is to contain the Units. The building and improvements are therefore labeled "NEED NOT BE BUILT" on the plats and plans referred to in the Declaration (the "Plats and Plans"). While only an estimate, Declarant currently contemplates the completion of all Units (other than individual improvements, equipment and fixtures to be selected by each Purchaser with respect to such Purchaser's Unit) and the Common Elements on or before July 31, 2006. Many factors may alter that schedule, including weather conditions, costs of labor and materials, the availability of favorable financing, the costs of such construction, the demand for the Units and other events, conditions and circumstances, including Declarant's election not to build Units for any reason. If for any reason, one or more Units may not be constructed, the Percentage Interests assigned to the Units, as set forth in Exhibit B to the Declaration, will be reallocated by Declarant.

A Unit will not be conveyed to a Purchaser unless all structural components of the Unit and the building containing the Units shall have been substantially completed so as to permit the use of such Unit and any Limited Common Elements (as hereinafter referred to) appurtenant to such Unit for their use as a residence. A Unit may be conveyed, however, prior to the

completion of other Units and prior to the completion of other improvements in the Condominium.

The Condominium is expected to be served by a community sewage system. Each Unit will have an individual meter to monitor water and sewage and other utility usage. Electricity is expected to be provided by Duquesne Light Company, and gas is expected to be provided by Equitable Gas Company.

Declarant does not intend to rent Units or market Units in blocks of Units to investors, although Declarant reserves the right to do so in any number or proportion.

### **THE CONDOMINIUM CONCEPT**

The term “condominium” refers to a form of property ownership. An owner of a Unit (a “Unit Owner”) is, at the same time, both the sole owner of the living quarters constituting the Unit purchased by the Unit Owner and one of many mutual owners (in legal terms, “tenants in common”) of other portions of the Condominium which a Unit Owner, subject to certain limitations, may use and enjoy along with other Unit Owners. The boundaries of a Unit are described in some detail in the Declaration and in the Condominium Act, a citation to which is 68 Pa.C.S.A. §§ 3101-3414, but, in general, a Unit consists of the space bounded by the walls, floors and ceilings of the Unit and also includes all interior partitions and other fixtures and improvements within such boundaries. It also includes any floor covering, interior wall covering, and any mechanical systems within such boundaries serving only that Unit.

The Association, by means of Assessments against Unit Owners, will be responsible generally for the payment of the costs and expenses associated with the “Common Elements” of the Condominium. The Common Elements are all portions of the Condominium which are not included within the Units. In general, the Common Elements include those portions of the Condominium which support, enclose or service the Units, such as the building foundation, roof, exterior walls, walls between Units and between a Unit and a portion of the Common Elements (other than the interior surface of the outer walls of a Unit) and portions of the plumbing, electrical and ventilating systems, as well as those portions of the Condominium located below the Air Rights and within the Commercial Property used for access, parking, sewers, utilities, support, landscaping and other common purposes. Certain of the sewer and utility facilities have been, or are expected to be, dedicated to the City of Pittsburgh or other governmental authorities. If the applicable governmental authority accepts responsibility for these facilities, then such governmental authorities will be responsible to maintain such facilities to the extent they have agreed to do so. However, such governmental authorities have no obligation to accept such responsibility, and there is no assurance that any governmental authority will accept responsibility for any such facilities. If governmental authorities do not accept responsibility for any such facilities, then the Association (whose funds are derived from Assessments of the Unit Owners) and the owner of the Commercial Property (the “Commercial Owner”) shall have the responsibility for such facilities and the costs related thereto as described in more detail in the ECR.

The Common Elements also consist of certain “Limited Common Elements”, which are areas allocated by the Declaration or the Condominium Act for the exclusive use of one or more

but fewer than all of the Units. In addition to other Limited Common Elements described in the Condominium Act, the Limited Common Elements exclusively reserved for the use of a Unit include the exterior doors, windows and other fixtures located outside a Unit but designed to serve solely such Unit. Each Terrace adjoining a Unit is also a Limited Common Element appurtenant to such Unit. A Parking License does not create a Limited Common Element in any area but nevertheless is intended to create special rights appurtenant to a Unit.

The Declaration is the legal document that creates the Condominium. It becomes effective when recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania. The Declaration, among other things, (i) establishes and expresses the existence of the Condominium, (ii) incorporates the plans showing the location and size of the Units, (iii) defines certain terms, (iv) allocates to the Units the Percentage Interests in the Common Elements which serve as the basis for sharing Common Expenses by the Unit Owners, (v) establishes the number of votes of the Unit Owners with regard to certain matters relating to the Condominium, (vi) imposes maintenance and repair obligations, (vii) limits the right of a Unit Owner to make alterations and to subdivide or consolidate Units, (viii) gives Declarant certain special rights relating to sales offices and control of the Executive Board of the Association, (ix) provides for Assessments against Unit Owners, (x) provides for indemnification and limitations of liability in favor of the Executive Board and other parties, (xi) imposes requirements relating to insurance, and (xii) provides for restrictions on the use, leasing and occupancy of the Units. Many of these features of the Declaration are discussed in more detail below.

The ECR is the legal document that governs the relationship between the Unit Owners and the Association, on one hand, and the “Commercial Owner” (as defined in the ECR), on the other hand. The ECR creates easements and other rights in favor of the Association and/or the Unit Owners, including certain easements and other rights to use certain portions of the Commercial Property for access, construction, alteration, repair, maintenance, parking, sewers, utilities, signage, landscaping, structural support and encroachment of any improvements. The ECR also creates easements in favor of the Commercial Owner and others permitted by the Commercial Owner for access through certain portions of the Condominium otherwise exclusively reserved for the benefit of the Association and/or the Unit Owners. In addition, the ECR provides for insurance, the application of insurance proceeds and condemnation awards (or payments made in lieu of condemnation), restoration of improvements after casualty or condemnation, and restrictions on the use of the Condominium and the Commercial Property. **SINCE THE CONDOMINIUM IMPROVEMENTS, INCLUDING THE UNITS ARE LOCATED ABOVE THE COMMERCIAL PROPERTY OWNED BY THE COMMERCIAL OWNER, THE CONDOMINIUM DERIVES ITS STRUCTURAL SUPPORT, UTILITIES AND ACCESS FROM AND THROUGH THE COMMERCIAL PROPERTY. IT IS IMPORTANT TO UNDERSTAND THE RIGHTS AND OBLIGATIONS OF THE ASSOCIATION REGARDING THE COMMERCIAL OWNER AND THE COMMERCIAL PROPERTY. THOSE RIGHTS AND OBLIGATIONS ARE SET FORTH IN THE ECR. THIS IS AN IMPORTANT DOCUMENT TO PURCHASERS OF UNITS AND ITS TERMS SHOULD BE REVIEWED CAREFULLY.**

The ECR also deals with the “Mascilli Lease,” which is a lease by third parties to the Commercial Owner of a portion of the Commercial Property. The Unit Owners and the Association have certain easement rights described in the ECR over the Commercial Owner’s



leasehold interest in the Mascilli Leased Premises. Pursuant to the ECR, the Commercial Owner has an obligation to exercise options contained in the Mascilli Lease for the extension of the term of the Mascilli Lease and, in certain limited circumstances, to purchase the property subject to the Mascilli Lease so that the Association and the Unit Owners may continue to have rights in the property leased to the Commercial Owner pursuant to the Mascilli Lease. There is no assurance that the Commercial Owner will exercise any right to extend the term of the Mascilli Lease or to purchase the property leased pursuant to the Mascilli Lease.

The current landlords under the Mascilli Lease are Florinda I. Mascilli and Arthur V. Mascilli, husband and wife, whose address is 217 Harrow Drive, Pittsburgh, PA 15238. There is no other relationship between Declarant and the landlords under the Mascilli Lease. The tenant under the Mascilli Lease is required to pay all taxes and other costs relating to the Mascilli Leased Premises and, in addition, "Minimum Rent" in a monthly amount of \$5,000. Such Minimum Rent increases every five (5) years by approximately five percent (5%) of the Minimum Rent in effect immediately prior to such increase.

The initial term of the Mascilli Lease, unless extended or terminated earlier in accordance with the provisions thereof, will remain in effect until December 1, 2043. The tenant has no right to terminate the Mascilli Lease in the absence of a condemnation materially affecting the Condominium. The Mascilli Lease Tenant has options to extend the term thereof for two successive five (5)-year periods (until December 1, 2048, and December 1, 2053, respectively). There is a ninety (90)-day notice requirement in connection with the exercise of each such option. The Mascilli Leased Premises consists of Parcel D in the Improvement Subdivision Site Plan for South Negley Center, recorded in the Real Estate Records in Plan Book Volume 246, pages 29 and 30. The Mascilli Lease Tenant has a right of first refusal to acquire the interest of the landlords in the Mascilli Leased Premises. Such right of first refusal applies only if the landlords desire to sell their interest in the Mascilli Leased Premises to a third party. If the Mascilli Lease Tenant desires to purchase the Mascilli Leased Premises pursuant to such right of first refusal, the Mascilli Lease Tenant must notify the landlords of such decision within thirty (30) days after notice from the landlords of the availability of such right and must close the purchase of the Mascilli Leased Premises within ninety (90) days thereafter. The Mascilli Lease contains more details regarding this right. The Mascilli Lease limits the use of the Mascilli Leased Premises to a driving lane, pedestrian walkways, surface parking areas, signage, landscaping, and construction staging areas related to the construction, alteration and repair of improvements on the Property. Portions of the Mascilli Leased Premises may also be used for certain easements to be created by the landlords upon request. There is no right, at the end of the term of the Mascilli Lease, to remove any of the improvements made to the Mascilli Leased Premises but the landlords may require that they be removed. Unless the Association shall otherwise consent in writing, the ECR obligates the Mascilli Lease Tenant to exercise the extension options and the right of first refusal under the Mascilli Lease. Reference is hereby made to the ECR as to circumstances in which the Association may, by the terms of the ECR, exercise such options. There is no assurance that, despite such terms of the ECR, the Association will be able to exercise such options or cause the Mascilli Lease Tenant to do so or that the Mascilli Leased Premises will be purchased pursuant to any such right of first refusal option. As more fully set forth in the ECR, if the Mascilli Lease Tenant were to acquire the fee simple title to the Mascilli Leased Premises, the Unit Owners will have the right to continue to have an easement in the Mascilli Leased Premises after the expiration or other termination of the

Mascilli Lease. At the request of Unit Owners owning a majority of the Percentage Interests, the Association and the Unit Owners must take all actions necessary (i) to cause the Mascilli Lease Tenant to extend the term of the Mascilli Lease as therein provided, and (ii) to cause the Mascilli Lease Tenant to exercise the right of first refusal under the Mascilli Lease to purchase the Mascilli Leased Premises, and (iii) to take any other actions relating to the Mascilli Lease and the Mascilli Leased Premises. All reasonable costs of the Association or the Unit Owners in connection with actions taken pursuant to this subsection or otherwise in connection with the extension of the Mascilli Lease or the purchase of the Mascilli Leased Premises will be Common Expenses. A termination or expiration of the Mascilli Lease does not terminate the Condominium.

**Purchasers should be aware that, by reason of the Mascilli Lease, this is a leasehold condominium and the Purchaser's interest therein may be less valuable than a fee interest, may depreciate over time and may be of questionable marketability.**

### PERCENTAGE INTERESTS

All Unit Owners have a share (called an "undivided interest") in the ownership of all Common Elements. This interest allocated to each Unit is expressed as a percentage and is referred to as a "Percentage Interest". A list of the Percentage Interests applicable to each of the Units is attached as Exhibit B to the Declaration. The Percentage Interest of a Unit may be changed if such Unit or a portion thereof is combined with one or more other Units or portions thereof. The Declaration provides for the allocation of the Percentage Interests in the event of any such combination or in the event of a subdivision of a Unit.

The Percentage Interests are used as the basis for sharing of Common Expenses (see **COMMON EXPENSES** below), owning the Common Elements, voting rights in the Association, vesting with respect to certain matters relating to the Condominium, and for other purposes under the Condominium Act.

### MANAGEMENT OF CONDOMINIUM

The Association is an unincorporated association organized under the laws of the Commonwealth of Pennsylvania. Each Unit Owner is a member of the Association. The Association has the powers set forth in the Condominium Act and the Declaration, including without limitation (i) the adoption and amendment of the Bylaws, the Rules and Regulations and the budget for the operation, maintenance, repair and replacement of the improvements within the Condominium (the "Budget"), (ii) the regulation of the use, maintenance, repair, replacement and modification of the Common Elements, (iii) the making of contracts (including the engagement of a managing agent relating to the Condominium) and the incurrence of liabilities, (iv) the approval in certain circumstances of the combination or subdivision of Units, (v) the administration of various rights and obligations under the ECR, and (vi) the amendment of the ECR and the Declaration in certain circumstances. Each Unit shall be entitled to vote with respect to matters to be submitted to the vote of the Association. The number of votes allocated to a Unit Owner shall be equal to the Percentage Interest allocated to the Unit of such Unit Owner.

The Executive Board of the Association (the "Executive Board") has the authority to act on behalf of the Association, subject to limitations contained in the Declaration, the Bylaws and the Condominium Act. The Executive Board is to consist of at least three (3) members but no more than seven (7) members. The members of the Executive Board elect the officers of the Association. Declarant has reserved the right to appoint and remove all officers of the Association and members of the Executive Board until the earlier of (i) one hundred eighty (180) days after the conveyance to Unit Owners other than Declarant (or any other party deemed to be a declarant under the Condominium Act) of 75% of the Units, or (ii) five (5) years from the date of the first conveyance of a Unit to a Unit Owner other than Declarant (or any other party deemed to be a declarant under the Condominium Act). Not later than sixty (60) days after the conveyance to Unit Owners other than Declarant (or any other party deemed to be a declarant under the Condominium Act) of 25% of the Units, at least 25% of the members of the Executive Board shall be elected by Unit Owners other than Declarant (or any other party deemed to be a declarant under the Condominium Act). In addition, not later than sixty (60) days after the conveyance to Unit Owners other than Declarant (or any other party deemed to be a declarant under the Condominium Act) of 50% of the Units, at least 33-1/3% of the members of the Executive Board shall be elected by Unit Owners other than Declarant (or any other party deemed to be a declarant under the Condominium Act).

The Declaration contains provisions limiting the liability of the officers and members of the Executive Board and provisions for the indemnification by the Association of officers and members of the Executive Board for expenses and liabilities, including attorneys' fees, incurred while acting on behalf of the Association or the Unit Owners or otherwise by reason of being or having been a member or officer of the Executive Board. In addition, the Declaration contains limitations on the liability of Declarant and other parties for damage to or malfunction of any equipment or systems or for any failure to maintain or inspect any of the equipment or systems, and provisions for the indemnification of Declarant and such other parties in such instances, irrespective of the negligence of Declarant or any such party. Any sums so paid by the Association may be assessed against the Unit Owners as a Common Expense. The Declaration requires the Association to maintain insurance relating to these indemnification obligations.

The Bylaws provide for meetings of members of the Association and of the Executive Board and contain provisions for determining the quorums necessary for such meetings. The Bylaws also describe the method of voting with respect to a Unit when more than one party is an owner of such Unit. Under the Bylaws, the Executive Board manages the Condominium on behalf of the Association. The Executive Board has the authority to designate a "Managing Agent" to perform a number of the duties and functions of the Executive Board within certain limits set forth in the Bylaws. The Bylaws require that there be a President, a Vice President, a Secretary and a Treasurer of the Executive Board. The Bylaws permit contracts and transactions between the Association and members of the Executive Board, subject to requirements set forth in the Bylaws, including the approval of the contract or transaction by the other members of the Executive Board. The Executive Board has the authority to establish budgets of the Association, which may include any reserves which the Executive Board considers to be necessary. The Budget, as established and revised by the Executive Board from time to time and approved by the Association, will serve as a basis for determining the amount of assessments of each Unit Owner. The Condominium Act contains other limitations on the right of the Executive Board to

enter into contracts and requires that certain contracts be subject to termination in certain matters.

The Rules and Regulations are attached as Exhibit C to this Public Offering Statement and, in addition to the ECR and the Declaration, contain provisions governing the use and operation of facilities within the Condominium and other activities relating to the Condominium. The Rules and Regulations, for instance, regulate such matters as parking, storage of vehicles, vehicle repairs, pets and livestock, guidelines relating to items permitted in Common Elements (including Limited Common Elements) and other matters affecting the appearance of the Condominium, and alterations to Common Elements (including Limited Common Elements). The Rules and Regulations are subject to change in the discretion of the Executive Board from time to time.

### **MAINTENANCE OF CONDOMINIUM**

Subject to certain insurance provisions of the Condominium Act, and subject to the terms of the ECR, the Association is responsible for the maintenance, repair and replacement of the Common Elements and each Unit Owner is responsible for the maintenance, repair and replacement of such Unit Owner's Unit. However, the Declaration contains provisions which impose certain responsibilities upon a Unit Owner for Limited Common Elements appurtenant to the Unit of such Unit Owner, and for damage to other Common Elements caused by the misuse thereof by a Unit Owner or any of such Unit Owner's guests or other invitees. In addition, each Unit Owner is responsible for the ordinary maintenance and cleanliness of each Limited Common Element (including any Terrace) appurtenant to the Unit of such Unit Owner. The Association has the right to assess any Unit Owner separately for any costs payable by such Unit Owner. The ECR, however, contains provisions that obligate the Commercial Owner to maintain certain Common Elements located within the Commercial Property in certain circumstances.

### **COMMON EXPENSES**

The Association has the right to make assessments against Unit Owners for the costs and expenses of the Common Elements and other Common Expenses (as defined in the Declaration and/or the Condominium Act) and may impose charges for late payment of assessments and fines for violations of the Declaration, the Bylaws, the Rules and Regulations or other requirements. Until the Association makes an assessment for Common Expenses, Declarant is responsible for the payment of the Common Expenses. Assessments against each Unit Owner for Common Expenses shall be based on the Percentage Interest assigned to the Unit of such Unit Owner, except that a Unit Owner may be separately assessed for Limited Common Expenses and other costs and expenses for which the Unit Owner is separately responsible. Assessments and certain other sums which may be owed by a Unit Owner will constitute liens against the Unit of such Unit Owner.

## AGREEMENT OF SALE

A form of Agreement of Sale for the purchase of a Unit is attached to this Public Offering Statement as Exhibit G. The Agreement of Sale is the document which Declarant and a Purchaser will execute at such time as the parties agree upon the terms of such sale, including the purchase price of the applicable Unit. Once executed, the Agreement of Sale obligates the Purchaser to purchase the Unit and obligates Declarant to sell the Unit to such Purchaser, all subject to the terms and conditions of the Agreement of Sale.

Any deposit made by a Purchaser pursuant to an Agreement of Sale will be held in an escrow account in accordance with the provisions of Section 3408 of the Condominium Act and will be returned to such Purchaser if such Purchaser cancels the Agreement of Sale as permitted pursuant to the terms set forth on the first page of this Public Offering Statement or as otherwise permitted pursuant to Section 3406 of the Condominium Act.

The Agreement of Sale with respect to a Unit will contain an estimate of the date for closing of the purchase of such Unit and a condition to Declarant's obligation for the substantial completion of the Unit. The estimated date for closing set forth in the Agreement of Sale is only an estimate and is subject to change by Declarant as provided in the Agreement of Sale. However, Declarant may not require a closing prior to such estimated date. The Agreement will contain provisions for the termination of the Agreement of Sale by either party without liability if, by reason of Declarant's failure to complete the Unit and related improvements, the closing shall not have occurred within twelve (12) months after the estimated date for closing to be set forth in the Agreement of Sale. If the Agreement of Sale is terminated for any reason other than a default by the Purchaser, the Purchaser will have the right to the refund of such Purchaser's deposit.

The Unit will be conveyed by Declarant's special warranty deed. Such conveyance shall also be made subject to all zoning and other governmental restrictions, the matters set forth on the subdivision plan for the Condominium property, the matters referred to in the Declaration and this Public Offering Statement and all other matters not having a material and adverse effect on the value, use or enjoyment of the Unit.

At the closing of the purchase of a Unit, Declarant will deliver to the Purchaser a limited warranty certificate relating to "structural defects". As to the terms of such limited warranty, see the terms of the Agreement of Sale and the portion of this Public Offering Statement set forth below under the heading "**WARRANTIES**".

At the closing of the purchase of a Unit, the Purchaser of such Unit will be required to pay prorations for matters such as real estate taxes, municipal services and the Annual Assessment attributable to the Unit. The Purchaser will also be responsible to pay for such Purchaser's title insurance, the recordation of the deed and one-half of the transfer taxes relating to the purchase of the Unit.

The remedies of a Purchaser against Declarant are limited and may not permit such Purchaser to be reimbursed for all damages which may be incurred as a result of a breach by Declarant of the terms of such Purchaser's Agreement of Sale.

### **BUDGET AND FINANCIAL INFORMATION**

The Budget for 2009 which was approved by the Executive Board of the South Negley Commons Condominium Association is attached as Exhibit H to this Amended and Restated Public Offering Statement. The Budget was prepared by members of the Executive Board and its manager, Echo Real Estate Services Co.. No inflation factor was taken into consideration. The Budget includes a statement of the amount included in the Budget as a reserve for repairs and replacements for the roof and for other anticipated material capital expenditures. The projected monthly Common Expense assessment for each Unit is also set forth in the Budget. The Budget assumes that 60% of the Units will be occupied during the twelve (12)-month period after the conveyance of the first Unit. Actual expenses may vary depending upon actual occupancy during such period, variations in the occupancy level during that period are not expected to cause a material change in Common Expenses assessed against a Purchaser for such period.

Except as reflected in the Budget, there are no services which Declarant currently provides or expenses which Declarant currently pays. Declarant does not expect any other types of Common Expenses of the Association at any subsequent time.

There is no personal property not owned by the Association which has been provided by Declarant for the use of the Unit Owners of the Condominium of which will be required in connection with the operation or enjoyment of the Common Elements. A formal Management Agreement between South Negley Commons Condominium Association and Echo Real Estate Service Co. has been executed effective January 1, 2007. At the time the Unit Owners take over operation of the Association they will have the right to determine the quantity and quality of services to be provided and budget for those services accordingly and there will be no obligation to continue the receipt of any services from Declarant.

### **LIENS AND ENCUMBRANCES**

The real estate included or which may be included in the Condominium is legally described on the Plats and Plans. In addition, there is a form of title insurance policy or commitment (the "Title Report") attached as Exhibit I to this Public Offering Statement. The Title Report discloses, among other things, the following matters:

- (a) All matters shown on the Improvement Subdivision Site Plan for South Negley Center, recorded in Plan Book Volume 246, Page 29.
- (b) Dedication of Parcels B&C for highway purposes as shown on Improvement Subdivision Site Plan for South Negley Center, recorded in Plan Book Volume 246, page 29.

- (c) Three foot right of way leading toward South Negley Avenue and a 15 foot right of way established in agreement between Joseph Graham, et al., dated March 20, 1890 and recorded in Deed Book Volume 804, Page 141.
- (d) Drainage easements and easements in slopes of cuts and fills along the right of way of Port Authority of Allegheny County.
- (e) Terms and conditions of the Mascilli Lease.
- (f) Access Easement Agreement from South Negley Associates and Keystone Properties Corporation now known as Keystone Diversified Management Corporation, dated May 5, 2004 and recorded in Deed Book Volume 12037, Page 499.
- (g) Covenants, restrictions and provisions set forth in deed from Pennsylvania Railroad Company to Charles M. Morris, dated July 16, 1956 and recorded in Deed Book Volume 3521, Page 574.
- (h) Permanent subsurface easement acquired by Port Authority of Allegheny County by filing of a Declaration of Taking in the Court of Common Pleas of Allegheny County, Pennsylvania at GD 78-14870, a copy of which is recorded in Deed Book Volume 5958, Page 973; as amended by Amended Declaration of Taking on December 4, 1978 at GD 78-14870; notice of which is recorded in Deed Book Volume 6041, Page 919.
- (i) Unrecorded right of way granted by J.C. Penney Properties, Inc. to Duquesne Light Company, dated July 30, 1990 and referred to in Deed Book Volume 11533, Page 197.
- (j) Restrictive covenants set forth in deed from J.C. Penney Properties, Inc. to Bushwood Associates, dated November 3, 2000 and recorded in Deed Book Volume 10908, Page 400.
- (k) All utilities within the vacated portion of Claybourne Street vacated by Resolution No. 20 of the City of Pittsburgh, effective February 9, 2004.
- (l) An easement for ingress, egress and regress over a concrete driveway nine feet, four inches (9' 4") wide and extending back ninety (90) feet from the southerly line of Centre Avenue as now used and located on the ground between Improvements Nos. 5526 and 5630 Centre Avenue, to be used in common with the owners abutting on the West, their heirs and assigns, as referenced in the deed dated September 5, 1978 and recorded in Deed Book Volume 5998, Page 827.
- (m) Right of way and easement granted to the City of Pittsburgh for a water line, all as more fully set forth in Ordinance No. 6 of the City of Pittsburgh, approved January 9, 1947 and recorded in Ordinance Book Volume 54, Page 535.

- (n) Water line relocation agreement between the City of Pittsburgh, Chartiers Valley Industrial & Commercial Development Authority and Gallery Center Associates, dated September 2, 1983 and recorded February 2, 1984 in Deed Book Volume 6812, Page 58.
- (o) Right of way Agreement between Chartiers Valley Industrial & Commercial Development Authority and Equitable Gas Company, dated February 7, 1984 and recorded in Deed Book Volume 6823, Page 569.
- (p) Easement for pedestrian use and utility lines as set forth in Agreement Relocating Easements by and between John J. Flynn, et ux, et al., dated June 17, 1983 and recorded July 27, 1983 in Deed Book Volume 6702, Page 306.
- (q) Right of others in and to the common use of an easement for ingress, egress and regress over a concrete driveway as set forth in deed from N. J. Hanna, et ux, to Margaret H. Roberts, et al., dated June 10, 1949 and recorded in Deed Book Volume 3058, Page 429.
- (r) Existing gas line crossing the land.
- (s) Right of way from South Negley, South Negley Associates and South Negley Commons Associates, L.P. to Equitable Gas Co., dated December 16, 2004 and recorded in Deed Book volume 12302, page 560.
- (t) Easement and License Agreement by and between Pittsburgh Water & Sewer Authority and South Negley Commons Associates, et al., dated January 26, 2005 and recorded January 26, 2005 in Deed Book Volume 12331, page 430.
- (u) Right of way from South Negley Associates to Duquesne Light Co., dated April 18, 2005 and recorded in Deed Book Volume 12435, page 482.
- (v) Right of way from South Negley Associates to Duquesne Light Co., dated April 18, 2005 and recorded in Deed Book volume 12435, page 491.
- (w) The ECR and all easements, covenants and descriptions therein described.

The Declaration and the Condominium Act also create easements and rights of way in favor of Declarant and other parties. These easements and rights of way include:

- (i) A right of Declarant to maintain sales offices, management offices and models throughout the Condominium (other than in Units sold to purchasers not affiliated with Declarant or any successor declarant;
- (ii) Easements and rights of way for utility and service lines and equipment within Units and Common Elements;
- (iii) Easements through the Common Elements for drainage, including the right to cut any trees, bushes or shrubbery, to grade the soil, and to take other actions;



- (iv) Easements through the Common Elements for the development and construction of buildings and other improvements within the Condominium and within the real estate identified as Withdrawable Real Estate and Additional Real Estate on the Plats and Plans (irrespective of whether any such real estate remains in or is added to the Condominium); and
- (v) If any Unit or Common Element may result in encroaching over any other Unit or Common Element, an easement for such encroachment.

Declarant has also entered into an agreement (the "Landscaping Area Agreement") with the University of Pittsburgh (or one of its affiliates) ("Pitt") relating to the "Landscaping Area" identified in the Declaration and the Plats and Plans. The Landscaping Area Agreement grants to Pitt certain access and use rights in connection with the Landscaping Area. A copy of the Landscaping Area Agreement is available upon request by a Purchaser. The ECR also contains provisions relating to the Landscaping Area, including a provision prohibiting access to the Landscaping Area by any Unit Owner or any of its guests or invitees. The Agreement with the University of Pittsburgh has been terminated effective May 31, 2009.

The Condominium property is presently subject to mortgages and related liens held by Dollar Bank Federal Savings Bank. Upon the sale of a Unit to a purchaser, the Unit and its proportionate share of the Common Elements will be released from the liens of such mortgages. The Unit Owner's interest in a Unit (other than a Unit owned by Declarant or any Purchaser which may have acquired title to a Unit subject to one or more of the liens of such mortgages) cannot be terminated by the holders of such mortgages if there is a default under either such mortgage, but the holder of either such mortgage could foreclose upon the interest of Declarant in the Condominium, in which event it could exercise the rights granted to Declarant under the Declaration, including the right to elect members of the Executive Board.

### **DESCRIPTION OF UNIT FINANCING**

Each Purchaser will be responsible for obtaining such Purchaser's own financing for the purchase price of the Unit, if necessary.

### **RIGHTS OF MORTGAGEES**

The holders of mortgages upon Units (including Units, whether or not constructed, owned by Declarant) have certain rights under the Declaration. Additional rights are provided to holders of so-called "Qualified Mortgages", which are defined in the Declaration. A Qualified Mortgage is defined generally as a first-lien mortgage on a Unit, written notice of which has been given to the Secretary of the Association as provided in the Declaration. Only certain Persons defined in the Declaration are entitled to be the holders of Qualified Mortgages. In addition to other rights, the holder of a Qualified Mortgage is entitled, upon appropriate request, to notices relating to certain matters, as more fully set forth in the Declaration.

The consent of the holder of a Qualified Mortgage upon a Unit is required in connection with certain amendments of the Declaration. In addition, a Unit Owner's approval of an

amendment of the ECR by the Association may require the approval of the holder of a Qualified Mortgage upon the Unit of such Unit Owner.

### **WARRANTIES; LIMITED LIABILITY OF DECLARANT**

To the extent required by the Condominium Act, Declarant warrants against structural defects in each of the Units and all the Common Elements. For the purpose of this paragraph, "structural defects" means those defects in components constituting any Unit or Common Element which require repair, renovation, alteration or replacement and either (i) reduce the stability or safety of the structure below acceptable standards, or (ii) restrict the normal intended use of all or any part of the structure. This structural warranty shall not be construed to make Declarant responsible for any items of maintenance relating to the Unit or the Common Elements.

As to Units, this warranty begins on the date that the Unit is conveyed to a bona fide Purchaser and continues for a period of two (2) years thereafter. Any further conveyance of such Unit during such two (2)-year period shall be deemed to transfer the foregoing warranty to the Person acquiring such Unit. As to each Common Element as to which Declarant makes this warranty, the warranty begins on the date of completion of such Common Element and continues for a period of two (2) years thereafter or, if later, two (2) years after the time the first Unit is conveyed to a bona fide Purchaser.

**EXCEPT AS SET FORTH ABOVE, THE UNIT, THE COMMON ELEMENTS AND ALL PERSONAL PROPERTY, IF ANY, TO BE SOLD ARE SOLD "AS IS", WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR HABITABILITY.**

Except as otherwise provided by the Act, neither Declarant nor any of its partners, nor any officer, director, partner, member or shareholder of any such Person, nor any of their respective successors or assigns shall be liable for any damage to or malfunction of any equipment or systems, whether a part of the Common Elements or the Units or otherwise, or for any damage or injury to any property or person resulting from any failure to maintain or inspect the same. The Association shall, to the fullest extent permitted by law, indemnify, defend and hold harmless the Persons referenced in this paragraph as to all liabilities, losses, costs and expenses related thereto, including reasonable attorneys' fees and costs, whether or not any such liability, loss, cost or expense shall have been caused by the negligence of the Person to be indemnified, defended or held harmless as provided in this paragraph.

### **JUDGMENTS AND LAWSUITS**

There are no judgments against the Association, and there are no lawsuits pending against the Association or, to Declarant's knowledge, any claims material to the Condominium or the interest of a Unit Owner.

## DEPOSITS

Any Deposit made by a Purchaser pursuant to an Agreement of Sale will be held in an escrow account in accordance with the provisions of Section 3408 of the Condominium Act and will be returned to such Purchaser if such Purchaser cancels the Agreement of Sale as permitted pursuant to the terms set forth on the first page of this Public Offering Statement or as otherwise permitted pursuant to Section 3406 of the Condominium Act.

## RESTRICTIONS ON LEASING, USE AND OCCUPANCY

The use of the Property, including the Units, the Community Areas, the Parking Areas and the other Common Elements, shall be only in accordance with the provisions of (a) the Act, this Declaration (including the Plats and Plans) and the other Condominium Documents, (b) all applicable Requirements and any rules or requirements of any quasi-governmental body or agency or board of fire underwriters, and (c) any applicable covenants, conditions and restrictions affecting such portion of the Property, including the ECR.

The occupancy and use of the Units and Common Elements shall be subject to the following restrictions set forth in the Declaration:

(a) No Unit (except any Unit owned by Declarant or the Association and used by either of them as manager's quarters or offices, sales offices, models or storage facilities) shall be used for any purpose other than as a residence for the use of one person or a single family. For the purpose of this Section, "family" shall mean (i) two (2) or more individuals related by blood, marriage or adoption, or (ii) not more than four (4) individuals who are not related but who function as a family unit.

(b) A Unit Owner may lease the Unit of such Unit Owner, provided however, that a Unit may not be leased by a Unit Owner for a term of less than one (1) year. Any lease of a Unit shall be in writing in a form pre-approved by the Executive Board without any material changes, shall contain a clause that makes any breach by the tenant of any of the Condominium Documents a breach of such lease and a cause for termination thereof. A copy of each lease shall be furnished to the Association within five (5) business days after execution thereof. The rights of any tenant of any Unit shall be subject to, and each of the tenants shall be bound by, the covenants, conditions and restrictions contained in any of the Condominium Documents. The Owner of any leased Unit shall be jointly and severally responsible with any tenant for full compliance with all the terms and conditions of the Condominium Documents. In the event of a breach by a tenant of a lease of a Unit caused by a failure to comply with any of the Condominium Documents, the Unit Owner of such Unit, at the request of the Executive Board, shall terminate such lease and cause such tenant to be removed from such Unit by all available legal means. No Unit may be subleased.

(c) Declarant may carry on any activities not prohibited by the Declaration in any Unit owned by Declarant, and nothing contained within this Article or otherwise shall be deemed to limit its right to sell or lease any and all Units owned by Declarant and to transfer Parking

Licenses, which rights are expressly retained by Declarant so long as Declarant is a Unit Owner. This provision may not be amended without the written consent of Declarant so long as Declarant is a Unit Owner.

(d) Unit Owners may not install any window air conditioners, exhaust fans or any other item which protrudes through a window serving a Unit, nor shall any structure, addition, awning, screen, pot, flower bed or similar decoration which is visible from the outdoors be placed or maintained upon any exterior door, window or Terrace or any outside wall of the Improvements, without prior written approval of the Executive Board. No Unit Owner (other than Declarant in connection with its marketing or sale of the Unit) may erect any sign on or in a Unit or any Common Element which is visible from the outdoors or the Common Elements.

(e) No industry, business, trade, occupation or profession of any kind, be it commercial, religious, educational or otherwise wherein:

(i) customers or clients visit the Unit; or

(ii) any merchandise or products are sold from or stored in the Unit; or

(iii) any person not a full time resident of the Unit is employed or otherwise engaged in the Unit; or

(iv) any smoke, dust or noise not usually found in a dwelling Unit is emitted;  
or

(v) any equipment or machinery is utilized other than a telephone, fax machine, personal computer or printer or similar equipment normally found in a residence;

may be conducted, maintained or permitted in any part of the Property, except in such areas of the Common Elements that the Executive Board may decide.

(f) No person shall cause or permit a nuisance in or on the Property and no use or practice shall be permitted in or on the Property which is a source of annoyance to any Unit Owner or the tenant of any Unit Owner, or which unreasonably interferes with the peaceful possession and proper use of all or any part of the Property by any Unit Owners or the tenant of any Unit Owner.

(g) No cooking or grilling may be done on any Terrace without the prior approval of the Executive Board, including reasonable restrictions and limitations related thereto.

(h) In addition to any restriction contained in the Condominium Documents, all laws, statutes, orders, ordinances, occupancy limitations, rules and regulations of all governmental and quasi-governmental bodies having jurisdiction thereof, including without limitation, zoning laws and regulations, and all other Requirements shall be observed at all times.

(i) Nothing shall be done or kept in any Unit or in any Common Element or Limited Common Element which might increase the premiums for insurance coverage for the Property or

any part thereof beyond the normal premiums applicable for residential space, without prior written consent of the Executive Board. No Unit Owner shall permit anything to be done or kept in the Unit of such Unit Owner or the Common Elements which will result in the cancellation of insurance on the Property or any part thereof, or which will be in violation of any law.

(j) The Property is to be maintained in a clean and sanitary condition, and no Unit Owner is to place or store any garbage, trash, rubbish, bicycles, children's toys, or other personal property in the Common Elements or permit any unsightly condition to exist therein or thereon except as expressly provided for, subject to the rights of Declarant under the Declaration. There shall be no obstruction of the Common Elements, nor shall anything be stored in the Common Elements, without the prior consent of the Executive Board, unless otherwise provided in the Rules and Regulations.

(k) Upon compliance with the requirements of subsection (m) below, and subject to Sections 3213, 3214 and 3215 of the Act, two or more entire adjacent Units or, with the prior written consent of the Executive Board, portions thereof, on the same floor of the Improvements may be combined, provided that both of the combined Units are under common ownership at the time of effecting such combination. If two or more entire Units shall be so combined, the Percentage Interests in the Common Elements appurtenant to such combined Units shall be the sum of the respective Percentage Interests in the Common Elements appurtenant to each of the Units that shall have been so combined, and the votes allocated to such combined Units shall be the sum of the respective voting rights appurtenant to each of the Units that shall have been so combined. The Executive Board shall not grant any consent to the combination of a portion of a Unit with one or more other Units or any portions thereof unless and until (i) the Unit Owners with respect to the Units (or portions thereof) involved in such combination shall have executed such documentation, in recordable form, as the Executive Board may require, which shall provide for such combination and the allocation of Percentage Interests and voting rights between or among the Unit(s) so combined and the remaining portion of a Unit not so combined (it being understood that the Executive Board shall have the right to approve any such combination and the allocation of Percentage Interests and voting rights based on its determination, in its sole good faith discretion, that any such combination shall not result in a Unit insufficient for residential use comparable to that of the other Units, that the allocation of Percentage Interests and voting rights shall be fairly allocated between or among the Units, and that the interests of other Unit Owners shall not be adversely affected thereby), (ii) such document shall have been duly and effectively recorded in the Real Estate Records at the sole expense of the Unit Owners involved in such combination, and all costs of the Executive Board, including the fees and costs of attorneys and other consultants, shall be assessed against the Unit Owners, jointly and severally whose Units shall be involved in such combination, and (iii) such combination and subdivision shall otherwise comply with Sections 3213, 3214 and 3215 and the other provisions of the Act.

(l) No Unit may be subdivided by any Unit Owner, except that (i) a Unit then previously combined from two or more Units may be subdivided into one or more Units of the same dimensions as those involved in such prior combination, and (ii) Declarant may combine or subdivide Units owned by it and not theretofore conveyed to a Person deemed to be a declarant under the Act, or convert any such Unit into two or more Units, Common Elements, or a

combination of Units and Common Elements, subject to Sections 3213, 3214 and 3215 and the other provisions of the Act.

(m) Any Unit Owner desiring to perform any alteration, division, subdivision or combination of a Unit (an "Alteration") permitted hereby shall:

(1) Refrain from making any Alteration that will impair or jeopardize the structural integrity of the Improvements or any mechanical, plumbing or electrical or other service system therein, adversely affect either the fire retardant or sound absorbent quality of the Improvements, lessen the support of any portion of the Improvements, or violate any applicable law, ordinance or governmental rule, regulation or order;

(2) Obtain the approval of the Executive Board (which approval shall not be unreasonably withheld and which shall not be required for Declarant) prior to the commencement of any such Alteration involving a combination and/or division of Units;

(3) Comply with Sections 4.3 and 4.7 of the Declaration and any other applicable provisions of the Declaration or the other Condominium Documents;

(4) Pay all costs and expenses incurred in connection with the preparation, review, execution and recording of any related amendment to the Declaration (including the Plats and Plans), which amendment shall be in recordable form and shall be recorded by the Association in accordance with the Act.

(n) Nothing shall be done or be permitted to be done which would jeopardize the soundness or safety of any of the Improvements or impair any easement therein without the consent of all Unit Owners to such impairment.

(o) No Unit Owner shall keep or harbor any animals on the Property without the written consent of the Association, except for one dog which must be under 50 pounds, or a trained leader dog for a blind resident of a Unit, or one cat, or three caged birds, or tropical fish. Such consent, if given, may be upon such conditions as the Executive Board may prescribe. No pet shall be maintained or harbored within a Unit so as to create a nuisance to any other Unit Owner. A determination by the Executive Board that a pet creates a nuisance to any other Unit Owner shall be conclusive and binding upon all parties. Upon such a determination, this consent shall be deemed to be automatically revoked and said pet must be immediately removed from the Unit and the other portions of the Property. No animals permitted under this Section may be kept for commercial or breeding purposes. All dogs must be registered with the Association and licensed by the appropriate governmental authorities. It shall be the duty of a Unit Owner to supply the Executive Board on an annual basis with a Certificate of Vaccination from a qualified veterinarian for each dog or cat owned by the Unit Owner as permitted hereunder, certifying that such animal has had administered to it the inoculations which the Executive Board, in its sole discretion, deems necessary, including, by way of example, vaccinations to prevent rabies and distemper. In the event such pet is not so vaccinated, the Unit Owner shall indemnify and hold the Association harmless from any liability or damage to persons or property arising as a result of said failure to vaccinate. No animal will be permitted outside the Unit of a Unit Owner except

on a leash or in a cage. No other animals are permitted in the Units or on any other portion of the Property.

(p) No Unit Owner shall place any object or fixture (by way of illustration and not limitation, furniture, equipment, supplies, wood, landscaping or light fixtures or bulbs) which change the exterior or interior appearance of the Improvements or which will endanger persons or property.

(q) All window dressings, including liners, visible from the outside or from any other Unit must be white or off white, subject to prior written approval of the Executive Board, such approval not to be unreasonably withheld or delayed.

(r) In the use or occupancy of a Unit at any time, the hard surface flooring material, such as wood, marble, ceramic tile, slate, quarry tile or other similar material, that is hereafter installed in rooms other than bathrooms, shall have an STC or IIC rating not less than that applicable to the Units generally. The Executive Board shall attempt to resolve any complaint regarding any such installation informally but shall, upon demand of any Unit Owner to the complaint or upon its own discretion, refer the complaint to an architect or engineer for a final, binding decision as to STC rating or IIC rating. The decision of such architect/engineer shall be final and unappealable. The Association's costs of resolving the complaint, including, without limitation, reasonable architect or engineering fees and lab tests, shall be borne solely by the losing Unit Owner in the complaint. Upon a decision that material or installation fails to meet noise transmission requirements in a Unit, that Unit Owner shall immediately bring the Unit into compliance.”

(s) Guests and visitors shall be admitted to the Property in strict conformance with Rules and Regulations relating to guests and visitors.

(t) Children shall use the common areas in strict conformance with Rules and Regulations relating to children.

(u) No Unit shall be occupied by more persons than 2 persons per bedroom.

(v) The Executive Board may designate the Common Elements or portions thereof as non-smoking.

There shall be no restriction upon the sale, conveyance or other transfer of any Unit, but any sale, conveyance or other transfer (including, without limitation, mortgages and leases to the extent provided by law) shall be subject to the Act, the Condominium Documents and the encumbrances affecting the Property, including the ECR.

The Executive Board shall have the power to enforce the above restrictions and to promulgate, amend, modify and repeal from time to time and enforce such additional Rules and Regulations on behalf of the Association as it may deem to be reasonably necessary or desirable, and shall have the right to bring actions at law or in equity to enforce any matter contained in the Condominium Documents. Copies of the new Rules and Regulations shall be furnished to all Unit Owners by the Executive Board promptly after the promulgation, amendment, modification or repeal of such Rules and Regulations. The Executive Board shall further have the right to

levy fines for violations, provided that the fine for a single violation may not, under any circumstances, exceed One Hundred Dollars (\$100.00), except as provided below. Each day a violation continues after notice thereof may be considered a separate violation and the fine may be increased to Five Hundred Dollars (\$500.00) per day commencing with the fourth day following such notice. Any fine so levied is to be considered a Special Assessment levied specifically against the particular Unit Owner involved, shall be immediately due and payable, and collection may be enforced by the Executive Board in the same manner as the Executive Board is entitled to enforce collection of Special Assessments, and the Executive Board may also pursue any other remedies under the law.

In addition, Section 9 of the ECR contains the following restrictions (as to capitalized terms set forth below, refer to the ECR for their meaning):

(a) No part of the Property shall be used for any unlawful purpose or for a skating rink, bowling alley, bar, discotheque, dance hall, night club, amusement gallery, pool room, massage parlor, adult book store, video game room, arcades or other amusement facilities, waste facilities, stockyards or facilities containing animals, funeral homes, trailer, mobile home or vehicle sales, leasing or repair facilities or any purpose which produces or is accompanied by unreasonable levels of noise, litter or odor or any public or private nuisance.

(b) The Residential Property, including any community areas, lunch counters, etc., shall be used only for residential purposes and, subject to the other restrictions contained in this subsection, activities that are incidental thereto exclusively for the benefit of the Unit Owners and their respective Permittees. In no event, however, shall any portion of the Residential Property be used as a grocery store, supermarket, pharmacy, convenience store, delicatessen, bakery, butcher shop or fish market, or for any retail establishment which sells, for off premises consumption, produce, dairy, baked goods, meat, seafood, poultry or other fresh or frozen foods (excluding a small (i.e. no greater than 1,000 square feet) ice cream or yogurt stores such as TCBY or Baskin Robbins).

(c) No portion of the Commercial Property or the Residential Property shall be used for any purpose that would cause or threaten the cancellation of the casualty insurance covering the primary building located on the other portion of the Property, or that would increase the insurance rates applicable to such insurance unless the Owner(s) of such portion of the Property shall promptly pay such cost on demand, provided however that the foregoing shall not be deemed to prohibit or limit the use of (or allocate such cost to the applicable Owner(s)) the Commercial Property as a retail use, generally, or a supermarket use specifically, or the Residential Property for residential purposes, so long as such uses shall be in conformity with all applicable governmental requirements.

(d) No exterior portion of the Residential Property shall be used for any sign other than (i) directional signs relating to pedestrian and vehicular traffic within the Property, and (ii) signs required by law or reasonably related to the safety of occupants of any portion of the Property.



## INSURANCE

The Condominium Act, the Declaration and the ECR each require that the Executive Board and the Association obtain and maintain insurance coverage for the Condominium. The following is a description of all insurance coverage provided:

(i) property insurance on the Common Elements and Units (exclusive of improvements and betterments installed in Units) against all risks of direct physical loss commonly insured against. Such insurance must be in an amount equal to the replacement value of the property insured, exclusive of land, excavations, foundations and other items not typically so insured. All proceeds of this policy will be payable to the Association or, in certain cases, to a "Restoration Trustee" described in the ECR. **SUCH IMPROVEMENTS AND BETTERMENTS ARE NOT COVERED BY THIS INSURANCE AND EACH UNIT OWNER MAY BE REQUIRED TO MAINTAIN SEPARATE INSURANCE FOR SUCH PROPERTY AS WELL AS FOR THE CONTENTS OF THE UNIT.**

(ii) Comprehensive general liability insurance insuring Unit Owners (in their capacity as Unit Owners) covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in conjunction with the use, ownership or maintenance of the Common Elements. The limits of liability shall be at least \$5,000,000 per occurrence (as such limit may be increased as provided in the ECR). **EACH UNIT OWNER SHOULD MAINTAIN HIS OWN LIABILITY INSURANCE FOR HIS OWN UNIT.**

The Association may carry such other coverage and policies of insurance, or greater amounts of insurance coverage, as it deems appropriate to protect the Association or Unit Owners.

If the building is damaged or destroyed, such damage or destruction shall be repaired or restored by the Association to the extent it shall be legal to do so, using the available proceeds of insurance, unless eighty percent of the Unit Owners, including every Unit Owner whose Unit or assigned Limited Common Element will not be rebuilt, vote not to rebuild, as provided in §3312(g) of the Condominium Act. In such event, however, the Association may nevertheless be required to install a roof on the Commercial Property. The Commercial Owner may in certain circumstances elect not to restore the Commercial Property. In any such event, the Association may restore those improvements within the Commercial Property required for the support, use or operation of the improvements within the Condominium.

The Executive Board is also required by the terms of the Declaration to obtain insurance covering the obligation of the Association to indemnify members of the Executive Board (see Management of Condominium above).

## CHARGES FOR USE OF COMMON ELEMENTS

The Executive Board has the right to impose reasonable charges for the use of various portions of the Common Elements.

## GOVERNMENTAL REQUIREMENTS

There are no outstanding and uncured notices of violations of governmental requirements. Listed below are any permits obtained for buildings and other improvements identified on the Plats and Plans.

<u>TYPE OF PERMIT OR APPROVAL</u>	<u>DATE OF EXPIRATION</u>
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City of Pittsburgh:

Zoning classification (site)	N/A
Land development plan approval (site)	N/A
Subdivision	N/A
Fire prevention/sprinkler	Annual Permit
HVAC permit (garage only)	N/A
Mechanical permit (garage only)	N/A
Electrical permit (garage only)	N/A
Stormwater detention exemption	N/A
Traffic signal approval	N/A
Certificate of occupancy (garage only)	N/A
Building Signage Permit	Annual Permit

Allegheny County:

Conservation District erosion and sedimentation control plan	N/A
Plumbing permit (other than for condominium tower)	N/A

Commonwealth of Pennsylvania:

Sewage facilities planning module exemption	N/A
Elevator permit	Annual

Declarant has received the following permits relating to improvements identified on the Plats and Plans:

- Building permit (condominium tower)
- Fire prevention/sprinkler (condominium tower)
- HVAC permit (condominium tower)
- Plumbing permit (condominium tower)
- Elevator permits (condominium tower)
- Occupancy certificates (condominium tower and individual Units)
- Water and sewer tap permit

Declarant will bear the expense of such permits and approvals (except in the case of occupancy certificates for Units for which a Purchaser has elected to finish the Unit after the closing of the Purchase of such Unit, in which case the Purchaser of such Unit will be responsible for such expense).

## STRUCTURAL COMPONENTS AND MAJOR UTILITY INSTALLATIONS

All structural components and major utility installations in the Condominium will be new when installed. The useful life (based solely on the manufacturer's representations and reasonable expectations) and estimated cost of replacing such items for each Unit (based on 1998 costs) are as follows:

<u>Component or Utility Installation</u>	<u>Useful Life</u>	<u>Replacement Cost Per Unit</u>
Roofing	15 years	\$ 3,000
Bearing Walls	39 years	\$40,000
Plumbing System	15 years	\$13,000
Electrical System	15 years	\$18,000
Concrete Patio	15 years	\$ 2,500
HVAC System	15 years	\$10,000

## NO HAZARDOUS CONDITIONS

Declarant has no knowledge of any of the following:

- (i) Hazardous conditions, including contamination affecting the condominium site by hazardous substances, hazardous wastes, or the like, or the existence of underground storage tanks for petroleum products or other hazardous substances.
- (ii) Any investigation conducted to determine the presence of any hazardous conditions on or affecting the condominium site which indicated the presence of any hazardous conditions.
- (iii) Any finding or action recommended to be taken in the report of any such investigation, or by any governmental body, agency or authority, in order to correct any hazardous conditions, and any action taken pursuant to those recommendations.

Information concerning environmental conditions affecting the Condominium may be obtained from the regional office of the Department of Environmental Resources and the United States Environmental Protection Agency at the following addresses and phone numbers:

Pa. Dept. Of Environmental Protection  
400 Waterfront Drive  
Pittsburgh, PA 15222-4745  
Telephone: 412-442-4000

U.S. Environmental Protection Agency  
William S. Moorehead Federal Building  
Grant Street  
Pittsburgh, PA 15222  
Telephone: 1-800-438-2474

**EXHIBIT A**

**Amended and Restated Declaration of Condominium**

**EXHIBIT B**

**Amended and Restated Bylaws of Association**

**EXHIBIT C**

**Amended and Restated Rules and Regulations**

**EXHIBIT D**

**Agreement of Easements, Covenants and Restrictions**

**EXHIBIT E**

**Form of Parking License**



**EXHIBIT F**

**Plats and Plans**

**EXHIBIT G**

**Agreement of Sale**

**EXHIBIT H**

**Annual Budget, 2009 Approved Budget**

**EXHIBIT I**

**Title Report**