

FIRST AMENDMENT TO
BYLAWS OF PINNACLE MUSEUM TOWER ASSOCIATION

This First Amendment is made by PINNACLE MARKET DEVELOPMENT (US), LLC, a California limited liability company ("**Declarant**") with reference to the following facts:

A. Declarant is the Declarant under those certain Bylaws of Pinnacle Museum Tower Association ("**Bylaws**").

B. Section 11.1 of the Bylaws allows Declarant to unilaterally amend the Bylaws any time prior to the first close of escrow for the sale of a Condominium.

C. As of the date of this First Amendment, no Condominium has closed escrow at the Pinnacle Museum Tower condominium project.

D. Declarant now wishes to amend the Bylaws to update certain provisions pertaining to the rights of lenders and address the changes to the California Civil Code referenced in Section 9.15 of the Bylaws.

NOW, THEREFORE, Declarant hereby amends the Bylaws as follows:

1. Section 6.2 of the Bylaws is hereby amended to read as follows (with deletions indicated by strikeout and additions indicated by bold and double underline):

Section 6.2 Annual Meetings of Members. The first annual meeting of Members shall be held no later than six (6) months after the first close of escrow for the sale of a Condominium to a Retail Purchaser. Subsequent regular annual meetings of the Members shall be held on the date determined by the Board provided that such annual meeting is held during the period commencing on the annual anniversary of the first annual meeting and ending four (4) weeks thereafter. Such meeting shall be held at the time determined by the Board. An election of directors shall be held at the first annual meeting of Members and all positions of director shall be filled at that election.

Written notice of each such annual meeting shall be given to each Member and, to all first Mortgagees who request notice, either personally or by sending a copy of the notice through the mail, first class, registered or certified, or by telegraph, charges prepaid, or by electronic transmission, to his address appearing on the books of the Association or supplied by him to the Association for the purpose of notice. If no address is supplied, notice shall be deemed to have been given to him if mailed to the address of the Condominium owned by such Member or encumbered by the first Mortgagee, or published at least once in some newspaper of general circulation in the county of said principal office. Any notice given by electronic transmission shall comply with the requirements of Corporations Code Sections 20 and 7511(b). All such notices shall be sent not less than ten (10) days and not more than ninety (90) days before each annual meeting, and shall specify the place, day and hour of such meeting, and those matters which the Board at the time of mailing the notice intends to present for action by the Members; however, except as otherwise provided by law, any proper matter may be presented at the meeting for action. A first Mortgagee shall be entitled to designate a representative who shall have the right to attend all meetings of Members.

4. Section 11.2 of the Bylaws is hereby amended to read as follows (with deletions indicated by strikeout and additions indicated by bold and double underline):

Section 11.2 After Escrow Closings. The following provisions shall apply after the close of the first escrow for a sale of a Condominium to an Owner. During the period of time prior to conversion of the Class B membership in the Association to Class A membership, new Bylaws may be adopted or these Bylaws may be amended or repealed by the vote of the Members entitled to exercise a majority or more of the voting power of each class of Members of the Association or by the written assent of such Members. After conversion of the Class B membership to Class A membership, these Bylaws may be amended or repealed by the vote of (i) Members entitled to exercise a majority of the voting power of the Association, and (ii) at least a majority of the voting power of Members of the Association other than Declarant. Section 7.2 shall not be amended without the prior written consent of Declarant. Anything herein stated to the contrary notwithstanding, no material amendment to the Bylaws shall be made without the prior written approval of first Mortgagees who represent at least fifty-one percent (51%) of the votes of Condominiums that are subject to Mortgages. "Material amendment" shall mean, for purposes of this Article XI, any amendments to provisions of these Bylaws governing any of the following subjects:

- (a) Voting rights.
- (b) Assessment liens and the priority of assessment liens and the right of first Mortgagees who represent at least fifty-one percent (51%) of the votes of Condominiums that are subject to Mortgages to approve increases in regular assessments of in aggregate more than twenty-five percent (25%) during any fiscal year from the regular assessments assessed during the previous fiscal year.
- (c) The right of first Mortgagees who represent at least fifty-one percent (51%) of the votes of Condominiums that are subject to Mortgages to approve reductions in reserves for maintenance, repair and replacement of the Tower Association Property and the Common Area.
- (d) Responsibility for maintenance and repairs.
- (e) Reallocation of interests in the Common Area and Tower Association Property (including Exclusive Use Area and Limited Exclusive Use Area) or rights to its use.
- (f) Redefinition of Residential Unit boundaries.
- (g) Convertibility of Residential Units into Common Area or Tower Association Property and vice versa.
- (h) Hazard or fidelity insurance requirements.
- (i) Imposition of any restrictions on the leasing of Condominiums.
- (j) Imposition of any right of first refusal or similar restriction on the right of a Condominium Owner to sell, transfer or otherwise convey the Owner's Condominium.
- (k) The Section above entitled "Right to Contract".

(l) Restoration or repair of the Project (after damage or partial condemnation) in a manner other than specified in the Declaration.

(m) Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs.

(n) Any provision which, by its terms, is specifically for the benefit of the first Mortgagees, or specifically confers rights on first Mortgagees.

A Mortgagee who receives a written request to approve amendments (including additions) who does not deliver or mail to the requesting party a negative response within sixty (60) days, shall be deemed to have approved such request provided that such written request was delivered by certified mail or registered mail, with "return receipt" requested. Such written request shall be deemed properly given if deposited in the United States mail, postage prepaid, and addressed to the Mortgagee at its address appearing of record in the first Mortgage (or assignment thereof, if applicable) unless such Mortgagee has previously notified the Association in writing of a different address for purposes of notices under the Declaration or in these Bylaws.

The percentage of voting power necessary to amend a specific clause or provision of these Bylaws shall not be less than any percentage of affirmative votes prescribed for action to be taken under that clause.

5. This First Amendment shall be effective as of September 22, 2005.

6. The Secretary of the Association is instructed to place this First Amendment in the Association's Minute Book.

This First Amendment is executed as of September 22, 2005 at San Diego, California.

Declarant:

PINNACLE MARKET DEVELOPMENT (US), LLC,
a California limited liability company

By: Pinnacle International (US), LLC, a
California limited liability company,
Sole Member

By: Pinnacle Market Development
(Canada) Ltd., a British Columbia
company Sole Member

By: 
(Michael De Cotlis, President)